MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

299. By the SPEAKER: Memorial of the Legislature of the State of New Jersey, relative to aircraft noise abatement; to the Committee on Interstate and Foreign Commerce.

300. Also, memorial of the Legislature of the State of New Jersey, relative to inspection and enforcement of hygienic standards in the preparation and processing of food products; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. FISHER:

H.R. 12584. A bill for the relief of Charles R. Wood, major, U.S. Air Force (retired); to the Committee on the Judiciary.

By Mr. HÉBERT:

H.R. 12585. A bill for the relief of Lt. Col. Paul S. Parrino, M.D., U.S. Army (retired); to the Committee on the Judiciary.

By Mr. RONCALIO:

H.R. 12586. A bill for the relief of David J. Crumb; to the Committee on the Judiciary.

By Mr. WALDIE:

H.R. 12587. A bill for the relief of Joseph A. White & Associates; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

181. The SPEAKER presented a petition of the City Council, Lake Forest Park, Wash., relative to Federal-State revenue sharing, which was referred to the Committee on Ways and Means.

SENATE—*Monday, January 24, 1972*

The Senate met at 10:45 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

O Lord, our God, Ruler of men and nations, we bow in this quiet moment at the beginning of a new week to dedicate our hearts and minds to Thee. Deliver us from all that is petty and small and open our hearts to all that is good and true, that Thy kingdom may be advanced through us. Impart to us a wisdom and grace beyond all that is human.

Bless this Nation, O Lord, and make it a blessing. Bless our leaders that they may lead in ways of righteousness and truth. Subdue the forces which obstruct the way of peace. Release the power of redemptive love and universal good will which leads to the day of peace and the coming of Thy kingdom—for Thine is the kingdom and the power and the glory forever and ever. Amen.

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, January 21, 1972, be dispensed with.

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

ATTENDANCE OF SENATORS

Hon. GORDON ALLOTT, a Senator from the State of Colorado, Hon. ALAN BIBLE, a Senator from the State of Nevada, Hon. NORRIS COTTON, a Senator from the State of New Hampshire, Hon. ALAN CRANSTON, a Senator from the State of California, Hon. MIKE GRAVEL, a Senator from the State of Alaska, Hon. FRED R. HARRIS, a Senator from the State of Oklahoma, Hon. DANIEL K. INOUYE, a Senator from the State of Hawaii, Hon. HENRY M. JACKSON, a Senator from the State of Washington, Hon. GEORGE MCGOVERN, a Senator from the State of South Dakota, Hon. CLAIBORNE PELL, a Senator from the State of Rhode Island, Hon. TED STEVENS, a Senator from the State of Alaska, Hon. JOHN V. TUNNEY, a Senator from the State of California, and Hon. LOWELL P. WEICKER, JR., a Senator from the State of Connecticut, attended the session of the Senate today.

WAIVER OF THE CALL OF THE CALENDAR UNDER RULES VII AND VIII

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the call of the calendar under rules VII and VIII be waived.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. BYRD of West Virginia. I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

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

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

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

The PRESIDENT pro tempore. Under the previous order, the Senator from Pennsylvania (Mr. SCHWEIKER) is recognized for not to exceed 15 minutes.

IN PRAISE OF SENATOR HUGH SCOTT

Mr. SCHWEIKER. Mr. President, for many years I have had a close friend and associate in the Republican Party of Pennsylvania, my distinguished senior colleague, Senator HUGH SCOTT. He has served the great Commonwealth of Pennnsylvania with distinction, which was recognized by our constituents, who last year sent him back to the Senate for a third term. This is one of the longest Senate tenures in Pennsylvania history.

However, I rise today not as his colleague from Pennsylvania, but as a Member of the Senate to pay tribute to Senator SCOTT for his outstanding achievements as Senate Republican leader. I rise to join my Republican colleagues to express our appreciation for the wise and considerate role he has assumed in this difficult leadership position.

All of us know how delicate the responsibilities of a Senate leader are. Such a man must balance the interests of the Senate in moving forward with responsible programs, the interests of his party in fulfilling its philosophies and commitments, and the interests of all Senators in serving the needs and wishes of their respective constituencies. This challenging balancing act is almost impossible to achieve, and more often than not, provides nearly incompatible demands on the leader. To fulfill this challenge with responsibility and dignity requires a leader of rare skill and perserverance. We on the minority side and the entire Senate are indeed fortunate to have such a man in Senator SCOTT.

Since he first came to Congress in 1943, the Republican leader has been fiercely dedicated to the service of his party, his State, and his Nation. He has earned his reputation, in Pennsylvania and Washington, for serving all three entities with distinction.

Thus, he was uniquely qualified to assume the mantle of leadership left by the death of our late, great Republican leader, Everett M. Dirksen. His skill, patience, and understanding of the great traditions of the Senate and of the wishes and desires of his colleagues were further recognized when, a year ago, we reelected him as our Republican leader. I am confident he will serve many years with distinction in this leadership position.

As Republican leader, Senator SCOTT has promoted the policies and philosophies of the Republican Party by encouraging widespread and open debate on the difficult issues of our day. Our party is truly a national party, representing the many divergent views of specific proposals that exist in the Nation as a whole. Diversity of opinion and openness of debate are healthy and constructive, and add depth and strength to our party. In the debates on the Senate floor, in the party caucuses, and in our private discussions, Senator SCOTT has encouraged, and demanded, the fullest of debate. At the same time, he has worked endlessly, and tirelessly, to insure that no personal rancor or animosities within the minority appear which could detract from the goal of moving our party and our Nation forward through full and open debate.

In addition to these difficult tasks, the Republican leader has also served with skill and distinction in representing the Republican administration in Congress. President Nixon has sent over many constructive bills, proposals, and programs, and Senator SCOTT has been an able advocate, within both Republican and Democratic ranks, for the President's legislative ideas.

I have had the privilege of working closely with Senator SCOTT on many is-

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sues relating to the health and well-being of the Commonwealth of Pennsylvania. I have also shared the privilege with all Senate colleagues in working constructively with Senator SCOTT on the many pressing national and international questions that face us in these complex times. At all times, he has never ceased to display those qualities which make him one of the most widely respected Members of this body—immense personal charm, prolific wit, unimpeachable integrity, and dedication to the progress of all citizens. He ably serves his State and his Nation in the search for peace abroad, prosperity and domestic tranquillity, at home.

All these impressive qualifications serve him well in carrying out the challenge and duties of Republican leader. I am sure the President of the United States, and the distinguished majority leader, with whom he shares such important responsibilities in the leadership of our Nation, would enthusiastically share my feeling that HUGH SCOTT's experience, his love for the Senate, his respect for each individual's views, and his commitment to the well-being of all individuals, makes him uniquely qualified to represent the President, and his Senate colleagues, as Republican leader today.

I am proud to serve alongside a great Republican leader, and privileged to stand today, as we turn toward the key issues of this second session of the 92d Congress, to join my colleagues in this tribute to HUGH SCOTT.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. SCHWEIKER. I yield.

Mr. BYRD of West Virginia. Mr. President, I thank the distinguished junior Senator from Pennsylvania for taking the floor today to say, as he has so well stated, that the very distinguished senior Senator from Pennsylvania, the distinguished Republican leader, is very ably equipped to represent the President of the United States, the administration, and the Republican Party in the Senate, as the leader of his party.

Senator SCOTT has the respect of all Members of the majority in the Senate. At all times he can be depended upon for his courtesy, his fairness, and his complete cooperation as we attempt to work together in behalf of the people and in the discharge of the business of the Senate.

I, personally, have had an excellent relationship with the able Republican leader. At all times he has been courteous, genial, and amiable; and I am happy always to say that he is my friend and that I am his.

I think the Republican Party in the Senate is fortunate to have a man like HUGH SCOTT as its leader. The Senate is fortunate to have him as one of our own and as the minority leader.

Mr. SCHWEIKER. I thank the distinguished Senator from West Virginia for his very fine tribute. I know of the work he has done in a leadership position in this body, and his words carry great weight and importance because of the role he has played in performing functions and in enabling us to help expedite the work of this body.

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

Mr. SCHWEIKER. I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I have just come to the Chamber, and I understand that the Senator from Pennsylvania made some comments about our minority leader at the very beginning of the session.

Senator HUGH SCOTT is not only our leader here but also is a friend of mine of very long standing, and I delight to join in doing him honor, especially at the hands of his colleague from Pennsylvania.

To me, Senator SCOTT has a rare quality of seeing the total of humanity, even in the legislative context, and this adds a warmth and a unique understanding of human aspirations which I think has brought him to his present high eminence.

Also, Senator SCOTT has shown a unique skill for a minority leader, and I have seen a number of leaders here, both minority and majority, in being himself as a legislator and as a man, and yet serving his constituents and his President with devotion, with fidelity, with honesty, and with courage, and with a skill which has enabled him to fulfill both characters—the Senator from his State and the man of principle and thought in his actions, as well as the leader of his party in the Senate. He has been a source of great admiration to me.

As his friend, I have derived enormous pleasure and satisfaction from this growth and development, which has been so much a part of our life here and so useful and fruitful to the people of his State and to the people of the Nation.

So I am very honored and pleased to join his colleague from Pennsylvania in the recognition of what we know to be the basic facts about Senator SCOTT's service in the Senate.

Mr. SCHWEIKER. I thank the distinguished senior Senator from New York.

I yield to the distinguished Senator from Florida.

Mr. GURNEY. Mr. President, I, too, join the distinguished Senator from Pennsylvania in this tribute to our very able distinguished Republican leader, the senior Senator from Pennsylvania (Mr. SCOTT).

It always has been a pleasure to work with Senator SCOTT. He has been extremely understanding about the problems of all Senators—including myself, one of the newer Senators.

The last few years have been extremely troubled times, involving some of the most momentous issues we have had before the Nation, the long debates we have had about the war in Vietnam, the financial difficulties of the United States, as well as many other volatile issues, such as the environment and social problems.

I think that perhaps the best example of the very able leadership which the Republican leader has given to the Republican side as well as to the Senate itself is indicated in some of the statistics of last year.

We hear a lot about the fact that unity is going out the window, that people do not pay much attention to it any more, but that certainly has not been the truth here in the Senate. For example, in the period from September to December 1969, 3 years ago, Republican unity in the Senate was 80 percent. Under the leadership of the distinguished senior Senator from Pennsylvania (Mr. SCOTT), just last year, in the same period of time, Republican unity was 94 percent. It is hard to see how we could have had more unanimous agreement here in our party than we did last year, with some of the most troublesome issues that we have ever had before in our Nation to consider.

Thus, I join wholeheartedly in tribute to our Republican leader this morning and certainly hope he enjoys the leadership role on our side for many long years ahead.

He certainly deserves it.

Mr. SCHWEIKER. I thank the distinguished Senator from Florida.

Mr. GRIFFIN. Mr. President, I regret that committee responsibilities prevented me from being present on the floor earlier today when the distinguished junior Senator from Pennsylvania (Mr. SCHWEIKER) delivered some remarks concerning our great minority leader (Mr. SCOTT).

I wish to associate myself with the statement he made.

I believe it was Tacitus who wrote that—

> Reason and calm judgment (are) the qualities specially belonging to a leader.

As we know, our minority leader possesses these qualities to an abundant degree. Moreover, he has carried out his leadership role with consuming tact, unfailing good humor, and with deep consideration for all of his colleagues on both sides of the aisle.

As his assistant, I have had a rare and enjoyable opportunity to work very closely with him on a day-by-day basis. I know how ably and effectively he has discharged his responsibilities. It is most appropriate that we salute him on this anniversary day.

Mr. BOGGS. Mr. President, it is a great privilege for me today to join my colleagues in praise of the distinguished senior Senator from Pennsylvania. It was just 1 year ago last Friday that he was reelected leader of the Republican Party in this Chamber.

That day also marked the anniversary of the reelection of the distinguished Senator from Michigan (Mr. GRIFFIN) as the minority whip.

These two men, in cooperation with the distinguished Senators from Colorado (Mr. ALLOTT), New Hampshire (Mr. COTTON), and Maine (Mrs. SMITH), have provided our party with exemplary leadership since they took the helm.

I believe that at this time we are a united team, committed to work together on the programs under consideration.

The Scott-Griffin team has performed exemplary service during the year. They have articulated consistently not only the wishes, the desires, and the programs of this side of the aisle, but I believe they have represented extremely well the needs of their respective constituencies and of the American people.

My association with Senator SCOTT goes all the way back to 1947 when I first entered the House of Representatives. Senator SCOTT that year returned to the other body. He first was elected to

the House in 1940, but his tenure was broken by his service in World War II.

It was only natural that when we lost the services of our late, beloved leader, Senator Everett McKinley Dirksen, in 1969 that Senator SCOTT should move into the leadership position.

We on this side of the aisle have looked to our leadership day after day and they have never failed us. They have been solicitious of the needs of every Senator and statesmanlike in their conduct of Senate business.

We are, indeed, fortunate to have Senator SCOTT as our leader. I congratulate him on his achievements and wish him every success in the session we are beginning.

Mr. MATHIAS. Mr. President January 21 marks the first anniversary of the reelection of Senator HUGH SCOTT as the Republican leader of the Senate. This is an occasion worthy of note, for the performance of the senior Senator from Pennsylvania during the past year has been outstanding.

It is not easy to be an elected leader of this body. The Senate is, quite rightly, a congregation of 100 strong-willed individuals with differing philosophies, priorities, interests, constituencies, and styles. However strong our individual desires to cooperate and expedite may be, it is no simple task to lead this flock—to organize proceedings, to establish priorities, negotiate accords and seek accommodations, and to overcome the thousand quirks which may impede the resolution of any given problem. Above all, it is very hard to do all this and foster the good will and mutual respect essential to good leadership. HUGH SCOTT has mastered this task.

Without the slightest deprecation of the challenges facing the distinguished majority leader, I might suggest that it is in some ways even more difficult to serve as the elected leader of the minority party when that party is, as the Republican Party is now, committed not to obstructionism but to solid, constructive legislative action. In this role and in this Congress, HUGH SCOTT bears the added burdens of the endless communications—with Senators of both parties, and with the White House and executive agencies—which are so essential to the advancement of the President's legislative aims. His patient, tireless work on many aspects of the landmark campaign spending legislation is but one example of his skill in molding many separate ideas, from many separate sources, into a coherent and constructive whole.

One source of Senator SCOTT's success is his keen ear. He is acutely attentive and sensitive to the ideas of individual Senators and to that elusive but vital quality called the "mood of the Senate." He has shown that he understands, for instance, the general longing for somewhat more order and modernity in Senate proceedings. He comprehends, and has communicated on our behalf, the desire of many Senators, and of this body as a whole, to exercise our constitutional responsibilities of advice and consent more vigorously than in the past. The talent required to grasp and channel such sentiments involves far more than just an ability to count. It involves the ability to read all of the signs and signals in this body, both the obvious and the obscure, before we start to count the votes. HUGH SCOTT has this rare ability, and both the Republican Party and the Senate have profited from his work.

The first session of this Congress was long and grueling. The session we begin this week may be much shorter, but is likely to be even more highly charged with politics and partisanship. It can never be said that HUGH SCOTT shrinks from partisan politics—but it must also be said that he knows when politics must be set aside and when statesmanship is imperative.

Mr. President, I congratulate the senior Senator from Pennsylvania on this anniversary, and look forward to the coming year of work under his guidance and leadership.

Mr. CASE. Mr. President, I am happy to join in a tribute to our leader, HUGH SCOTT, on the third anniversary of his election to that post.

Our friendship goes back many years. Always a delightful companion, the distinguished Senator from Pennsylvania has rare ability and quickness of mind. Out of his wide experience he brings to his task an understanding and consideration of the problems peculiar to our various States. He is an able spokesman on our behalf as well as on behalf of the administration.

And finally there is his never failing good humor and quick wit which make working with him a pleasure. We are indeed fortunate to have him.

Mr. FANNIN. Mr. President, at first glance it would appear that the States of Arizona and Pennsylvania have little in common. The States are quite far apart; there are sharp contrasts in the climate and terrain and the economic bases of the two States.

Yet, we have some good working arrangements.

Pennsylvania produces some great football players, Arizona State University recruits them, and the Sun Devils produce powerhouse teams on the gridiron.

Mr. President, as we all know, there are some great similarities between football and politics. Both require teamwork to succeed.

Now that I have tied Pennsylvania and Arizona and football and politics together, this Arizonan would like to pay tribute to our Republican "team leader" from the Quaker State.

As we plunge into the work of this second session of the 92d Congress, I applaud the Senator from Pennsylvania, Mr. SCOTT, for his outstanding leadership during the past year. He has worked most diligently to bring us all together. We are working as a team to accomplish those goals which are in the best interest of all Americans.

Senator SCOTT has done a fine job as Republican leader.

Mr. BROCK. Mr. President, the history of political parties in America is one of logical continuity. This is especially true of the Republican Party.

The philosophical principles upon which republicanism is founded are firm, yet allow sufficient flexibility so that diversity of opinion and constituency provides the broad spectrum so vital to a viable party.

It is for this reason that I believe just credit should be given to the leadership of this party. Under its guidance the Republican Party has offered worthy opposition to the majority in this Congress. One indication of its success is that even with its majority the Democrats were unable to overturn any of President Nixon's vetoes in 1971. In much wider terms the Republican Party has demonstrated that it can continue to be a vital and effective force in the American political forum. In support of its President, Republican Party unity has been successful in enacting a substantial majority of the administration's proposals in the first 30 months of its term.

This is a record worthy of recognition. For a democracy to be truly effective, the minority at any given point of time must have the capacity for meaningful contribution and competition.

What this party has lacked in numbers has been made up for by enthusiasm, organization, and leadership.

It is much to the credit of the Senator from Pennsylvania [Mr. SCOTT], the Senator from Michigan [Mr. GRIFFIN], and our other leaders that unity in defense of our principles has led this party to its numerous achievements for this Nation. I congratulate them.

Mr. SCOTT. Mr. President, I was about to leave the Chamber when I heard my friend and distinguished colleague make some very generous remarks about me so that I felt obliged to stay, because he was saying that I do stay and that I am here.

Believe me, Mr. President, these things are intensely embarrassing to me. I begin to shrink and feel about half my size—perhaps that would be a good thing if it were to occur; but I am most grateful to my colleague from Pennsylvania (Mr. SCHWEIKER), the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mr. JAVITS), the Senator from Florida (Mr. GURNEY), the Senator from Michigan (Mr. GRIFFIN), the Senator from Delaware (Mr. BOGGS), the Senator from Maryland (Mr. MATHIAS), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. FANNIN), and the Senator from Tennessee (Mr. BROCK). I am very greatly honored.

It is good to enjoy, I suppose, the fragrance of the laurel rather than to lie unseen, while one's former colleagues praise him under the willow. I prefer the laurel.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. At this time, under the previous order, the Senate will now proceed to the consideration of the transaction of routine morning business, not to extend beyond 11:30 a.m. today, with each Senator being limited to 3 minutes.

The Senator from Pennsylvania (Mr. SCOTT) is recognized.

SENATOR JAVITS NOMINATES FIRST WOMAN TO U.S. NAVAL ACADEMY

Mr. JAVITS. Mr. President, I have today submitted to the Secretary of the Navy my nomination of Miss Barbara

Jo Brimmer of New York for the class of midshipmen entering the U.S. Naval Academy at Annapolis in June 1972.

I believe this is the first nomination of a woman to a service academy—in this instance the Naval Academy, because that was the one for which Miss Brimmer applied. I have called this press conference to introduce her and to explain my reasons for making this nomination.

THE NOMINEE

Miss Brimmer is 17 years old and a resident of Staatsberg, N.Y. She is a 1971 graduate of Franklin Delano Roosevelt High School in Hyde Park, N.Y., where she won a New York State regents scholarship and was elected to the National Honor Society. This year she is attending Russell Sage College in Troy, N.Y.

She graduated with an A average, and her scores on the "College Boards" were all above the 90th percentile. Barbara comes from a family steeped in the traditions of military service, and of the Navy. Her father is a retired Navy commander who graduated from the Naval Academy in the class of 1920. Her mother was a WAVE officer in World War II. And her uncle is a graduate of West Point.

She hopes to be able to qualify for the Academy's newly established premedical course, and become a Navy doctor; but in any event, her objective is to follow in her family's proud tradition as a Naval Academy graduate and naval officer.

REASONS FOR MAKING THIS NOMINATION

First, I wish to emphasize that the step I am taking today is not designed to compel the Navy to use women officers in any naval career to which women are now not already assigned.

It may well be that the Navy ought to expand the scope of permissible activity for women officers—I suspect that that is the case. But that is not what this nomination seeks to accomplish.

At this point, I seek only to have the Academy conform to the Navy itself. Some 3.6 percent of naval officers are women. Should not a similar percentage of Annapolis entering class and graduates be women? Should there not be at least one?

There are now women naval officers serving in a broad range of naval careers. I have examined the recruiting literature which the Navy uses, no doubt at considerable expense to itself, to recruit women naval officers. The colorful brochures published by the Navy tell the potential woman recruit that "side by side with them—men—in every kind of naval activity ashore, we do our part to see that these goals—the Navy's goals—are achieved. Our assignments cover the widest possible range of interests."

What are these assignments? The Navy's brochure tells the prospective woman recruit that she may work in meteorology, electronic data processing, purchasing, expediting material and equipment from private industry for Navy use, as an instructor in one of the Navy's specialized schools, as an information and education officer, in the field of office administration, as a member of the Medical Service Corps, as a public affairs officer, as a personnel officer, and in innumerable other professional capacities now open to both men and women officers, and for which the Navy is now actively recruiting women to seek careers as naval officers.

That is what the Navy wants women officers for. Now if one examines the departments and majors in the academy catalog, it is easy to see how very appropriate academy training would be for a woman who could be outstanding in a career—for which the Navy is already seeking women officer recruits.

For example, the Navy seeks women officers to work in meteorology; and the Academy offers a whole department of environmental sciences.

The Navy seeks women officers to work in electronic data processing, and the Academy offers a whole department of computer sciences.

The Navy seeks women to serve in such office-oriented fields as office administration, personnel, and public affairs, and the Academy offers a major in general management.

The Academy offers a major in naval architecture—hardly a career for which men alone can qualify—certainly the many highly qualified women architects already practicing their profession in this country could testify to that.

None of these specialities is limited to "general line" combat officers, and thus women should be permitted to prepare for these careers as they are taught at the Naval Academy.

Indeed, the Navy's own recruiting brochure includes a full-page picture of one Lt. Roberta Hazard, who is the project manager for the computer assisted research project at the Naval Academy. How can we accept that she is good enough to manage projects at the Academy, but not to go there as a midshipman? How can she be good enough to instruct at the Academy, but not good enough to learn there?

In short, the Academy's tradition is to train officers for the Navy who are highly skilled and motivated to rise to top leadership positions in the service—in any of the many careers which naval officers pursue. Many of those careers are already open to women for which the Navy already recruits women officers. But the Academy—the best training available, for the best officers—is still closed to women officers. That is unfair to women. And it is not in the best interests of the Navy—the only Service which has no women in "flag grade"—admiral, general—positions.

It was just over a year ago that I announced my appointment of the first female page to serve in the U.S. Senate.

The precedent I confronted there was just as old and established as the all-male precedent at the Academy.

Then, as now, it was argued by some that the work involved was not appropriate for females. Then, as now, I was confronted by the argument that the ambiguous law on the subject—in that instance, the Senate's own rules—precluded such an appointment. Then, as now, I argued that no such legal prohibition existed.

Then, as now, I had the power to "nominate," but the actual appointive power lay elsewhere—in the Sergeant at Arms, and the Rules Committee. After making the nomination, I was denied the appointment by the appointive power, but the Senate as a whole sustained such a nomination. Since then, we have seen a half-dozen girls from all corners of the Nation serving as Senate pages—and serving every bit as successfully as the boys.

I hope very much that, in this instance, my nomination will be accepted by the appointive power—in this instance, the Secretary of the Navy, acting for the President. But if the Secretary of the Navy persists in the position—discussed below—that the law as he interprets it precludes this appointment, then, once again, I will be compelled to put the matter before the Congress. And I have confidence that, in due course, that vote would be affirmative once again.

There is no longer any logical or legal basis for this kind of discrimination. Some 196 years ago our Nation was founded on the proposition that "All men are created equal." The 18th century of the Declaration of Independence may not have deemed it "self evident" that the declaration applied to women as well, but who among us would argue nearly 200 years later that half the Nation is made up of second-class citizens, or that women have less to contribute to the strength and the pride of our Nation? This country has crossed that bridge long ago, though we may have left some stragglers behind on the far bank. No doubt the Academy can and will maintain its proud traditions even after it ends its anachronistic ones. Indeed, the Navy may take great pride, in due course, that its first woman admiral will be a graduate of the Naval Academy.

BACKGROUND—PRELIMINARY DISCUSSIONS WITH THE NAVY: THE LAW, REGULATIONS, AND POLICY CONSIDERATIONS

My authority to nominate the Naval Academy is provided in the United States Code, title 10, section 6954, which provides that at any one time there may be at the Academy a certain number of midshipmen from various sources, including:

Ten from each State, five of whom are nominated by each Senator from that State.

That provision says nothing about men or women, and, as I have a vacancy now, it is my capability to nominate a female to the Academy.

Accordingly, on September 22, 1971, after receiving an unsolicited application from Miss Brimmer, I began to explore with the Navy the possibility of making this appointment, and wrote to Secretary Chafee, stating my interest and asking what problems or impediments there might be.

The Navy responded on September 30, 1971, taking the position that the Academy was limited to men only. In support of that position, the Navy took note of the provisions of the law (10 U.S.C. 6954 and 6956) providing for the appointment of certain persons, such as sons of those killed in action in military service. Based upon those provisions, which the Navy construed as evidencing congressional intent to exclude women, the Navy pointed to its own regulations, 32 CFR 710.12(a), which exclude women and are said to be based upon the authority given to the Secretary of the

Navy under a Federal statute, 10 U.S.C. 5031, 6958.

I reviewed the authority cited by the Secretary. The reference to the appointment of "sons" of those killed in action left me with exactly the opposite conclusion: since the code specifically cites male appointees—that is, those who are "sons" of those killed in action—but *no such exclusion as to sex* in other authorities for appointment—as in the authority for nominations by a Senator—I concluded that Congress did not intend the all-male limitation to apply, or else Congress would have said so, as it did in the case of "sons" of those killed in action.

As to the cited statutory authority for the Secretary's exclusionary regulations, I examined section 5031, and found that it simply provides that the Secretary of the Navy shall be in charge of the Navy—and says nothing about excluding women. I examined section 6958, also cited by the Navy, and found that Congress specifically listed, in the statute, the qualifications for admission to the Naval Academy: age 17, passage of examinations prescribed by the Navy, and a resident of the State of the appointing Senator. Not a word about "men only." Indeed, the Attorney General issued an opinion as long ago as 1910 in which he held that a nominee whose qualifications have been regularly certified by a Senator, and who has passed the necessary mental and physical examinations and received and accepted appointment, "cannot, in the absence of fraud, be deprived of that office." 28 Op. Atty. Gen. 180 (1910).

The Navy also cited the provisions in the Code (10 USC 6015) excluding women from service on combat ships. Again, I was unpersuaded. This exclusion has never prevented recruitment of WAVE officers; therefor, why should it be deemed to exclude women from the Naval Academy, which trains naval officers?

And certainly, the use of such terms as "he" or "midshipmen" in the statute is not such an exclusion, as the male gender in terms like that has always been construed to be neutral, neuter, and to cover both men and women. Indeed, the very first section of the United States Code (1 U.S.C. 1) states specifically that in construing any act of Congress:

> Words importing the masculine gender include the feminine as well.

Unless the context requires otherwise, which it does not, as far as I can tell.

Finally, the Secretary of the Navy informed me that, in addition to the legal questions raised, "The Navy's position is in consonance with the Judeo-Christian concepts with respect to the status of women," and went on to state "historically, the basic attitude in our American culture has been one of protection of women from the dangers of combat and the rigors of life at sea."

It still seems clear to me that the moral argument made in this instance by the Navy, if it were really valid, would have prevented the Navy from recruiting officers at all. And this, of course, is not the case. The Navy has recruited, and continues to recruit, women to be noncombat Naval officers, and I see no reason why the Academy, whose curriculum includes many "majors" in those very same fields, ought to take a different position.

Accordingly, I wrote back to the Secretary on October 7, 1971, to explore the matter in even greater detail, asking whether the curriculum was adaptable to fields in which women officers now serve. The Secretary replied on November 9, that the Navy has a current need for about 150 women "line officers" each year, which the Navy manages to recruit through other means—principally OCS. Other specialized women officers are recruited in other ways. The Secretary informed me that, in his judgment, admission of women at the Academy would result in an equivalent reduction in male enrollment and that that would not be in the best interests of the Navy.

I also specifically asked the Secretary about the premedical program, and he replied that the Academy is instituting a premedical program, limited to the top 2 percent of each class, and that the Navy requires its doctors to function in the entire spectrum of the naval environment, which would not be open to women under the statute which precludes women from serving on combat ships. Under the statute on which the Navy relies, however, hospital ships are specifically excluded from the restriction upon the service of women officers—10 U.S.C. 6015—in combat zones. The Secretary did not indicate whether service in naval hospitals—where the highest specialties are practiced, and where the size of the staff makes command training more significant—would be open to women.

Again I went back to the Navy, raising more questions. If the function of the Navy is to increase retention of naval officers after their initial enlistment, was not that objective just as applicable to women? In reply, I was informed that the retention rate for men officers in the Navy is now 24 percent, while for women officers it is 35 percent, while as to Academy graduates—male—the retention rate is 50 percent. In short, the retention rate—and consequent cost to the Navy to train replacements—is very poor for both men and women, but retention is twice as high when it comes to Academy graduates.

So the argument based on retention amounts to this: The Navy has to replace three-fourths of its Academy graduates. The Navy also has to replace two-thirds of its women officers after one hitch—a better reenlistment record than for men, but still not as good as the Academy. Following this logic to its obvious conclusion, it strikes me that, first, the Academy could be expected to double the reenlistment rate for women—two-thirds—and second, women, being more likely to reenlist, ought to be assigned more important tasks and be used more widely in the service, as their reenlistment rate will produce more experienced officers.

As to the curriculum and facilities of the Academy, I again asked the Navy what would be involved in admitting women—at least in proportion to their current rate of enlistment in the Navy—3.6 percent of the class. As far as I could tell, what was involved was the construction of a women's locker room in the Academy gymnasium. In reply, the Secretary informed me on January 11, 1972, that the cost of admitting women to the Academy would be the additional cost of training those men whose otherwise available positions at the Academy would be filled by women; that is, the cost of expanding the Academy's male enrollment by the number of women admitted. Beyond that, I have yet to learn what the real cost of admitting a few women to the Academy would be, and must continue to assume that the cost would be minimal—particularly when measured against the cost—the current cost—of training replacements for those who do not reenlist after their initial hitch.

STANDARDS FOR ADMISSION

There are already intelligence and physical requirements for admission to the Academy.

As to the intelligence standards, women need seek no special treatment, and I have no doubt that my nominee can pass those standards with ease—as could many other candidates who no doubt will follow. As to the physical standards, obviously some new criteria will need to be developed—but not developed "from scratch." The Navy's own brochure for recruiting women officers now lists as qualifications that a candidate must be:

> A citizen of the United States;
> At least 18 and under 27 years upon application;
> Able to meet the Navy's *physical* and mental standards;
> Have no dependents under 18; and
> (You may be single or married.)

Obviously, the Navy already has physical standards for WAVE officers. I can see no reason why they ought to be any different for women admitted to the Academy.

To sum it up, I find nothing in the law to persuade me that women must, as a matter of law, be excluded from the Academy, or that they should, as a matter of policy, be so excluded. And I hope that it is not the Navy's intention to continue to exclude them by maintaining the artificial barrier that now exists. By the nomination I am making today, I propose to begin the process of removing that barrier—which I deem to be in the Nation's best interest.

SENATOR COOPER, OF KENTUCKY, TO RETIRE FROM THE SENATE

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD a statement of the distinguished senior Senator from Kentucky (Mr. COOPER), that he will not be a candidate for reelection. I am sure that every Member of the Senate deeply regrets that this man of high integrity, unquestioned devotion, and great ability and experience has denied to us, for reasons which we respect, the opportunity to continue to serve with him.

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

STATEMENT OF SENATOR JOHN SHERMAN COOPER

I appreciate the invitation of the Kentucky Press Association to be a guest at your biennial meeting.

I am taking this occasion to state that I will not be a candidate for reelection to the United States Senate this year. I expect to maintain my interest in Kentucky and national politics, and to support fully the candidacy of President Richard Nixon for reelection and the Republican nominees for the United States Senate and House of Representatives from Kentucky.

I will continue my interest in State and national affairs.

I thank my party for nominating me on seven occasions as its candidate for the United States Senate and the people of Kentucky—both Republican and Democratic—for electing me five times to the Senate.

I am particularly grateful for the generous support of the people of my county—Pulaski—in my races for the United States Senate, and in prior years for electing me to the office of State Representative, County Judge, and Circuit Judge.

It has been an honor, an opportunity and a responsibility to serve in the United States Senate. I believe you know I have worked hard for Kentucky, and that I have endeavored to place national issues above party.

I have faith in our country, its governmental system, and its people, and that our problems will be solved.

I believe, as you do, that criticism directed to finding the truth is necessary, but that our country offers, and guarantees, greater individual freedom and opportunity than any in the world.

Our system of government is a delicate one, depending in great measure on the respect of its three branches for each other, and the trust of the people in their government and in each other.

I have always liked the words of Lincoln: "Thanks to all! for the great republic—for the principle it lives by and keeps alive—for man's vast future—thanks to all."

I thank you and the people of Kentucky from my heart.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished Republican leader in the remarks he has just made about the distinguished senior Senator from Kentucky (Mr. COOPER). He is a great Senator. He is a man of great integrity, patriotism, and dedication. I know of no one whom I admire more, or for whom I have greater affection in this body than Senator COOPER.

I regret that he will retire from the Senate.

Mr. JAVITS. Mr. President, I want to say a word about my personal regret at JOHN COOPER'S leaving the Senate. I have sat next to him for almost all of my Senate career and have been very close to him in terms of policy and work as a Senator, as well as personal friendship.

I realize that life is beautiful, mine as well as every one else's, and there comes a time when man's duty to himself declares it to be better to leave this responsibility in the Senate.

I join with the minority leader in saying that the Senator from Kentucky is as fine in character and as noble a Senator as any one whoever sat in the U.S. Senate.

THE DISTENDED WAR AND PEACE NEGOTIATIONS

Mr. MANSFIELD. Mr. President, while the "winding down" of the war has been in progress, there has also been a falling off in the negotiating effort to achieve a ceasefire and complete withdrawal of U.S. forces. In 3 years of "winding down" the war, over 300,000 U.S. troops have been withdrawn, 10,000 additional American lives have been lost in Indochina, and over 45,000 additional Americans have been wounded or maimed. All the while, there has been talk of negotiations in Paris. There have not been serious negotiations.

Has it ever been made clear, for example, that the policy of this Nation seeks the complete withdrawal of U.S. forces from Vietnam subject only to the condition of a release of the U.S. prisoners of war and the recoverable missing in action? Indeed, that is the policy urged by a preponderant majority in the Senate. It is the policy apparently favored by the House. But it has yet to be set forth clearly as the policy of this Government.

There has been a voluminous exchange of words in Paris during the past 3 years. There has been a great deal of mutual pointing of the finger of blame. But negotiations there have not been. In the meantime, our combatants and theirs have continued to die in Vietnam. So, too, have countless noninvolved men, women, and children. All the while, the tentacles of the war's devastation have reached out of Vietnam ever deeper into Laos and Cambodia.

What once was one war, winding down, has now become three wars sealed into one. That was the inevitable consequence of the invasion of Cambodia in 1970 and the military adventure into Laos in 1971.

Since there is now a war distended to include all of Indochina, it is no longer enough to talk of a peace settlement for Vietnam. It is no longer enough to talk of peace only with North Vietnam. In that sense, what has transpired in Paris for many months has been a futile exercise.

If negotiations are to have any chance of succeeding, an enlargement of the negotiating table is necessary. Places will have to be provided for Laos and Cambodia. But how can the latter speak in the negotiations? Who will talk for the former?

The Senate may recall that at the conclusion of the second Geneva settlement, hopes were reposed in the ability of a three-sided government in Vientiane to insure the unity and neutrality of Laos. The Prime Minister, Prince Souvanna Phouma, held the confidence of various Laotian political factions. For a decade, the Prince tried to shape a single government of national unity.

His efforts have been astute and dedicated, but they have also been in doubt from the very beginning. In the past few years, they have broken down completely and the second Geneva Accord has come to be ignored on all sides. For a long time, there has not been any real communication between the Pathet Lao and the government in Vientiane. While the former has had the support of North Vietnam, we have poured hundreds of millions of dollars of military and other aid into Vientiane. We have supported the Vientiane Government not only with money, but with American planes and paid agents of various nationalities.

I regret to say it, but it seems to me that our help has been so overwhelming that we may well have compromised Prince Souvanna Phouma's neutral status beyond any expectation of recovery. It is to be hoped that such is not the case, but I fear that it is. The only prospect for restoring a neutral Laos may now rest in the royal capital at Luang Prabang. The King of Laos, Sri Savang Vatthana, alone, may command sufficient trust and respect among the Laotian political factions which, when combined with the quasi-religious loyalty of his people may permit him to speak for the entire country with a measure of authority.

The King has stood outside and above the political struggles. As is traditional, questions of State have been left to the Prime Minister and the other ministers in Vientiane. The tradition may be too strong to be stretched to meet the needs of the present desperate situation. However, unless the King is prepared to assume a more direct role of leadership, it would be my judgment that a peace will not be achieved whereby Laos can survive as an independent nation. The active intercession of this one unifying element is urgent to reestablish rapport among the factions and for effective Laotian participation in an international settlement of the Indochinese conflict.

The future of Cambodia also appears in grave doubt. Now driven by war, Cambodia may well see its independence undermined not only in negotiations but perhaps even by the resumption of historic encroachments on its territory. The blunt truth is that the present government in Pnompenh is hapless, helpless, and hopeless. Only the resources of the United States stand directly and indirectly between the continued survival or sudden demise of that government. Our policies of the past 2 years have placed us in the unenviable position of chief defender of Pnompenh's military politicians. In scarcely 2 years, this self-assumed role has already cost the people of the United States hundreds of millions of dollars in arms and other aid and many additional casualties—dead and wounded—among our military forces in Indochina.

The sooner we remove ourselves from this situation the better for all concerned. However desirable such a withdrawal, I do not see, frankly, much prospect of extricating ourselves until peace is restored throughout Indochina. I am confident that the Senate is prepared to take a new look at the matter at any time, but there is no indication that these sentiments are shared in the executive branch. As in Laos, the best hopes for the restoration of the peace and the preservation of an independent Cambodia may lie in international negotiations.

At the time it occurred, the coup which overthrew Prince Norodom Sihanouk seemed to me a most regrettable development both from the point of view of the interest of this Nation and that of the Cambodian people. For more than a decade and a half the prince had dedicated himself with a single-minded zeal to the preservation of his country's territorial integrity and independence. For a decade and a half he kept the war away from the Khmer people. He estab-

lished an oasis of peace and reasonable progress in a wartorn Indochina.

In retrospect, the overthrow of Sihanouk has proven more than regrettable; it has been a tragedy for the Khmer people and it has served this Nation's interests not at all. Moreover, our prompt support of a successor government of dubious constitutional lineage with money, arms, and American lives has served to compound the original tragedy. It has brought us little more than another expensive dependent government, additional casualties, an enlarged war, and increased hostility.

If I may summarize those observations, then, Mr. President, let me state the following:

First. In the search for peace, it should be recognized that we are now engaged in three wars which have merged into one Indochina war. In the circumstances, the Paris negotiations have lost much of their relevance. There is a need to expand these talks to accommodate the situation which has developed in the wake of the invasions of Laos and Cambodia.

A change of venue from Paris may also be in order at this time. The French Government's diplomatic contribution to date has been exemplary, but it may be more useful now to shift negotiations to another location, perhaps closer to the scene of the conflict, perhaps to Rangoon, Burma.

Second. The King should be encouraged in every possible way to take a direct hand in restoring the internal political unity of Laos. In that fashion it may be possible, via the path of negotiations, to bring a return to neutrality and a restoration of peace to that wartorn pitiful land.

Third. If there is a source of authentic leadership which might serve to restore the unity of Cambodia and preserve for that nation a degree of independence, national integrity, and peaceful neutrality, it is Prince Norodom Sihanouk. In my judgment there is little hope for a settlement of the Cambodian wing of the war along those lines without his active participation.

The PRESIDENT pro tempore. Is there further morning business?

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.

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. DOMINICK. 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.

THE TRAGEDY OF THE ASIAN SUBCONTINENT

Mr. DOMINICK. Mr. President, the tragedy of the Asian subcontinent has occupied considerable space in news broadcasts and newspapers and magazines during the period since we last met here. President Nixon has been the subject of much criticism for his actions relative to the India-Pakistan dispute by those of my colleagues in this body who are vying among themselves to occupy the White House next year and by many of their mentors in the media. A recent editorial in the Wall Street Journal helps to place this torrent of criticism in perspective. It states:

(There is a) . . . persistent belief that the problems of the world can be solved by the correct action on the part of the U.S. Government. If the problem happens to be one where the United States has intervened, then the solution is for the United States to withdraw. If the poblem happens to be one where the United States has abstained, the the solution is for the United States to intervene.

The Journal correctly points out that those who have been most vocal in their criticism of the President on this matter are the same people who condemn the United States for playing world policeman.

Mr. President, I think this editorial from the Wall Street Journal of December 9, 1971, is worthy of the attention of all Senators, especially those who seem to have difficulty deciding whether it is intervention or nonintervention which they favor as the policy of this Government in world affairs. I ask unanimous consent that it be printed in the RECORD at this point.

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

FOREIGN POLICY

As an example of how American liberals think on foreign policy, consider a range of reactions to the India-Pakistan tragedy:

Senator Harris arises to deplore President Nixon and "the tragic setback for our nation and world peace which his administration's neglect of the India-Pakistani crisis has brought about." He offers a letter also signed by Senators Mondale, Packwood, Bayh, etc., etc., giving historical perspective: "The root cause of the conflict between India and Pakistan is the continued suppression of popular will in East Pakistan." Their solution to what Mr. Nixon has "brought about": Take it all to the U.N.

The editors of the Washington Post tell us that India is indeed trying to use the refugee crisis for the "dismemberment of Pakistan," but after all India is the larger and more important of the two, and the President should put aside "largely sentimental considerations" in favor of "cold calculations of power politics."

Columnist Joseph Kraft writes that the administration mishandled the "Indo-Pak crisis" because it failed to pressure Pakistan into negotiating with Bangla Desh leader Sheikh Mujibur Rahman "even after Prime Minister Indira Gandhi of India visited Washington and named that as a price for peace."

Senator Church cautions us that "if India has intervened in the civil war of her neighbor, let's remember that we did the same in Vietnam with far less provocation." Senators Kennedy and Muskie charge that the administration was too slow in cutting off military aid to Pakistan, and too quick to brand India as the aggressor and to cut off its economic aid, and therefore its policy is not neutral but pro-Pakistan.

These are the same people, remember (as if they will let you forget), who condemn the U.S. for playing "world policeman," who elevate non-intervention to the highest principle in the case of Vietnam, who think we should lay aside power politics in favor of moral judgment in relations with Greece or Rhodesia, who are at the same time the most enthusiastic about closer relations with the People's Republic of China.

How from this stew does one distill a coherent theme? The only connecting tissue we can discern is that whatever argument is available is used to support the cause, or at least forgive the sins, of the left-most party in any international dispute.

Actually, there is another: a persistent belief that the problems of the world can be solved by the correct action on the part of the U.S. government. If the problem happens to be one where the U.S. has intervened, then the solution is for the U.S. to withdraw. If the problem happens to be one where the U.S. has abstained, then the solution is for the U.S. to intervene.

A more realistic and sensible view of the world, it seems to us, would stress the painful frequency with which tragedies will be tragedies. Never was this more true than in the case of India and Pakistan. The root causes are religious differences dating back, as our Mr. Keatley noted the other day, to 1526. In the present difficulties, as in the past ones, there is plenty of blame for both sides. When Pakistan was unable to resolve its internal regional and racial problems, it resorted to bloody repression of its dissidents. For its own narrow purposes, India fished in these troubled waters, finally provoking the war it wanted.

Yes, Pakistan was beastly in its internal policies. But it was India that resorted to force to settle an international quarrel, indeed for something very close to territorial aggrandizement. Yes, the U.S. has an interest in retaining what ties it can with India. But it also has a definite interest in maintaining what stigma it can for aggression. Yes, the U.S. has an interest in restraining Pakistan. But it also has a need to maintain some tie in order to do so. Above all, it has no power to change human nature or national history in ways that would make the Pakistanis less harsh or the Indians less hypocritical.

Now, we find it difficult to conceive that all would have been happy if only American aid to Pakistan had been cut off three months earlier or aid to India continued three months more. All the same, there is always room for debate over whether American policy was 100% correct; the second guessers are entitled to their day.

Somehow, though, we would be happier about the usefulness of that debate if the second-guessers were neither so blissfully unaware of their own contradictions nor so blissfully oblivious to the true complexity and tragedy of the situation.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

(The remarks of Mr. PROXMIRE when he introduced S. 3057 and S. 3058 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON OPERATIONS UNDER FOOD STAMP ACT OF 1964

A letter from the Assistant Secretary of Agriculture, transmitting, pursuant to law, a report on operations under the Food Stamp Act of 1964, for the calendar year 1971 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT OF RURAL ELECTRIFICATION ADMINISTRATION

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report of the Rural Electrification Administration, for the fiscal year 1971 (with an accompanying report); to the Committee on Agriculture and Forestry.

PROPOSED TRANSFER OF SUBMARINE

A letter from the Assistant Secretary of the Navy, reporting, pursuant to law, that the Department of the Navy proposes to transfer the submarine USS *Requin* (SS481) to the city of Tampa, Fla.; to the Committee on Armed Services.

REPORT ON OPERATIONS UNDER THE AIRPORT AND AIRWAY DEVELOPMENT ACT

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on operations under the Airport and Airway Development Act, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Commerce.

REPORT ON SMOKING

A letter from the Chairman, Federal Trade Commission, transmitting, pursuant to law, a report relating to the Public Health Cigarette Smoking Act, dated December 31, 1971 (with an accompanying report); to the Committee on Commerce.

REPORT ON FOREIGN EXCESS PROPERTY DISPOSED OF

A letter from the Assistant Secretary for Administration, Department of Commerce, reporting, pursuant to law, on foreign excess property disposed of, during the calendar year 1971 by the Department of Commerce; to the Committee on Government Operations.

REPORT ON DISPOSAL OF FOREIGN EXCESS PROPERTY

A letter from the Deputy Administrator of Veterans' Affairs, transmitting, pursuant to law, a report on the disposal of foreign excess property by that Department, for the calendar year 1971 (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 Veterans Canteen Service Fiscal Year 1971," Veterans' Administration, dated January 21, 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 "Examination of Financial Statements of Disabled American Veterans National Headquarters and Service Foundation for Year Ended December 31, 1970, and Life Membership Fund for Year Ended June 30, 1971," dated January 21, 1972 (with an accompanying report); to the Committee on Government Operations.

REPORT OF OFFICE OF WATER RESOURCES RESEARCH

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on the activities and achievements of the Office of Water Resources Research, for the year 1971 (with an accompanying report); to the Committee on Interior and Insular Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated.

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of New Jersey; to the Committee on Agriculture and Forestry:

"SENATE CONCURRENT RESOLUTION NO. 2034, STATE OF NEW JERSEY

"A Concurrent Resolution memorializing the Congress of the United States to enact appropriate legislation to enable more comprehensive and effective inspection and enforcement of hygienic standards in the preparation and processing of food products

"Whereas, Recent fatal event resulting from the distribution and consumption of botulism-tainted canned soup processed at a plant in this State have provided evidence that neither State nor Federal inspection procedures are adequate to guarantee the safety of consumers against each occurrences, inasmuch as it was disclosed that the plant involved in this incident had received no Federal inspection for 4 years and no State inspection for 5 years; and

"Whereas, It is urgently necessary that appropriate steps, including fuller cooperation between State and Federal authorities and more frequent and energetic exercise of the inspection function and authority by both levels of government, be taken to prevent recurrences of similar fatal incidents; and

"Whereas, The Commissioner of Health of this State has suggested that a comprehensive food inspection operation, consolidating and coordinating the operations of the several State and Federal agencies now exercising various segments of this vital governmental function, would do much to fill in gaps in the existing inspection system and to safeguard the public health; and

"Whereas, Federal legislation is necessary to make possible the setting up of such a consolidated inspection system operating uniformly in all sections of the nation; now, therefore

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

"1. The Congress of the United States is hereby respectfully memorialized to enact appropriate legislation to enable the setting up of a nationwide system for the more comprehensive and effective inspection and enforcement of hygienic standards for the preparation and processing of food products.

"2. Duly authenticated copies of this resolution, signed by the President of the Senate and the Speaker of the General Assembly and attested by the Secretary of the Senate and the Clerk of the General Assembly, shall be transmitted to the Vice President of the United States, the Speaker of the United States House of Representatives and the several members of Congress elected from this State."

A joint resolution of the Legislature of the State of California; to the Committee on Armed Services:

"ASSEMBLY JOINT RESOLUTION NO. 30—RELATIVE TO ECONOMIC CONVERSION

"Whereas, The United States is currently facing an acute problem of economic conversion which has resulted from changing emphasis in the fields of space and defense technology; and

"Whereas, Federal legislative action is required to facilitate the process of conversion and to ameliorate resultant economic hardship borne by sectors of the national economy; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact the following legislation:

"(1) Legislation to require, as a condition of receipt of a federal contract, that any firm realizing more than 50 percent of its gross income from contracts with the Department of Defense, the National Aeronautics and Space Agency, or the Atomic Energy Commission, establish a conversion plan which demonstrates the firm's ability to utilize its space and defense resources in the solution of domestic problems. Such plans should be reviewed by a national economic conversion agency which will report to Congress and the President on the feasibility of such plans.

"(2) Legislation to require a system of "portable pensions" for employees of firms receiving defense-aerospace contracts. Such a system should include provisions for pension credits and cash conversion for all employees after a minimum of six months' employment. Such legislation should not supplant existing OASDI benefits, but should compensate for the present insecurity associated with defense-aerospace employment. At the present time, most defense-aerospace firms provide pension plans which vest after 10 years of service. These plans tend both to restrict employee mobility and to be ineffective for many people since it is often the case that periodic layoffs preclude vesting.

"(3) Legislation to establish a "Defense Employees Bill of Rights Program." The program would provide on-the-job reorientation for defense employees who are laid off as a result of Department of Defense or NASA action, such as contract cancellations or a decision not to award a contract. In addition, the program should have provisions for mortgage moratoriums of a specified period on existing FHA loans to such employees. Additionally, employers in nondefense industries should receive a subsidy for a specified length of time for hiring laid-off defense employees. The amount of the subsidy would be a function of the employer's cost of reorientation and the employee's previous length of service. The financing for this program should come in part from existing federal unemployment insurance benefit programs.

"(4) Legislation to provide that accrued leave be considered as a previous earned wage payment. Present federal law precludes an individual from qualifying for unemployment compensation benefits until any leave which has accrued at the time of job separation has run out. This unfairly discriminates against those military personnel and civilian employees of the federal government who save up their leave time; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the Legislature of the Territory of Guam; to the Committee on Armed Services:

"RESOLUTION NO. 403—11TH GUAM LEGISLATURE

"Relative to requesting the President of the United States and the Secretary of the Navy, to require the United States Navy to hold public hearings on Guam on the proposed Sella Bay project

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

"Whereas, Sella Bay is an unspoiled and unexploited part of the territory of Guam, bordering on the Pacific Ocean, that is not only one of the most beautiful and scenic parts of this island with great recreational potential, but is also a unique example in the American commonwealth of the Pacific of a reef environment that should be studied and

preserved for future generations, this area having been proposed by the government of Guam as a territorial seashore park, and tentatively proposed by the Park Service of the Department of Interior as a national seashore park; and

"Whereas, the Commander Naval Forces Marianas has indicated that the Navy is presently intending to proceed with the acquisition of Sella Bay and the surrounding areas for the use of an ammunition pier, thereby seizing over four thousand (4,000) acres of the limited land area in the territory of Guam; and

"Whereas, it is the understanding of this Legislature that the Navy has caused a study to be made of the environmental impact of the proposed project on the territory of Guam, and has released on September 13, 1971 its draft of the environmental impact study to various agencies at the Washington level and to certain officials in the government of Guam; and

"Whereas, the Eleventh Guam Legislature on behalf of the people of Guam has adopted numerous resolutions directed to the Navy and the Department of Defense requesting them to reconsider the proposed taking of the land at Sella Bay as well as to review the environmental impact of the loss of this vital natural resource and to consider other possible alternative sites on Federal property, but neither the Federal government nor the Navy has responded to these resolutions, thereby indicating a complete lack of concern for the feelings, desires and pleas of the people of Guam and their right of enjoyment of this natural and beautiful reef environment at Sella Bay; and

"Whereas, the opinion of the local community and the local representatives of Guam has neither been sought nor obtained in connection with the environmental impact study as required by Executive Order 11514, Section 2(b) of which states that heads of Federal agencies shall "develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, a provision for public hearing, and shall provide the public with relevant information, including information on alternative courses of action"; and

"Whereas, it would appear to this Legislature that in view of the extreme interest of the people of Guam in the development of an ammunition pier at Sella Bay that public hearings should be held on Guam to provide the people of Guam with the information relative to the construction of such a pier, including information on alternative courses of action as required by Section 2(b) of Executive Order 11514; now therefore be it

"Resolved, that the Eleventh Guam Legislature does hereby respectfully request the President of the United States and the Secretary of the Navy, to require the United States Navy to hold public hearings on Guam on the proposed Sella Bay project in accordance with the provisions of Section 2(b) of Executive Order 11514; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States, to the Secretary of the Navy, to the Commander Naval Forces Marianas, to the Secretary of Defense, to the President of the Senate, to the Speaker of the House of Representatives, to the Secretary of the Interior, to the Attorney General of the United States, to the Chairman of the Senate Committee on Interior and Insular Affairs, to the Chairman of the House Committee on Interior and Insular Affairs, to the Chairman of the Senate Subcommittee on Territorial and Insular Affairs, to the Chairman of the House Subcommittee on Territorial and Insular Affairs, to Guam's United States Attorney, to the Chief of Operations, Environmental Protection Agency, to Guam's Washington Representative, and to the Governor of Guam.

"Duly and regularly adopted on the 3rd day of November, 1971."

Resolutions adopted by the General Assembly of the Council of Jewish Federations and Welfare Funds, praying for the enactment of legislation relative to welfare reform and social security; to the Committee on Finance.

Resolutions adopted by the General Assembly of the Council of Jewish Federations and Welfare Funds, expressing concern over the imprisonment of Soviet Jews; to the Committee on Foreign Relations.

Resolutions adopted by the General Assembly of the Council of Jewish Federations and Welfare Funds, relating to crisis in the cities, and so forth; to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on Agriculture and Forestry, without amendment:

H.R. 8817. An act to further cooperative forestry programs administered by the Secretary of Agriculture and for other purposes (Rept. No. 92–592).

By Mr. CANNON, from the Committee on Commerce, with amendments:

S. 2423. A bill to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes (Rept. No. 92–593).

BILLS REFERRED

The following bills, which were previously ordered to be held at the desk, were referred to the Committee on the Judiciary:

By Mr. JAVITS (for himself, Mr. HART, Mr. HUGHES, Mr. CRANSTON, Mr. HUMPHREY, Mr. KENNEDY, Mr. METCALF, Mr. MOSS, Mr. PELL, Mr. PERCY, and Mr. STEVENS):

S. 3049. A bill to provide minimum standards in connection with certain Federal financial assistance to State and local correctional, penal, and pretrial detention institutions and facilities.

By Mr. JAVITS (for himself, Mr. CRANSTON, Mr. HART, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. METCALF, Mr. MOSS, and Mr. PERCY):

S. 3050. A bill to assist urban criminal justice systems on an emergency basis in those cities where personal security, economic stability, peace and tranquility are most impaired and threatened by the alarming rise in the commission of serious crime.

By Mr. JAVITS (for himself, Mr. CRANSTON, Mr. HART, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. METCALF, Mr. MOSS, Mr. PELL, Mr. PERCY, Mr. STEVEN, and Mr. STEVENSON):

S. 3051. A bill to provide assistance to State and local criminal justice departments and agencies in alleviating critical shortages in qualified professional and paraprofessional personnel, particularly in the corrections components of such systems, in developing the most advanced and enlightened personnel recruitment training and employment standards and programs and for other purposes.

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. PROXMIRE (for himself, Mr. HARRIS, Mr. KENNEDY, Mr. METCALF, Mr. PELL, Mr. TUNNEY, and Mr. MCGOVERN):

S. 3057. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on fuels containing sulfur and on certain emissions of sulfur oxides. Referred to the Committee on Finance.

By Mr. PROXMIRE (for himself, Mr. HARRIS, Mr. KENNEDY, Mr. MOSS, Mr. METCALF, Mr. MCGOVERN, and Mr. PELL):

S. 3058. A bill to provide for the reduction in interstate commerce of the quantity of materials which must ultimately be disposed of, and for other purposes. Referred to the Committee on Commerce.

By Mr. THURMOND (for himself and Mr. HARTKE):

S. 3059. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance and special training allowance paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. HARRIS (for himself, Mr. GRAVEL, Mr. HART, Mr. HUGHES, Mr. KENNEDY, Mr. MCGOVERN, and Mr. MUSKIE):

S. 3060. A bill to authorize the Federal Communications Commission to investigate the American Telephone & Telegraph Co. and its subsidiaries. Referred to the Committee on Commerce.

By Mr. GRAVEL:

S. 3061. A bill for the relief of Pietro Pianetti, Crocifica Pianetti, and Carmelita Pianetti. Referred to the Committee on the Judiciary.

By Mr. EASTLAND:

S. 3062. A bill to amend title II of the Social Security Act to provide for a 5 percent increase in the benefits payable thereunder. Referred to the Committee on Finance.

By Mr. MUSKIE (for himself and Mr. SCOTT):

S. 3063. A bill to amend the Internal Revenue Code of 1954 so as to permit certain tax exempt organizations to engage in communications with legislative bodies, and committees and members thereof. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 3064. A bill to extend and amend section 8(d) of the Federal Water Pollution Control Act, as amended. Referred to the Committee on Public Works.

By Mr. MCGEE:

S. 3065. A bill to designate the Ashenfelder Wilderness, Medicine Bow National Forest, in the State of Wyoming. Referred to the Committee on Interior and Insular Affairs.

By Mr. JORDAN of North Carolina:

S. 3066. A bill to amend the Federal Home Loan Bank Act to require the Federal Home Loan Bank Board to obtain certain approvals before changing the location of a Federal home loan bank. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself, Mr. HARRIS, Mr. KENNEDY, Mr. METCALF, Mr. PELL, Mr. TUNNEY, and Mr. MCGOVERN):

S. 3057. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on fuels containing sulfur and on certain emissions of sulfur oxides. Referred to the Committee on Finance.

By Mr. PROXMIRE (for himself, Mr. HARRIS, Mr. KENNEDY, Mr. MOSS, Mr. METCALF, Mr. MCGOVERN, and Mr. PELL):

S. 3058. A bill to provide for the reduction in interstate commerce of the quantity of materials which must ultimately be disposed of, and for other purposes. Referred to the Committee on Commerce.

PROGRAM FOR A CLEANER ENVIRONMENT

Mr. PROXMIRE. Mr. President, I am introducing today two far-reaching proposals to combat environmental degradation. One deals with solid waste, and the other with air pollution.

Last November, I introduced the Regional Water Quality Act (S. 2696), the first part of a legislative program which seeks to combat pollution through the use of economic incentives. The bills I am introducing today are the second and third parts of that program.

Mr. President, I am firmly convinced that the fastest and most effective means of pollution abatement is to make the polluter pay for his own pollution. This is essentially the approach I proposed in the Regional Water Quality Act last November, and which I am proposing today in the fields of solid waste and air pollution. The use of economic incentives avoids the major drawbacks of the regulatory and standard-setting approach, and at the same time provides a badly needed source of revenue.

PENNY A POUND

The first bill, the Solid Waste Management Act of 1972, would impose a charge of 1 cent per pound on all containers and materials requiring disposal within 10 years of origin. The fee would be assessed at the point of final configuration prior to sale, so that the party required to pay the charge will be in a position to take steps to lessen it.

Revenue from the charge would go into a revolving Federal fund, and would be made available to municipalities and communities on a per capita basis. A direct credit against the fee would be allowed to the extent the product consists of recycled material.

There are a number of advantages in this approach:

SUPPLY NEEDED FUNDS

First, a penny-a-pound would generate funds desperately needed by cities to cope with rising amounts of solid waste. The $20 per ton the fee would generate approximates what it costs the average municipality to collect and dispose of its solid waste, although such costs do vary considerably from one community to another.

Leonard S. Wegman, a New York City consulting engineer who originated the penny-a-pound idea, estimates that the fee would generate about $3 billion a year on a nationwide basis. This money would ensure that municipalities and communities would have the capability to dispose of their solid wastes in the most environmentally acceptable manner. Today, by contrast, more than 80 percent of urban solid waste winds up in open dumps, where it is simply left to rot. These open dumps are eyesores, they constitute considerable health hazards, and they invariably have to be located at a considerable distance from residential areas. This distance, of course, makes for considerable transportation costs.

Incineration, sanitary landfilling, salvage, or composting—all of these are far preferable to open dumping—and all are far more costly. It will take revenue on the order of $3 billion a year to enable cities to use these methods on a large scale.

WHY BASE CHARGE ON WEIGHT

Second, a tax based on weight will encourage manufacturers to develop lighter containers and materials. This in turn would cut collection and disposal costs, since the most significant factor in the cost of solid waste collection is the weight of the material to be disposed of.

It should be emphasized here that getting rid of solid waste is actually a two-step process: collection and disposal. Collection accounts for the lion's share of the costs, and weight is the factor that largely determines what those costs will be.

When disposal alone is considered, factors other than weight do take on added importance. For example, combustibility is the single most important factor affecting the cost of incineration.

Compactability is the single most important factor where sanitary landfill is used, although here biodegradability is also a factor.

Several years ago, the Midwest Research Institute did a comprehensive study on solid waste disposal for the Department of Health, Education, and Welfare. The study was entitled "The Role of Packaging in Solid Waste Management 1966 to 1976." That study included a detailed disposability resistance calculation, in which each of six different types of solid waste materials were assigned a value depending upon which of five different means of disposal were utilized.

The six materials were paper and paperboard, metals, glass, wood, plastics, and textiles. The five means of disposal were incineration, sanitary landfill, dumping, composting, and salvage. Metals, for example, had a very low resistance to disposability index when sanitary land filling was considered, but a very high resistance disposability when incineration or composting was considered. Paper and paperboard, on the other hand, fared better for incineration than for sanitary land filling.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary table. The index numbers range from 100 to 500, where 100 is the lowest resistance to disposal, and 500 represents the maximum.

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

TABLE 88.—DISPOSABILITY RESISTANCE VALUES OF MAJOR MATERIAL GROUPINGS BY DISPOSAL PROCESS, 1966

Material	Incineration	Sanitary land filling	Dumping	Composting	Salvage
Paper and paperboard	150	160	100	230	210
Metals	460	170	100	460	240
Glass	490	160	100	360	240
Wood	210	270	100	180	450
Plastics	300	270	100	480	330
Textiles	190	120	100	180	250

Mr. PROXMIRE. Mr. President, I have included this material to demonstrate how difficult any accurate assessment of disposability would be. When disposability alone is considered—as opposed to collection—a number of factors have an impact on costs, and weight would be just one of these factors.

However, weight has the greatest impact on collection costs, and in most municipalities collection costs account for more than 80 percent of the total cost of solid waste disposal. Thus, a charge which induces the use of lighter containers and materials—as penny a pound will—should substantially cut municipal collection and disposal costs.

Finally, for the incentive to operate, the basis for assessing the fee must be extremely simple. Weight is an element that is readily known—or easily determined—by the manufacturer. He can readily determine what the charge will be, and how best to reduce it. By the same token, the government can readily determine what charge should be assessed, and there is little opportunity for administrative delay that often plagues the collection of taxes where the assessment basis is far more complex.

PENNY A POUND IS EQUITABLE

Third, this is the most equitable way to combat pollution. Those who generate pollution should not receive a free ride with the taxpayer forced to pay for cleanup later.

With this bill each article would be responsible for making good on the burden it imposes upon society. Presumably, of course, the manufacturer would pass as much of the disposal fee on to the consumer as he could. This is appropriate, since the cost of pollution control or abatement ought to be included in the price of a product to the same degree that any other costs are; that is, pollution control costs should be regarded in the same vein as labor costs, cost of resources, transportation costs, or local taxes.

This is consistent with the policy established in President Nixon's state of the Union message of a year ago—namely, that:

> The price of goods should be made to include the cost of producing and disposing of them without damage to the environment.

INCENTIVE FOR RECYCLING

Fourth, this bill would provide a strong incentive for recycling, since it would exempt from the penny-a-pound charge products consisting of recycled material.

Recycling can cut down on solid waste generation dramatically, since it relies on disposal facilities to a far lesser degree.

This provision would also create a strong incentive to use returnable bottles and cans. Again, to the extent manufacturers designate their containers to be returnable, the solid waste disposal process can be avoided, and the resultant cost savings would be substantial.

REVENUE AHEAD OF EXPENDITURES

Fifth, there would be a time lag between disposal fee revenues and disposal service outlays. Such a time lag would operate in favor of municipalities.

Money would be generated and collected at the time of production. At the earliest, it would not be needed for several weeks—with food packaging, for example. And with items such as furniture or automobiles, disposal requirements may lag as much as 7 to 10 years behind the collection of revenue. This time lag will enable municipalities to set up contingency funds, and to plan pollution-free methods of disposal.

BROADER THAN PACKAGING TAX

Mr. President, it should be noted that my proposal goes considerably beyond a tax on packaging, which has been proposed in this chamber before. The packaging tax is fine, as far as it goes, but it would only cope with part of the problem.

It is true that packaging has risen dramatically from 35.4 million tons in 1958 to 51.7 million tons in 1966, and it is estimated that by 1976 73.5 million tons of packaging will be used.

But this is relatively minor compared to the total of 350 million tons which our solid waste disposal facilities have to cope with every year. Packaging accounts for only 13 to 15 percent of residential, commercial, and industrial waste that we generate. The tax on packaging, therefore, would exempt more than 80 percent of the waste which our solid waste facilities dispose of each day.

This can be illustrated by a simple example. If I buy a package of paper plates for a picnic, I throw the cellophane wrapper in the garbage right away. But an hour later, the paper plates themselves are ready for disposal too—and the plates comprise over 90 percent of the original item. But a packaging tax would only reach the packaging material, even though the disposal facilities have to cope with both.

The packaging tax would not cover newspapers, periodicals, and clothing. Nor would it cover furniture, or appliances, or automobiles. These come into our disposal facilities every day, but a packaging tax would leave us without the revenue to handle these items. It is clear, Mr. President, that far more encompassing legislation is needed, and this is what I am proposing today.

TAX ON SULFUR

Mr. President, the other bill which I am introducing today would levy a charge of 20 cents per pound on the sulfur content of fuel, and on emissions of sulfur oxide where the fuel itself is not covered. The tax levied by this bill would be phased in at the rate of 5 cents a year; the fee would be 5 cents a pound in 1972, 10 cents a pound in 1973, 15 cents a pound in 1974, and 20 cents a pound after 1974.

The tax on sulfur was given a strong impetus in President Nixon's state of the Union message a year ago, and many of us in Congress had high hopes that such legislation from the administration would be forthcoming. However, a year has now passed, and the administration has yet to submit any legislation embodying a sulfur tax.

Accordingly, I am introducing this bill today to give the Senate a chance to consider what I believe to be a very worthwhile proposal. My colleague from Wisconsin, Congressman LES ASPIN, has already introduced identical legislation in the House of Representatives (H.R. 10890).

Some of the questions that may be raised in connection with this proposal are: Why tax sulfur? What is the damage from sulfur pollution? Why peg the tax at 20 cents a pound? Does technology exist to abate sulfur pollution?

WHY TAX SULFUR?

Sulfur oxides constitute far and away the worst air pollutant from stationary sources, both in terms of quantity and in projected progress in abatement. Only pollution from transportation sources exceed sulfur in quantity and damage.

The President's Council on Environmental Quality confirmed this in its second annual report. According to the report, process sources in the United States emitted 6,695,000 tons of sulfur oxides. U.S. combustion sources contributed another 22,130,000 tons. The total from both process and combustion sources—28,825,000 tons—represents half of the total 56 million tons of all pollutants deposited in our atmosphere from all stationary sources.

The Environmental Protection Agency estimates the annual damage exacted by air pollution on health, vegetation, materials, and property at $16 billion a year. It's clear that sulfur oxides account for a very substantial portion of this. Some estimates on the damage accounted for by sulfur oxide pollution run as high as $8 billion a year.

IMPACT ON HEALTH

How do sulfur oxides affect health? By itself, sulfur dioxide is not particularly harmful. At worst, sulfur dioxide would constitute only a mild respiratory irritant. If pure sulfur dioxide were all we were likely to encounter in our atmosphere, the impact on health would probably be minimal.

However, sulfur dioxide rarely occurs in the atmosphere in its pure form. Normally, sulfur dioxide mixes with other pollutants, and a chemical reaction occurs which changes the pollutant into sulfur trioxide or sulfuric acid. These have a far more potent impact on human health.

A recent fact sheet put out by the National Tuberculosis and Respiratory Disease Association cited the following instances of adverse impact upon health from sulfur pollutants:

A rise in the daily death rate occurred in London when SO_2 rose to 0.25 ppm in the presence of smoke.

In Rotterdam, a positive association was found between total mortality and exposure of 0.19 ppm of SO_2. There is some indication that this will happen at 24 hours of 0.11 to 0.19 ppm.

Emergency clinic visits to New York City increased when SO_2 was less than 0.25 ppm in the presence of smoke. Illness rates followed a similar pattern in Chicago.

Several days exposure of SO_2 at the low level of 0.10 ppm produced an increase of illness symptoms in the Ruhr (breathlessness, throat and eye irritations, depression and apathy).

A British study shows that exposure to the very low average level of 0.04 ppm in the presence of smoke for one year produced measured health effects.

Thus, damage from sulfur oxide pollution can be very serious indeed, and there is little question that the Federal Government is justified in taking bold action to bring about a prompt and substantial abatement.

ABATEMENT TECHNOLOGY EXISTS

There are three possible categories of abatement strategies presently available, and which industry would be induced to consider if the sulfur tax were enacted.

The first of these is low sulfur fuel. This is desirable in the short run, but it would not afford an efficient solution in the long term. There are shortages in low sulfur fuel at present, and as a result the cost of using low sulfur fuel is considerably higher than the cost of other methods described below. In addition, even with low sulfur fuel there is still a considerable amount of sulfur pollution.

The second potential method is fuel desulfurization, in which the user undertakes to remove the sulfur from the fuel prior to the combustion process. Here again, though, a high level of sulfur removal is virtually impossible. Again, too, this is considerably more expensive than stack gas removal.

Stack gas removal has the most promising potential for controlling sulfur pollution. There are three principal means of removing sulfur gases from the smoke stack during the combustion process. They are:

First. Dry scrubbing—a process by which a large amount of alkaline substance, usually limestone, is added to the furnace. This reacts with the sulfur oxides, producing a solid precipitate. This process can remove about 40 percent of the sulfur, but when a water scrub process is added to the stack gases, the efficiency is raised to about 95 percent. This two-step process also removes 99 percent of the particulates, and 20 to 30 percent of the nitrogen oxides.

Second. Wet scrubbing—a process in which the two steps described above are combined. A slurry of limestone and water is added to the stack scrubber, where the limestone reacts with the sulfur oxides. It is estimated that this process would remove about 70 to 85 percent of the sulfur oxides.

Third. Attached chemical plant—here, flue gases are passed into an adjacent plant, where the use of chemical reactions much less crude than the limestone reactions above convert the sulfur oxides into sulfur and/or sulfuric acid. Effectiveness has been estimated at 95 percent, with the added advantage of obtaining salable byproducts.

ABATEMENT COSTS

Here are some estimated costs of abatement for the varying processes, expressed as a fraction of electricity costs. The figures are taken from "New Energy Technology: Some Facts and Assessments" by H. C. Hottel and J. B. Howard:

Removal of sulfur from low sulfur oil: 0.8 to 1.3 mills per kilowatt hour.

Stack gas cleaning with present pure supply: 0.6 to 1.2 mills per kilowatt hour.

Coal gasification: approximately 1 mill per kilowatt hour.

Coal liquifaction sufficient to remove sulfur and fly ash: 0.3 to 1.3 mills per kilowatt hour.

Electricity rates currently average about 20 mills per kilowatt hour. Thus, based on these figures, the increase in costs resulting from the sulfur removal process would run less than 5 percent. The Environmental Protection Agency estimates that, on a long term basis, a 2 percent increase is more likely.

TAX WOULD REACH 20 CENTS A POUND BY 1975

Mr. President, the sulfur tax would be phased in at the gradual rate of 5 cents a year, and would not reach the maximum level of 20 cents a pound until 1975. This would give industry the opportunity to develop new technologies, install new equipment, take advantage of new processes, or seek alternative sources of fuel. Also, phasing in the tax gradually should stimulate abatement research—research which might not be undertaken if a stiff tax were imposed at the outset.

The ultimate level of 20 cents a pound represents more than it would cost industry to abate sulfur pollution. The most expensive means of lessening sulfur pollution—fuel oil desulfurization—costs anywhere from 11 to 19 cents per pound, depending upon the degree of desulfurization. These figures are developed in the book by Hottel and Howard referred to above, and are also discussed in an article in the December 1971 issue of Technology Review by Arthur Squires.

At the other end of the spectrum, Hottel and Howard state that coal gasification can be undertaken in first generation plants for about 1 mill per kilowatt hour. Where coal is the fuel, this amounts to 4.2 cents per pound of sulfur removed.

At either end of the spectrum, it is clear that a substantial amount of abatement would be induced by pegging the tax at 20 cents a pound, and this is the level we propose for 1975 and thereafter.

Thus, it is clear that the technology exists, and that the costs are well within reason, to cut down very substantially the sulfur we are presently emitting into our atmosphere. What has been lacking up until now has been an incentive for manufacturers and users to take advantage of this technology. The bill I am introducing today would provide that incentive.

One final point, Mr. President. Some may say that both bills offered today are inflationary, in that they would increase the cost of the final product to the consumer.

This Senator would agree. However, few would suggest that we should not step up our efforts to abate pollution. Pollution control, however, does not satisfy an economic need; rather, it satisfies a social need. It is precisely because pollution control does not satisfy an economic need that an inflationary impact occurs. We could avoid this impact by preventing pollution to continue, and I think most of us agree that this is not an acceptable solution.

We must bring pollution under control, and do it quickly. In my opinion these bills offer the best chance of achieving this.

Mr. President, I ask unanimous consent that the two bills be printed in the RECORD at this point.

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

S. 3057

A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on fuels containing sulphur and on certain emissions of sulphur oxides

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) chapter 32 of the Internal Revenue Code of 1954 (relating to manufacturers excise taxes) is amended by inserting after subchapter A the following new subchapter:

"SUBCHAPTER B—SULPHUR CONTAINED IN FUEL

"Sec. 4111. Imposition of tax.

"Sec. 4112. Refund of tax.

"Sec. 4113. Regulations.

"SEC. 4111. IMPOSITION OF TAX

"(a) GENERAL RULE.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any fuel containing sulphur, a tax at a rate per pound of sulphur contained in such fuel determined under the following table:

"If sold—	*The rate per pounds is—*
During 1972	5 cents.
During 1973	10 cents.
During 1974	15 cents.
After 1974	20 cents.

"(b) BY WHOM PAYABLE.—The tax imposed by this section shall be paid by the manufacturer, producer, or importer.

"(c) EXEMPTION OF SALES TO MANUFACTURERS, ETC.—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this section upon fuels sold to a manufacturer, producer, or importer for resale by him.

"SEC. 4112. REFUND OF TAX

"Any person who satisfies the Secretary or his delegate that—

"(1) the tax imposed by section 4111 has been paid with respect to the sulphur contained in any fuel and has not been refunded under this section, and

"(2) any part of such sulphur has been removed from such fuel,

shall receive a refund of the portion of the tax imposed by section 4111 which is attributable to the sulphur removed.

"SEC. 4113. REGULATIONS

"The Secretary or his delegate shall prescribe regulations to carry out this subchapter. Such regulations may include provision for a manner of evidencing the payment of tax with respect to the sulphur contained in fuel and for determining the amount of sulphur removed therefrom."

(2) The table of subchapters for such chapter 32 is amended by inserting after the item relating to subchapter A the following:

"SUBCHAPTER B. SULPHUR CONTAINED IN FUEL."

(b) The amendments made by this section shall not apply to fuels sold by the manufacturer, producer, or importer before January 1, 1972.

SEC. 2. (a)(1) Chapter 36 of the Internal Revenue Code of 1954 (relating to certain excise taxes) is amended by adding at the end thereof the following:

"SUBCHAPTER F—TAX ON CERTAIN EMISSIONS OF SULPHUR OXIDES

"Sec. 4496. Imposition of tax.

"Sec. 4497. Definitions.

"Sec. 4498. Measurement of emissions.

"SEC. 4496. IMPOSITION OF TAX

"(a) GENERAL RULE.—In the case of any taxable emission from a stationary source, there is hereby imposed a tax at a rate per pound of taxable emission determined under the following table:

"For amounts emitted—	The rate per pound is—
In 1972	2.5 cents.
In 1973	5.0 cents.
In 1974	7.5 cents.
After 1974	10.0 cents.

"(b) BY WHOM PAYABLE.—The tax imposed by this section shall be paid by the person who owns the stationary source.

"SEC. 4497. DEFINITIONS

"For purposes of this subchapter:

"(1) TAXABLE EMISSION.—The term 'taxable emission' means the emission of sulphur oxides from a stationary source into the atmosphere, but in computing the amount of such emission there shall be excluded any emission which (under regulations of the Secretary or his delegate) is attributable to the combustion of fuel with respect to which tax was paid under section 4111 (and not refunded under section 4112).

"(2) STATIONARY SOURCE.—The term 'stationary source' means a stationary source (as defined in section 111(a)(3) of the Clean Air Act).

S. 3058

A bill to provide for the reduction in interstate commerce of the quantity of materials which must ultimately be disposed of, and for other purposes

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 "Solid Waste Management Act of 1972."

FINDINGS AND PURPOSE

SEC. 2. (a) Congress finds and declares that—

(1) the disposal of solid waste places a serious burden upon interstate commerce;

(2) while existing programs are making some progress in relieving this burden much more must be done.

(b) Therefore it is the purpose of this Act to reduce the amount of such waste by providing economic incentives to use less burdensome materials.

DEFINITIONS

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

(1) "construction" includes preliminary planning to determine the economic and engineering feasibility of solid waste disposal and resource recovery facilities, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of such facilities; and the erection, building, acquisition, alteration, remodeling, improvement, or extension of such facilities; and the inspection and supervision of the construction of such facilities; and

(2) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

NATIONAL WASTE CHARGES

SEC. 4. (a) In furtherance of the purpose of this Act, the Administrator of the Environmental Protection Agency (hereinafter re-

ferred to as the "Administrator") and the Secretary of the Treasury, acting jointly, shall prescribe such regulations as are necessary to establish and put into effect not later than January 1, 1973 a schedule of national waste charges amounting to one cent a pound on all products, other than consumables, when sold by the manufacturer, producer, or importer for use in any State, if such materials are of the type that would ordinarily be disposed of within ten years of the first sale. The charge shall be levied upon, and paid by, the party responsible for manufacturing, assembling, or producing the product into its final configuration prior to sale.

(b) In determining the weight on which the charge levied by subsection (a) is to be imposed, that portion of the product which consists of recycled residual wastes shall not be included.

(c) The penalty provisions of the Internal Revenue Code of 1954 which relate to manufacturer exise taxes imposed under chapter 32 of such Code shall apply, to the extent applicable to charges established by regulations pursuant to this Act.

USE OF FUNDS

SEC. 5. (a) In accordance with such terms and conditions as he may prescribe, the Administrator shall distribute amounts received in each fiscal year in the form of grants to any State, municipality, or interstate or intermunicipal agency for the construction of solid waste disposal and resource recovery facilities, including completion and improvement of existing facilities. Such grants shall be consistent with the provisions of the Solid Waste Disposal Act.

(b) Of the funds made available each fiscal year for making grants under this section—

(1) 75 percentum shall be apportioned among the States in the proportion which the population of each State bears to the total population of the States; and

(2) 25 percentum shall be allocated on a priority basis determined by the Administrator in accordance with the purpose of this Act and in such manner as to reflect consideration of the greatest need.

OTHER CONDITIONS AND REQUIREMENTS

SEC. 6. The Administrator may establish by regulation such other conditions and requirements for grants pursuant to this Act as he determines necessary to carry out the purpose of this Act.

By Mr. THURMOND (for himself and Mr. HARTKE):

S. 3059. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance and special training allowance paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes. Referred to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, today, I am introducing a bill to provide much needed cost-of-living increases under our GI educational benefits system. The cost of education has risen beyond present benefits, and this allowance must be raised to provide educational assistance to the returning veteran on any kind of equitable basis.

Educational benefit increases have not kept pace with the tremendous cost of food, housing, medical care, and university tuitions. These costs make many veterans forfeit their education or choose a program which leaves them in debt, imposing an even further hardship on themselves and their dependents.

We can do nothing greater for the veteran than help provide him with a good education, as a good education is one of the prime guarantees of getting a good job. Thus, the veteran will not only be providing for his family, but will be a happy, satisfied citizen. As an asset to the economic well-being of our country, this veteran will bring direct returns to the United States from his educational investment.

Mr. President, I request that the section-by-section analysis and cost estimate of this bill be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks. This analysis is particularly enlightening and will provide a complete understanding of this legislation, and Mr. President, I request that this bill be appropriately referred and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

SECTION-BY-SECTION ANALYSIS AND COST ESTIMATE OF DRAFT BILL

TITLE I—VOCATIONAL REHABILITATION-EDUCATIONAL ASSISTANCE RATE ADJUSTMENTS

This title provides rate increases in all areas of educational benefits under chapters 31, 34 and 35 of title 38. With the exception of on-job and apprentice benefits, the rate changes, for the most part, approximate 8.6 percent. This percentage represents the increase in the cost of living which has occurred since the last general rate increase became effective on February 1, 1970. The rate increases provided for on-job and apprentice trainees approximate 48 percent. Experience has shown that these are the areas where the greatest need occurs and the larger increases will provide incentives to stimulate job opportunities for veterans.

Section 101

Subsection (a) of this section amends section 1504(b) to provide increases in the monthly subsistence allowance rates for veteran-trainees who are pursuing vocational rehabilitation training courses. The rate for a single veteran without dependents who is pursuing full-time institutional training would be increased from $135 per month to $146 per month. Comparable increases are provided for those trainees pursuing part-time training and for those pursuing institutional on-farm, apprentice, or other on-job training full time.

Subsection (b) amends section 1507 to increase the amount of the loan which may be made to trainees from $100 to $200.

Section 102

Subsection (a) of this section amends section 1677(b) to increase the monthly entitlement charge for flight training courses from $175 to $190 per month.

Subsection (b) amends the table contained in paragraph (1) of section 1682(a) to increase the monthly educational assistance rates for veterans pursuing full-time, three-quarter-time and half-time institutional educational courses. The rates for cooperative training would also be increased. The single veteran without dependents who is pursuing a full-time institutional course would, for example, be increased from the current $175 monthly rate to $190 per month.

Subsection (c) amends section 1682(b) to increase the rates for educational pursuits by servicemen on active duty and for those pursuing less than half-time courses to $190 per month.

Subsection (d) amends section 1682(d)(2) to increase the rates for pursuit of agricultural cooperative programs. The single veteran without dependents pursuing a full-time course would, for example, be increased from $141 per month to $153 per month.

Subsection (e) amends section 1683(b) to increase the monthly training assistance rates for veterans pursuing apprentice and on-job training programs.

Subsection (f) amends section 1696(b) to increase the educational assistance allowance maximum for persons pursuing PREP courses from $175 to $190 per month.

Section 103

Subsection (a) of this section amends section 1732(a)(1) to increase the rate of educational assistance allowance payable to children, widows and wives pursuing educational programs under chapter 35. The rate increases apply to full-time, three-quarter-time and half-time training. The full-time rate, for example, would be increased from $175 to $190 per month.

Subsection (b) amends section 1732(a)(2) to increase the monthly educational assistance rate payable in the case of eligible persons pursuing programs of education on a less than half-time basis.

Subsection (c) amends section 1732(b) to increase the monthly educational assistance rate payable in the case of eligible persons pursuing cooperative education courses which consist of institutional courses and alternate phases of training in a business or industrial establishment.

Subsection (d) amends section 1742(a) to increase the special restorative training assistance allowance to those children who are in need of special restorative training.

It is estimated that cost of title I of the proposal would approximate $175 million for the first full year.

No change is made in title I of the bill to increase the benefit rate for correspondence course training. Section 303 of title III of the draft bill adds a new section 1678 to replace section 1682(c) of title 38 which currently authorizes such training. The current provisions are repealed by section 304. In enacting the new section, the benefit rate for such training is raised from $175 to $190 per month, a figure which is identical with the higher rate provided for flight training.

TITLE II—ADVANCE VOCATIONAL REHABILITATION SUBSISTENCE AND EDUCATIONAL ASSISTANCE ALLOWANCE PAYMENT

Section 201

This section would amend section 1504(a) to authorize the Administrator to make an initial advance payment of the subsistence allowance granted under chapter 31 to veterans enrolled in a vocational rehabilitation training program on a half-time or more basis, plus the allowance for one full month, upon receipt of proof that the eligible veteran has been enrolled in an approved educational institution. Such payment would be made not earlier than the first of the month in which pursuit of the program is to commence. Thereafter, payments would continue to be made in advance at the beginning of each month in which the veteran pursues his program of training. Administrative control over the propriety of such payment is provided for by authorizing the Administrator to withhold final payment to such veteran until proof of satisfactory pursuit of the program is furnished.

Section 202

This section would amend subsections (d) and (e) of section 1681 to authorize the Administrator to make an initial advance payment of the educational assistance allowance granted under chapter 34 to veterans enrolled in an educational institution on a half-time or more basis on the same premise as provided under section 201 of this title for vocational rehabilitation trainees. Certi-

fication requirements for the pursuit of flight training and correspondence courses pursued under chapter 34 would be retained.

Section 203

This section would amend subsection (d) of section 1731 to extend the advance pay principle to eligible wives, widows, and children who are pursuing educational programs on a half-time or more basis under chapter 35.

Section 204

This section would add a new section 1688 to chapter 34 setting forth new language which would give the Administrator authority to employ, as intermittent employees, veteran-students enrolled in full-time programs of education or training under chapters 31 and 34. This would diversify current Veterans Administration's authority to hire these veteran-students and utilize their services at such times and places as the Administrator deems advisable. This new section would also authorize the Administrator to pay the going rate for the job classification for the work which would be performed.

No cost would be incurred if title II were to be enacted, but additional outlays would be required in the first fiscal year of approximately $89 million because of advances made in that year which would normally not be paid until the following fiscal year. This amount would, however, be recouped from subsequent payments made to these veterans or eligible persons.

The proposal incorporated in section 202 of this title is virtually identical with a proposal transmitted to the Congress on January 26, 1971. This advance pay principle has been expanded to include veterans training under chapter 31 and wives, widows and children training under chapter 35.

TITLE III—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

Section 301

This section amends section 1671 of title 38, United States Code, to require a serviceman's application for GI Bill education benefits be approved by a service education officer before it may be considered by the Administrator.

By requiring such approval, an opportunity would be available to discuss with the serviceman the various courses of training which he might pursue. This would acquaint him with the educational opportunities not only from commercial correspondence programs but from all sources. The service education officer could determine whether the program of education selected by the serviceman is suitable for his aptitudes and could be satisfactorily completed within the limits of his present environment.

It is estimated that this section would not result in any additional cost.

Section 302

This section would amend clause (3) of subsection (b) of section 1675 to add new language to the so-called two-year rule authorizing enrollment of veterans in courses where the school has made a complete move to a new location outside the general locality of its former site, where it is determined that the school has substantially retained the same faculty, curricula and students, without a change in ownership.

Under current law the Administrator may not approve the enrollment of veterans in any course offered by an educational institution where such course has been in operation for less than two years. Clause (3) of subsection (b) of section 1675 presently states that where a course has been offered for more than two years, veterans may be enrolled in such a course even though the school has moved to another location within the same general locality. By regulation (VAR 14251 (D)), the term "same general locality" has been defined to mean a move to a new location within normal commuting distance of the original location. This regulation also states that in such a case the faculty, student body and curricula must remain essentially the same.

Established schools may find it necessary to relocate as additional facilities are required to meet demands caused by increases in the number of students such as the need for library space and the need for additional classrooms. The application of VAR 14251 (D) with reference to a move within the "same general locality" may have different application where the school is in a city rather than a rural area.

Under the proposed change, the determination would be made based upon the individual facts as found in each case. Primary importance would be placed on such factors as (1) retention of faculty, (2) no change in ownership, (3) substantially the same student body, and (4) the same curriculum.

It is estimated that enactment of this section would not result in any additional cost.

Section 303

This section would add a new section 1678 to chapter 34 of title 38, United States Code, to bring into one section the applicable law pertaining to correspondence courses.

Subsection (a)(1) of the new section provides for computation of the educational assistance allowance based upon 90 percent of the established charge which the institution requires nonveterans to pay for pursuit of the same course or courses.

Current law (section 1682(c)(1)) provides for computation based on the full cost of the program. This is the only program which will return to the veteran the full cost of his tuition. It also is training which permits the trainee to train at any pace he chooses, thereby allowing him to pursue vocation or avocation as he wills. In all other training programs authorized under chapter 34, the veteran has a stake in his own training by meeting himself a part of the cost of his own education. By requiring the eligible veteran to pay a minimal 10 percent of the cost of the course, he will have such a stake and will give greater thought to his choice of a training objective and the means of achieving his goal.

This change would have the effect of placing the correspondence training program on a par with flight training in that the veteran, under both programs, would be required to pay a minimal amount towards his own education. This subsection also increases the benefit payable under the correspondence training program by providing that a veteran's entitlement would be charged with one month for each $190 paid to him as an educational assistance allowance instead of the current $175 figure. This is the same benefit which is provided a veteran under title I of the bill who is pursuing a flight training program.

The remainder of this new subsection merely represents a duplication of language which is contained in current law.

Subsection (b) of the new section would require institutions offering correspondence courses to have a pro-rata refund policy premised upon the number of lessons serviced and would allow a maximum registration or similar fee of $50.

Courses offered by educational institutions are approved for the training of veterans who will receive educational assistance under two standards. Those courses which have been accredited require less supervision and control by state authorities than those which are nonaccredited. This proposal would make one uniform standard for all correspondence schools, a change we believe will be equitable and will provide protection for veterans in those areas where it has been alleged that abuses have occurred.

It is estimated that enactment of this provision would result in direct benefit savings as follows:

Year	Direct Benefit Savings (In Millions)
1st	$7
2nd	8
3rd	8
4th	6
5th	6
Total 5 Year Savings	35

Section 304

This section is technical in nature and merely reflects the shift of certain provisions concerning correspondence courses currently contained in section 1682 of title 38 to the new section 1678 proposed to be set up by section 303.

Section 305

This section would amend section 1684 of title 38 to provide for the measurement of trade or technical courses, given at an institution offering courses leading to a standard college degree, on a semester hour basis for the purpose of payment of the educational assistance allowance.

Current law (section 1684(a)(2)) provides for the measurement of the trade or technical courses on a clock-hour basis with a minimum of 25 hours weekly to qualify for full-time attendance.

Junior colleges and community colleges are offering both professional courses as part of a degree program and technical courses which generally may lead to certification for a trade or a technical license. The college courses are measured on a credit hour or semester hour basis. (Under a conversion formula equivalent semester hours are determined where a course is offered on a quarterly, trimester, or other time basis.) The technical courses are measured on a clock hour basis. They are both given in the same school, and meet the same high educational standards established by the accrediting association for the area. There has been vocal dissatisfaction raised in these schools by veterans where they attend courses at the same school but are paid under different criteria. The standards established for these courses at these college-level institutions generally insures quality training is being offered equivalent to the college level courses which are measured on a credit-hour basis. The change in language recommended would permit the school to have the technical courses which meet their high standards for college-level work measured on a semester-hour basis.

It is estimated that there would be no significant additional cost should this section be enacted.

Section 306

This section would amend the PREP program authorized by subchapter VI of chapter 34 of title 38.

Subsection (a) of this section amends the subchapter heading to change the name of the program from Predischarge Education Program to Preparatory Education Program.

Although eligibility for PREP assistance begins early in military service (after completion of 181 days of active service), many servicemen consider the program to be one designed for an individual who is about to leave military service. The present name of the program—Predischarge Education Program—accounts for a good deal of this confusion. Therefore, to help alleviate this misunderstanding the name would be changed to Preparatory Education Program.

Subsection (b) changes the purpose section (section 1695(a)) of the program to incorporate the change in the name of the program from Predischarge to Preparatory Education Program.

Section 307

This section amends subsection (a) of section 1701 of title 38 to make two changes. The first revision amends paragraph (6) to include correspondence schools within the definition of "educational institution." This

change is made necessary by the addition, in section 311 of the draft proposal, of a new section 1727 to chapter 35 permitting wives and widows to pursue correspondence courses. The rationale and cost estimate for this new section are set forth in the discussion of section 311 of this analysis.

The second change adds a new paragraph (9) adding the term "training establishment" to the definitions currently applicable to chapter 35.

Under current law, wives, widows and children are entitled to other educational benefits, but they are not eligible to pursue apprentice or other on-job training programs. The change made in this section (as well as those changes made in chapter 35 by sections 309, 312(a), 314, 315, and 316 of this bill) extend such training opportunities to them.

A college education may not be suitable for everyone. Offering these individuals the opportunity to pursue on-job and apprenticeship training programs would afford those desiring post high school training another way of entering an occupation. Such programs would also offer forms of training in which these individuals would be able to receive high financial reward upon completion.

It is estimated that enactment of this program, which is limited by the proposed new section 1738(a) to pursuit of training in a State, would result in the following costs:

	Number of individuals	Direct benefits cost (millions)
Fiscal year:		
1st [1]	2,500	$1.4
2d	4,500	4.8
3d	6,000	5.4
4th	6,100	5.0
5th	6,100	4.7
5 year total		21.3

[1] In making this estimate, we have assumed an effective date of the 3d quarter of fiscal year 1972.

Section 308

This section would amend section 1720 of title 38 to eliminate mandatory counseling for certain children training under the provisions of chapter 35.

Current law (section 1720) provides that the Administrator shall arrange for counseling for all children entering training under chapter 35 to assist the parent or guardian and the child in selecting an educational or vocational objective.

Under the chapter 35 program, the Government acts as a substitute parent standing in the place of the deceased or disabled parent in providing financial assistance to enable the child to pursue his education. The responsibility imposed by law calls for the furnishing of this counseling assistance in helping the child in making a reasonable choice of an objective.

There are, however, many cases where a child is already enrolled at or is attending a college and it can be assumed that in those cases a reasonable choice has been made and a suitable objective chosen. Mandatory counseling is an obvious duplication in such cases. While the mandatory requirement would be removed, any further counseling or guidance the child might need would still be available through the school or the Veterans Administration, if requested.

It is estimated that enactment of this section would result in savings in the program of approximately $1 million per year over the next five years.

Section 309

This section amends section 1723 of title 38 to eliminate the bar on pursuit of apprentice and other on-job training programs by chapter 35 beneficiaries. The rationale for this change is elaborated on in the analysis of section 307. This section also exempts widows and wives from the bar on pursuit of correspondence course training. The rationale for this change is elaborated on in the analysis of section 311.

Section 310

This section would amend clause (3) of subsection (b) of section 1725 of title 38 to add new language to the so-called two-year rule authorizing enrollment of chapter 35 individuals in courses where a school has made a complete move to a new location outside the general locality of its former site.

This provision is identical with the one contained in section 302 of the proposal and the discussion and rationale set forth in the discussion of that section apply equally to this section.

It is estimated that enactment of this section would not result in any additional cost.

Section 311

This section would add a new section 1726 to subchapter III of chapter 35 to provide authority for eligible wives and widows to pursue secondary level training without charge to their basic entitlement. Similar authority has already been given educationally disadvantaged veterans by section 1691 of chapter 34. The authority granted here would be a logical extension of similar benefits to educationally disadvantaged wives and widows. These individuals, due to the death or disability of their veteran-husbands, are required to assume the responsibility for support of themselves and their families. By permitting them to pursue secondary level training they would be given an opportunity to obtain the necessary training required for entrance into higher education without losing their follow-on eligibility for college training.

In extending this authority, pursuit would be limited to training within a State. This has the effect of eliminating secondary training for Philippine wives and widows. It should be pointed out that the majority of those individuals who would be made eligible are already over the age of 50 and the purpose of the program would be of little benefit to them. Further, most of them have already taken advantage of the vocational training benefits previously provided to them under chapter 35 and thus they have been trained for a vocation designed to help them support themselves and their families.

It is estimated that enactment of this proposal would result in the following costs:

	Number of individuals	Direct benefits cost
Fiscal year:		
1st	700	$784,000
2d	2,000	2,240,000
3d	2,300	2,576,000
4th	2,200	2,464,000
5th	1,700	1,904,000
Total 5 year cost		9,968,000

This section would also add a new section 1727 to subchapter III of chapter 35 to provide authority for eligible wives and widows to pursue correspondence courses. This would provide these wives and widows with still another means of obtaining an education which would aid them in helping to support themselves and their families in the manner in which the veteran, but for his death or disability, would have provided for them. The extension of correspondence school training to wives and widows would be subject to these same safeguards proposed for veterans under section 303 of the draft bill. In essence, this means that the entitlement of a widow or wife would be charged one month for each $190 paid to her in the form of an educational assistance allowance; the educational assistance allowance would be computed based upon 90 percent of the established charge which the institution requires other individuals pursuing the same program to pay; and would require institutions offering correspondence courses to have a pro rata refund policy premised upon the number of lessons serviced and would allow a maximum registration or similar fee of $50.

It is estimated that enactment of this new authority would result in costs ranging from under $500,000 in the first year to approximately $1 million in the fifth year. There is no experience in the chapter 35 program to use as an indicator of any precise figures.

Section 312

Subsection (a) of this section amends clause (2) of subsection (b) of section 1731 of title 38 to exempt programs of apprentice or other on-job training pursued by wives, widows and children under the authority of the new section 1738 added to chapter 35 by section 315 of this bill from the absence counting provisions for courses not leading to college degrees. This would equate such measurement with that presently applicable to apprentice and on-job training programs pursued by veterans under chapter 34. (The estimated cost of the apprentice, on-job programs is set forth in section 307 of the analysis.)

Subsection (b) has two purposes. First, it repeals the present language of subsection (e) of section 1731 which is no longer applicable in view of the advance payment proposal set forth in section 203 of this draft bill. Second, it would establish a requirement, comparable to that now applicable to correspondence courses pursued by veterans under chapter 34, that correspondence course benefits may not be paid to those wives and widows made eligible to pursue such training by the new section 1727 added by section 311 of the draft bill until the Administrator has received a certification from the eligible person and the institution as to the number of lessons completed by the eligible person and serviced by the institution. The same requirement is imposed in conjunction with the correspondence program pursued by veterans under chapter 34.

Section 313

This section amends clause (2) of subsection (a) of section 1732 to permit lump sum educational assistance allowance payments to be made to eligible widows, wives and children who are pursuing educational programs on less than a half-time basis. Payment would be made for an entire term, semester or quarter in the month following the month in which certification is received from the educational institution that the person is enrolled in and is pursuing his program of education. This would equate the less than half-time payment system for chapter 35 with that already established for chapter 34. This would improve the administrative procedures for handling these payments.

It is estimated that enactment of this section would not result in any additional costs.

Section 314

This section amends subsection (a) of section 1733 to incorporate three revisions. The first inserts a new clause (3) which provides for the measurement of high school courses under chapter 35 so as to accommodate the authority granted by section 311 permitting eligible wives and widows to pursue secondary training. The second inserts a new clause (5) providing for the measurement of certain on-job and apprenticeship training programs which would be permitted under the authority of the new section 1738 added to chapter 35 by section 315 of this proposal. The third change is identical with the one contained in section 305 of the proposal and relates to measurement of

technical courses pursued at schools offering degree programs.

Section 315

This section would amend subchapter IV of chapter 35 to insert a new section 1738 which contains the basic authority for the payment of a subsistence allowance to those wives, widows and children who would become eligible to pursue apprentice and other on-job training programs. The rationale for this program is set forth in the analysis of section 307.

Section 316

This section would amend section 1777 of chapter 36 of title 38 to incorporate references to wives, widows and children who would be permitted to pursue programs of apprentice and other on-job training. The rationale for this program is set forth in the analysis of section 307.

Section 317

This section is technical in nature and merely reflects in the table of sections at the beginning of chapter 34 of title 38 the necessary heading changes required to be made because of the proposals made in sections 204, 303 and 306.

Section 318

This section is technical in nature and merely reflects in the table of sections at the beginning of chapter 35 of title 38 of the new sections added to such chapter by sections 311 and 315 of this proposal.

TITLE IV—EFFECTIVE DATES

Section 401

This section provides that the rate adjustments and advance pay provisions contained in titles I and II shall become effective on the first day of the second calendar month following the month in which enacted.

Section 402

This section provides that the provisions of section 303 relating to correspondence course training shall become effective upon the first enrollment of an eligible veteran which occurs on or after the first day of the second calendar month following the month in which enacted.

Section 403

This section provides that the revisions in the law concerning the counting of vocational training in certain institutions (sections 305 and 314) on a semester-hour basis shall become effective when a person affected by such a change either first enrolls or at the time of his subsequent re-enrollment occurring after the effective date of the enactment of this Act.

S. 3059

A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance and special training allowance paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Education and Training Amendments of 1971".

TITLE I—VOCATIONAL REHABILITATION-EDUCATIONAL ASSISTANCE RATE ADJUSTMENTS

SEC. 101. Chapter 31 of title 38, United States Code, is amended as follows:

(a) by amending section 1504(b) to read as follows:

"(b) The subsistence allowance of a veteran-trainee is to be determined in accordance with the following table, and shall be the monthly amount shown in column II, III, or IV (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of training as specified in column I:

"Column I	Column II	Column III	Column IV
Type of training	No dependents	One dependent	Two or more dependents
Institutional:			
Full-time	$146	$196	$227
Three-quarter-time	106	144	169
Half-time	73	99	110
Institutional on-farm, apprentice, or other on-job training: Full-time	128	166	196

Where any full-time trainee has more than two dependents and is not eligible to receive additional compensation as provided by section 315 or section 335 (whichever is applicable) of this title, the subsistence allowance prescribed in column IV of the foregoing table shall be increased by an additional $7 per month for each dependent in excess of two.";

and

(b) by deleting in section 1507 "$100" and inserting in lieu thereof "$200".

SEC. 102. Chapter 34 of title 38, United States Code, is amended as follows:

(a) by deleting in the last sentence of section 1677(b) "$175" and inserting in lieu thereof "$190";

(b) The table contained in paragraph (1) of section 1682(a) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
Institutional:				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$190	$220	$250	$15
Three-quarter-time	139	162	185	11
Half-time	88	103	118	8
Cooperative	153	180	207	11.";

(c) by deleting in section 1682(b) "$175" and inserting in lieu thereof "$190";

(d) the table contained in section 1682(d)(2) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in Column IV, plus the following for each dependent in excess of two:
Full-time	$153	$180	$207	$11
Three-quarter-time	109	129	149	8
Half-time	73	86	100	5.";

(e) the table contained in section 1683(b) is amended to read as follows:

"Periods of training	No dependents	One dependent	Two or more dependents
First 6 months	$160	$178	$197
Second 6 months	120	136	156
Third 6 months	80	98	117
Fourth and any succeeding 6 month periods	40	58	77.;"

and

(f) by deleting in section 1696(b) "$175" and inserting in lieu thereof "$190".

SEC. 103. Chapter 35 of title 38, United States Code, is amended as follows:

(a) by amending section 1732(a)(1) to read as follows:

"(a)(1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be computed at the rate of (A) $190 per month if pursued on a full-time basis, (B) $139 per month if pursued on a three-quarter-time basis, and (C) $88 per month if pursued on a half-time basis.";

(b) by deleting in section 1732(a)(2) "$175" and inserting in lieu thereof "$190";

(c) by deleting in section 1732(b) "$141" and inserting in lieu thereof "$153"; and

(d) by amending section 1742(a) to read as follows:

"(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the parent or guardian shall be entitled to receive on his behalf a special training allowance computed at the basic rate of $190 per month. If the charges for tuition and fees applicable to any such course are more than $60 per calendar month the basic monthly allowance may be increased by the amount that such charges exceed $60 a month, upon election by the parent or guardian of the eligible person to have such person's period of entitlement reduced by one day for each $6.80 that the special training allowance paid exceeds the basic monthly allowance."

TITLE II—ADVANCE VOCATIONAL REHABILITATION SUBSISTENCE AND EDUCATIONAL ASSISTANCE ALLOWANCE PAYMENTS

SEC. 201. Subsection (a) of section 1504 of title 38, United States Code, is amended by adding at the end thereof the following: "The Administrator shall pay the initial subsistence allowance of a course of vocational rehabilitation training to an eligible veteran in an amount not to exceed the subsistence allowance for the month or fraction thereof in which pursuit of the course will commence, plus the subsistence allowance for one full month, upon receipt of proof that the veteran has been enrolled in an approved educational institution on a half-time or more basis. Such payment shall not be made earlier than the first day of the month in which pursuit of the course is to commence. Subsequent payments of subsistence allowance shall be made each month in advance, subject to such reports and proof of satisfactory pursuit of such program as the Administrator may require. The Administrator may withhold the final payment of a subsistence allowance payable to such veteran until such proof is received and the amount appropriately adjusted. If the eligible veteran fails to pursue the course after receiving the initial payment of the subsistence allowance, the amount of such payment may be recovered from any benefit otherwise due the veteran under any law administered by the Veterans' Administration or such overpayment shall constitute a liability of such eligible veteran and may be recovered in the

same manner as any other debt due to the United States."

SEC. 202. Subsections (d) and (e) of section 1681 of title 38, United States Code, are amended to read as follows:

"(d) The Administrator shall, except as provided in subsection (e) of this section, pay the initial educational assistance allowance of an enrollment period to an eligible veteran in an amount not to exceed the educational assistance allowance for the month or fraction thereof in which pursuit of the program will commence, plus the educational assistance allowance for one full month, upon receipt of proof that the eligible veteran has been enrolled in an approved educational institution on a half-time or more basis. Such payment shall not be made earlier than the first day of the month in which pursuit of the program is to commence. Subsequent payments of educational assistance allowance shall be made each month in advance, subject to such reports and proof of satisfactory pursuit of such program as the Administrator may require. The Administrator may withhold the final payment of an enrollment period until such proof is received and the amount appropriately adjusted. If the eligible veteran fails to pursue the course after receiving the initial payment of the educational assistance allowance, the amount of such advance payment may be recovered from any benefit otherwise due the veteran under any law administered by the Veterans' Administration or such overpayment shall constitute a liability of such eligible veteran and may be recovered in the same manner as any other debt due the United States.

"(e) No educational assistance allowance shall be paid to an eligible veteran enrolled in a program of education consisting exclusively of flight training or exclusively by correspondence for any period until the Administrator shall have received—

"(1) from the eligible veteran a certification as to his actual attendance during such period or, where the program is pursued by correspondence, a certificate as to the number of lessons actually completed by the veteran and serviced by the institution, and

"(2) from the educational institution, a certification, or an endorsement on the veteran's certificate, that such veteran was enrolled in and pursuing a course of education during such period and, in the case of an institution furnishing education to a veteran exclusively by correspondence, a certificate, or an endorsement on the veteran's certificate, as to the number of lessons completed by the veteran and serviced by the institution."

SEC. 203. Subsection (d) of section 1731 of title 38, United States Code, is amended to read as follows:

"(d) The Administrator shall pay the initial educational assistance allowance of an enrollment period on behalf of an eligible person in an amount not to exceed the educational assistance allowance for one full month, upon receipt of proof that the eligible person has been enrolled in an approved educational institution on a half-time or more basis. Such payment shall not be made earlier than the first day of the month in which pursuit of the program is to commence. Subsequent payments of educational assistance allowance shall be made each month in advance, subject to such reports and proof of satisfactory pursuit of such program as the Administrator may require. The Administrator may withhold the final payment of an enrollment period until such proof is received and the amount appropriately adjusted. If the eligible person fails to pursue the course after receiving the initial payment of the educational assistance allowance, the amount of such advance payment may be recovered from any benefit otherwise due the eligible person under any law administered by the Veterans' Administration or such over-payment shall constitute a liability of such eligible person and may be recovered in the same manner as any other debt due the United States."

SEC. 204. Subchapter IV of chapter 34 of title 38, United States Code, is amended by inserting immediately after section 2687 the following new section:

"§ 1688. Veteran-student employment

"(a) Notwithstanding any other provision of law, the Administrator is authorized to utilize on an intermittent basis the services of veteran-students who are pursuing full-time programs of education or training under chapters 31 and 34 of this title. Such veteran-students may be utilized to perform such services for the Veterans Administration at such times and places as the Administrator deems advisable.

"(b) Veteran-students utilized under the authority of subsection (a) of this section shall be paid an hourly rate equivalent to the minimum rate for a grade in the General Schedule contained in section 5332 of title 5, determined by the Administrator to be appropriate for the services rendered. Such grade determination may, at the Administrator's discretion, be based upon, but shall not be subject to, position classification standards issued by the Civil Service Commission pursuant to section 5105 of title 5.

"(c) While performing the services authorized by subsection (a) of this section, such veteran-students shall not be deemed to be employees of the United States for the purposes of laws administered by the Civil Service Commission. They shall, however, be considered to be employees of the United States for the purposes of the benefits of chapter 81 of title 5."

TITLE III—EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

SEC. 301. Section 1671 of title 38, United States Code, is amended to read as follows:

"Any eligible veteran, or individual on active duty, who desires to initiate a program of education under this chapter shall submit an application to the Administrator which shall be in such form, and contain such information, as the Administrator shall prescribe. The application of an individual on active duty must be approved by a service education officer prior to its submission. The Administrator shall approve such application unless he finds that such veteran or individual is not eligible for or entitled to the educational assistance applied for, or that his program of education fails to meet any of the requirements of this chapter, or that he is already qualified. The Administrator shall notify the eligible veteran or individual of the approval or disapproval of his application."

SEC. 302. Clause (3) of subsection (b) of section 1675 of title 38, United States Code, is amended by inserting after the words "general locality" the following: "or where the school has made a complete move with substantially the same faculty, curricula, and students without a change in ownership".

SEC. 303. Subchapter III of chapter 34 of title 38, United States Code, is amended by inserting immediately after section 1677 the following new section:

"§ 1678. Correspondence courses

"(a)(1) Each eligible veteran who is pursuing a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 90 per centum of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran. The term 'established charge' as used herein means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the veteran, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veterans and serviced by the institution.

"(2) The period of entitlement of any veteran who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $190 which is paid to the veteran as an educational assistance allowance for such course.

"(b) In any case where an eligible veteran terminates his correspondence training before completing the required number of lessons, the institution shall make a pro-rata refund of monies paid by such veterans and, in addition, such institution shall not charge the veteran with any registration or similar fee in excess of $50.00."

SEC. 304. Section 1682 of title 38, United States Code, is amended by—

(a) repealing subsection (c) thereof in its entirety; and

(b) redesignating subsection (d), as amended by section 102(d) of title I of this Act, as subsection (c).

SEC. 305. Section 1684 of title 38, United States Code, is amended by adding at the end of subsection (a) the following new sentence: "Notwithstanding the provisions of clause (2) of this subsection, in the case of an institution offering undergraduate courses leading to a standard college degree which are measured on a quarter or semester-hour basis and technical courses which are measured on a clock-hour basis, any of such courses as determined by the educational institution shall be measured on a semester-hour basis for the purpose of computing the educational assistance allowance payable under this chapter."

SEC. 306. (a) The heading for Subchapter VI of chapter 34 of title 38, United States Code, is amended by striking out "Predischarge" and inserting in lieu thereof "Preparatory".

(b) Subsection (a) of section 1695 of title 38, United States Code, is amended to read as follows:

"(a) The purpose of this subchapter is to encourage and assist veterans in preparing for their future education, training, or vocation by providing them with an opportunity to enroll in and pursue a program of education or training prior to their discharge or release from active duty with the Armed Forces. The program provided for under this subchapter shall be known as the Preparatory Education Program (PREP)."

SEC. 307. Subsection (a) of section 1701 of title 38, United States Code, is amended as follows:

(1) by amending paragraph (6) to read as follows:

"(6) The term 'educational institution' means any public or private secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above."; and

(2) by adding at the end thereof the following new paragraph:

"(9) For the purposes of this chapter and chapter 36 of this title, the term 'training establishment' means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to chapter 4C of title 29, or any agency of the Federal Government authorized to supervise such training."

SEC. 308. Section 1720 of title 38, United States Code, is amended by inserting after the first sentence in subsection (a) thereof a new sentence as follows: "Such counseling

shall not be required where the eligible person has been accepted for, or is pursuing, courses which lead to a standard college degree, at an approved institution."

SEC. 309. The first sentence of subsection (c) of section 1723 of title 38, United States Code, is amended to read as follows:

"The Administrator shall not approve the enrollment of an eligible person in any course of institutional on-farm training, any course to be pursued by correspondence (except as provided in section 1727 of this chapter), open circuit television (except as herein provided), or a radio, or any course to be pursued at an educational institution not located in a State or in the Republic of the Philippines."

SEC. 310. Clause (3) of subsection (b) of section 1725 of title 38, United States Code, is amended by inserting after the words "general locality" the following: "or where the school has made a complete move with substantially the same faculty, curricula, and students, without a change in ownership."

SEC. 311. Subchapter III of chapter 35, of title 38, United States Code, is amended by inserting immediately after section 1725 the following new sections:

"§ 1726. Special training for the educationally disadvantaged

"(a) In the case of any eligible widow or wife who—

"(1) has not received a secondary school diploma (or equivalancy certificate), and

"(2) in order to pursue a program of education for which she would otherwise be eligible, needs additional secondary school training, either refresher courses or deficiency courses, to qualify for admission to an appropriate educational institution, the Administrator may, without regard to the provisions of section 1723(d), approve the enrollment of such widows or wives in an appropriate course or courses to be pursued in a State.

"(b) The Administrator shall pay eligible widows or wives pursuing a course or courses pursuant to subsection (a) of this section an educational assistance allowance as provided in sections 1731 and 1732 of this chapter; except that no enrollment in adult evening secondary school courses shall be approved in excess of half-time training as defined in section 1733 of this title.

"(c) The educational assistance allowance authorized by this section shall be paid without charge to any period of entitlement the widow or wife may have pursuant to sections 1710 and 1711 of this chapter."

"§ 1727. Correspondence courses

"(a)(1) Each eligible wife or widow (as defined in section 1701(a) (1) (B), (C) or (D) of this chapter) who is pursuing a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 90 per centum of the established charge which the institution requires other individuals enrolled in the same program to pay. The term 'established charge' as used herein means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to such eligible person, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the eligible person and serviced by the institution.

"(2) The period of entitlement of any eligible person who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $190 which is paid to the eligible person as an educational assistance allowance for such course.

"(b) In any case where an eligible person terminates his correspondence training before completing the required number of lessons, the institution shall make a pro rata refund of monies paid by such eligible person and, in addition, such institution shall not charge the eligible person with any registration or similar fee in excess of $50,000."

SEC. 312. Section 1731 of title 38, United States Code, is amended by—

(a) inserting in clause (2) of subsection (b) immediately after the words "standard college degree" the following: "excluding programs of apprenticeship and programs of other on-job training authorized by section 1738 of this title)"; and (b) amending subsection (e) to read as follows:

"(e) No educational assistance allowance shall be paid to an eligible person enrolled in a program of education consisting exclusively of correspondence courses for any period until the Administrator shall have received (1) from the eligible person a certificate as to the number of lessons actually completed by the eligible person and serviced by the institution, and (2) from the educational institution, a certification, or an endorsement on the eligible person's certificate, as to the number of lessons completed by the eligible person and serviced by the institution."

SEC. 313. Clause (2) of subsection (a) of section 1732 of title 38, United States Code, is amended by adding at the end thereof the following: "Notwithstanding provisions of section 1731 of this title, payment of the educational assistance allowance provided by this clause may be made to an eligible person in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received from the educational institution that the person has enrolled in and is pursuing a program at such institution."

SEC. 314. Subsection (a) of section 1733 of title 38, United States Code, is amended to read as follows:

"(a) For the purposes of this chapter—

"(1) an institutional trade or technical course offered on a clock-hour basis below the college level involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods per week allowed;

"(2) an institutional course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction (which may include customary intervals not to exceed ten minutes between hours of instruction) is required;

"(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when a minimum of four units per year is required. For the purpose of this clause, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year;

"(4) an institutional undergraduate course offered by a college or university on a quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours or the equivalent thereof, for which credit is granted toward a standard college degree (including those for which no credit is granted but which are required to be taken to correct an educational deficiency), is required, except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course; and

"(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the eligible person is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than thirty hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining. Notwithstanding the provisions of clause (2) of this subsection, in the case of an institution offering undergraduate courses leading to a standard college degree which are measured on a quarter or semester-hour basis, any such courses as determined by the educational institution shall be measured on a semester-hour basis for the purpose of computing the educational assistance allowance payable under this chapter."

SEC. 315. Subchapter IV of chapter 35 of title 38, United States Code, is amended by inserting immediately after section 1737 the following new section:

"§ 1738. Apprenticeship or other on-job training

"(a) An eligible person (as defined in section 1701(a) of this chapter) may receive the benefits of this chapter while pursuing, in a State, a full-time—

"(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 50a of title 29, or

"(2) program of other training on the job approved under the provisions of section 1777 of this title, subject to the conditions and limitations of this chapter with respect to educational assistance.

"(b)(1) The monthly training assistance allowance of such eligible person pursuing a program described under subsection (a) shall be (A) $160 during the first six-month period, (B) $120 during the second six-month period, (C) $80 during the third six-month period, and (D) $40 during the fourth and any succeeding six-month period.

(2) In any month in which an eligible person pursuing a program of apprenticeship or a program of other on-job training fails to complete one hundred and twenty hours of training in such month, the monthly training assistance allowance set forth in subsection (b)(1) of this section shall be reduced proportionately in the proportion that the number of hours worked bears to one hundred and twenty hours rounded off to the nearest eight hours.

"(c) For purposes of this chapter and chapter 36 of this title, the terms 'program of apprenticeship' and 'program of other on-job training' shall have the same meaning as 'program of education'; and the term 'training assistance allowance' shall have the same meaning as 'educational assistance allowance'."

SEC. 316. Section 1777 of title 38, United States Code, is amended—

(a) by amending clauses (1) and (2) of subsection (b) to read as follows:

"(1) the wages to be paid the eligible veteran or eligible person (A) upon entrance into training, are not less than the wages paid other nonveterans in the same training position and are at least 50 per

centum of the wages paid for the job for which he is to be trained, and (B) such wages will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least 85 per centum of the wages paid for the job for which such eligible veteran or eligible person is being trained; and

"(2) there is reasonable certainty that the job for which the eligible veteran or eligible person is to be trained will be available to him at the end of the training period."; and

(b) by inserting "or eligible person" immediately after "eligible veteran" each place it appears in subsection (c).

SEC. 317. The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by:

(a) inserting immediately after

"1677. Flight training."

the following:

"1678. Correspondence courses.";

(b) inserting immediately after

"1687. Discontinuance of allowances."

the following:

"1688. Veteran-student employment.";

and

(c) striking out

"SUBCHAPTER VI—PREDISCHARGE EDUCATION PROGRAM"

and inserting in lieu thereof:

"SUBCHAPTER VI—PREPARATORY EDUCATION PROGRAM"

SEC. 318. The table of sections at the beginning of chapter 35 of title 38, United States Code, is amended by:

(a) inserting immediately after

"1725. Period of operation for approval."

the following:

"1726. Special training for the educationally disadvantaged.

"1727. Correspondence courses."

and

(b) inserting immediately after

"1737. Specialized vocational training courses."

the following:

"1738. Apprenticeship or other on-job training.".

TITLE IV—EFFECTIVE DATES

SEC. 401. Titles I and II of this Act shall become effective on the first day of the second calendar month following the month in which enacted.

SEC. 402. Section 303 of this Act shall become effective upon the first enrollment of an eligible veteran which occurs on or after the first day of the second calendar month following the month in which enacted.

SEC. 403. Section 305 and the last sentence of section 314 of this Act shall become effective upon the first enrollment or subsequent re-enrollment of an eligible veteran or person which occurs after the effective date of the enactment of this Act.

By Mr. HARRIS (for himself, Mr. GRAVEL, Mr. HART, Mr. HUGHES, Mr. KENNEDY, Mr. MCGOVERN, and Mr. MUSKIE):

S. 3060. A bill to authorize the Federal Communications Commission to investigate the American Telephone & Telegraph Co. and its subsidiaries. Referred to the Committee on Commerce.

Mr. HARRIS. Mr. President, I am today addressing the questions involved in the average person's telephone bill—whether it will go up, whether it will go down, whether or not it will buy decent service.

These are public questions—questions which we, in the Congress, have some responsibility to address—because the telephone company is a Government-regulated monopoly. The American Telephone & Telegraph Co. and its local subsidiaries all over the country are not competing firms in a free market.

If you think you are paying too much for telephone service—and many people today think they are—or you are tired of not being able to get a dial tone or get home repair service—and many people today are tired of shoddy telephone service—there is not very much you can do about it. You cannot take your business elsewhere; A.T. & T. is the only telephone company in town.

To find protection from telephone company overcharges and shoddy service, the average person must look to the State and Federal agencies that are supposed to regulate A.T. & T. and its local companies. In the States that means the local public service or public utility commission. Nationally, it means the Federal Communications Commission.

In the 38 years since the Congress set out the FCC's power and duty to regulate A.T. & T. in the interests of the public, the Commission has never conducted a full and open investigation of the fairness of A.T. & T.'s long-distance rates. During that same period of time, through prosperity and depression, A.T. & T. never missed paying a dividend to its stockholders.

On December 23, 1971, the FCC announced it had decided over the opposition of Commissioners Johnson and Lee, to call off the only such investigation it had ever planned. Right now the only information the Commission has to go on in setting A.T. & T.'s rates is what is submitted by the telephone company itself. And the company obviously has an incentive to overestimate costs and underestimate profits.

Because the law provides that A.T. & T. may earn a fair profit on the money it invests in plants and equipment, the company has an incentive to classify everything it can get away with as plant facilities or equipment. For example, as Commissioner Johnson pointed out in his dissent to the FCC's December 23 decision, A.T. & T. counts the cost of turning on a telephone when a new tenant moves into an apartment as part of its equipment expenses. Thus, the telephone company earns a profit, first, on the cost of manufacturing the telephone and, then, again every time it turns on the phone for a customer.

The story is the same on figuring out what is a fair profit for A.T. & T. The Antitrust Subcommittee in the House of Representatives has estimated that between 1955 and 1961, A.T. & T. overcharged consumers by almost $1 billion, simply because the company had overestimated what rates it would have to charge to make a fair profit as set by the FCC and the Commission had never bothered to check up on it.

The simple fact is that when the FCC decided to drop its investigation of how A.T. & T. sets long distance rates, it was telling the average person in this country that he is going to pay more for telephone service. When you read in the papers about the Federal Communications Commission and the American Telephone & Telegraph Co., when you read about rates of return and rate bases, when the smallest figures discussed are in the millions of dollars and the biggest are in the billions—you may think it does not make any difference to you or your family.

But, in fact, every decision that the FCC makes about A.T. & T. can cost you and me money. Because the telephone company is so big, a 1-percent change in its rate of profit will cost the average consumer $13 a year in higher telephone bills. Likewise, if A.T. & T. is allowed to include one-fifth too many expenses as part of its investment in plants and equipment, then the average American will have to pay an extra $17 a year in telephone bills.

Thus, it is clear that the kind of effort the FCC puts into regulating the telephone company has direct impact in dollars and cents on the pocketbooks of the average person in this country. You would expect that keeping an eye on A.T. & T. would be one of the FCC's highest priorities. In fact, when the Congress set up the Federal Communications Commission in 1934, it said specifically that:

> The Commission shall give to the hearing and decision of such questions (telephone rate increases) preference over all other questions pending before it and decide the same as speedily as possible.

And yet now we see the FCC majority abandoning its hearing on A.T. & T.'s rates. Explaining the Commission's actions, Chairman Dean Burch has told me that:

> As a parent, I have made it my practice never to choose among my children, and this same posture carries over to my official responsibilities.

In addition, Chairman Burch has suggested that the FCC does not have the resources in money or manpower to adequately investigate A.T. & T.

These explanations would be acceptable if they did not ignore the simple facts of the situation. Chairman Burch cannot vote legally to drop the investigation "as a low priority," when the Federal Communications Act of 1934 commands the FCC to make telephone rate cases the highest priority. By dropping its hearing, these four FCC Commissioners are breaking the law. Likewise it is hypocritical for Chairman Burch to argue that the FCC does not have the resources to continue its investigation when it has never come to the Congress to ask for those resources.

In any case that is all past. What we need to do now is get the FCC back into the business of protecting the consumer. First, that means that the Commission must start obeying the law, just like everyone else, by making rate regulation of A.T. & T. the No. 1 priority the Congress said it must be.

I am, therefore, introducing a bill to give the FCC the resources they say they need to keep an eye on the telephone company. It will provide $1 million immediately and an extra million, if necessary, for the FCC to hire the economists, lawyers, and accountants it needs to reopen and continue its investigation of A.T. & T.'s rates. That sounds like a lot of the taxpayer's money to spend

just to keep an eye on the telephone company. But when you realize that if that $1 million investment may lead to even a one-tenth of 1 percent cut in A.T. & T.'s rate of profit, the public will be saved 60 times as much in lower telephone bills. That is quite a bargain.

Saving the ordinary consumer a few dollars, while protecting his right to good telephone service, is the job the FCC is supposed to do. I hope this legislation will help make sure that is the job it does.

By Mr. EASTLAND:

S. 3062. A bill to amend title II of the Social Security Act to provide for a 5-percent increase in the benetfis payable thereunder. Referred to the Committee on Finance.

Mr. EASTLAND. Mr. President, I am today introducing legislation which would provide for an immediate increase in social security benefits. The bill which I am sending to the desk calls for an additional 5 percent in payments to each individual, effective as of December 1971.

The bill is identical to legislation contained in the Social Security Amendments of 1971, H.R. 1, with the exception that the new bill provides that the increase shall take effect beginning with the month of December 1971, rather than for the month of May 1972 as provided by H.R. 1.

Mr. President, it is imperative that we provide without delay the increased benefits contained in the new legislation. There are 26.9 million Americans—persons who rely upon social security for the basic necessities of life—who are now depending upon us. Their purchasing power has been steadily eroded by the cruelest and most unfair tax of all—inflation. These Americans, many now in the declining years of life, have worked and earned the right to a decent standard of living in their retirement. Yet they are being robbed daily by the decrease in the value of their social security dollar.

It has been nearly a year since the House of Representatives passed H.R. 1. In that legislation, we offered hope for those on social security that we would provide the long-overdue increase in benefits. We promised in this bill to provide for a 5-percent increase, a cost-of-living boost. It was believed at that time that this legislation would become law and the benefits contained in it would already be going to the millions of Americans. However, we do not today know when this legislation will be enacted, and those who are dependent on social security are looking to us for the answer.

This bill is now pending in the Senate, where the Committee on Finance has conducted a series of extensive and informative hearings. We find, however, that H.R. 1 became a target of controversy almost from its very introduction. This point of debate centers on the much-discussed proposals for reform of the welfare system—not on the badly-needed increase in social security benefits.

It is a shame that additional benefits for the Nation's retirees under social security are now unjustly and unduly delayed because of an unrelated controversy involving welfare reform. While Congress debates the merits of a highly-complex overhaul of our welfare system, millions of American's senior citizens face an uncertain future in a world of ever-increasing prices and ever-declining value of their dollar. A full exploration of welfare reform is necessary, I agree, because this is one of the most costly and complex of all Government programs. It is unfair and uncalled for that social security increases should be held prisoner within such a bill.

There is little—if any—point of debate on the matter of social security increases. Every member of this body—indeed all Americans—agree that such an increase is needed and, in fact, long overdue. It is only reasonable that we sever the non-controversial and urgently-needed social security legislation from the highly-controversial and long-delayed legislation on welfare reform.

In the introduction of this bill, I would call on the Senate and its Committee on Finance to act promptly to increase social security benefits. Moreover, I urge the Committee on Finance to go a step further and fully explore the matter of automatic cost-of-living increases for persons on social security. I think such an "escalator" arrangement is necessary to preserve the equity and fairness, as well as basic justice, in the retirement system that now affects millions of Americans.

Take the opportunity to look around us. Employees of the Federal Government have just received a 5.5 percent increase in wages. In addition, Congress has provided by law that retired Federal workers should receive an increase automatically when the consumer price index goes up.

Yet the majority of Americans who are now retired must come to Congress when prices go up and the dollar value goes down. An increase for social security beneficiaries now requires the time-consuming process of study and the lengthy route of legislation before it can become reality. The end result is that those for whom social security payments mean their very livelihood face delay and uncertainty as they await their increases.

Mr. President, it is imperative that Congress act without delay on increasing social security benefits. The legislation which I propose today would take care of this urgent necessity, meeting the immediate needs of social security retirees.

I would urge, however, that we go a step further to see that the Congress and the millions of Americans who receive social security do not again face this dilemma. We must provide legislation which would trigger an automatic increase in benefits whenever the rising cost of living demands it.

By Mr. MUSKIE (for himself and Mr. SCOTT):

S. 3063. A bill to amend the Internal Revenue Code of 1954 so as to permit certain tax exempt organizations to engage in communications with legislative bodies, and committees and members thereof. Referred to the Committee on Finance.

Mr. MUSKIE. Mr. President, on March 30, 1971, I introduced a bill, S. 1408, to amend the Internal Revenue Code to permit publicly supported charitable organizations to communicate with legislative bodies without jeopardizing their tax exemptions. That bill has received broad, bipartisan support. It has been cosponsored by 24 Senators: BAYH, BROOKE, BURDICK, CHILES, CRANSTON, EAGLETON, GRAVEL, HART, HARTKE, JACKSON, JAVITS, MATHIAS, MCGOVERN, METCALF, MONDALE, MOSS, NELSON, PELL, RANDOLPH, RIBICOFF, SCHWEIKER, SCOTT, STEVENSON, and TUNNEY.

An identical bill, introduced in the House by Congressman JAMES SYMINGTON, has also received broad, bipartisan support.

This legislation would redress a serious inequity in present tax law. The Internal Revenue Code permits businessmen to deduct the costs of lobbying on matters of direct interest to them. Furthermore, a number of classes of noncharitable, tax-exempt organizations—such as trade associations, business leagues, chambers of commerce, and social welfare organizations—are allowed to engage in direct efforts to influence legislation without adverse consequences to their tax-exempt status. Yet similar legislative activity by a charity can cause loss of its tax exemption.

No less than businesses and the organizations which represent them, charities can be important sources of information on legislative issues. They should be permitted to communicate that information to those who carry on the legislative process. S. 1408 was drafted to permit that result within carefully defined boundaries. Its liberalization of the present restriction on influencing legislation extends only to public charities—churches, schools, hospitals, and certain other groups with broad public support. It does not modify the present restrictions imposed on private foundations by the Tax Reform Act of 1969.

Furthermore, the bill's provisions apply only to direct communications by public charities with legislative bodies. They do not apply to grassroots appeals to the general public. And they do not apply to efforts to influence elections.

Over the past several months, broad-scale public support has developed for this legislation. In the course of the discussions of the proposal, however, concern has been expressed that the original bill (S. 1408) might be interpreted to permit a public charity to devote its predominate activities to legislative efforts. To eliminate the grounds for that concern, Senator SCOTT and I are today introducing a new amended bill which specifies, in the only change from S. 1408, that the bill applies only to a public charity if substantially more than one-half of its expenditures are normally in pursuance of its exempt functions other than lobbying. Comparable provisions of the Tax Reform Act of 1969 interpret "substantially more than one-half" as 65 percent, and "normally" as requiring, generally, reference to a 4-year period of an organization's experience.

This legislation would remove from the tax law an unustifiable discrimination against publicly supported charitable organizations. It would also open up the legislative process to diverse

groups whose perspective and expertise should be available to legislators at all levels of government. I urge prompt and favorable consideration of this bill by the Senate.

I ask unanimous consent that the text of our bill be printed in the RECORD, along with an explanatory statement and a copy of a law review article on the general subect of Federal tax limitations on political activities of public interest and educational organizations.

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

S. 3063

A bill to amend the Internal Revenue Code of 1954 so as to permit certain tax exempt organizations to engage in communications with legislative bodies, and committees and members thereof

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 501 of the Internal Revenue Code of 1954 is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) APPEARANCES, ETC., WITH RESPECT TO LEGISLATION.—

"(1) IN GENERAL.—In the case of an organization described in section 509(a) (1), (2), or (3), none of the following activities shall be deemed 'carrying on propaganda, or otherwise attempting, to influence legislation':

"(A) appearances before, submission of statements to, or sending communications to, the committees, or individual Members, of Congress or of any legislative body of a State, a possession of the United States, or a political subdivision of any of the foregoing with respect to legislation or proposed legislation of direct interest to the organization; or

"(B) communication of information between the organization and its members or contributors with respect to legislation or proposed legislation of direct interest to the organization.

"(2) MATTERS OF DIRECT INTEREST.—For purposes of paragraph (1), matters of direct interest to the organization are those directly affecting any purpose for which it is organized and operated.

"(3) LIMITATION.—Paragraph (1) shall not apply—

"(A) To any attempt to influence the general public, or segments thereof, with respect to legislation, elections, or referendums, or

"(B) Unless substantially more than one-half of the expenditures of the organization referred to in paragraph (1) are normally devoted to activities other than those described in subparagraphs (A) and (B) of paragraph (1). For purposes of this subparagraph, the term 'expenditures' includes only amounts paid or incurred which are substantially related (aside from the need of such organization for funds or the use it makes of the profits derived) to the exercise or performance of the charitable educational, or other purpose or function constituting the basis for the organizations' exemption under this section (or, in the case of an organization described in section 511(a) (2) (B), to the exercise or performance of any purpose or function described in paragraph (3) of subsection (c).)" Nothing in this subsection shall be construed to limit or reduce the level of activities otherwise permitted an organization under paragraph (3) of subsection (c) or any other applicable provision of this title.

SEC. 2. Section 170(c) of such Code is amended by adding the following new sentence at the end thereof: "As used in subparagraph (D) of paragraph (2), the phrase 'carrying on propaganda, or otherwise attempting, to influence legislation shall be subject to the exception set forth in section 501(f)."

SEC. 3. Section 2055(a) of such Code is amended by adding the following new sentence at the end thereof: "As used in paragraphs (2) and (3), the phrase 'carrying on propaganda, or otherwise attempting, to influence legislation' shall be subject to the exception set forth in section 501(f)."

SEC. 4. Section 2106(a) (2) (A) of such Code is amended by adding the following new sentence at the end thereof: "As used in clauses (ii) and (iii), the phrase 'carrying on propaganda, or otherwise attempting, to influence legislation' shall be subject to the exception set forth in section 501(f).".

SEC. 5. Section 2522 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and inserting after subsection (b) the following new subsection:

"(c) CARRYING ON PROPAGANDA, OR OTHERWISE ATTEMPTING TO INFLUENCE LEGISLATION.—As used in paragraph (2) of subsection (a) and in paragraphs (2) and (3) of subsection (b), the phrase 'carrying on propaganda, or otherwise attempting, to influence legislation' shall be subject to the exception set forth in section 501(f)."

SEC. 6. These amendments shall be applicable to taxable years beginning after the date of enactment thereof and to estates of decedents dying after the date of enactment thereof.

FEDERAL TAX LIMITATIONS ON POLITICAL ACTIVITIES OF PUBLIC INTEREST AND EDUCATIONAL ORGANIZATIONS

(By Theodore L. Garrett*)

A new generation of students and lawyers is involving itself more and more deeply in the pressing public issues confronting society in the seventies. This activity, and recent action by the Internal Revenue Service, have cast a shadow over the tax status of those institutions—universities and public interest law firms—of which these individuals are members. Through a careful analysis of the relevant law, the author concludes that the IRS intervention is misconceived, that the questioned activity is both salutary and permissible, and that even broader political activity by charitable organizations may be warranted.

Private philanthropy plays a crucial role in sustaining religious, cultural and educational institutions in America. The federal government has encouraged and subsidized private philanthrophy, granting preferred tax status [1] to educational, scientific, religious, and charitable organizations. Such organizations are exempt from federal taxation, and the private donor, within certain limits, can deduct contributions to them from his personal income.[2] Government support traditionally has been justified on the ground that such philanthropy benefits society,[3] and support has been denied only where an organization's purpose is inimical to the interests of society or clearly profit oriented.[4]

Despite this generally favorable policy, the Internal Revenue Code limits the preferred tax status of those charitable organizations which engage in political activities, regardless of whether their end result is beneficial or inimical to society.[5] This restriction may not affect the taxes imposed on the charitable organizations themselves, since they may qualify as tax-exempt civic or welfare organizations even if they engage in political activity.[6] However, the denial of deductions to private donors [7] affects the flow of contributions to such institutions, and thus is a significant limitation upon any institution which, although benevolently motivated, employs some form of political activity or use of governmental processes to achieve its ends.

This article analyzes the political activity restriction in light of recent developments on college campuses, and in the area of public interest advocacy through informational campaigns and litigation. The article views with disfavor an apparent tendency of the IRS to disapprove of organizations advocating new or controversial ideas, or programs which threaten vested corporate interests. The article also challenges the definition of political activity as applied by the IRS, finding it in particular contexts an unjustified impediment to the aims of the organizations which the provisions otherwise foster, and inhibitive of the first amendment right to free speech and petition. The need for regulations or legislation narrowing the existing definition and providing guidelines to universities and public interest groups is stressed. The lobbying restriction on public interest organizations is found unjustified, and its repeal is urged.

THE LIMITATION ON POLITICAL ACTIVITY

Background

The income tax of 1894 exempted those corporations or associations organized exclusively for religious, educational, or charitable purposes,[8] and this exemption was included in the income tax of 1913.[9] In 1917, a correlative income tax provision was enacted, allowing taxpayers to deduct contributions to exempt corporations.[10] Similar deductions were added to the estate tax in 1926 [11] and to the gift tax in 1932.[12]

Activity to Influence Legislation. Prior to 1934, none of these statutes contained any restriction on lobbying to influence legislation. Early Treasury rulings, however, imputed to Congress an intent to restrict such activity on the theory that it was inconsistent with an exclusively educational or charitable purpose.[13] This theory was predicated less on a belief that lobbying was inherently noneducational or noncharitable than on an aversion to political involvement by such institutions. The 1919 regulations stated that associations "formed to disseminate controversial or partisan propaganda" were not "educational" within the meaning of the statute.[14]

In 1930, the Second Circuit recognized this principle in *Slee v. Commissioner,*[15] a case involving a private contribution to the American Birth Control League. The Board of Tax Appeals had denied the taxpayer a deduction on the ground that the League's controversial activities placed it outside statutory exemption.[16] Relying upon a policy against Government underwriting of political activities rather than the controversial nature of the activities, Judge Learned Hand stated: "Controversies of that sort must be conducted without public subvention; the Treasury stands aside from them." [17]

By way of dictum, Judge Hand also stated that such activity would be proper so long as it was only "ancillary to the end in chief." [18] Although the *Slee* decision generally has been read by subsequent courts to establish a broad policy against public subvention,[19] a number of courts and commentators have relied upon the "ancillary" activity dictum to justify a permissive standard.[20]

Congress first incorporated this restriction into the Internal Revenue Code in 1934 by adding, to the definition of a charitable organization qualifying under the exemption and deduction provisions, the requirement that "no substantial part of the activities of [the organization be] carrying on propaganda, or otherwise attempting, to influence legislation." [21] The statutory history of this amendment is unclear as to the underlying rationale and scope of the prohibition.[22] The generally accepted view considers it an attempt to liberalize the case law by reaching only self-seeking political activity designed to secure some benefit to the donor,[23] and infers that the all-inclusive formula was due to the draftsmen's inability to frame a more appropriate test.[24] Although the amendment

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might also be interpreted as a specific prohibition enacted to replace the ad hoc treatment of the problem by the courts with a specific legislative mandate,[25] it seems clear that the limitation to "substantial" activity [26] was a rejection of the Treasury's strict position that lobbying and other activity aimed at affecting legislation were per se inconsistent with the furtherance of educational or charitable purposes.[27]

Campaign Activity. In contrast to lobbying activity, participation by educational and charitable institutions in political campaigns was not statutorily prohibited until more recently. A reference to "participation politics" was eliminated in conference from the 1934 Act without discussion.[28] The few cases dealing with the issue did not regard campaign activity as per see disqualifying, but rather tended to balance such activity against the nonpolitical activity of the organization in order to determine whether it was significant enough to establish a substantial nonexempt purpose.[29]

The campaign restriction first received congressional approval in a floor amendment to the Revenue Act of 1954,[30] which broadly required that an exempt organization "not participate in, or intervene in [including the publishing or distributing of statements], any political campaign on behalf of any candidate for public office." [31] Unlike the prohibition against influencing legislation, the political campaign provision was restricted to the section 501(c)(3) exemption and did not affect any of the companion provisions allowing income, estate and gift tax deductions of contributions to educational or charitable organizations. Furthermore, no quantitative limitation was established; literally applied, a single campaign intervention might cause an organization to lose its tax-exempt status for the year in which the intervention occurred.

In 1958, a Treasury regulation extended this restriction to the section 170(c)(2) charitable deduction provision,[32] thus permitting a contribution to be deducted only if the donee organization is tax-exempt under section 501(c)(3). Although it might be suggested that the regulation merely corrected a congressional oversight [33] by removing the inconsistency between sections 501(c)(3) and 170(c)(2), it also was argued that the regulation was not a valid interpretation of section 170(c)(2), and that the Treasury's failure to place similar restrictions on charitable deductions under the gift, estate and personal holding company tax provisions undercut any policy justification for the regulation.[34] This lack of parallelism was remedied by the Tax Reform Act of 1969,[35] which extended the section 501(c)(3) political campaign disqualification to companion sections 170(c)(2) (income tax deduction), 2055(a) and 2106(a)(2)(A) (estate tax deduction), and 2522(a) (gift tax deduction), and incorporates this provision into sections 642(c)(1) (estate and trust deduction) and 3121(b)(8) (social security exemption) by reference to section 170(c).

Analysis of the Exemption and Deduction Provisions

The present educational and charitable exemption and deduction provisions limit political activity by conferring preferred status only upon corporations and any community chest, fund, or foundation "organized and operated exclusively for religious, charitable, scientific . . . or educational purposes . . . no part of the net earnings of which inures to the benefit of any private shareholder or individual [and] no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office" [36]

The Act requires both that the institution be *organized* for an exempt purpose and that it be *operated* for such a purpose. In determining whether these organizational and operational tests are met, the extent of political activity by an institution is a factor.

Organizational Test. To qualify for preferred status, a corporation must be organized exclusively for one of the enumerated purposes. Early decisions interpreting this requirement held that the absence of specific charitable objectives in an organization's charter was not conclusive proof of a lack of exclusive organizational purpose,[37] and that the existence of a broad power to carry on business would not disqualify an organization from receiving the exemption so long as no business activities in fact were undertaken.[38] The rationale behind these cases was that while the charter and bylaws of an organization serve to indicate its purposes, that indication still might by supported or rebutted by extrinsic evidence.[39] Where the charter reflected characteristics inherently inconsistent with the allowable objectives, however, the courts denied preferred status,[40] at least until the charter was amended.[41]

The present regulations establish a somewhat stricter organizational test. An organization qualifies for the preferred status defined in sections 501(c)(3) and 170(c)(2) [42] only if its corporate charter or articles of organization (1) limit the purposes of the organization to exempt purposes [43] and (2) do not expressly empower the organization to engage in substantial activities which do not further the exempt purposes.[44] The fact that the actual operations and intent of the members are confined to one or more exempt purposes is not sufficient to meet the organizational test if the purposes specified in the organization's charter are broader than those specified in sections 170(c)(2) and 501(c)(3).[45] Furthermore, Treasury regulations deny an exemption if the articles of incorporation to engage in prohibited activities, including participation in any political campaign for public office and substantial efforts to influence legislation.[46]

Operational Test. The "operational test" requires that an organiation actually engage primarily in activities which accomplish the statutorily exempt purposes. Although the Code requires that an organization be operated "exclusively" for these purposes, judicial decisions have placed a gloss on this requirement by interpreting the term "exclusively" to mean "primarily" or "principally." [47] Preferred tax status therefore will result even if some funds are used for nonexempt purposes, so long as the "predominant purpose" of the organization remains educational, religious, or charitable.[48]

The Regulations provide that an organization will not satisfy this test if more than an insubstantial part of its activities are in furtherance of a nonexempt purpose.[49] For example, an organization will be denied preferred status if it is an "action" organization, an organization which devotes a substantial part of its activities to "attempting to influence legislation, by propaganda or otherwise." [50]

Since a public interest study group might advocate ends attainable only through the passage of legislation and advocate them in such a way as to awaken voter concern, the sweep of the restriction against "attempting to influence legislation" may prove overbroad. In 1955, *Seasongood v. Commissioner* [51] appeared to limit this exclusion by interpreting the phrase to require direct communication with members of Congress.[52] The Treasury apparently has not accepted this decision, however, and the Regulations broadly disqualify an organization if its main or primary objectives may be attained only by legislation or by the defeat of proposed legislation,[53] or if it advocates or campaigns for the attainment of such objectives, as distinguished from engaging in nonpartisan analysis, study, or research followed by public disclosure of the results.[54]

The Regulations do not attempt to give content to the requirement of "substantial" legislative activity, and the Internal Revenue Service and judiciary have been left with no alternative but to make ad hoc determinations.[55] It has been argued that "substantiality" does not provide a basis for selection in accordance with the best interests of society, and that social and ethical factors should be taken into consideration.[56] On the other hand, the Internal Revenue Service and a number of judicial decisions have been criticized for reading the Code provisions so as to give the Service maximum discretion to deny exempt status and for focusing on whether an organization's *purposes*, rather than a substantial amount of its activities, are political.[57]

Other judicial decisions examining the extent and nature of nonqualifying *activities*, rather than the organization's purposes, have effected a liberalization of the restriction.[58] For example, the court in *Seasongood* v. *Commissioner* [59] held deductible a contribution to a nonpartisan good-government league whose support of specific legislation and candidates, though nonexempt activity, accounted for less than five percent of the league's time.[60] Similarly, cases have given weight to the "sporadic" nature of the legislative activity,[61] the expense of the program to the organization relative to its total expenditures,[62] and the benefit of the organization's overall activities to the community.[63] This activity-oriented approach has been commended as providing a basis for more even-handed administration.[64]

An organization is also an "action" organization, and denied preferred status, if it participates or intervenes, directly or indirectly, in any political campaign on behalf of, or in opposition to, any candidate for national, state, or local public office.[65] Under the regulations, campaign participation includes, but is not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of, or in opposition to, a candidate.[66] The Treasury has applied this limitation to prohibit a charity from favoring a local school board candidate [67] and from comparative rating of candidates.[68] Such activities are prohibited regardless of their "substantiality"; however, there is no apparent tax policy justification for discriminating between elective and legislative activities, and in some instances the "substantiality" concept has been utilized as a mitigating factor.[69]

DISQUALIFYING ACTIVITY BY UNIVERSITIES

The ambiguity of the political activity restriction has led the American Council on Education publicly to acknowledge the possibility that a university might "inadvertently" involve itself in a political campaign, thereby by threatening its exemption.[70] The two extremes to the problem are easily ascertained and resolved. Where a university corporation, acting in its institutional capacity, lobbies directly or issues statements on behalf of, or in opposition to, particular political candidates, a substantial case for disqualification is made.[71] Conversely, where members of the university community, either students, faculty, staff, or administrators, on their own time and at their own expense engage in political action, such action should not be attributed to the university merely on account of the actor's affiliation.[72]

The boundary between permissible and disqualifying activity is less clear where a nexus arguably exists between the activity by members of the university community and corporate policy. In a brief set of guidelines, acknowledged by Internal Revenue Service Commissioner Randolph W. Thrower as "fair and responsible" [73] in determining the scope of permissible activity, the American Council on Education attempts to resolve the issue

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of corporate involvement in several situations.[74] Where a university rearranges its academic calendar, without shortening the term of instruction, for the purpose of permitting students and faculty to participate as individuals in political campaigns, such policy should not be deemed disqualifying interference in a political campaign.[75] Where the corporate involvement consists of the nonpartisan provision of university facilities to political clubs, however, the Council recognizes that tax ramifications may turn upon the nature and extent of the activity facilitated. If the facilities are used merely for discussions and meetings, the Guidelines would recognize no threat to an exemption. The Guidelines suggest, however, that to the extent that such organizations extend their activities beyond the campus and participate in campaigns on behalf of candidates for public office or permit nonmembers of the university to avail themselves of these university facilities, the university should make and collect appropriate charges for the use of such facilities; similarly, even where reimbursement has been collected by the university, extraordinary or prolonged use of such facilties, particularly by nonmembers of the university community, might be grounds for disqualification.[76]

These Guidelines are not unreasonable and would require a substantial nexus between the university corporation and the political activity, as in the last examples given. However, an analysis of tax policy and first amendment considerations reveals several serious issues concerning the scope which the statutory restriction should be given.

Tax Policy Considerations. The policy considerations underlying the exemption to "educational" institutions clearly envisage the furtherance of a free, democratic society through informed, active citizens. While the scope of the term "educational" will be further discussed in a later section,[77] there can be no doubt that colleges and universities fall comfortably within it. One of the major functions of these institutions is to engender in students an understanding of society so that they may be better equipped to play an active role in it; [78] actual participation in the give and take of a free society is an important adjunct to this educational experience. Thus, even if it is granted that participation in political activities as a part of the formal curriculum may be validly regulated to avoid government underwriting of political activities, this policy might be extended unwisely to compel a university, by threat of loss of preferred tax status, to discriminate in providing facilities between those student groups active in pursuing extracurricular legislative or elective solutions to political problems and those student groups which are content to discuss political issues abstractly. To the extent that it limits the breadth and content of the educational experience, such discrimination thereby defeats the policy behind exempting educational institutions.

First Amendment Considerations. Whether or not speech limitations on a university corporation enjoying a tax exemption are appropriate, there can be no question that members of the university community, as individuals, enjoy the full range of first amendment protections. Should the Internal Revenue Service, by direct action or indirect threats, put in question a university's exemption, the first amendment rights of students and faculty may be impinged upon in two distinct ways. First, if nonpartisan university toleration is to be viewed as "participation" by the university and the activities of students or faculty "attributed" to it, the university will necessarily feel compelled to outlaw such activity on its campus. In so limiting the types of political activity which it will tolerate, the university in its caution may well proscribe that which even the IRS or, ultimately, the courts would not sanction. Second, even if the university itself does not intervene with limiting rules, students and faculty, aware that their activity may have negative tax consequences upon the institution, may impose limitations upon their own freedoms of speech and association. This indirect "chilling effect" of the ambiguity of the standard applied and the possibility of IRS reappraisal, therefore raises serious first amendment questions concerning the validity of both the standard and the IRS application.

While there is scarce judicial authority directly raising first amendment limitations against denials of 501(c)(3) and 170(c)(2) exemptions, cases arising in other contexts suggest the probable direction of the result. In *American Communications Association v. Douds,*[79] Justice Frankfurter argued that ". . . ". . . Congress may withhold all sorts of facilities for a better life but if it affords them it cannot make them available in an arbitrary way or exact surrender of freedoms unrelated to the purpose of the facilities." [80] Applying this sensitive reasoning to the activity of a Good Government League, the Sixth Circuit in *Seasongood v. Commissioner* [81] strictly construed the term "propaganda" to reach only coloring or distortion of facts with an ulterior motive. The court held that such conduct did not disqualify the League from receiving deductible contributions, suggesting that any other construction might violate the constitutional right of free speech.[82]

The Supreme Court has reached similar conclusions in related areas. In *United States v. Harriss,*[83] the Supreme Court upheld the registration provisions of the Federal Regulation of Lobbying Act,[84] which regulated persons soliciting money to influence, directly or indirectly, the passage or defeat of legislation, only to the extent that they applied to direct communications with members of Congress.[85] In *Speiser v. Randall,*[86] the Cour invalidated a California procedure which denied a veteran's property tax exemption to persons who refused to subscribe to oaths that they did not advocate the overthrow of federal or state government by force.[87]

The Court generally has upheld statutes where the abridgement of free speech is limited in scope and there is a rational connection between the prohibition or burden imposed by the statute and a justifiable public interest served by its objective.[88] In *Commardano v. United States,*[89] the Court stated that the nondiscriminatory denial of deduction from gross income of sums expended to promote or defeat legislation is not designed to prevent the expression of dangerous ideas, on the theory that Congress could reasonably determine that everyone should stand on equal footing with regard to the purchase of publicity that can influence the fate of legislation.[90] A reading of *Cammarano* together with *Harriss* suggests that the political activity restriction is on its face valid as a reasonable qualification to the exercise of an educational institution's tax exemption. However, both the *Cammarano* and *Harriss* decisions were careful to indicate that any deterrence of first amendment activities in these cases was purely incidental to valid regulatory policies and not intended to inhibit free speech.[91] The results reached are thus consistent with the overbreadth doctrine [92] which requries that regulation of first amendment activities must be drafted with precision so as to avoid deterring protected expression not falling within the ambit of the government's legitimate concern.[93]

Thus, in light of the indicated threat to the right of students and faculty to free speech and the Supreme Court's unwillingness to allow statutory abridgement of these rights, a broad reading of the political activity restriction and a broad application of the restriction to university corporations which would tend to effectively inhibit all political activity on campuses would be unjustified and possibly unconstitutional.

DISQUALIFYING ACTIVITY BY PUBLIC INTEREST GROUPS

Although certain questions pertaining to the application of the political activity restriction to universities unresolved, recent activity by the Internal Revenue Service suggests that the real battleground over tax policy regarding the restriction may take place in the context of the public interest study group or law firm. Until recently, Internal Revenue Service district offices routinely granted applications for advance rulings that declared such new organizations to be "charitable" if they purported to be so. On October 9, 1970, however, the Service announced a "moratorium" on new tax exemptions to those public interest organizations which litigate and suggested that major commitments to such organizations should not be undertaken during a 60-day IRS study, all amid speculation that corporate pressure was being applied upon the Government to weaken the fight against corporate pollution, unfair trade practices, and unsafe products. The Service indicated that the study would determine whether such organizations truly serve the public interest, and would question the fundamental idea of an indirect Government subsidy for public interest litigation.

The IRS decision was promptly criticized by members of the Senate Employment, Manpower and Poverty Subcommittees in a letter to Commissioner Randolph W. Thrower. Noting the deductibility of corporate legal expenses incurred in *defending* pollution, the letter stressed the need for public interest advocacy, the chilling effect the IRS action would have upon such activities, and the fact that the "clear effect . . . would be to shut off contributions to many organizations simply out of fear that they *might not* qualify—and even worse, to force organizations with legitimate causes of action to forego filing lawsuits for fear of losing their tax-exempt status." [94]

The specific action against groups which engage in litigation clearly appears misconceived. Public interest firms, like traditional legal aid groups, provide a service which their respective clients, the poor and the "average American," cannot afford.[95] Such traditional legal aid societies and the American Civil Liberties Union for years have engaged in politically sensitive litigation without threat of losing tax exemptions. The Regulations themselves recognize as "charitable" activities the defense of "human and civil rights secured by law," [96] and the "human right" to clean air or an uncluttered environment may prove as judicially cognizable as the rights to free speech and equal protection. Thus, it would appear that litigation in the interest of public health and safety is clearly prima facie charitable.

Nor is the IRS on strong ground in pointing to the lack of standards as to what constitutes "public interest" litigation. Courts have effective means to deal with plaintiffs whose motives are improper, or who do not adequately represent the public or other class interests, by dismissing a suit or imposing costs. Furthermore, the determination of the scope of the public interest in newly acknowledged human rights is within the province of the courts, not the IRS, and a liberal construction is warranted on tax neutrality grounds regarding suits to redress corporate wrongs. Since the corporation may deduct legal costs are a business expense, exempting the public interest law firm, and allowing deductions on funds contributed to it, represents one of the few ways to alleviate the fundamental inequality between private individuals and powerful corporations.

On November 12, 1970, the Internal Revenue Service announced Guidelines [97] which it would apply in the future in determining

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the tax status of organizations engaged in litigation, thus ending the earlier-announced "moratorium" on the granting of tax exemptions to such organizations. Although Commissioner Thrower indicated that the Guidelines would be administered flexibly, it is difficult to project the scope of their future application.

Different considerations arise in dealing with public interest groups which engage neither in litigation nor in lobbying, but seeks instead to inform the public on various matters which may seriously affect them. Such organizations, by analyzing and reporting upon the safety of certain products or the efficiency of federal agencies, serve a watchdog function impossible for the average citizen. If past experience is a valid guide, the more controversial the areas probed by these organizations in their studies, the more likely their tax status as "educational" institutions will be questioned. There is a further possibility that an organization's firm position on an issue may be used to categorize it as an "action" organization, and hence disqualified.

"Education" and "Propaganda"—Analysis of Controversial Issues. The requirement that, as a condition to receiving preferred tax status, no substantial part of an organization's activities be "carrying on propaganda," has been used by the Internal Revenue Service as a basis for urging that associations formed to disseminate controversial or partisan information are not "educational." [98] Taxpayers have contested this position, leading to a series of cases broadening the scope of the statutory provision. *Slee v. Commissioner* [99] involved the American Birth Control League, which gave free medical service to married women, collected and distributed information about birth control, and sought to enlist the support and cooperation of legislators in repealing and amending statutes preventing birth control. The Board of Tax Appeals denied the deduction of contributions to the League on the ground that it was not exclusively educational since it was formed, among other reasons, to disseminate propaganda concerning a controversial matter.[100] The Second Circuit affirmed on the narrow ground that Congress did not intend to subsidize political activities; the fact that the subject matter was "controversial" was not considered significant, but the court felt that the League had engaged in "political agitation" which placed it outside the statute.[101]

In *Weyl v. Commissioner*,[102] the Board of Tax Appeals disallowed the deduction of contributions to the League of Industrial Democracy, an organization promoting a new social movement based on production for use rather than profit, on the ground that it dealt with a controversial subject with partisan overtones. The Second Circuit reversed on the grounds that a controversial social doctrine on resemblance to a political party was not fatal, and that the League had "no legislative program hovering over its activities." [103] In *Leubuscher v. Commissioner* [104] the Second Circuit upheld the deductibility of a bequest to teach, expound, and propagate the ideas of Henry George, although it affirmed the disallowance of the deduction of a second bequest to another organization to seek the abolition of tax on industry.[105] Similarly, in *Seasongood v. Commissioner* [106] the Second Circuit reversed the Tax Court's denial of a deduction for contributing to the Hamilton County Good Government League,[107] stating that "propaganda" requires distortion of facts with an ulterior motive, and that "otherwise attempting to influence legislation" necessitates direct contact with Congress.[108] The court also repudiated the Treasury's distinction between direct action and public education, holding that since the League spent less than five percent of its time on direct action, it qualified as an educational organization.[109]

Although the foregoing cases are persuasive authority for the proposition that an exemption or deduction should not be denied merely because an organization advocates controversial doctrines with political overtones,[110] other decisions adopt a narrower point of view. In *Estate of Blaine v. Commissioner*,[111] the Tax Court denied deductions for contributions to the Foundation for World Government based on its determination that the organization's studies of problems relating to world government were not purely educational, since "the ultimate aim of such work was the attainment of a political objective." [112] Other cases have similarly denied an organization preferred status where there was no direct lobbying and the disqualifying activity consisted merely of attempting to mold public opinion in favor of a certain revision of the law.[113] Organizations such as antisaloon leagues seeking the enactment of prohibition laws and the selection of prohibition officials,[114] clubs formed to urge specific reforms of municipal problems,[115] and organizations formed to secure equal rights for women [116] have all been held to have as their object the dissemination of controversial or partisan propaganda, and therefore to be nonexempt.

The Internal Revenue Service apparently had adhered to a policy of focusing on an organization's political purposes rather than specific, "quantifiable" activities.[117] The current Regulations broadly define "education" as the instruction or training of an individual for the purpose of improving or developing his capabilities or the instruction of the public on subjects useful to the individual and beneficial to the community.[118] The unfortunate distinction between education and propaganda is retained, however, in other provisions. An organization, for example, is not educational if its "principal function is the mere presentation of unsupported opinion. [119] Although there clearly is merit in discouraging the dissemination of untruth, the Regulations provision covering "unsupported opinion may inhibit organizations seeking to enlighten the public on matters in current disrepute.

Action Organizations. Although the terms "educational" and "charitable" are broadly defined by the Regulations, and although an organization involved in controversial matters is not per se disqualified from preferred tax status, the Regulations utilize the concept of an "action" organization to separate exempt from nonexempt organizations among those operating in controversial areas. An organization will fall within the "action" category if it (1) urges the public to contact members of a legislative body for the purpose of proposing, supporting or opposing legislation; (2) advocates the adoption or rejection of legislation;[120] (3) makes written or oral statements on behalf of, or in opposition to, a candidate for public office [121] or (4) advocates, or campaigns for, the attainment of a main or primary social objective which may be attained only by legislation.[122]

These provisions are ambiguous and often difficult to reconcile. For example, the Regulations provide that an organization is educational even though it advocates a particular position, so long as it presents a full and fair exposition of the pertinent facts.[123] This policy is undercut, however, by the provision that advocacy of a primary objective which may be attained only by legislation or defeat of proposed legislation is disqualifying action. The Regulations' lack of clarity makes them susceptible to overbroad application which discriminates against organizations advocating controversial doctrines,[124] and this danger of discriminatory treatment is further compounded by the sporadic nature of IRS scrutiny and the likelihood that an organization will be singled out for review because of attention drawn to its "controversial" or "political" program by the news media.[125] Therefore, it seems clear that the "education" versus "propaganda" and "action group" distinctions, like the dubious consideration of political purposes in lieu of substantial activities,[126] tend to foster uncertainty and to inhibit the sponsorship of activities and programs which might arguably be deemed "political."

AN APPRAISAL OF THE RESTRICTIONS

Ambiguities already demonstrated in the application of the political activity restriction particularly as regards legislation suggest the need for a broad reexamination of the merits of the restriction itself. Defense of the restriction to date has been predicated on three factors: (1) the possible erosion of the tax base through expanding exemptions and deductions; (2) the inherent undesirability of lobbying; and (3) the policy against subvention and in favor of tax neutrality. Each of these considerations is separately subject to challenge.

Tax Base Rationale. Advocates of the restriction argue that the tax base should be protected against erosion by expanding exemptions and deductions, since the Treasury must replace from other sources revenue lost from granting preferred tax status to section 501(c)(3) and 170(c)(2) corporations. This argument is unpersuasive, however, since it is not clear that the revenue consequences of denying preferred status to politically active organizations are significant. Many charitable corporations presently exempt under section 501(c)(3) also may be exempt under other provisions of section 501 and thus will continue to engage in political activity without risking loss of their exemption.[127] Even if such a corporation does not qualify for an alternative exemption, it is unlikely to have any "income" within the meaning of section 61 of the Code.[128] Furthermore, any revenue significance derived from denying deductions of individual contributions to corporations not qualifying under section 170(c)(2) is marginal due to the sporadic nature of IRS scrutiny [129] and the likelihood that if a corporation were to lose its preferred status, a contributor would either find an exempt organization with similiar goals or would donate to exempt charities without regard to specific goals.[130]

Undesirability of Lobbying. A second argument is based on the premise that lobbying is inherently undesirable. The standard objections are: (1) that lobbying furthers self-interest rather than the public welfare; (2) that it supplies distorted information to the legislator who is seeking facts; and (3) that it frequently operates coercively, by threats of reprisal and offers of campaign contributions, thereby making opposition to its views difficult.[131] These arguments are unpersuasive, however, when applied to charitable, educational, and scientific organizations. Presumably, charities otherwise satisfying the requirements of sections 501(c)(3) and 170(c)(2) are pursuing selfless goals which society fosters. If these exempt purposes can best be served by encouraging legislation, then restricting such activity only narrows the field of ideas presented to legislators, but also denies these organizations an important avenue for fulfilling their exempt purposes. The organization and its contributors should not be penalized by a blanket denial of preferred tax status; only political activities which do not promote such exempt purposes should be prohibited. Although greater selectivity is required to screen out these contributors who receive a charitable deduction for selfishly motivated contributions, this does not require a denial of exemption or deductions merely because an organization is politically active. For example, a percentage limitation on deductible contributions from a donor to any organization would serve to screen donors couching

Footnotes at end of article.

a private economic motive (for example, a pecuniary interest in an organization's current activity on particular legislation) without disqualifying benevolently motivated donors.[132]

Subvention Policy. A third rationale for the restriction is the policy against subvention, the underwriting by the government of political activities. This policy was first articulated by Judge Learned Hand in *Slee v. Commissioner*,[135] and has been relied upon in subsequent case law, Treasury rulings, and legal commentary.[134] The basic notion, not without merit, is that legislation affects all citizens and all citizens should be treated equally. The expense of competing for legislative favor should not be passed unequally to the federal government. Under this theory, the Treasury stands neutral, and each taxpayer who would influence legislation bears the whole cost himself.

The neutrality argument, however, is fatally undercut in two respects. First, tax neutrality has not been uniformly respected. Inadequacies of record keeping, sporadic IRS scrutiny, and favoring of some political purposes over others have left a gap between theory and performance.[135] Furthermore, section 162(e) of the Code was amended in 1962 to allow a business deduction for expenses incurred either in connection with appearances before, or communications to, committees or individual members of Congress or any state or local legislative body, or in connection with any communication to an organization regarding legislation of interest to the taxpayer and an organization of which he is a member.[136] This deduction clearly provides for substantial subvention for business, and is in direct contrast with the broad proscription for charities requiring that no substantial part of their activities be "carrying on propaganda or otherwise attempting to influence legislation." [137] In *Cammarano*, the IRS had argued against allowing the deduction, taking the position that to do so would upset the tax equilibrium which existed due to the then existing uniform prohibition against subvention.[138] The Supreme Court accepted this argument and upheld the IRS, noting that this policy applied to religious, charitable, scientific, literary, and educational organizations,[139] and at the same time rejected the contention that denial of the deduction violated the first amendment.[140] By reversing the Supreme Court, the 1962 amendment to section 162(e) indicates a changed congressional position on subvention, makes defense of the policy difficult since it is no longer uniformly applied, and raises serious first amendment issues regarding whether the restrictions applied to section 501(c)(3) and 170(c)(2) organizations operate discriminatorily to suppress constitutional freedoms.[141]

The neutrality argument is also undercut by the fact that the logic of neutrality does not require a complete absence of subvention, but only that the opportunity to influence the fate of legislation or other political processes be equally available to every taxpayer. This raises important issues regarding the proper operation of a democratic society. It is vital, in a democracy, that there be adequate opportunity for the presentation of a variety of viewpoints, so that the diversity of the society's interests are known and accounted for by government. It seems clear, however, that the present system, rather than embodying a "neutrality," is actually discriminatory, potentially violative of equal protection.[142] Such a violation may be found when the corporate side of a public interest controversy deducts lobbying expenses while a comparable deduction is denied the citizen-donor to a politically active public interest group. Under a progressive tax structure the cost of political representation is higher for the poor to the extent that individuals support political goals by making deductible contributions to tax-exempt organizations.[143] To the extent that only "substantial" political activity is proscribed for section 501(c)(3) and 170(c)(2) organizations,[144] there is discrimination between large and small charitable organizations; a large charity may engage in political activity which is "insubstantial" in comparison with its other activities, which would be clearly disqualifying if conducted by a small charity.[145] Furthermore, since businesses may deduct all legislative expenses except "grass roots" lobbying,[146] there is a discrimination in favor of business interests and against individual and consumer interests. Thus, it would appear that no reasonable grounds exist for denying public interest groups access to legislators equivalent to that afforded to corporations.

CONCLUSION

A relaxation of the tendency of the IRS toward overbroad interpretation of the restraints on political activity, and toward disapproval of organizations which advocate new or "controversial" ideas is warranted to give full effect to the statutory purpose of fostering charitable, educational, and scientific activity and to avoid impingement on first amendment freedoms.

Further, a change in the law is warranted in order to allow for nonpartisan legislative activity by consumer and social welfare groups. This result is warranted since the use of political means serves both to effectuate charitable purposes, and to further democratic goals by encouraging the active representation of groups not formally represented by organized interests, and by providing legislators and public officials with a wider and more balanced spectrum of facts, arguments, and solutions to complex issues.[147] To the extent that these groups represent public interests in conflict with those of private, commercial interests, repeal of the lobbying restriction would serve to offset the corporate section 162(e) subvention. It would also eliminate the indicated enforcement and policy problems stemming from the restriction—e.g. the dubious education versus propaganda distinction— [148] and focus instead on the issue of whether the lobbying is consistent with the exempt charitable purposes.

FOOTNOTES

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[1] The term "preferred tax status" is used throughout this article to refer to both the exemption accorded to the organization itself and the deductions granted to those who make donations to such exempt organizations.

[2] INT. REV. CODE of 1954, §§ 170(c)(2), 501(c)(3), *as amended*, Tax Reform Act of 1969, Pub. L. No. 91–172, § 201(a)(1)(B), 83 Stat. 549. Section 501(c)(3) provides preferred status, with restrictions, to "corporations . . . organized and operated exclusively for religious, charitable, scientific . . . or educational purposes . . . ." The deduction and exemption provisions further encourage gifts to educational, religious, and charitable organizations by providing a maximum allowable deduction of 50 percent to taxpayers' adjusted gross income for contributions to these organizations, in contrast to a 20 percent limitation for other charitable contributions. *See id.* § 170(b)(1)(A), (B), *as amended*, Tax Reform Act of 1969, Pub. L. No. 91–172, § 201(a)(1), 83 Stat. 549. *See also id.* §§ 2055(a), 2106(a)(2)(A) (charitable bequests deductions), § 3121(b)(8)(B) (social security exemption), § 2522(a)(2) (gift tax deduction).

[3] It is well settled that "a charitable use, where neither law nor public policy forbids, may be applied to almost anything that tends to promote the well-doing and well-being of social man." 2 W. PERRY TRUSTS § 687 (6th ed. 1911). *See also* Clark, *The Limitation on Political Activities, A Discordant Note in the Law of Charities*, 46 VA. L. REV. 439 (1960).

[4] For example, the Internal Revenue Code denies preferred status to "feeder" organizations, INT. REV. CODE of 1954, § 502, *as amended*, Tax Reform Act of 1969, Pub. L. No. 91–172, § 121(b)(7), 83 Stat. 542. Thus, an organization primarily carrying on a trade or business for profit is not exempt merely because its profits are payable to organizations exempt under section 501. *See* Treas. Reg. 1.502–1(a)(c), T.D. 6662, 1963–2 CUM. BULL. 214. *See also* INT. REV. CODE of 1954, §§ 503, 504, 511–14.

[5] INT. REV. CODE of 1954, §§ 170(c)(2), 501(c)(3), *as amended*, Tax Reform Act of 1969, Pub. L. No. 91–172, § 201(a)(1)(B), 83 Stat. 549.

[6] Under the Code, charitable organizations which qualify as tax exempt civic or welfare organizations may engage in political activities. INT. REV. CODE of 1954, § 501(c)(4).

[7] When an organization fails to qualify under section 501(c)(3) the donor loses the section 170(c)(2) deduction from income tax, and is additionally faced with the prospect of gift or estate tax on his contribution. INT. REV. CODE of 1954, §§ 2055(a), 2522(a); *see* Estate of Anita M. Blaine, 22 T.C. 1195 (1954); The Huntington Nat'l Bank, 13 T.C. 760 (1949).

[8] Act of Aug. 27, 1984, 349, § 32, 28 Stat. This income tax statute was held unconstitutional as applied to interest derived from estate bonds. Pollock v. Farmers Loan & Trust Co., 157 U.S. 429, *aff'd on rehearing*, 158 U.S. 601 (1895). *See generally* Clark, *supra* note 3, at 444–52.

[9] Act of Oct. 3, 1913, ch. 16, § II(G)(a), 38 Stat. 172 (codified at INT. REV. CODE of 1954, § 501).

[10] War Revenue Act, ch. 63, § 1201(2), 40 Stat. 330 (1917) (codified at INT. REV. CODE of 1954, § 170(c)(2)).

[11] Revenue Act of 1924, ch. 234, tit. III, § 303(a)(3), 43 Stat. 306 (codified at INT. REV. CODE of 1954, § 2500(a)(2)).

[12] Revenue Act of 1932, ch. 209, § 505, 47 Stat. 247 (codified at INT. REV. CODE of 1954, § 2522(a)(2)). This provision was originally a temporary one, in effect from 1924 to 1926 before becoming permanent. 43 Stat. 313 (1924).

[13] O.D. 704, 3 CUM. BULL. 240 (1920); S.1362, 2 CUM. BULL. 152, 154 (1920); *see* Herbert E. Fales, 9 B.T.A. 828 (1927); Sophia G. Goxe, 5 B.T.A. 261 (1926).

[14] Treas. Reg. 45, art. 517, T.D. 2831, 21 TREAS. DEC. INT. REV. 285 (1920).

[15] 42 F.2d 184 (2d Cir. 1930).

[16] J. Noah H. Slee, 15 B.T.A. 710, 715 (1929). The statute then in effect permitted deductions for gifts made to any "corporation . . . organized and operated exclusively for religious, charitable, scientific, literary or education purposes . . . or . . . for the prevention of cruelty to animals. . . ." Revenue Act of 1921, ch. 136, tit. II, pt. 2, § 214(a)(11)(B), 42 Stat. 241.

[17] 42 F.2d at 185. *But see* Girard Trust Co. v. Commissioner, 122 F.2d 108 (3d Cir. 7941); Cochran v. Commissioner, 78 F.2d 176 (4th Cir. 1935).

[18] 42 F.2d at 185.

[19] *See, e.g.*, Sharpe's Estate v. Commissioner, 148 F.2d 179 (3d Cir. 1945); Marshall v. Commissioner, 147 F.2d 75 (2d Cir.), *cert denied*, 325 U.S. 872 (1945); Clark, *supra* note 3, at 446–47.

[20] *See* Note, *The Revenue Code and a Charity's Politics*, 73 YALE L.J. 661, 666–67 (1964) and cases cited therein.

[21] Revenue Act of 1934, ch. 277, § 23(o)(2), 48 Stat. 690 (income tax); *id.* § 101(b), 48 Stat. 700 (exempt corporations); *id.* § 406, 48 Stat. 755 (estate tax); *id.* § 517, 48 Stat. 760 (gift tax).

[22] For debate on this provision, see 78 CONG. REC. 5861, 5959, 7831 (1934). *See also* 110 CONG. REC. 5078–79 (1964).

[23] *See* Seasongood v. Commissioner, 227 F.2d 907, 910 (6th Cir. 1955). Senator Reed expressed the view that "[t]here is no reason in the world why a contribution made to the National Economy League should be de-

ductible as if it were a charitable contribution if it is a selfish one made to advance the interests of the giver of the money. This is what the committee was trying to reach. . . ." 78 CONG. REC. 5861 (1934) (remarks of Senator Reed).

[24] Senator Reed noted that "we found great difficulty in phrasing this amendment. I do not reproach the draftsmen. I think we gave them an impossible task; but this amendment goes further than the committee intended to go." 78 CONG. REC. 5861 (1934) (remarks of Senator Reed).

[25] *See* Lehrfeld, *How Much "Politicking" Can a Charitable Organization Engage In*, 29 J. TAXATION 236 (1968).

[26] The 1934 Act did not focus on whether the political activity was ancillary to some primary nonpolitical objective, nor did it reflect the concern of other decisions with examining both the *qualititative* and *quantitative* nature of the activity before rendering a decision on the purpose of the institution. The 1934 legislation prohibited "substantial" participation, thus indicating that an educational or charitable organization could engage in an "insubstantial" amount of such legislative activity without loss of preferred status. *See* Dulles v. Johnson, 273 F.2d 362 (2d Cir. 1959); Seasongood v. Commissioner, 227 F.2d 907 (6th Cir. 1955); Liberty Nat'l Bank v. United States, 122 F. Supp. 759 (W.D. Ky. 1954); Davis v. Commissioner, 22 T.C. 1091 (1952).

[27] *See* Cochran v. Commissioner, 78 F.2d 176 (4th Cir. 1935); Charles W. Dahlinger, 20 B.T.A. 176, 177 (1930), *aff'd*, 51 F.2d 662 (3d Cir.), *cert. denied*, 284 U.S. 673 (1931). Assistant Commisisoner of Internal Revenue, Norman Sugarman expressed the following view: "The 1934 amendment to the law . . . indicated an awareness by the Congress of the tenor of the court decisions . . . and by indirection, a reluctance to hold the line on the basis of the narrow interpretation by the service of the § 101(6) educational exemption. Congress saw fit only to circumscribe the exception with a restriction against substantial activities to influence legislation." *Hearings Before the Special House Comm. to Investigate Tax-Exempt Foundations and Comparable Organizations*, 83d Conf., 2d Sess. 433 (1954), *reprinted in* 32 TAXES 533, 595 (1954).

[28] H.R. No. 1385, 73d Cong., 2d Sess. 3–4 (1934) (Conference Report).

[29] *See* John N. Watson, Jr., 27 B.T.A. 463 (1932); Joseph M. Price, 12 B.T.A. 1186 (1928).

[30] *See* 100 Cong. Rec. 9604, 11461 (1954).

[31] INT. REV. CODE, § 501(c)(3).

[32] Treas. Reg. 1.170–1(f)(2)(ii), T.D. 6285, 1958–1 CUM. BULL. 141.

[33] *See* 1956 WIS. L. REV. 165, 171.

[34] *See* Lehrfeld, *supra*, note 25, at 237.

[35] Pub. L. No. 91–172, § 201, 83 Stat. 487. Treasury Regulations do not yet reflect the changes made by the Tax Reform Act of 1969.

[36] INT. REV. CODE of 1954, §§ 170(c)(2)(B)–(D), 501(c)(3), *as amended*, Tax Reform Act of 1969, Pub. L. No. 91–172, § 201(a)(1)(B), 83 Stat. 549.

[37] *See* Roche's Beach, Inc. v. Commissioner, 96 F.2d 776 (2d Cir. 1938).

[38] John Danz Charitable Trust, 32 T.C. 469 (1959), *aff'd*, 284 F.2d 726 (9th Cir. 1960).

[39] *See* Campbell v. Big Spring Cowboy Reunion, 210 F.2d 143 (5th Cir. 1954); Faulkner v. Commissioner, 112 F.2d 987 (1st Cir. 1940); Dulles v. Johnson, 155 F. Supp. 275 (S.D.N.Y. 1957), *rev' on other grounds*, 273 F.2d 362 (2d Cir. 1959), *cert. denied*, 364 U.S. 834 (1960); Lorain Ave. Clinic, 31 T.C. 141 (1958); Journal of Accountancy, Inc., 16 B.T.A. 1260 (1929).

[40] Marshall v. Commissioner, 147 F.2d 75 (2d Cir.), *cert. denied*, 375 U.S. 872 (1945); Sun-Herald Corp. v. Duggan, 73 F.2d 298 (2d Cir.) *cert. denied*, 294 U.S. 719 (1934); Sebastian-Lathe Co. v. Johnson, 110 F. Supp. 245 (S.D.N.Y. 1952); James J. Forestall, 29 B.T.A. 428 (1933).

[41] Roche's Beach, Inc. v. Commissioner, 96 F.2d 776 (2d Cir. 1938); Sun-Herald Corp. v Duggan, 73 F.2d 298 (2d Cir. 1934), *cert. denied*, 294 U.C. 719 (1934); Sebastian-Lathe Co. v. Johnson, 110 F. Supp. 245 (S.D.N.Y. 1952).

[42] The section 170(c)(2) deduction is governed by the section 501(c)(3) regulations. Treas. Reg. § 1.170–1(f)(2), T.D. 6285, 1958–1 CUM. BULL. 133.

[43] Treas. Reg. § 1.501(c)(3)–1(b)(1)(i)(a), T.D. 6391, 1959–2 CUM. BULL. 141; *see* Universal Oil Prods. v. Campbell, 181 F.2d 451 (7th Cir.), *cert. denied*, 340 U.S. 850 (1950); Sun-Herald Corp. v. Duggan, 73 F.2d 298 (2d Cir.), *cert. denied*, 294 U.S. 719 (1934).

[44] Treas. Reg. § 1.501(c)(3)–1(b)(1)(b), (iii), T.D. 6391, 1959–2 CUM. BULL. 141. The presence of an insubstantial activity or purpose will not affect the exempt status. Estate of Phillip R. Thayer, 24 T.C. 384 (1955); A.A. Allen Revivals, Inc., 22 CCH Tax Ct. Mem. 1435 (1963).

[45] Treas. Reg. § 1.501(c)(3)–1(b)(1)(iv), T.D. 6391 1959–2 CUM. BULL. 142.

[46] Treas. Reg. § 1.501(c)(3)–1(b)(3), T.D. 6391, 1959–2 CUM. BULL. 142.

[47] Francis E. McGillick Foundation v. Commissioner, 278 F.2d 643, 646–47 (3d Cir. 1960); William L. Powell Foundation v. Commissioner, 222 F.2d 68, 73–74 (7th Cir. 1955); *see* 6 J. MERTENS, LAW OF FEDERAL INCOME TAXATION § 34.07, at 28–35 (rev. ed. 1968) and cases cited therein.

[48] Francis E. McGillick Foundation v. Commissioner, 278 F.2d 643 (3d Cir. 1960); Slee v. Commissioner, 42 F.2d 184 (2d Cir. 1930).

[49] Treas. Reg. § 1.501(c)(3)–1(c)(1), T.D. 6391, 1959–2 CUM. BULL. 143. This regulation seems to codify prior case law. *See* Seasongood v. Commissioner, 227 F.2d 907, 910 (6th Cir. 1955); Liberty Nat'l Bank & Trust Co. v. United States, 122 F. Supp. 759, 763 (W.D. Ky. 1954); The Huntington Nat'l Bank, 13 T.C. 760, 763 (1949).

[50] Tres. Reg. § 1.501(c)(3)–1(c)(3), T.D. 6391, 1959–2 CUM. BULL. 143.

[51] 227 F.2d 907 (6th Cir. 1955).

[52] *Id.* at 911–12.

[53] Tres. Reg. § 1.501(c)(3)–1(c)(3)(ii), (iv)(a), T.D. 6391, 1959–2 CUM. BULL. 143: Rev. Rul. 62–72, 1962–1 CUM. BULL. 85; *see* League of Women Voters v. United States, 180 F. Supp. 379 (Ct. Cl.), *cert. denied*, 364 U.S. 822 (1960).

[54] Tres. Reg. § 1.501(c)(3)–1(c)(iv)(b), T.D. 6391, 1959–2 CUM. BULL. 143; *see* Rev. Rul. 66–258, 1966–2 CUM. BULL. 213; Rev. Rul. 66–256, 1966–2 CUM. BULL. 210; I.T. 2654, XI–2 CUM. BULL. 39 (1932).

[55] *See* Clark, *supra* note 3, at 449–52 and cases cited therein; Note *Income Tax Disadvantages of Political Activities*, 57 COLUM. L. REV. 273 (1957); Note, *Charitable Trusts for Political Purposes*, 37 VA. L. REV. 988 (1951).

[56] *See* Clark *supra* note 3, at 452.

[57] *See* Estate of Anita M. Blaine, 22 T.C. 1195 (1954); Rev. Rul. 62–71, 1962–1 CUM. BULL. 85; Rev. Rul. 60–193, 1960–1 CUM. BULL. 195; Note, *supra* note 20, at 662.

[58] *See* Kuper v. Commissioner, 332 F.2d 562 (3d Cir.). *cert. denied*, 379 U.S. 920 (1964); The Huntington Nat'l Bank, 13 T.C. 760 (1949).

[59] 227 F.2d 907 (6th Cir. 1955).

[60] *Id.* at 912.

[61] Liberty Nat'l Bank & Trust Co. v. United States, 122 F. Supp. 759, 766 (W.D. Ky. 1954). "If upon sporadic occasions the zeal of its members has invaded the prohibited area of attempting to influence legislation, this becomes of little consequence viewed against the background of the whole of their efforts in behalf of better government." *Id.*

[62] Murray Seasongood, 22 T.C. 671, 680 (1954).

[63] *See, e.g.*, Dulles v. Johnson, 273 F.2d 362, 367 (2d Cir. 1959), *cert. denied*, 364 U.S. 834 (1960); Hammerstein v. Kelly, 235 F. Supp. 60, 63 (E.D. Mo. 1964), *aff'd*, 349 F.2d 928 (8th Cir. 1965).

[64] *See* Note, *supra* note 20, at 668.

[65] Treas. Reg. § 1.501(c)(3)–1(c)(iii), T.D. 6391, 1959–2 CUM. BULL. 143.

[66] *Id.*

[67] Rev. Rul. 67–71, 1967–1 CUM. BULL. 125.

[68] Rev. Rul. 67–368, 1967–2 CUM. BULL. 194.

[69] *See* Note, *Income Tax Disadvantages of Political Activities*, 57 COLUM. L. REV. 273, 280–81 (1957).

[70] CCH 1970 STAND. FED. TAX REP. ¶6743, at 71,585.

[71] *Id.* A question is raised as to which persons act for the corporation and in its name. Clearly a statement of policy voted upon and announced by the corporation as a committee of overseers falls within the proscription. The Guidelines state that "[t]hose who in their official capacity frequently speak for the university should undertake to make it clear when expressing individual views that they are not stating a university position." *Id.* at 71,586.

[72] *See id.* As to faculty and staff, the Guidelines raise the possibility that releasing them with pay from their normal duties to participate in an election might constitute "indirect participation by the institution itself . . ." *Id.*

[73] *Id.* at 71,585.

[74] *Id.* at 71,585–86.

[75] *Id.* If the institution shortened its terms of instruction, questions might be raised as to whether a full term of instruction were being provided. *Id.* at 71,586. The New York City Small Claims Court has awarded a refund of tuition to a New York University student, Raymond Paynter, for time lost due to cancellation of classes during student demonstrations, on the theory of breach of contract, upon a finding that the university had not fulfilled its responsibility for order and discipline on the campus. *See* N.Y. Times, Oct. 15, 1970, at 1, col. 1.

[76] 7 CCH 1970 STAND. FED. TAX REP. ¶6743, at 71,586.

[77] *See* notes 98–119 *infra* and accompanying text.

[78] *See* Goldman, *The University and the Liberty of Its Students—A Fiduciary Theory*, 54 KY. L.J. 643, 645–47 (1966).

[79] 339 U.S. 382 (1950) (Frankfurter, J., concurring in part, dissenting in part).

[80] *Id.* at 417.

[81] 227 F.2d 907 (6th Cir. 1955).

[82] *Id.* at 911. Other cases, however, have construed the exemption narrowly. *See, e.g.*, American Hardware & Equip. Co. v. Commissioner, 202 F.2d 126 (4th Cir. 1953); Robert's Dairy v. Commissioner, 195 F.2d 948 (8th Cir.), *cert. denied*, 344 U.S. 865 (1952).

[83] 347 U.S. 612 (1953).

[84] 2 U.S.C. §§ 264, 266–67 (1964).

[85] 347 U.S. at 626.

[86] 357 U.S. 513 (1958).

[87] *Id.* at 518–20, 525.

"[T]he denial of tax exemption [in this case] for engaging in certain speech necessarily will have the effect of coercing the claimants to refrain from the proscribed speech. The denial is 'frankly aimed at the suppression of dangerous ideas.'

* * * * *

". . . When we deal with the complex of strands in the web of freedoms which make up free speech, the operation and effect of the method by which speech is sought to be restrained must be subjected to close analysis and critical judgment in the light of the particular circumstances to which it is applied.

* * * * *

"[I]t does not follow that because only a tax liability is here involved, the ordinary tax assessment procedures are adequate when applied to penalize speech." *Id.*

[88] *See* United Public Workers v. Mitchell, 330 U.S. 75 (1947) (upholding the Hatch Act's restriction of political activity by federal employees). *See generally* Hatch Act, 5 U.S.C. § 1181 (1964).

[89] 358 U.S. 498 (1959).

[90] *Id.* at 513.

[91] Cammarano v. United States, 358 U.S. 498, 513 (1959); Hariss v. United States, 347 U.S. 612, 625–26 (1953).

[92] *See* Note, *The First Amendment Overbreadth Doctrine,* 83 HARV. L. REV. 844 (1970).

[93] "To deny an exemption to claimants who engage in certain forms of speech is in effect to penalize them for such speech." Speiser v. Randall, 357 U.S. 513, 518 (1958).

[94] Letter from Members of the Senate Subcommittee on Employment, Manpower, and Poverty to Randolph W. Thrower, Oct. 14, 1970 (copy on file at GEO. L.J.)

[95] *See id.*

[96] Treas. Reg. § 1.501(c)(3)-1(d)(2)(iii) (1959), T.D. 6391, 1959–2 CUM. BULL. 144.

[97] The Guidelines read as follows:

"1. The engagement of the organization in litigation can reasonably be said to be in representation of a broad public interest rather than a private interest. The litigation is designed to present a position on behalf of the public at large on matters of public interest. Typical of such litigation may be class actions in the public interest, suits for injunction against action by government or private interests broadly affecting the public, similar representation before administrative boards and agencies, test suits where the private interest is small, and the like. The activity would not normally extend to direct representation of litigants in actions between private persons where their financial interests at stake would warrant representation from private legal sources. In such cases, however, the organization may serve in the nature of a friend of the court.

"2. The organization does not accept fees for its services except in accordance with procedures approved by IRS.

"3. The organization does not attempt to achieve its objectives through a program of disruption of the judicial system, illegal activity, or violation of applicable canons of ethics.

"4. The organization files with its annual information return a description of cases litigated and the rationale for the determination that they would benefit the public generally.

"5. The policies and programs of the organization are the responsibility of a board or committee representative of the public interest, which is not controlled by employees or persons who litigate on behalf of the organization nor by any organization that is not itself an organization described in Section 501(c)(3) of the Internal Revenue Code.

"6. The organization is not operated, through sharing of office space or otherwise, in a manner so as to create identification or confusion with a particular private law firm.

"7. There is no arrangement to provide, directly or indirectly, a deduction for the cost of litigation which is for the private benefit of the donor.

"8. The organization must otherwise comply with the provisions of Section 501(c)(3), that is, it may not participate in, or intervene in, any political campaign on behalf of any candidate for public office, no part of its net earnings may inure to the benefit of any private shareholder or individual, and no substantial part of its activities may consist of 'carrying on propaganda, or otherwise attempting, to influence legislation.'" 7 CCH 1970 STAND. FED. TAX REP. ¶ 6943G, at 71,941.

[98] This was based upon a Treasury Regulation which stated that associations formed to disseminate controversial or partisan propaganda are not educational within the meaning of the statute. *See* note 14 *supra* and accompanying text.

[99] 42 F. 2d 184 (2d Cir. 1930).

[100] J. Noah H. Slee, 15 B.T.A. 710 (1929), *aff'd,* 42 F. 2d 184 (2d Cir. 1930).

[101] 42 F. 2d at 185.

[102] 18 B.T.A. 1092 (1930), *rev'd,* 48 F. 2d 811 (2d Cir. 1931).

[103] 48 F. 2d at 812. *See also* Cochran v. Commissioner, 78 F. 2d 176 (4th Cir. 1935).

[104] 54 F. 2d 998 (2d Cir. 1932).

[105] *Id.* at 1001.

[106] 227 F.2d 907 (6th Cir. 1955).

[107] Murray Seasongood, 22 T.C. 671 (1954), *rev'd,* 227 F.2d 907 (6th Cir. 1955).

[108] 227 F.2d at 911–12.

[109] *Id.* at 912.

[110] Rev. Rul. 68–15, 1968–1. CUM. BULL. 244 (to correct conditions causing community tension); Rev. Rul. 67–342, 1967–2 CUM. BULL. 187 (to educate the public on the need for international cooperation); Rev. Rul. 65–60, 1965–1 CUM. BULL. 231 (to develop and disseminate a body of new knowledge relating to the social sciences).

[111] 22 T.C. 1195 (1954).

[112] *Id.* at 1213.

[113] American Hardware & Equip. Co. v. Commissioner, 202 F.2d 126 (4th Cir. 1953); Roberts Dairy Co. v. Commissioner, 195 F.2d 948 (8th Cir. 1952).

[114] Herbert E. Fales, 9 B.T.A. 828 (1927).

[115] Joseph M. Price, 12 B.T.A. 1186 (1928).

[116] Kuper v. Commissioner, 332 F.2d 562 (3d Cir.), *cert. denied,* 379 U.S. 920 (1964); Vanderbilt v. Commissioner, 93 F.2d 360 (1st Cir. 1937).

[117] *See notes 55–57* supra and accompanying text.

[118] Treas. Reg. § 1.501(c)(3)–1(d)(3)(1), T.D. 6391, 1959–2 CUM. BULL. 144.

[119] *Id.*

[120] *Id.* § 1.501(c)(3)–1(c)(3)(ii).

[121] *Id.* § 1.501(c)(3)–1(c)(3)(iii).

[122] *Id.* § 1.501(c)(3)–1(c)(3)(iv).

[123] *Id.* § 1.501(c)(3)–1(d)(3)(1). *See generally* Vanderbilt v. Commissioner, 93 F.2d 360 (1st Cir. 1937); Slee v. Commissioner, 42 F.2d 184 (2d Cir. 1930).

[124] The statute and regulations have been criticized for allowing the Internal Revenue Service uncontrolled discretion. *See* Note, *supra* note 20, at 665–66.

[125] *See id. at 665* n.18.

[126] *See* notes 58–68 *supra* and accompanying text.

[127] Section 501(c) lists 17 classes of tax-exempt organizations, including social welfare leagues, labor organizations, and business leagues. INT. REV. CODE of 1954, § 501(c), *as amended,* Tax Reform Act of 1969, Pub. L. No. 91–172, §§ 101(j)(5), 121(b)(5)(A), 121(b)(6)(A), 83 Stat. 527.

[128] Contributions from individuals may be excluded as gifts. *Id.* § 102.

[129] *See* Note, *supra* note 20, at 665 n. 18.

[130] *Id.* at 669–70.

[131] *See* Federal Regulation of Lobbying Act, 2 U.S.C. §§ 261–70 (1964); Clark, *supra* note 3, at 456; Weaver, *Taxes and Lobbying—The Issue Resolved,* 31 GEO. WASH. L. REV. 938, 949–50 (1963); Note, *The Sierra Club, Political Activity, and Tax Exempt Charitable Status,* 55 GEO. L.J. 1128, 1137–38 (1967).

[132] Note, *supra* note 20 at 1139–41.

[133] 42 F.2d 184 (2d Cir. 1930); *see* notes 15–20 *supra* and accompanying text.

[134] *See* Cammarano v. United States, 358 U.S. 498 (1959); S.1362, 2 CUM. BULL. 152, 154 (1920).

[135] *See* Weaver, *supra* note 131, at 938.

[136] Revenue Act of 1962, § 3, 76 Stat. 973, *amending* INT. REV. CODE OF 1954, § 162 (e).

[137] INT. REV. CODE OF 1954, §§ 170(c)(2)(D), 501(c)(3).

[138] Brief for Respondents at 12, Cammarano v. United States, 358 U.S. 498 (1959).

[139] 358 U.S. at 512.

[140] *Id.* at 513.

[141] *See* Speiser v. Randall, 357 U.S. 513, 518 (1958).

[142] A discriminatory classification is upheld only when a substantial governmental interest is furthered by it. McGowan v. Maryland, 366 U.S. 420, 445–49 (1961); Hartford v. Harrison, 301 U.S. 459, 461–62 (1937). The equal protection limitation has been substantially applied to the federal government through the fifth amendment. Bolling v. Sharpe, 347 U.S. 497 (1954). The standard of proof required of any government in demonstrating a sufficient interest to justify a discriminatory classification is more stringent where the right impinged upon is deemed "fundamental." *See* Harper v. Virginia Bd. of Elections, 383 U.S. 663, 667 (1966).

Federal tax policy arguably recognizes two groups of taxpayers in considering the lobbying privilege. Where legislation on pollution is pending, corporations may lobby against it and deduct the expense of lobbying for tax purposes. Cammarano v. United States, 358 U.S. 498 (1959). At the same time, a public interest study group lobbying for the legislation might be deemed outside the "charitable" definition; if so, the citizen-contributor to the organization would be denied a deduction. The effect of these contradictory policies, taken together, is to provide strong corporate access to the legislative process while making unlikely the possibility of comparable access for the viewpoints of consumers. Lobbying to influence legislation represents an exercise of the constitutional right "to petition the Government for a redress of grievances." Liberty Lobby v. Pierson, 129 U.S. App. D.C. 74, 390 F.2d 489, 491 (1968). Thus a substantial governmental interest is required to uphold a discriminatory classification. That no such interest exists already has been indicated. *See* notes 127–142 *supra* and accompanying text. Thus, the discriminatory treatment may be unable to withstand constitutional scrutiny by the courts.

[143] *See* Note, *supra* note 20, at 670–71. The allowance of the deduction would have no effect on taxpayers who do not itemize their deductions. *See* Girard Trust Co. v. Commissioner, 122 F.2d 114 (2d Cir. 1941) (Clark, J., dissenting); Peters, *Political Campaign Financing: Tax Incentives for Small Contributors,* 18 LA. L. REV. 414, 428 (1958).

[144] *See* notes 49–50 *supra* and accompanying text.

[145] *See* Clark, *supra* note 3, at 459.

[146] *See* note 136 *supra* and accompanying text.

[147] The foregoing arguments do not fully apply to political activity to influence the outcome of an election campaign for public office, where "neutrality" is still the general rule. It has been suggested that, in addition, the congressional policy which in section 162(e)(2)(B) forbids "grass roots" lobbying by business, should be extended to charities as a type of *in pari materia. See* Note, *supra* note 20, at 673 n. 56. This suggestion might have some merit if the provisions of sections 501(c)(3) and 170(c)(2) were broadened to allow all appearances before and communications to committees or individual members of Congress or state or local legislative bodies, and communication with other organizations with similar interests.

[148] *See* Cooper, *The Tax Treatment of Business Grass Roots Lobbying: Defining and Attaining the Public Policy Objectives,* 68 COLUM. L. REV. 801 (1968); notes 98–126 *supra* and accompanying text.

LEGISLATIVE COMMUNICATIONS BY PUBLIC CHARITIES—AN EXPLANATION OF THE LEGISLATION

PRESENT LAW

The Internal Revenue Code provision which grants tax exemption to charitable, educational, religious, and similar organizations—section 501(c)(3)—specifies that, to be entitled to exemption, "no substantial part of the activities of (the organization may be) carrying on propaganda or otherwise attempting to influence legislation . . . ." Though considerable litigation has occurred under this provision, it is not clear how much "substantial" is; and it is not clear whether this quantitative limitation applies to the expenditures of an organization, some other measure of its operations, the importance of a legislative matter with which it concerns itself, its success in dealing with that legislative matter, or some other factor. Nonetheless, the Internal Revenue Service

takes the position that the quoted language imposes a strict and narrow limit on the ability of charitable organizations to testify before Congressional committees, communicate with legislators, or otherwise participate in the legislative process.

Private foundations are one of the classes of organizations qualifying for exemption under 501(c)(3), and the Tax Reform Act of 1969 imposed a special set of restrictions upon their legislative activities. However, in the extensive hearing which both the House Ways and Means Committee and the Senate Finance Committee held on tax reform in 1969, no concern developed about the legislative activities of section 501(c)(3) organizations which are not private foundations—that is to say, publicly supported charitable, educational, and religious organizations. Hence, the 1969 Act took no action on the rules governing the legislative activities of public charities, and such charities remain subject to the section 501(c)(3) prohibition against substantial involvement with legislation.

REASONS FOR CHANGE

In 1962 Congress extended, to businesses and the organizations which represent them, the ability to conduct legislative efforts with tax-deductible funds. The Finance Committee explained the grounds for the action in these words:

"It is also desirable that taxpayers who have information bearing on the impact of present laws, or proposed legislation, on their trade or business not be discouraged in making the information available to the members of the Congress or legislators in other levels of Government. The presentation of such information to the legislators is necessary to a proper evaluation on their part of the impact of present or proposed legislation.*

This reasoning applies with equal force to public charities. No less than businesses and their trade associations, conservation organizations, medical research groups, and similar groups which are publicly supported can be important sources of information on legislative issues. The information which they have ought to be available to legislative bodies on the same basis as that possessed by business. As Congress properly recognized in 1962, the legislative process works best when it is open to the free and full expression of views by all individuals and groups concerned. The present Internal Revenue Code limitation upon public charities removes a broad, diverse, and important class of organizations from participation in the legislative process

An additional ground exists for amending this limitation. Ambiguous and indefinite in a variety of respects, the present "substantial" rule of section 501(c)(3) confers very broad discretion upon the Internal Revenue Service and thereby lends itself to a selective enforcement. Under the rule, particular Revenue agents, District Directors, and other officials have wide-ranging power to challenge and suppress the views of organizations with which they disagree. The rule has repeatedly been criticized upon precisely this ground. As recently as December 12, 1971, the Guild of St. Ives, a prestigious organization of Episcopal clergymen, lawyers, and others, issued a report demonstrating selective enforcement of the prohibition against several churches and church groups.

WHAT THE PROPOSED LEGISLATION WOULD DO

The proposed legislation would deal directly and effectively with these problems. Patterned upon the 1962 provision enabling businesses to deduct the costs of their legislative activities, the bill would allow publicly supported charitable organizations to communicate directly with Congress, State legislatures, and members of such bodies to express their views on legislation which is of direct interest to them without jeopardizing their tax exemption.

This liberalization is attended by strict safeguards:

It extends only to public charities—conservation groups, medical research organizations, schools, churches, and certain other organizations with broad public financial support. The bill does not revise in any way the special restrictions which the Tax Reform Act of 1969 imposed on private foundations.

The bill applies only to direct communications by public charities with leglative bodies. The bill does not apply to nothing to change the present restriction upon grassroots appeals to the general public.

The bill does not apply to efforts to influence elections. The existing prohibition against such efforts by section 501(c)(3) organizations would remain unchanged.

Under a provision included in this bill, the bill would apply only to public charities which normally have "substantially more than half" (which under the 1969 Tax Reform Act is defined as 65 percent) of their activities devoted to the conduct of exempt functions other than by legislative action. Hence, the bill would not apply to a public charity engaged solely—or primarily—in lobbying.

Mr. SCOTT. Mr. President, I am pleased to join the junior Senator from Maine (Mr. MUSKIE) in the introduction of this bill to permit certain tax-exempt organizations to engage in communications with legislative bodies of Government.

This legislation will clarify the legal status of certain publicly supported charitable, educational, and religious organizations insofar as their legislative activities are concerned. In the past, Congress has granted certain concessions to other groups and it is only fair that similar treatment be given to this group.

It is important to note that this legislation was drafted carefully to avoid any confusion as to the kinds of activities and types of groups allowed. It applies only to public charities and only to their direct communications to legislative bodies and members. It does efforts to influence elections or to groups engaged primarily in lobbying.

Mr. President, I note with great interest the wide support given this legislation. From my own Commonwealth of Pennsylvania support has come from the Audubon Society, the Easter Seal Society for Crippled Children and Adults, the National Association for Mental Health, and many other conservation and social service oriented groups. I urge speedy and favorable consideration of this worthwhile legislation.

By Mr. McGEE:

S. 3065. A bill to designate the Ashenfelder Wilderness, Medicine Bow National Forest, in the State of Wyoming. Referred to the Committee on Interior and Insular Affairs.

Mr. McGEE. Mr. President, today I am introducing legislation to designate as part of the Nation's Wilderness System approximately 25,000 acres of superb forest lands surrounding Laramie Peak in the Medicine Bow National Forest of Wyoming.

The wilderness area, to be known as the Ashenfelder Wilderness, comprises, despite its relatively small size, the most significant stand of virgin ponderosa pine remaining on the public domain in the State of Wyoming. That alone would be reason enough to preserve and protect this region of unique natural beauty, particularly since the climatic conditions in the area are marginal at best for trees of this type. The annual precipitation, for instance, is 15 inches a year. Yet, some of the larger trees in this ponderosa forest are from 150 to 250 years old and range up to 30 inches in diameter.

At higher elevations in the proposed wilderness, timber types change to lodgepole pine and eventually Engelmann spruce-firm type trees, with an interspersing of various eastern and western species. All of it is in its natural state.

The relatively long dry spells in the region cause many of the streams to cease flowing and springs to dry up periodically. There are, nonetheless, free-flowing and unsilted waters, including some perennial streams offering excellent habitat to cold-water fish.

The Laramie Peak District, of which the proposed wilderness is but a part, has been in the National Forest System since 1935. There is no privately owned land within the proposed wilderness area, which is depicted on the map I have submitted with this legislation, and which is also on file at the office of the Chief, U.S. Forest Service, Department of Agriculture.

Preservation of the Ashenfelder area in its wilderness state has long been sought by concerned citizens in the surrounding area, particularly Albany and Converse Counties in Wyoming, both of which encompass lands to be included in this wilderness area. Further, there is no other wilderness area in this part of Wyoming. Nor is there a comparable location which would provide a significant parcel of land maintained in its natural state yet readily accessible not only to the major population centers of Wyoming but to people from all over our country who would desire a true wilderness experience. The boundaries of the proposed wilderness, as set forth in the bill I have introduced today, would include 10,272-foot Laramie Peak, which is easily the dominating physical feature in this portion of the Laramie mountains.

At present there are located on the summit of Laramie Peak several small electronic communication facilities, including those placed there by the U.S. Forest Service and the Bureau of Reclamation. In order to avoid any inconvenience or undue hardships, my bill provides that all special use permits for the maintenance of these electronic installations on Laramie Peak shall be terminated within 5 years after the en-

* S. Rept. No. 1881, 87th Congress, 2nd Session.

actment of this legislation. The permittees would have an additional 6 months after such termination to remove this equipment. Hopefully, this will insure adequate time for the relocation of these facilities to another suitable location outside the wilderness area. The special use permits which are involved were issued only on an annual basis and provide that they can be terminated at any time by the Secretary of Agriculture.

Close by, but not within the boundaries of the proposed wilderness, is located the Harris Park Boy Scout Camp, which annually services 600 to 700 scouts for the Wyo-Braska Area Council. A church camp also is located close by the proposed wilderness. Both camps make use of the area in order to give youth involved in the programs experience in a wilderness setting.

Mr. President, I have worked closely with local citizens and interested groups in the vicinity of the Laramie Peak area in order to come up with a reasonable proposal and establish boundaries which would be generally acceptable. I believe that this bill would create a relatively small but highly valuable wilderness area deserving perpetual protection.

Mr. HANSEN. Mr. President, I congratulate my colleague, Senator McGEE, for taking the initiative and introducing this legislation to establish the Laramie Peak Wilderness area in southwestern Wyoming.

While I have not chosen to cosponsor the Laramie Peak bill, I recognize that its introduction by my colleague will provide the opportunity for all individuals to comment on the proposal.

There has been much interest in the management of this area. Now that legislation has been introduced in both the House of Representatives and the Senate, the base has been established for the various interested factions and individuals to take part in the decisionmaking process so as to determine how the area should be managed.

Legislation to protect this area by wilderness status has now been introduced in both Houses of Congress. I feel the Forest Service should recognize the importance of refraining from any action which would further jeopardize the area from being classed as wilderness.

Mr. President, I have today sent a letter to Chief Cliff requesting that no new development or construction be allowed on that part of the Medicine Bow National Forest outlined by Senator McGEE's legislation until a determination is made as to how this area will be managed.

Mr. President, I ask unanimous consent that my letter to Ed Cliff be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C. January 24, 1972.

Mr. EDWARD P. CLIFF,
Chief, Forest Service,
Washington, D.C.

DEAR ED: Legislation was introduced today by my colleague Senator McGee to include an area in the Medicine Bow National Forest within the wilderness system. This area is generally referred to as the Laramie Peak or Ashenfelder Wilderness.

Congressman Roncalio has had legislation before the House now for some time which would classify the area as wilderness.

In view of the fact that both Houses of Congress are now considering protection for this area, I hope that you will not allow any new development or construction in the Laramie Peak area which would have an effect on the area's possible qualification and designation as wilderness.

Thank you for your assistance.

With best regards,

Sincerely,

CLIFFORD P. HANSEN,
U.S. Senator.

By Mr. MATHIAS:

S. 3064. A bill to extend and amend section 8(d) of the Federal Water Pollution Control Act, as amended. Referred to the Committee on Public Works.

Mr. MATHIAS. Mr. President, I introduce, for appropriate reference, a bill to extend and amend section 8(d) of the Federal Water Pollution Control Act, as amended.

This bill would extend the present program of Federal grants for sewer and waste treatment projects through the rest of this fiscal year at the $2 billion funding level already approved by the Congress. The bill includes the key provision, passed by the Senate last fall as part of S. 2770, which would authorize the Administrator of EPA to allocate up to $200 million of this year's appropriation in special aid to regional projects utilizing advanced treatment methods in areas with especially severe water pollution problems.

In essence this is legislation for the relief of the Potomac River and all other waterways which will benefit from the immediate funding of long-planned pollution control projects. It is legislation for the relief of all of the States and communities, including the District of Columbia and Maryland, which have projects ready to go or actually under construction but now threatened with delays because of the current suspension of Federal aid.

There is nationwide agreement that the task of cleaning up our waterways is an urgent one. Last session the Congress appropriated $2 billion, the largest sum in our history, for Federal grants-in-aid for this purpose. Yet EPA's authority to make those grants expired October 31, 1971, and the new authorization is tied up in the omnibus water pollution control legislation still under consideration in the other body. In short, the bulk of the appropriated funds cannot now be spent by EPA.

It is ironic that important projects already under way are facing delays even as we attempt to enact a massive new attack on water pollution. If the executive branch had impounded these appropriated funds, many of us in this body would rightly rush to protest. Yet the current dilemma amounts to impoundment by non-act of Congress. We should be equally quick to remedy the situation.

The suspension of aid is beginning to have serious repercussions throughout the Nation. Because of the lack of authority to obligate funds, EPA has already had to defer or deny several grant applications for projects in Maryland. A number of States, including Maryland and New York, have been forced to stretch out their State aid programs because anticipated Federal reimbursements for past projects have not been forthcoming.

One vital project which will be seriously affected if this delay persists is the $359-million upgrading and expansion of Blue Plains, the District of Columbia's regional treatment plant. This project, which includes advanced waste treatment, is generally recognized as the key to cleaning up the Potomac estuary. The work is already underway on a very tight schedule calling for completion by the end of 1974.

Any delays in Federal aid will have an immediate impact on Blue Plains because the entire project is based on a "pay-as-you-go" funding agreement under which all of the partners in the project—including the District, Maryland, Virginia, the relevant counties, and the Federal Government—are pledged to provide their shares of each phase of construction when the monies are needed for obligation. This agreement was negotiated in late 1970, and has been respected by EPA so far, because the District simply has no way to prefinance the project or borrow necessary funds in anticipation of later repayment.

As reported by William Nye Curry in the Washington Post on January 21, the Blue Plains project is now at a critical point. If the work is to continue on schedule, several major contracts must be negotiated during the next few months. Even with all required local matching funds in hand, the District will be unable to advertise for bids without additional Federal assistance.

It is therefore crucial for this project to receive at once not only its normal, formula allocation of Federal aid, but also the additional assistance which the scope and importance of the project justify. The formula allocation, based on population, is severely inadequate for a project of such regional breadth and sophistication.

Administrator Ruckelshaus recognized the special needs of the Washington area last year, when he provided supplemental aid of $50 million to keep the first stages of the Blue Plains project on schedule. The Senate recognized the need when, in approving S. 2770 last fall, we included the Mathias-Eagleton-Beall amendment to earmark up to $200 million in extra aid for Blue Plains and similar projects in other major metropolitan areas.

This amendment was not controversial. To the contrary, it reflected a nonpartisan agreement between the Committee on Public Works and the Administration. As stated in Senate Report 92-414:

> The Committee strongly believes that the Blue Plains project should not be delayed. . . . The Administrator has assured the Committee that if suitable discretionary authority is provided, the full Federal share of the Blue Plains project will be made available to keep this project on schedule.

Mr. President, we have now come to the crunch. The full 55-percent Federal

share of Blue Plains amounts to about $197.6 million. Over $66.5 million has already been made available, including the $50 million in special funds granted last spring. The District government has advised me that if the project is to stay on schedule, as much as $61.8 million in additional Federal aid must be made available for obligation by the end of this fiscal year, plus about $69.1 million in fiscal 1973.

I would emphasize that these grants, although large, represent simply the full 55-percent Federal share authorized under the present program. The funds are not in any way intended to replace local funds. On the contrary, the participating jurisdictions are fully prepared to contribute their entire 45-percent shares.

What is needed now is authority for EPA to meet its commitment to Blue Plains, and its countless commitments to other pending projects throughout the Nation. The bill I introduce today would provide that authority. It does not propose any expenditures beyond those already appropriated by Congress. It is simply interim authority to permit the present grant program and current projects to continue while we are resolving all of the intricate issues raised by other portions of the omnibus bills.

Mr. President, I hope this proposal will receive prompt and favorable consideration by the distinguished Committee on Public Works.

I ask unanimous consent to have printed in the RECORD Mr. Curry's article from the Washington Post of January 21, and a Post editorial from this morning.

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

FUND LAG IMPERILS BLUE PLAINS WORK

(By William Nye Curry)

Congressional funding delays are threatening to halt construction on enlarging and refining Washington's overloaded and inefficient Blue Plains sewage treatment plant, the prime source of Potomac River pollution, a District official asserts.

Pollution officials have said that the hope of cleaning up the Potomac rests squarely on the improving Blue Plains plant, and Paul V. Freese, director of the D.C. water resources management administration, said yesterday that if Congress does not authorize funds within a month construction will bog down.

The spending authorization for Blue Plains is tied up in the $2 million nationwide antiwater pollution bill, which already has been passed by the Senate and is now in the House Public Works Committee.

But a staff member of that committee said final congressional approval of the bill probably will not be forthcoming until May.

In addition to the size and complexity of the bill, it is closely associated with presidential aspirant Sen. Edmund S. Muskie (D-Maine), and is the subject of a major dispute with the Nixon administration.

Money for Blue Plains had come from the discretionary funds of the federal Environmental Protection Agency, but federal legislation authorizing that expired last October. Revival of such legislation could solve the impending Blue Plains problem. Sen. Charles McC. Mathias Jr. (R-Md), informed of the situation by a reporter yesterday, said he would introduce such legislation Monday.

Freese said the May timetable "will give us problems." He described the situation as "critical" and noted that awarding of contracts usually takes about 90 days after Congress has authorized spending. Hence, the April 1 commencement date for one construction contract already has been delayed.

Freese said that any lengthy delay now would multiply the time taken to complete the construction, which is designed to equip the plant with highly advanced waste removal facilities by the end of 1974.

The director estimated that, with the expiration of funding authorization in October, the city received only about half the $83,888,000 authorized for contracts to be let during the fiscal year ending June 30.

Of particular importance to the project are contracts that Freese said would:

Have construction work start June 1 on facilities to process sludge—the gooey mass of wastes removed from incoming sewage.

Have construction work begin July 1 on secondary treatment facilities to help handle the projected 309-million-gallons-a-day load Blue Plains will treat.

Federal matching funds—about 55 per cent of the total Blue Plains cost of $340 million—could be forthcoming if authorization for the Environmental Protection Agency's $200 million discretionary fund was approved by the Congress without waiting to pass the larger bill.

The Senate bill written by Muskie calls for no discharges of wastes into the nation's waterways by 1985. The Nixon administration doubts the practicality of such a goal.

Blue Plains, by 1975, is scheduled to remove almost all floating solids, almost all fecal and other biological pollutants and most of the phosphorus and nitrogen from the domestic wastes it treats. Such wastes now in the river have led to its being declared a health hazard by public officials.

POLLUTION POLITICS

It took about 15 years, but everyone concerned is now agreed that the hope of cleaning up the Potomac rests squarely on improving the Blue Plains sewage treatment plant. The necessary construction is at last under way. But it will bog down for many critical months unless Congress authorizes the necessary federal funds for new construction contracts. (The money, in a complicated reversal of the usual procedure, has already been appropriated.) The trouble is that the Blue Plains authorization is caught up in the dispute between Sen. Edmund S. Muskie (D.-Maine) and the Nixon administration over the national clean water bill. Sen. Muskie wants all pollution stopped by 1985. The administration doesn't think this practical. A lot more raw sewage will flow down the Potomac before the issue is decided in another four or five months.

But Sen. Charles C. Mathias Jr. (R.-Md.) has come to the rescue. He has promised to introduce a bill today which will sort out the federal funding of ongoing water treatment projects from the other questions in dispute. The Mathias bill would extend the authority of the federal Environmental Protection Agency to make federal grants that have already been appropriated. This authority would include a $200 million discretionary fund that would make it possible for Blue Plains and similar projects around the country to keep going on schedule. Blue Plains schedule is to get the worst pollution out of the Potomac by 1975. If Sen. Mathias gets the support his measure deserves, this goal can be met.

By Mr. JORDAN of North Carolina:

S. 3066. A bill to amend the Federal Home Loan Bank Act to require the Federal Home Loan Bank Board to obtain certain approvals before changing the location of a Federal home loan bank. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JORDAN of North Carolina. Mr. President, I offer for appropriate consideration an amendment to the Federal Home Loan Bank Act which would require advance approval of a majority of its members for the transfer of any Federal home loan bank from the city in which it was located on December 17, 1971.

I consider this provision essential to orderly and effective operation of the Federal home loan bank system and to protection of the interests of commercial banking and savings and loan institutions in areas where the federal facilities are currently based.

In my considered opinion, banks are best qualified to evaluate the need for, and effect of, the transfer of a Federal home loan bank and that a move undertaken without the advice, counsel, and consent would be prejudicial to their legitimate interests.

Since a transfer of the Home Loan Bank in Greensboro, N.C., to Atlanta, Ga., has been proposed without such member consent, I urge prompt referral and committee consideration of this amendment to insure that the transfer is not undertaken unless subsequently authorized under the provisions of the legislation I now propose.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 604 AND S. 605

At the request of Mr. MONTOYA, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 604, a bill to increase annuities payable under the provisions of title 5, United States Code, relating to civil service retirement; and S. 605, a bill to amend the Internal Revenue Code of 1954 to provide that the first 5,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income.

S. 1315

At the request of Mr. HARRIS, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 1315, the Ocean Mammal Protection Act of 1971.

S. 2163

At the request of Mr. GRIFFIN, the Senator from Kentucky (Mr. COOPER) was added as a cosponsor of S. 2163, the Vietnam Veterans' Act of 1971.

S. 2551

At the request of Mr. ROTH, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2551, a bill to provide for a national program for an improved national securities transfer system, including a commercial securities depository corporation.

S. 2579

At the request of Mr. HARRIS, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 2579, the Ocean Mammal Protection Act of 1971.

S. 2743

At the request of Mr. BYRD of West Virginia for Mr. JACKSON, the Senator from Idaho (Mr. JORDAN) was added as

a cosponsor of S. 2743, a bill to establish a working capital fund for the Bureau of Land Management of the Department of the Interior.

S. 2994

At the request of Mr. McCLELLAN, the Senator from Illinois (Mr. PERCY), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MONDALE), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

S. 2995

At the request of Mr. KENNEDY, the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 2995, the Victims of Crime Act of 1972.

S. 3036

At the request of Mr. TOWER, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3036, a bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act, and related provisions of law.

S. 3056

At the request of Mr. DOMINICK, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3056, a bill to amend Public Law 92–178, the Revenue Act of 1971.

SENATE JOINT RESOLUTION 32

At the request of Mr. BAKER, the Senator from Delaware (Mr. BOGGS) was added as a cosponsor of Senate Joint Resolution 32, proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings.

SENATE RESOLUTION 229—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

(Referred to the Committee on Appropriations.)

Mr. ELLENDER submitted the following resolution:

S. RES. 229

Resolved, That the Committee on Appropriations hereby is authorized to expend from the contingent fund of the Senate, during the Ninety-second Congress, $50,000, in addition to the amount and for the same purpose, specified in section 134(a) of the Legislative Reorganization Act, approved August 2, 1946, and Senate Resolution 11, agreed to March 1, 1971.

SENATE RESOLUTION 230—SUBMISSION OF A RESOLUTION RELATING TO UNDERGROUND NUCLEAR WEAPONS TESTING

(Referred to the Committee on Foreign Relations.)

Mr. KENNEDY. Mr. President, I am introducing a resolution today calling on the President to announce an immediate moratorium on underground nuclear weapons testing, a moratorium that will continue as long as the Soviet Union abstains from testing.

The resolution also urges the President to open prompt negotiations for the conclusion of a comprehensive nuclear weapons test ban without tying ourselves to the same rigid number of onsite inspections which has stymied a treaty for 9 years.

An underground nuclear weapons test ban treaty remains unfinished business for America. The Senate has ratified two different treaties pledging the Nation to conclude a comprehensive test ban treaty. In the Partial Test Ban Treaty in 1963 and again in the Nonproliferation Treaty in 1968, we stated our pledge to negotiate for an end to all tests.

Yet, our negotiating position on this subject has not changed in any way since the original pledge was made 9 years ago. And during this time, there have been far-reaching changes in the technology of test detection.

This resolution, if passed by the Senate, and acted upon by the President, would demonstrate our determination to make good on our treaty obligations.

And the timing of this resolution is particularly opportune since it provides the President, just prior to his trips to Peking and Moscow, with clear Senate support for steps leading to a reduction of tension and to a deescalation of the arms race.

Bringing the arms race under control must be the foremost priority in the Presidential list of concerns as he undertakes these important summit trips.

For the past 3 years have been a frustrating period of hope and dismay, hope at the possibility that the SALT talks might provide a significant agreement on arms limitation, and dismay at the unceasing rise in the level of destructive capacity of both the United States and Soviet strategic stockpiles.

In the past 3 years, the United States has spent $25 billion on strategic forces. We have deployed an antiballistic missile system. We have begun to fortify 550 Minuteman missiles and 31 Polaris submarines with multiple warheads. At the same time, the administration has proposed development of an undersea long-range missile system and the B–1 strategic bomber.

The Soviet Union also has maintained its own pace of nuclear arms development and its expenditures have undoubtedly been even greater than our own.

The mutually self-defeating additions to nuclear weaponry have brought us perilously close to an accident or a confrontation that would be disastrous for the future of mankind.

And it is clear that the latest round of nuclear one-upsmanship could not have occurred had the Partial Test Ban Treaty of 1963 included underground testing.

Without underground nuclear weapons testing, the antiballistic missile system now under construction would not have been possible, nor would the hydra-headed nuclear missiles that now are being deployed on our submarines and our Minuteman ICBM's.

Yet the tests go on.

In the past 3 years alone, the United States has announced 69 underground nuclear tests including the largest we have ever conducted, the 5 megaton blast at Amchitka, only last November. The Soviet Union, according to the best estimates, has conducted at least 36.

Future tests raise the specter of the unknown, of unforeseen developments that could threaten the security of all nations.

The time has come to reject our past negotiating stance, to recognize present realities, and to urgently seek a comprehensive nuclear weapons test ban treaty. For I believe this step is an urgent requirement if we are to move the nations of the world away from the brink of a nuclear Armageddon.

First, a test ban treaty would provide a brake to the absurd pursuit of still more advanced nuclear weapons, a pursuit that is never-ending as weapons engineers seek the ultimate "bang for a buck" nuclear warhead.

Are we any more secure today than a decade ago, because we have ABM's and MIRV's? I seriously doubt it. The Soviet Union has been engaged in comparable exercises to sharpen the cutting edge of its nuclear sword, determined to match our tools of destruction with its own. And the world is now menaced by more weapons of catastrophic potential than ever before.

More testing can only undermine our nuclear deterrent which today is totally adequate against any threat. For more testing can only uncover new nuclear developments which might upset the basic parity between the super powers. And it makes little difference which side discovers the technological innovation. Because once known, inevitably it will spread to the other side. Even our own success therefore could threaten our security by offering the other side models to copy.

A test ban treaty would put an end to that possibility. For no nation would set out to deploy a major strategic weapons system without the confidence achieved through testing. Thus, a comprehensive test ban treaty would place a formidable roadblock across the spiralling course of the arms race.

Second, a comprehensive test ban between the great powers would significantly strengthen the nonproliferation treaty.

Since 1968, 71 nations have ratified the treaty but another 78 nations have refused. Many consider the treaty to be inherently unfair since the superpowers never ceased to refine their arsenals through underground testing while demanding a pledge of nuclear abstinence from the smaller nations of the world.

We have lived in a nuclear world for 25 years with only a handful of nations capable of triggering a nuclear holocaust. But what would it be like if Japan, Israel, and Egypt, or India and Pakistan acquired that capacity? And that would be the most likely "next step" of nuclear weapons development, the design of a "cheap" nuclear warhead, available to most of the nonnuclear nations.

If we are to reinforce the nonproliferation treaty, the United States and the Soviet Union must demonstrate to other nations that we too are ready to abstain from further nuclear weapons development. To do so would be in keeping with the commitment in the nonproliferation treaty:

To seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end.

Third, an end to underground nuclear testing would eliminate a continuing menace to the fragile environment of our planet. Despite all of the precautions and all of the safeguards devised by the Atomic Energy Commission, one of every four underground tests has vented. A year ago, the worst venting occurred, with radioactive particles spreading over several States. It is time to end this threat to our environment.

Fourth, the conclusion of a comprehensive test ban treaty would establish a new political climate in which additional efforts for nuclear disarmament would be possible.

It would be a stimulus to the conclusion of comprehensive arms limitations agreements, providing a greater assurance that any SALT pact would not be threatened by new warhead technology. The agreements under discussion at SALT propose to limit, for the most part, only the numbers of offensive and defensive missiles, without touching on the characteristics of the missiles themselves. Any new developments in Soviet nuclear warheads would not be prevented. Thus, the comprehensive test ban would complement any SALT agreement, providing assurance that the parity of the superpowers would not be upset by new developments in warhead engineering.

These are the reasons why a comprehensive nuclear weapons test ban treaty would be in the interests of the nation and in the interest of world peace.

And today, it is feasible to conclude such a treaty without demanding the same rigid number of onsite inspections that has been our bargaining position for the past 9 years. In 1963, the United States demanded seven onsite inspections as its final offer. The Soviet Union offered three. As if the additional four inspections gave some unique extra assurance against cheating, we have continued to maintain the same position through the years.

Yet our technology has not remained stagnant. Seismological experts now have testified that present methods of detection are adequate to locate and identify all but the smallest underground tremors.

A report on hearings held last year before the Subcommittee on Arms Control, International Law and Organization of the Foreign Relations Committee concluded that—

Enormous advances have been made in seismology so that it is now possible, through seismic means alone, to identify underground explosions to a degree unknown five years ago (and) even presently deployed systems are vastly superior to those deployed a few years ago.

And last October, a study by the Swedish Peace Research Institute—SIPRI—concluded:

Taking into account technical realities we can say that underground testing above 10–20 kilotons can be made extremely risky for the tester, by the use of seismic monitoring alone.

In testimony before the Senate Foreign Relations Subcommittee, Dr. Franklin A. Long, former Assistant Director for Science and Technology of the Arms Control and Disarmament Agency, stated that the capability for seismological detection was getting very close to the capability of identification. In that situation, when we can distinguish between earthquake or nuclear explosion whenever we detect an underground disturbance, onsite inspection becomes superfluous.

If the disturbance is too small to detect, then there would be no reason to ask for an inspection. And if we were able to detect it, then we also could identify it as a nuclear test without onsite inspection.

And the new verification potential available through improved seismological technology is not all. During the past decade, the use of satellites for intelligence gathering has become a fine art, providing constant closeup portraits of the earth below. Thus, last year, the Defense Department announced its conclusions concerning Soviet arms building, because satellite photos had disclosed a change of a few feet in the diameter of Soviet missile silos. In fact, there are reports that objects as small as garbage can lids can be picked up by the satellite sensors.

The results of these developments in our technology perhaps was summarized best in a recent statement by a committee of the Federation of American scientists.

The committee included Adrian Fisher, former Deputy Director of the Arms Control and Disarmament Agency; Herbert York, former Director of Defense Research and Engineering under Presidents Eisenhower and Kennedy; Morton Halperin, former Deputy Assistant Secretary for Arms Control and Policy Planning under President Johnson and senior staff member of the National Security Council under President Nixon; Herbert Scoville, Jr., former Deputy Director for Science and Technology of the Arms Control and Disarmament Agency; George Rathjens, former Deputy Director of ARPA; Franklin Long, former Assistant Director for Science and Technology of the Arms Control and Disarmament Agency; George Kistiakowsky, science adviser to President Eisenhower; and Marvin L. Goldberger, former chairman of the Strategic Weapons Panel of the President's Science Advisory Committee.

Advocating a treaty without requiring onsite inspection, their statement read:

Given recent improvements in seismology and other means of detection, we believe that the United States would detect Soviet violation of a test ban treaty long before the Soviets could carry out enough tests to score a breakthrough that would threaten the stability of the nuclear balance. . . . Without any on-site inspections, clandestine cheating is far less plausible now than it would have been in 1963 with on-site inspections when President Kennedy urged such a treaty.

These statements reflect a widely held view in the scientific community that no nation could undertake tests of more than a few kilotons with any confidence that they would go undetected.

The benefits at that low level of testing are highly unlikely to justify any nation trying to cheat. The benefits to be derived simply would not justify the risk of being exposed to have violated the treaty.

Clearly, sufficient evidence now is available to warrant a bold new initiative at Geneva. It would be an initiative that other nations have been urging upon the superpowers for some time.

Canada joined Sweden last year to urge that we abandon our demand for onsite inspection. Also, Mexico and the other nonalined nations consistently have criticized the failure of the United States and the U.S.S.R. to press forward on negotiations for a comprehensive test ban treaty.

I believe that it is time now for the United States to respond, and more than that, to demonstrate the leadership that will propel us toward a successful conclusion to the test ban negotiations.

Therefore, the resolution which I introduce today, calls for the President to open prompt negotiations for a treaty to end all underground nuclear weapons testing and to announce an immediate moratorium of U.S. testing to remain in effect as long as the Soviet Union abstains from testing.

The risks entailed by such actions would be minimal, perhaps less even than they were a decade ago. Because, in order to make any important military advance, a series of tests rather than a single test, is normally required. And today, each test would run a high likelihood of disclosure through our improved seismological capacity, our satellites, and the traditional methods of intelligence gathering.

And if the risks are slight, the rewards are substantial. If acted upon, the moratorium would add an urgency to the negotiations, and it would signal leadership of the Soviet Union that the new negotiations represented a determined effort by the United States to work for a successful conclusion to the treaty negotiations. And these favorable expectations would themselves provide a positive climate at the bargaining table.

Hopefully, this new pause in underground testing would afford the same stimulus as the moratorium at atmospheric testing announced by President Kennedy 9 years ago, a stimulus that pioneered the way to the Partial Test Ban Treaty less than 2 months later.

In June, at American University, President Kennedy declared:

To make clear our good faith and solemn convictions on the matter, I now declare that the United States does not propose to conduct nuclear tests in the atmosphere so long as other states do not do so. We will not be the first to resume. Such a declaration is no substitute for a formal binding treaty, but I hope it will help us achieve one. Nor would such a treaty be a substitute for disarmament, but I hope it will help us achieve it.

And the promise of that declaration was realized in August by the formal signing of the Partial Test Ban Treaty.

That treaty acknowledged that the ultimate objective was to "achieve the discontinuance of all test explosions of nuclear weapons for all time."

It is time for the United States to fulfill that pledge, to light the candle of peace once more, to lead the way to a permanent halt to all nuclear weapons testing.

Mr. President, I ask unanimous consent that, following the printing of the resolution, the full statement by the committee of the Federation of American Scientists, an article entitled "Comprehensive Test Ban Treaty: Grounds for Objection Diminish," published in the January 21, 1972, issue of Science, and an article entitled "Extending the Nuclear-Test Ban," published in the January 1972, issue of Scientific American be printed in the RECORD.

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

S. RES. 230

Whereas the United States is committed in the Partial Test Ban Treaty and the Nonproliferation of Nuclear Weapons Treaty to negotiate a comprehensive test ban treaty;

Whereas the conclusion of a comprehensive test ban treaty will reinforce the Nonproliferation of Nuclear Weapons Treaty, and will fulfill our pledge in the Partial Test Ban Treaty;

Whereas continued underground nuclear weapons testing means continued threats to the environment;

Whereas continued testing may produce further developments in nuclear weaponry that would threaten the security of all nations;

Whereas there has been much progress in the detection and identification of underground nuclear tests by seismological and nonseismological means; and

Whereas the success of the Partial Test Ban Treaty negotiations followed the announcement by the late President Kennedy that he would halt atmospheric tests for so long as the Soviet Union did likewise: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States (1) should open prompt negotiations between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics for a treaty to end all underground nuclear weapons tests, and (2) should announce an immediate moratorium on all United States testing to remain in effect so long as the Soviet Union also abstains from testing.

FAS CALLS FOR TOTAL TEST BAN WITHOUT ONSITE INSPECTION

We believe that the United States should now seek to negotiate a treaty banning all underground nuclear tests without requiring any on-site inspection. The risks are minimal and the gains could be very substantial.

Given recent improvements in seismology and other means of detection, we believe that the United States would detect Soviet violation of a test ban treaty long before the Soviets could carry out enough tests to score a breakthrough that would threaten the stability of the nuclear balance. Indeed, we are aware of no persuasive argument explaining how even unrestricted Soviet testing below the level easily detected by seismic means could threaten the balance. Moreover, the Soviet leaders could not be given any confidence by Soviet scientists that even a single violation would go undetected.

Without any on-site inspections, clandestine cheating is far less plausible now than it would have been in 1963 with on-site inspections when President Kennedy urged such a treaty. Indeed, we believe on-site inspection would be of only marginal significance, amongst other present methods, in monitoring Soviet test activity. We urge greater declassification of non-seismological methods (and seismological ones also) to permit the public a better appraisal of our ability to monitor a ban.

Much of the opposition to the Test Ban Treaty in the United States does not arise from fear of Soviet cheating. It springs from the desire to continue American nuclear testing in order to develop new weapons, to retest existing weapons and to keep our laboratories vigorous.

We have no need to develop new weapons to maintain the reliability of the American deterrent. A SALT agreement banning ABM's, or restricting them to low levels, would eliminate the need for much planned additional testing to develop improved MIRV and ABM warheads. But even without a SALT agreement, existing warheads would be sufficient. The vigor of the weapons laboratory is not an end in itself. And we can design around any uncertainty which may be created in the future by our inability to test old or modified designs.

There are a variety of means, all consistent with American interests, of dealing with peaceful explosions; our goal should be to find the means which have the greatest international support.

The positive advantages of a Test Ban Treaty are obvious and need not be labored. The treaty could slow down the strategic arms race indirectly. It would greatly reinforce the nonproliferation treaty and decrease the probability that additional nations would seek to develop nuclear weapons. It would eliminate the ecological dangers of further testing. It would inhibit the development of cheaper weapons whose technology might spread to other nations. Finally it would contribute to an environment in which further steps leading to nuclear disarmament would be possible.

AD HOC COMMITTEE ON TEST BAN

Morton H. Halperin Chairman.
Herbert F. York.
Marvin L. Goldberger.
Herbert Scoville Jr.
Franklin A. Long.
Adrian Fisher.
George B. Kistiakowsky.
George W. Rathjens.

SOME POLICY CONSIDERATIONS OF A COMPREHENSIVE TEST BAN

A Treaty banning the testing of nuclear weapons would contribute to world security and to the security of the United States by: (1) reinforcing the distinction between nuclear and non-nuclear weapons and hence reducing the likelihood that nuclear weapons would ever be used; (2) slowing down the strategic nuclear arms race and thereby contributing to the stability of the balance; and (3) contributing to prevention of the spread of nuclear weapons through the adherence of non-nuclear powers. The arguments advanced against the treaty are: (1) continued American testing is necessary to develop weapons that we need such as advanced MIRVs and ABMs and to "proof test" existing weapons; and (2) without (and even with) on-site inspection the Soviet Union could cheat and make a breakthrough that would unset the stability of the nuclear balance. An examination of these considerations follows.

The test ban treaty would greatly enhance the existing arms control measures designed to strengthen the belief that nuclear weapons are different and should not be used even when nuclear powers fight. Much has already been accomplished in this direction from the time in the late 1950's when President Eisenhower was asserting without serious contradiction that nuclear weapons were now "conventional" and would be used in a future conflict. The total test ban treaty would make a reversal of this process extremely unlikely. There is great symbolism in agreeing not to test a weapon. Military men are reluctant to rely on, or to recommend, the use of weapons which have not been tested. Overtime the military bureaucracies of these nuclear powers that adhered to the treaty would plan less and less for nuclear warfare except in defense against a nuclear attack.

A prohibition on nuclear testing would slow the strategic arms race. It is worth noting that a complete test ban five years ago would have slowed down if not prevented the installation of both MIRVs and ABM, two developments now clearly seen to be destabilizing. A test ban now would make the development of highly accurate MIRVs on either side more difficult if not impossible.

The effects of a test ban on the proliferation of nuclear weapons could be most important. Some countries which have refused to sign the NPT would find it difficult, if not impossible, to refrain from adhering to the test ban treaty. India, in particular, has long pressed for the test ban and would thus find it difficult not to join.

Of equal importance, the test ban treaty would increase the probability that adherents to the NPT would not, at some future date, renounce that treaty. The NPT is disliked in many countries because it imposes an unequal obligation. The nuclear powers give up nothing that they are doing, and simply promise not to do what they had no intention of doing—sharing nuclear weapons with non-nuclear powers. The non-nuclear powers are asked, on the other hand, to give up for all time their right to make nuclear weapons or to possess them. The test ban treaty seems a more equal bargain. The nuclear powers give up what they are now doing—testing weapons—and the non-nuclear powers give up the right to decide to test in the future.

It is generally conceded that, despite the large number of tests done by both sides, more can always be learned about weapons effects, weapons design and development. But, with one possible exception, none of this seems likely to have major military consequences. For example, yield to weight ratios have improved 1,000 times since Hiroshima but could hardly go up by more than about two times more. Of far greater importance today are the changing characteristics of the weapon systems themselves—accuracy, warhead carrying capacity and so on.

The one possible exception of major importance concerns the possibility of a thermonuclear weapon which did not require a fission trigger. [See, for example, "Nuclear Weapons Technology" by J. Carson Mark in *Impact of New Technologies on the Arms Race*, MIT Press 1971.] Such a discovery would lead to very cheap powerful weapons. But this would unquestionably *undermine* the security of the United States as the secret spread. It would encourage proliferation more than any other single discovery. In general, a continuation of testing will encourage proliferation in any case as other nations decline to practice a rule that we only preach.

VALIDATION TESTS

In recent testimony, the Assistant to the Secretary of Defense for Atomic Energy, Dr. Carl Walske has put forward what may become a major new argument against halting tests—the need to validate the continued reliability of stockpiled nuclear weapons. Pressed by the Muskie Subcommittee, Dr. Walske noted that since the mid-fifties there have been "five principal cases in which a nuclear test was an integral part of a corrective program for a nuclear weapon in our stockpile." These arose because important modifications of the design of the nuclear

assembly system were being made for mechanical, metallurgical or safety standard reasons.

It is significant that Dr. Walske was forced to return to the Dulles-era analysis of the test ban that the test ban is desirable only if linked to other agreements in order to keep his requirement for continued testing consistent with the Administration position that a "suitably verified test ban" was desired. He said:

"I strongly endorse, as does the Defense Department, a comprehensive test ban treaty with adequate safeguards. . . . You may wonder how that is compatible with worrying about the reliability of stockpile. . . . My view is, my personal view, that a comprehensive test ban treaty should be judged as a first step in arms control, or another step since we have already had some and beyond that point you should go into real disarmament before too long. I don't mean one month, but I mean before too long. If you have a comprehensive test ban treaty and you do not eventually follow it up with real disarmament, then you would be faced with nuclear powers with large arsenals of nuclear arms and decreased reliability, which could be destabilizing."

Further investigation is required to put on the public record the extent to which these tests were required by aging on the one hand, or by planned changes on the other (new safety standards, etc.). But Dr. Walske's argument that a failure to be able to validate the continued workability of the warheads was "destabilizing" is questionable at best.

IS UNRELIABILITY DESTABILIZING?

A destabilizing effect is one which increases the ability of an aggressor to attack. Uncertainty on each side about the workability of its own, and its opponent's weapons, does not have that character. In the first place, the aggressor must have high confidence that his planned attack will work in virtually all particulars. The defender need only ensure a much lower weapons reliability to retaliate effectively. And the aggressor cannot be sure that the defender's weapons are not working—when even the defender does not know. A more plausible argument suggests that a roughly comparable degree of uncertainty about weapon reliability would *discourage* aggressive use of nuclear weapons.

Nor was Dr. Walske correct in suggesting that the destabilization could be removed by eliminating "large" stockpiles. Short of general and complete disarmament, questions of reliability of weapons would, all political things being equal, tend to *increase* with diminutions in weapons stockpiles. Interestingly, in contrast, to the comment quoted above, Dr. Walske's later noted that:

"If nuclear testing were stopped, uncertainties regarding the reliability of existing stockpiles of nuclear weapons could become quite large over a period of years, an effect which might be *stabilizing or destabilizing* depending on the circumstances."

In any case, the problems of deterioration of stockpiles could be resolved in direct ways by using a previously tested method or warhead, or even by replacing the warhead completely thereby restoring whatever effectiveness it had at the time of its entry into the stockpile. The Department of Defense statement adds:

"Of course, the reliability of the stockpile will be affected by the willingness of the government to spend possibly large sums of money to work around recognized deficiencies without nuclear tests. With such funding available the loss in reliability could often be avoided or delayed, although in the absence of nuclear testing corrective measures might involve longer periods of system degradation and might involve settling for a warhead performance well off the optimum."

The question of weapon reliability must also be put in some perspective; most of the concern about weapons firing has to do with their reaction to nuclear-weapons-effects of enemy warheads rather than with anything analogous to simple mechanical or chemical failure. Thus the Defense Department recently testified:

"Since the environments in which weapons may be required to perform are complex, hard to define, and often hostile, it is almost always impossible to guarantee their reliability by actual nuclear tests of the final stockpile design in all the various required combinations of physical environments."

Thus, for example, the partial test ban treaty is already restricting the ability of weapons designers to find out, in realistic tests, how our weapons will be affected by atmospheric nuclear bursts. But this is true for both sides.

The small possibility of a systematic defect in all the weapons in a strategic system, after all U.S. testing to date, could be covered by the withdrawal clause in arms control treaties of this kind.

It should also be pointed out that the long-term apprehensions about validating weapons in stockpiles will arise in a political context that is different from this one. As the cold war wanes dramatically over periods as short as five or ten years, fears appropriate to older periods often go unmentioned later. Still more predictably, the technology of detecting Soviet tests by seismological and non-seismological methods can be expected to continue to increase dramatically as it has steadily for years. No comparable improvement in methods for hiding nuclear tests has occurred. While these political and military trends need not be relied upon, it would be foolish to consider the policy issues of the comprehensive test ban treaty in the absence of speculative judgment upon these central issues.

We have mentioned as military motivation for testing: improvements in "Yield to Weight Ratio"; reduction in radiation (Low Fission); Validation Tests; and Missile Design problems—as in ABM penetration. Other reasons for continued testing given by the Defense Department in recent testimony were: the return to the economy of now necessary special materials as plutonium, or alloy and tritium (Reduced Special Materials); smaller diameter weapons (Special Geometry); still greater weapons safety (Safety); needed improvements in (Lifetime); and improvements in a category called "Special Output"—this presumably refers to output of x-rays or other special weapons effects for special purposes. None of these latter reasons seem persuasive objections to a comprehensive test ban treaty and some seem minor indeed.

CLANDESTINE TESTING

As a related article (see below) shows, clandestine testing would be limited to detonations of a few to several kilotons—with great effort warheads of a few tens of kilotons might be involved. It is a startling and important fact that no one seems to suggest a way in which even *unlimited* clandestine testing by the Soviets at this level could shift the strategic balance in any significant way. In effect, if the United States agreed to halt all tests while permitting the Soviet Union to test below the threshold of, for example, 20 kilotons—no important strategic effect is foreseen. Thus if the test ban is desirable, it is desirable without regard to the problem of cheating, or the problems of inspecting for cheating.

Moreover, the problems of cheating are substantial. They include great uncertainty about the effects of any particular explosion. They include also even the human problems of preventing scientists from revealing that the Nation has cheated. Most important, there are the problems of conventional espionage, satellite reconnaissance and so on (see page 6). It seems likely that any series of tests, perhaps even a single test, would have to be carried out with the willingness of the Soviet leadership to be exposed if necessary and to accept that exposure with all the political and arms race consequences inherent in it.

UNDERGROUND TEST DETECTION

Although inspection of underground nuclear tests is generally assumed to depend entirely on seismology, in fact the U.S. now relies on a variety of intelligence means (see page 6) to detect Soviet underground nuclear tests. Together these methods give the U.S. high confidence that it would detect Soviet cheating long before the Soviets could conduct a sufficient number of tests to affect the security of the United States in any way. This is the relevant test—not whether any single explosion might conceivably go undetected.

Seismologists measure earth tremors by measuring body wave (mb) magnitudes. A body-wave magnitude of 5 (mb5) corresponds to the tremor that would result from an explosion of about 2 kilotons in solid rock. Because the scale is logarithmic, a body-wave magnitude of 5 (mb5) corresponds to an explosion of about 20 kilotons in hard rock. As the Berkner Panel observed in March, 1959, larger explosions might, in principle, give the same body-wave signature if conducted in softer material (salt, alluvium) or if detonated in a large hole—thus "decoupling" the force of the explosion from the earth. Indeed, if the explosion is set off in soft, dry alluvium, the explosion might be approximately "8" times larger and give the same body-wave magnitude.

However, explosions of this kind larger than several kilotons would leave large observable (by satellite) collapse structures. Similarly decoupling for explosions larger than several kilotons requires large amounts of excavation and risks detection by other means of intelligence. (Firing during earthquakes has also been mentioned but it obviously requires involved complicated maintenance of readiness around the clock over long periods if any useful measurements are to be taken—and infrequent tests.)

Part of the renewed interest in the test ban has arisen from recent advances in seismology. These have, in effect, demonstrated that criteria for discriminating between earthquakes and explosions previously established above a magnitude mb4.5 could be applied to magnitudes of mb4.0. Thus explosions of approximately 2 kilotons (i.e., two thousand tons of TNT equivalent or one-tenth the size of the Hiroshima bomb) in hard rock could be detected and identified about 90% of the time from stations outside the Soviet Union.

FOSTER ON ONSITE INSPECTION

The Defense Department has not, however, given up its insistence on on-site inspection. In recent testimony, Dr. John S. Foster testified that "we have established the need for on-site inspection":

(a) for events "sufficiently large to detect but sufficiently small that positive identification cannot be made"

(b) "to establish the nuclear or non-nuclear nature of low-yield explosions"

(c) "to restore international confidence in any cases where earthquakes are misidentified"

(d) "to deter violations by increasing the chance of getting caught"

At the present time, the Defense Department has estimated that a seismic monitoring system could be built to identify all but two or three events per year over magnitude four and a half (five to fifty kilotons in hard or soft rock respectively). At magnitude 4, there would be about 25 identified events per year. But many, if not all, of these events could be quickly disposed of on the basis of satellite reconnaissance—for example, many would occur in the midst of an untracted wilderness. Public reports on the extraordinary resolution of satellite photography have suggested that garbage can tops

can be seen from satellite altitudes.[1] DOD announced comparable variations in Soviet missile silo diameters.

According to one witness before the Joint Atomic Energy Committee many of these events would be hard to resolve seismologically because obscured by the accidental occurrence of large earthquakes elsewhere in the world at the same time. Here a judgment on the feasibility of useful clandestine testing on the basis of "waiting for earthquakes" might eliminate our concern.

More information is required to believe that there is a serious problem of confusing Soviet nuclear explosions for conventional ones. How often does the Soviet Union set off thousands of tons of TNT equivalent in conventional explosions? And are there not ways in which the Soviet Union could communicate its intention reliably without on-site inspection—perhaps to watching satellites. During the Cuban crisis we accepted a visual look at boxes of missiles leaving Cuba as a solution to a similar on-site inspection problem.

INTERNATIONAL CONFIDENCE

The case for restoring "international confidence" after misidentification really means giving the Soviet Union a chance to prove its innocence after the United States has mistakenly decided that the treaty has been violated. But no treaty need embody this right. The Soviet Union could always act to avoid U.S. abrogation by offering to permit an observer to visit the scene if and when other explanations did not suffice.

Finally, a few on-site inspections will not much increase the deterrent effect on violations. The on-site inspection method can only confirm deeply felt suspicions of the inspecting party. A successful clandestine test will avoid giving out signals that would trigger inspection. And if identifiable signals of violation may be emitted, on-site inspection or not, the violator must assume that abrogation may well follow.

It is significant also that these four reasons could be used to support on-site inspection notwithstanding any possible seismological advance. There will, after all, always be the possibility—with or without on-site inspection—of clandestine tests under the threshold, and of ambiguous events and misinterpretations.

If on-site inspections are of marginal significance for the U.S., and of deeply felt importance to the Soviets, there is a prima facie case for considering closely whether the treaty can go forward without them. Presumably this is why a representative of the Arms Control and Disarmament Agency, Mr. Philip Farley contended himself, in recent testimony, with saying that on-site inspection "could" play an important role in deterring violators and "could" provide parties with added confidence that the treaty was being complied with. In answer to questions he noted that he did not exclude the possibility of an agreement without on-site inspection.

It should also be mentioned that on-site inspection could be the source of misunderstanding. The U.S.-Soviet disagreement over *numbers* of permitted inspections has always masked a more complicated unresolved negotiation over the modalities of inspection. Disputes over timing, rights of movement, and so on could turn an unnecessary inspection into a world incident producing heightened and unwarranted suspicion.

NON-SEISMOLOGICAL METHODS OF VERIFICATION

Eight years ago, the President of Itek Corporation, Franklin Lindsay wrote:

Soon it may even be possible to detect clandestine underground nuclear explosions with satellite cameras that can observe subtle changes in the surface of the ground above the point of detonation.

Among the subtle and not so subtle observed events might be: drilling, general site activity, subsidence craters, dusts cloud raised by the explosion, or crater subsidence, radiation sensors or radar observation of the ground.[2] These methods do not require on-site inspection.

HISTORY OF TEST-BAN NEGOTIATIONS

On March 1, 1954, a U.S. thermonuclear explosion at Bikini Atoll contaminated a local Japanese fishing vessel with radioactive fallout and produced radioactive rain over wide areas of the Pacific ocean. From 1955 to mid-1957 the Soviet Union pressed for an agreement on nuclear tests as a separate measure while the U.S. linked such an agreement to progress in arms limitation or disarmament. When the Soviet Union began to talk in concrete terms of "control," the United States conceded the possibility of "temporary suspension" of testing as "part of an agreement for a first step in disarmament" and proposed a Committee of Experts be convened to consider the matter.

By the beginning of 1958, the United States had completed about 110 announced tests and the Soviets had held about 30.[3] The Soviets then set off about 10 more and announced, on March 31, 1958 that they would halt but would feel free to resume testing if others did not follow suit. President Eisenhower did not accept Premier Khrushchev's moratorium offer but persuaded a reluctant Khrushchev to agree to a Geneva Conference of Experts that began in July. After the Conference, President Eisenhower agreed to halt testing for one year with a view to negotiating an agreement along the lines the experts had sketched; the year would begin when the negotiations began.

Starting a month after the Soviet moratorium proposal, the United States had performed 50 more announced tests in six months halting with the onset of negotiations on October 31, 1958. Noting that the offer of a moratorium had not been accepted, the Soviet Union claimed the right to perform as many tests as the West had since the moratorium had been announced; it proceeded to conduct 16 atmospheric tests between September 30 and November 3—two of these overlapped the onset of negotiations on October 31 by a few days. President Eisenhower announced that the U.S. was relieved of any obligation to suspend tests but would continue "for the time being." Thus began a three year stoppage of tests.

NEGOTIATIONS BEGIN

In the negotiations, in January the West dropped its link between a ban on testing and progress toward disarmament. But it introduced new evidence from recent underground tests that suggested seismic detection would be less effective than had been supposed and proposed reconsidering the conclusions agreed to at the conference of experts. A great deal of discussion followed concerning the modalities of on-site inspection: the makeup of inspection teams, the rights of movement, logistic support, staffing of control posts, and control headquarters, rights of veto, and so on.

After a special U.S. panel on Seismic Improvements (the Berkner Panel) confirmed, on March 16, 1959 that underground tests would be harder to monitor than anticipated, President Eisenhower wrote Premier Khrushchev urging a separate atmospheric ban. The Soviet Union rejected this proposal and there then ensued, among other strands of negotiation, haggling over the number of onsite inspections to be permitted. The West had asked 20 inspections and the Soviets had offered three.

Technically the unofficial and informal moratorium had come to an end on December 29, 1959 when President Eisenhower stated that "America considered itself free to resume nuclear weapons testing" subject to advance notice of such intention. (See, for example, Senate Foreign Relations Committee analysis of The Test Ban, September 3, 1963.) But neither side tested until, on August 30, 1961, the Soviet began a two month series of about 30 atmospheric tests. With regret, President Kennedy followed suit.

In December, after the Cuban Crisis, Premier Khrushchev wrote President Kennedy and, alluding to the risks of war just passed, offered to settle the test ban problem on these terms: 2–4 on-site inspections (he noted that Ambassador Arthur Dean had used this number in discussions with First Deputy Foreign Minister V. V. Kuznetsov), and automatic seismological stations as suggested by "British" scientists. President Kennedy responded that Ambassador Dean had suggested "eight to ten" inspections, that three automatic stations would not be sufficient, and that he had been informed that the automatic station notion was a "Soviet" idea, endorsed by independent scientists of other countries.

THE PARTIAL TEST BAN TREATY

Finally, on June 10, 1963, President Kennedy announced in an American University speech:

"To make clear our good faith and solemn convictions on the matter, I now declare that the United States does not propose to conduct nuclear tests in the atmosphere so long as other states do not do so. We will not be the first to resume."

The Partial Test Ban Treaty negotiations followed swiftly and the draft treaty was initialed on July 25, 1963.

Hearings before the Foreign Relations Committee revealed only one official witness opposing the treaty: Dr. John S. Foster, then Director of the Lawrence Radiation Laboratory, now Director of Defense Research and Engineering (DDR&E) in the Department of Defense. Of scientific consultants to the Government, only Edward Teller opposed the treaty.

The Joint Chiefs of Staff argued that the risks of the treaty could be reduced through certain safeguards: (a) continuation of a comprehensive, aggressive, underground nuclear test program; (b) maintenance of the vitality of our nuclear laboratory facilities and weapons programs (c) the maintenance of a state of readiness to resume atmospheric nuclear testing in the event of violation or abrogation of the treaty and (d) the improvement of detection methods for Soviet and Chinese tests. President Kennedy reassured the Senate on these points in his letter of transmittal of the treaty to the Senate, and in a special letter to Senator Everett Dirksen. Supporting the treaty, the Joint Chiefs had their most serious reservations about the possibility of unwarranted "euphoria" in the West. They considered possible Soviet progress due to clandestine testing to be only a "relatively minor factor" in the overall balance and they argued that the "broader advantages" of the treaty in terms of world tension and proliferation justified the risks.

The Partial Test Ban Treaty entered into force on October 10, 1963. Since that time, both powers have overlooked violations of the other in which explosions have vented to the point where radioactivity leaked over boundaries. Each side has engaged in vigorous underground testing.

[1] Public reports on the resolution of satellite photography have been compiled in a chapter authored by Jeremy J. Stone in "ABM," (edited by Abram Chayes and Jerome B. Wiesner, Harper & Row, 1969).

[2] This list of possibilities, and indications that these kinds of methods are being exploited in the U.S. Vela Satellite program, appears in a Swedish Peace Research Institute (SIPRI) report, "The Test Ban", October 1971.

[3] These announced tests understate the number of tests of both sides but they are probably indicative of relative numbers.

[From Science, Jan. 21, 1972]

COMPREHENSIVE TEST BAN TREATY: GROUNDS FOR OBJECTION DIMINISH

Attainment of a treaty banning all nuclear weapons tests has been a stated policy objective of the United States and Russia since 1958. Partial success was achieved in 1963 with the prohibition of all but underground tests.

The failure to ban underground explosions was an indication of the force of the argument that, as long as national defense depended upon the availability of a varied and reliable stockpile of nuclear weapons, it would be foolhardy to stop testing. A further obstacle was the need to lessen widespread fears concerning the dangers inherent in cheating by other countries.

To minimize these fears, the United States said it would insist on measures that would deter a potential violator and provide assurance that a treaty was being adhered to. Such measures have included on-site inspection of the area of origin of certain unidentified seismic signals, and seismic observatories in the Soviet Union. Yet these have always been anathema to the Russians, who claim that a country could obtain adequate assurance through its own information systems. It is not clear how much of the Soviet objection has been based on its unwillingness to accept even minimal intrusions upon its sovereignty and how much has been a useful pretext for not agreeing to a nuclear test ban, which is probably opposed by influential groups within Russia. Nor is it clear how much of the United States' insistence upon inspections is inspired by domestic opponents of restrictions on testing.

In the 14 January issue of Science, Robert Neild and J. P. Ruina suggest that an overall examination of the matter shows that certain impediments to a ban on underground testing that had existed in 1963 are now much less severe. Their conclusion is based on what appeared to them to be a greatly diminished relevance of nuclear testing and an increased ease in obtaining assurance that an agreement is being observed. The Neild-Ruina thesis may gain widespread acceptance as a consequence of two happenings of the last 18 months.

The first was a meeting of seismologists that was convened for the purpose of discussing the use of seismological data to discriminate between earthquakes and underground explosions. The meeting was sponsored by the Advanced Research Projects Agency (ARPA) of the Department of Defense. It was held at Woods Hole, Massachusetts, in the summer of 1970. The second important event was the Cannikin nuclear weapons test, which was conducted last November on Amchitka Island.

The 5-megaton Cannikin explosion was related to the development of the warhead for the Spartan interceptor missile, an element of the Safeguard Ballistic Missile Defense system. The furor over this experiment originated mainly in the worry that the explosion would trigger a very large earthquake and tidal wave. It was also feared that a substantial amount of radioactivity might be released or that the local wildlife would be seriously affected.

The principal reasons for the test, as put forth in a letter to Senator John Pastore (D-R.I.) by the then Deputy Defense Secretary David Packard, were to minimize the possibility of stockpiling a defective design, to measure the explosive yield, and to measure the emitted flux and spectrum of x-rays. Packard also took note of the extensive environmental studies and experiments that had convinced him that Cannikin could be undertaken "without important environmental impact."

There was, in fact, not much disagreement among experts concerning the magnitude of the environmental risk associated with Cannikin; the disagreement was whether the benefits to be derived from the experiment warranted incurring the risk, even though it might be small.

Packard's letter did not make an overwhelming case for the need and, in fact, raised more questions than it answered. Just how important was it to resolve uncertainties that would exist without the full-yield test? What was the plan if the design were defective? Did the fact that the Spartan warhead was designed to have low fission output in order to reduce radar blackout imply that the Safeguard radars would be blacked out by incoming, high fission warheads detonated at great altitudes?

In a letter to Senator Edmund Muskie (D-Maine), three members of the Federation of American Scientists Strategic Weapons Committee (Herbert Scoville, Marvin Goldberger, and Morton Halperin) noted that, in any event, the Spartan missile would play only a minor role in the defense of the Minuteman missiles, which was supposedly the major function of the Safeguard antiballistic missile.

In sum, the Administration seemed convincing in its contention that the environmental fears about Cannikin were overblown, but it was not very persuasive in justifying the experiment itself. As a consequence, doubts concerning the need not only for Cannikin, but for nuclear weapons tests in general were expressed in quarters heretofore silent. Interestingly, the lasting impact of the episode may have been to undermine substantially the rationale for the entire nuclear weapons test program.

The Woods Hole conference raised a different issue. On 11 April last year, the Washington *Post* carried an article based on the proceedings of that meeting. It suggested that very substantial progress had been made in seismological research related to the test ban verification problem. This was important because of its potential impact upon the requirement for on-site inspections. Whether or not the need for inspections is genuine, anything that makes the verification problem more tractable will ease the demand for them. This in turn will tend to push the United States toward a more negotiable position, even though neither American nor Russian nuclear weapons enthusiasts would welcome such a turn of events.

At Woods Hole the conferees focused upon the technique of differentiating between earthquake-generated seismic signals and explosion signals on the basis of the ratio of energy in the seismic waves that travel along the earth's surface to that in the waves that travel through the earth. It had been determined that, in comparison to the great majority of earthquakes, explosions produce substantially smaller surface waves. It had also been demonstrated that surface waves from small earthquakes could be detected at great distances from the event. The implication of these findings was that it would be possible to construct a network of seismological observatories outside Russia which would be able to identify at least 90 percent of Russian earthquakes having a body-wave magnitude in excess of that associated with a typical low-kiloton underground explosion.

The immediate Defense Department response to the 11 April article was a statement implying that there had been a gross exaggeration concerning the amount of progress in seismological research and the impact such progress might have upon the U.S. test ban position. The Pentagon said that the Woods Hole report was not actually a report, but a collection of technical papers presented at the conference and circulated for review by the participants. Furthermore, the views expressed in these papers did not reflect those of ARPA, the sponsoring agency.

The Defense Department stand was that all low-kiloton tests could not be detected; that not all events that might be detected could be identified; that there were several ways of concealing tests so that they would not produce suspicious seismic evidence; and that on-site inspections were still necessary to allay doubts about those earthquakes that could not be identified and to differentiate between chemical and nuclear explosions.

Neither in this statement nor in others that would be made in the following months did Defense officials make any allowance for what intelligence-gathering systems might contribute to the identification of earthquakes or the differentiation between nuclear and chemical explosions. The reason for not mentioning intelligence was presumably that it was too highly classified. But if President Johnson could say in 1967 that reconnaissance satellites were useful for counting Russian missiles, it seemed to some that it should have been possible at least to admit in 1971 that such satellites would provide information with regard to the simpler task of indicating the chemical or nuclear nature of an explosion.

Moreover, since there could never be absolute assurance that clandestine tests were not being conducted, the Defense Department's response did not address the more pertinent questions. Had there been sufficient progress in developing detection and identification techniques for the United States to be confident, without inspections, that its security was not being jeopardized by those violations that might be unnoticed? Even if there were provisions for inspections, how much useful information would they provide in addition to that acquired by unilateral means?

As a result of the Washington *Post* article, senators and foreign embassies requested that they be sent the Woods Hole documents. After a delay, some of the requesting parties received the report only to find that the summary had been removed. In expressing regret at this omission, Senator Clifford Case (R–N.J.) said that "it [the summary] was the only portion of the report comprehensible to the layman."

SUMMARY TROUBLES

Apparently unhappy with the original summary, ARPA then produced a substantially revised version which was much less sanguine than the original. According to the 13 June Washington *Post*, a Pentagon spokesman had explained that the first summary had not been cleared for publication, that it had expressed the views of only one person, and that the second version reflected the "consensus of the 'entire' meeting" rather than the "views of one man." Some Woods Hole attendees wrote to Senator Case that the first they had heard of the revised summary was from the press. Others said that the original summary better represented their views than did the new version.

On 22 and 23 July, the Arms Control Subcommittee of the Senate Foreign Relations Committee held hearings chaired by Senator Muskie on the prospects for a Comprehensive Nuclear Test Ban Treaty. These hearings had been requested in May by Senator Case, who had inferred from reports of the Woods Hole discussion that the United States might adopt a more negotiable test ban position.

Several nongovernment experts on arms control presented testimony to the effect that they believed on-site inspections were not necessary, because there would be only an insignificant number of events of meaningful size that could not be identified on the basis of seismic data and intelligence information. Government witnesses were more pessimistic, although they were more forthcoming than the Pentagon had been in response to the 11 April Washington *Post* article. The Defense Department's position was that, under the most optimistic assumptions, it would be possible to collect enough data from seismic stations outside Russia to

identify all but 25 events with a body-wave magnitude in excess of 4.0. At the same time, the government witnesses cautioned that this ability to identify earthquakes would not eliminate problems arising from the use of such evasion techniques as concealing explosion signals in the waves generated by a large earthquake, or by testing in big holes or dry alluvium.

The Administration also took the position that 25 unidentified earthquakes, the minimum number that might be expected under the best of circumtances, was too large to be tolerated—that on-site inspections would still be required to resolve ambiguities about these events. James Brune, a seismologist at the University of California at San Diego, said that he did not know where the number 25 came from and that there were some seismologists who believed that this number would be closer to zero. (It is the understanding of one Senate aide that the 25 is based on the fact that, at present, 10 percent of the events above magnitude 4.5, the current "identification threshold," are unidentified. The inference drawn from this fact is that, if the "identification threshold" were lowered to 4.0, 10 percent of the 250 seismic events in the Soviet Union above this magnitude would be unidentified.)

In October, the Subcommittee on Research, Development and Radiation of the Joint Committee on Atomic Energy conducted its own hearings on seismic discrimination between earthquakes and explosions. The joint committee has traditionally been more hard-nosed toward bans on nuclear tests than has the Senate Foreign Relations Committee. There seemed to be some feeling among members of the joint committee that there had been too much loose talk in the Senate concerning the ease with which a complete test ban might be monitored. It would not have been surprising, therefore, if these hearings had produced a much more conservative appraisal of progress in attacking the verification problem. As it turned out, the testimony and ensuing discussion substantially undercut many of the maxims upon which the U.S. test ban position had long rested.

In the first place, Defense scientists were much more positive than they had been to date concerning the ability to identify seismic events with body-wave magnitude above 4.0. The thrust of their testimony in this regard was virtually indistinguishable from the conclusions contained in the original and repudiated summary of the Woods Hole report.

The most significant revelation, however, had to do with the utility of on-site inspections. After years of its being implied that on-site inspections would play a crucial role, the report now was that a determined violator could conduct a test in such a way as to prevent effects that might be uncovered by inspectors. In addition, certain of the proposed methods of carrying out violations (for example, testing in large cavities, in alluvium, or in the aftermath of an earthquake) would produce no seismic indication that an explosion had occurred; thus there would be no seismological evidence on which to base a demand for an inspection. (It has always been assumed that inspection requests would be grounded on ambiguous seismic data.) This pessimistic prognosis concerning the overall utility of inspections prompted Senator Pastore to ask where we were in light of the fact "that even with on-site inspection you cannot assuredly detect and identify." The Defense Department position was that on-site inspections would have a deterrent value because a violator would be aware that he might make a mistake which would allow the inspectors to obtain conclusive evidence of cheating. He would then have to choose between the undesirable alternatives of not allowing an inspection or running the risk of having incriminating evidence found. In response to this contention, it might be noted that a violator would, in any case, act with the knowledge that he might make a mistake which would be detected by other countries' detection systems operating solely outside his boundaries. The essential, but unasked question, is how much added deterrence would be derived from the threat of on-site inspections.

The third important piece of information developed at the joint committee hearings concerned the prevalence in Russia of dry alluvium. Because explosions detonated in this material produce seismic signals that are approximately 10 times smaller than the signals associated with explosions of equivalent size in more common materials, dry alluvium has been considered useful for concealing illicit nuclear explosions. The rub has been that dry alluvium is only rarely found in sufficient depth to conceal the effects of explosions of significant size. It must be deep enough not only to contain radioactive materials, but also to prevent the formation of collapse craters of the type that usually occur at the test ground in Nevada.

ARPA has funded studies to examine the extent to which sufficiently deep and dry alluvium might be found in Russia. As recently as the July Senate hearings, it had been implied that tests of up to 45 kilotons could be concealed by testing in this material. But in October, the testimony was that it would probably not be useful for tests above 1 or 2 kilotons, which happens to be the yield below which explosions in any kind of earth materials might have a good chance of escaping detection. The implication was that dry alluvium of sufficient depth for greater-yield tests probably does not exist in Russia.

The testimony also addressed other possibilities for concealing tests. One method was to test in large, approximately spherical holes. It was suggested that it would be technically feasible to conceal an explosion of as much as 50 kilotons by this method. According to the decoupling theory, 50 kilotons detonated in a cavity 475 feet in diameter and about 4000 feet below the earth's surface would produce approximately the same size seismic signals as a 0.5-kiloton explosion detonated in the conventional manner in hard rock. It was also implied that signals from 50- to 100-kiloton explosions could be concealed in seismic waves generated by a large earthquake. Another hypothesized evasion technique involves setting off in rapid succession a series of explosions; thus the composite seismic signal would have the character of earthquake signals.

There is little basis for determining the amount of credence that should be given such evasion possibilities. All assertions about what might be done to conceal explosions are based on little or no experimental data at explosion yields that might be significant.

The Pentagon's backing and filling as to whether anything new has happened with regard to the ability to detect violations was indicative of a mood within the Pentagon. Advances in seismological research are not welcomed by officials who believe continued testing is more important than the treaty. Defense Department scientists, who manage test detection research, are thus subjected to conflicting pressures. Senator Pastore took note of the problem and suggested that the management of test detection research be transferred from the Pentagon to the Office of Science and Technology in the White House.

In noting the flurry of talk about the test ban, Stephen Rosenfeld suggested recently in the Washington *Post* that the interest was not shared by those in government who were in a position to make test ban policy. And indeed it may be that the matter has come full circle—that doubts have been raised about the need for tests and that the verification problem had been eased—but there has been no essential change. However, it is more likely that things are not the same. The Woods Hole conference and the Cannikin episode have probably triggered a permanent movement to new ground.

The most significant changes of 1971 appeared to be the rather widespread willingness to cast a skeptical eye upon such sacred cows as the relevance of any nuclear tests, the ease of concealing violations, the dangers inherent in undetected clandestine activity, and the need for on-site inspections. Such changes will probably assure a more rational dialog, if not a treaty banning all nuclear weapons tests.

[From the Scientific American, January 1972]

EXTENDING THE NUCLEAR-TEST BAN

(By Henry R. Myers)

Treaties to ban the testing of nuclear weapons have been a subject of widespread interest since the middle 1950's. The history of the matter is marked by turgid international negotiations, conferences of scientific experts, acrimonious domestic debates, changes in position by one side or the other, a three-year informal moratorium on testing suddenly terminated by a series of Russian tests in the atmosphere, "breakthroughs" in the technology of detecting clandestine tests, supposed "breakthroughs" in the technology of conducting clandestine tests, proposals that were sincere and proposals that were not so sincere, a limited treaty banning all but underground tests, accusations of minor violations of that treaty and—most recently—renewed talk of extending the limited treaty to cover underground tests, stimulated primarily by reports of significant new advances in seismic techniques for distinguishing underground explosions from earthquakes.

Advocates of a test ban have over the years pointed out that such a treaty would be a major step toward terminating the strategic-arms race, that it would bring an end to radioactive pollution by nuclear explosions, that it would make the proliferation of nuclear weapons less likely and that it would increase barriers against the use of nuclear weapons in warfare. Those opposed to a test ban have tended to argue that a treaty would address the symptoms rather than the disease, and that whatever advantages there might be were outweighed by certain military and political disadvantages.

Throughout this meandering history there has been little consensus on answers to a series of related questions: How important are the advantages of treaties that limit the testing of nuclear weapons? Is it really a good idea to accept such limitations even if there could be confidence that other countries had done the same? How much assurance could there be that others would live up to the agreements? What developments might stem from clandestine bomb-testing by others?

Questions related to the problem of detecting violations have dominated the test-ban dialogue out of all proportion to their significance. The reasons for this anomaly are interesting in themselves. One is that the verification question is the one aspect of an otherwise complex issue that appears amenable to quantitative analysis. (Actually it is much less so than appearances suggest.) A second reason is that there seems to be a widely held obsession with the *possibility* of violations rather than with their probability or their significance. A third is that opponents of limitations on nuclear testing have exploited this obsession by encouraging fears that have little basis in fact.

Following the established tradition, much of the present discussion will be concerned with the problem of detecting violations. This is done, however, not to emphasize that

aspect of the matter but to place it in proper perspective, so that the political and military implications of continued nuclear testing or a complete cessation of it may receive the greater attention they deserve.

Some people have feared that the U.S. Government, in its eagerness to make arms-control agreements, has not been concerned enough about its ability to detect violations. Such fears have never been well founded. An often-stated precondition for the U.S. to enter into a treaty limiting underground nuclear testing has been that there be adequate assurance that the national security would not be placed in jeopardy by developments growing out of clandestine testing by other countries. Indeed, the failure to arrive at a ban on underground tests has in part reflected the inability to negotiate a treaty that provided the U.S. with the assurance of compliance with the terms of the treaty that many officials and citizens believe is necessary.

Such assurance can be derived from several sources: (1) seismological records, intelligence observations or on-site inspections indicating that particular events were earthquakes and not explosions; (2) awareness that any significant clandestine program would involve a large enough number of tests so that eventually a mistake would be made that would reveal the prohibited activity; (3) knowledge of the relative insensitivity of the balance of strategic power to further developments in nuclear-weapons technology; (4) the belief that a potential violator would probably find an excuse for withdrawing from a treaty rather than run the risks inherent in violating it.

On the last point Herbert Scoville, Jr., a former deputy director of the Central Intelligence Agency and assistant director of the Arms Control and Disarmament Agency, has suggested that consideration be given to the experience of the 1958–1961 moratorium on all nuclear testing. At that time the ability to acquire information concerning violations was much inferior to what it is today. In addition, nuclear-weapons technology was less advanced, and there was more incentive to cheat. Yet even then the U.S. was willing to rely for assurance on its own verification systems. The moratorium ended not because of mutual suspicions about cheating (although these did exist) but because of the initiation by the U.S.S.R. of a massive atmospheric-testing program.

In discussing the various interacting factors that influence assurance I shall begin with the area in which the significant new developments have emerged, namely seismology.

Both earthquakes and explosions cause elastic vibrations in the ground that propagate as seismic waves through the earth (body waves) and along its surface (surface waves). Seismometers are used to detect such waves, and the data obtained from a number of instruments, separated by hundreds or thousands of miles, can be used to determine where the event took place, to define its seismic magnitude and to learn something about the nature of the source mechanism.

Seismic magnitude is an approximate indication of the energy released by an earthquake or an explosion. It is a logarithmic quantity based on the average of measurements of the amplitude of certain portions of seismic waves. For some purposes magnitude is based on measurements of the body wave; in other circumstances it is based on the surface wave.

The largest earthquakes have a body-wave magnitude slightly in excess of 7 and a surface-wave magnitude slightly in excess of 8.5. On the average there are one or two such earthquakes a year. Underground explosions in the megaton range can have a body-wave magnitude of 6.5 to 7. Explosions in the low-kiloton range typically have a body-wave magnitude of 4. The seismic magnitude associated with underground explosions depends not only on the explosive yield but also on the material in which the detonation is set off [*see top illustration on page 20*].

Determining the location of seismic events eliminates the large majority of earthquakes from the "probably suspicious" category. For example, unless there are other grounds for suspicion it is possible to immediately eliminate events under the ocean floor or in countries where there is no reason to believe a nuclear test might have been conducted.

If an event cannot be discarded on the basis of its location, analysts can exploit the fact that in terms of the spectral distribution and the partition of energy among wave modes the seismic signals generated by explosions are quite different from those generated by earthquakes. At distances within 1,000 kilometers of an event, explosions in excess of a few kilotons can easily be differentiated from earthquakes. The effects of the paths along which the waves travel, however, are such that as the waves propogate they increasingly assume a form that is determined more by the characteristics of the path than by the characteristics of the source. Moreover, the seismic wave is attenuated with distance, and diagnostic features contained in it (and for small events the entire signal) can be obscured at the point of detection by seismic noise generated by winds, nearby road traffic or distant ocean waves.

An enduring tenet of the test-ban dialogue has been that negotiability and viability of a prohibition on underground testing were related to the amount of verification information that could be extracted from the seismological data. More specifically, such a ban was dependent on the ability to understand and reduce the effects of travel paths and seismic noise. As a result the U.S. undertook in 1959 to sponsor a research program intended to lead to improved capabilities for detecting seismic events, for determining their location and for establishing whether the events were earthquakes or explosions. The ultimate objective was to develop monitoring procedures that could provide sufficient assurance in a treaty situation while calling for a minimum of provisions that would be difficult to negotiate, namely on-site inspections or internationally supervised seismological observations inside the U.S.S.R.

Since 1959 more than $300 million has been spent on the U.S. seismological research effort. A lesser effort was mounted by the United Kingdom. As a result there has been a considerable advance in the understanding of earthquake mechanisms and of the structure of the earth. Other significant developments have come in instrumentation, in data-handling and analysis procedures, in the ability to separate signals from noise and in the ability to determine the location of events and to isolate information that might help in determining whether the event was an earthquake or an explosion. On the other hand, the rate at which this progress has been translated into a more negotiable position at the nuclear test-ban discussions at Geneva has not been as great as might have been hoped. Nevertheless, there have been two notable advances that have led to a substantial improvement in the ability to collect and abstract useful information from the seismological data.

The first major breakthrough, announced in 1962, amounted to reduction in the annual number of earthquakes in the U.S.S.R. that might be confused with explosions. Part of the basis for this reduction was a thorough study of earthquake and explosion data that resolved the existing uncertainties about the rate at which earthquakes occur and the relation between earthquake magnitude and explosive yield. In addition, it was determined that the depth of seismic events could be better inferred from the data than had been believed. It became possible to conclude that many more events were too deep to be explosions and therefore were earthquakes. These results were the basis for dropping from the U.S. negotiating position the requirement that there be manned, internationally supervised seismological observatories in the territory of the U.S.S.R.

The second such major advance has emerged in the past few years from a series of studies initiated by Jack F. Evernden, a seismologist formerly employed by the Department of Defense and now working at the Arms Control and Disarmament Agency. The most significant result of this work, which has been carried on by groups at several universities, was to verify the hypothesis that for a given total release of seismic energy, explosions were much less efficient at generating long-period surface waves than small, shallow earthquakes were [*see illustration on pages 18 and 19*]. Although there were indications before 1962 that this was a worthwhile line of investigation, the early analyses were based on limited data and were not pursued to the point where results would have had a strong impact on the U.S. position in the test-ban negotiations. Moreover, it had been suggested that as the total seismic energy released became smaller, the differences between explosions and earthquakes would tend to diminish to the point where they would not be observable.

It has now been demonstrated that the difference persists for the smallest events of any interest, and that the average ratio of surface-wave magnitude to body-wave magnitude for explosions is less than the average ratio for earthquakes at least as far down as a body-wave magnitude of 4, and probably lower [*see bottom illustration on page 20*]. For the comparatively small number of events that cannot be eliminated on the basis of location, depth or surface-wave criteria there are other diagnostic methods that can be applied to the data. These criteria include the relative complexity of the seismic wave (earthquakes generally produce more complex signals than explosions do) and the ratio of compressional-wave energy to shear-wave energy (earthquakes usually produce longer shear waves than explosions do).

Other research has demonstrated that through the use of seismometer arrays, which have the effect of enhancing seismic signals with respect to the background noise, it is possible to detect both surface waves and body waves at distances of thousands of miles from events with a body-wave magnitude of 4.

As a result of these studies it is now known that it is possible to build a network of seismological observatories, located many thousands of miles from seismic sources of interest, that will acquire data that can be used to identify "virtually all" earthquakes in the U.S.S.R. having a body-wave magnitude in excess of 4. It also means that in the absence of active evasion procedures there would be a substantial probability of detecting and identifying explosions in the U.S.S.R. with yields greater than one or two kilotons. At such yields a nuclear-test program would have little significance. The significance of these conclusions of course depends on the meaning of "virtually all." Some seismologists suggest it means that each year there will be as many as 25 earthquakes in the U.S.S.R. with a body-wave magnitude above 4 that could not be differentiated from explosions on the basis of the seismic data. Others believe that the number will be 10 or less. These estimates are to be compared with the average expected number of unidentified events, ranging from 75 to 150 events above

a body-wave magnitude of 4, that would have been anticipated before the surface-wave techniques were developed.

The spread in present and past estimates is partly a reflection of natural fluctuations in the rate of occurrence of earthquakes. Mostly, however, it results from different interpretations of the data and different estimates of the likely outcome of ongoing studies. The data themselves are sometimes subject to diverse interpretations because the great variability in the source mechanisms and the transmission properties of the earth creates a corresponding variability in the observations; therefore questions are sometimes raised concerning the validity of conclusions based on a particular set of measurements. Also contributing to the diversity in estimates is the fact that there are very different views concerning the elaborateness of the seismological network that might exist at some future time. This uncertainty is important because the degree of differentiation that is possible depends directly on the number, distribution and quality of the seismometer stations providing the raw data.

The residual number of events that cannot be identified on the basis of the seismic data would be further reduced by the analysis of data supplied by intelligence systems. In particular it has been hypothesized that satellite photography should be capable of providing information that might alleviate doubts about specific occurrences. For example, a seismic event might be detected and its location determined on the basis of seismological data but without there being enough information to provide confidence that the event was an earthquake. Photography from space might indicate that in the area where the event took place there was no sign of activity of the kind associated with a nuclear test. On the other hand, if the photography were to reveal activity such as mining, it would not serve to decrease suspicion. It is therefore probable that satellite photography would serve much more to reduce suspicions about earthquakes than to provide evidence that a prohibited explosion had occurred.

Nevertheless, a country deciding to undertake clandestine tests would be constrained to do so in a way that would not be susceptible to observation. The possibility that violations might be observed from space would thus have the effect of imposing substantial restrictions on a potential violator. This would tend to deter attempts to carry out secret tests.

On-site inspections have been another omnipresent element in the test-ban dialogue. In the beginning there was a generally held belief that seismological data would be much less useful and inspections more useful than either are now known to be. By supplementing information provided by seismic instruments and intelligence systems, inspections were considered a mechanism that would make a substantial contribution to the verification process. As a result of the recent developments in seismology, inspections would apply only to the very small number of events that are large enough to be detected but that produce signals of insufficient signal-to-noise ratio to allow the application of seismic identification techniques. As usually envisioned, inspections would be conducted after the presentation of ambiguous seismic data and under the auspices of an international body. They would involve visits to the area of origin of seismic events that would not be identified after analysis of the seismic and intelligence data. The inspection area would extend over some several hundred square kilometers, an area reflecting the expected error in determining the point at which the seismic event had occurred.

The procedure for deciding that a seismic event could not be identified, and therefore should be subject to an inspection, is not easily articulated. As a practical matter it would be exceedingly difficult to specify in a treaty, in a manner that would be acceptable to all parties, the data that would need to be provided in substantiation of a claim that an inspection was necessary.

The ability of on-site inspections to uncover evidence of clandestine testing, should there be such testing, would depend on a chain of probabilities: the probability that an explosion would be selected as a candidate for inspection, the probability that the inspection area would encompass the point of detonation and the probability that the inspectors would actually uncover positive evidence should the inspection area include the shot point. The foregoing factors would in turn depend on the quality of the evidence on which the inspection decision was based, the number of inspections that might be conducted in a given time period, the accuracy of locating the source point of seismic events, the size of the area covered by an inspection, the duration of the inspection, the number and training of the inspectors and the elaborateness of the inspection procedures.

Since a country that had violated the treaty would be unlikely to allow access to inspectors who might uncover the calendestine activity, inspections would probably be undertaken only in areas where earthquakes had actually occurred. Because the seismic data would be adequate for identifying large earthquakes, inspections would be directed toward smaller events that typically would produce no ground effects that might be found by inspectors. Moreover, Defense Department experts now say their research has indicated that careful planning and execution of a clandestine test would preclude the existence of surface manifestations that might be found by inspectors. Therefore on-site inspections could not be expected to turn up any evidence of either explosions or earthquakes. Finally, if an evader should be successful in employing active evasion techniques, there would be no seismic evidence on which a request for an inspection might be based.

If this is the case, do inspections serve any purpose even in theory? Yes, according to some. The lack of evidence of an explosion would supposedly provide a limited amount of assurance (skeptics say false assurance) that there had been no explosion. In addition, the prospect of an on-site inspection and the possibility that one might miscalculate or make a mistake would be at least a slight deterrent to a potential violator.

Whatever the theoretical utility of inspections, it is questionable that a treaty that provided for meaningful inspections was ever a realistic possibility. The Russians have always had a negative attitude toward inspections on the grounds that they are not needed and would be used as a pretext for espionage. During periods when the Russians did seem willing to consider the possibility of some small number of inspections (allegedly for the purpose of diminishing some American domestic opposition to a treaty), it was not clear that the nature of these inspections was even close to the elaborate procedures envisioned by the U.S.

With the recent advances in seismological research, doubts concerning the usefulness of inspections have been intensified. To continue to maintain that a ban on underground tests is important but that inspections are still necessary implies the acceptance of the following dubious propositions: (1) that significant tests might escape the various monitoring systems operated by the U.S., (2) that inspections would play a substantial role in deterring violations or in alleviating suspicions that might arise and (3) that the Russians would agree to inspection procedures of the kind that would be required if they were to serve their purpose.

To put the matter in perspective it should be noted that new ground would not be broken if the demand for inspections were dropped because they were deemed unnecessary. The U.S. is already a party to a series of arms-control agreements that contain either no provision for inspections or provision only for inspections of a kind that would yield virtually no assurance in addition to the assurance acquired by other means. These agreements include the ban on nuclear explosions in the atmosphere or outer space, the ban on placing nuclear weapons in orbit around the earth, on the moon or on other celestial bodies, the ban on placing weapons of mass destruction on the ocean bottom and the ban on nuclear weapons in the Antarctic. In each case unilateral means are considered adequate to provide the necessary confidence that the impact of possible undetected violations would be so minuscule as to make them not worth worrying about.

In effect the data provided by seismological and intelligence systems and, to a much lesser extent, by on-site inspections would serve to reduce the background "noise" against which the "signal," or positive evidence, of clandestine test activity would be detected. This "noise" is a factor that a potential violator would take into account in making a decision about conducting a clandestine test. Would he assume that his activity would be lost in the "noise," that it would be discounted as a spurious earthquake in the residuum of unidentified seismic events? Or would he believe that he should play a more active role in attempting to conceal his tests?

Since a complete test ban became a serious possibility several such active schemes for clandestine evasions have been proposed. These include the muffling of the explosion so that the resulting seismic signals would be unlikely to be detected, modification of the character of the seismic waves so that even though they might be detected they would not be characteristic of waves associated with explosions, and testing in the aftermath of a large earthquake so that the explosion signals would be concealed by the ground motion caused by the earthquake.

The muffling of seismic signals might be achieved by conducting the test in an underground material where a comparatively small fraction of the energy of the explosion would appear in a propagating seismic wave. For example, a 20-kiloton explosion in a dry desert alluvial deposit might produce a seismic signal as small as the one produced by a one-kiloton explosion in hard rock. If a country were to seek to test in such an alluvial deposit, it would first be confronted by the fact that a deposit deep enough and dry enough is very uncommon. There is, in fact, reason to believe these deposits do not exist in the U.S.S.R. in depths that would allow tests of more than one or two kilotons. Since dry alluvial deposits, or other dry materials that might be useful for the same purpose, are usually found in areas that are relatively free of clouds and lacking in human activity, any attempt to conduct clandestine tests in these circumstances would be particularly vulnerable to observation from space. Further restrictions arise from the fact that the alluvium must be deep enough not only to contain the immediate effects of the explosion but also to make it possible to set off the explosion at a depth that would not leave a collapse crater. This is an indirect effect in which the cavity produced by the nuclear explosion fills with material from above. The result is a propagating void that ultimately appears at the surface as a characteristic subsidence crater. Such craters are common at the U.S. testing ground in Nevada—illustration not printed in the RECORD. If such a crater were to be observed from space, it would be telltale evidence of a nuclear explosion.

A more elaborate muffling technique calls for detonating the nuclear device in a

spherical cavity. It is predicted that with a cavity of the right size the seismic signal would be about 100 times weaker than it would be with the cavity. The diameter of the required cavity increases with the cube root of the explosive yield. A 10-kiloton explosion would call for a cavity 300 feet in diameter 3,000 feet below the surface. It is questionable whether the cost of excavating such a cavity would be commensurate with the gains that might be made from a clandestine nuclear test conducted in it.

For a time it seemed that such muffling, or decoupling, schemes had fallen out of the domain of plausible evasion possibilities. In recent Congressional testimony, however, decoupling was resurrected by Defense Department experts, who implied that decoupled detonations with yields of 50 to 100 kilotons were feasible and could be carried out at costs that were within reasonable bounds. The assertion raised the question of why, if the possibility of decoupling was considered to be significant enough to bring up, there had been only one small experiment to check out the predictions. This test had involved a 300-ton shot in a cavity created by a 5,000-ton nuclear explosion in a salt deposit in Mississippi. Because the observed decoupling was less by a factor of two than had been forecast, and because there are serious questions concerning the validity of extrapolating the results of this experiment from a yield of 300 tons to one of 50,000 or 100,000 tons, it would seem important to have conducted experiments with much larger explosions. The willingness to extrapolate results here (where the extrapolated conclusion is consistent with the desires of many Defense Department experts to avoid a complete ban on nuclear-weapons tests) conflicts with the Defense Department's usual position on nuclear-weapons development. For example, the five-megaton Cannikin test conducted on Amchitka in November was supposed to be necessary because it was not possible to base conclusions on data obtained from a one-megaton explosion.

At various times it has been suggested that a series of nuclear detonations, appropriately located and timed, would produce a composite seismic signal that was more typical of earthquakes than explosions. Although this procedure might generate waves that in some respects were similar to waves made by earthquakes, it would be difficult for a treaty violator to be confident that the similarity was sufficient to avoid creating suspicion.

A violator might also try to conceal illicit test activity by setting off an explosion almost immediately after an earthquake. If this were done properly, the seismic signals associated with the explosion would be masked by those generated by the earthquake. One disadvantage of testing in this fashion would be the need to maintain the nuclear device and the apparatus associated with the experiment in a constant state of readiness for a period that would range from months to years, depending on the size of the test detonation. It would also be necessary to determine rather quickly that the earthquake was suitable for purposes of masking. That would require an interconnected network of seismometers from which data would be fed to a computer. The computer would immediately calculate the location and size of the earthquake, and it would give a "go" signal when the earthquake met the preset conditions. As with other imagined evasion techniques, the practicality of this method would depend on how badly a country wanted to test, on the size of the test and on how the country evaluated its chances of being caught.

The usefulness of on-site inspections in deterring such efforts would be contingent on procedures that had been established for submitting requests to conduct an inspection. If it were necessary to base the request on specific kinds of seismic data indicating that an unidentified event had occurred, there would be much less deterrent value than if it were possible to base the request on unrevealed intelligence information with only scant reference to publicly available seismic data.

Scoville notes that an easy, although seldom discussed, way for a country to cheat a weapons-test ban would be for it to mount a program of setting off nuclear devices for peaceful purposes, such as the U.S. Plowshare program. One part of Plowshare is the development of nuclear explosive devices for use in nonmilitary projects. Since these devices are in many ways identical with weapons, it would be virtually impossible to determine the kind of development activity being undertaken without being given access to the experimental apparatus. Such access is not likely to be granted by either the Russians or ourselves. Therefore if there is going to be a complete ban on nuclear-weapons tests, it will be necessary either to live with the possibility of some weapons development under the shelter of Plowshare-like programs or to forgo the yet to be established economic benefits of this type of activity.

A further consideration affecting a country's assurance that it could detect clandestine tests (or evade detection) is the possibility that there might be a mistake or an accident in such a test. An unexpected collapse crater or the venting of radioactive debris could lead to the discovery of prohibited activities. There is a significant chance of unintentional venting and a significant probability that such venting, if it occurs, will be detected. In the past radioactive debris has been unintentionally emitted from underground explosions conducted by both the U.S. and the U.S.S.R. The possibility of such accidents would tend to deter violations.

A useful device for summarizing the concepts that enter into evaluations of the likelihood of detecting clandestine test activity or of escaping detection is represented by the graph on the opposite page. The abscissa represents the product of the annual number of tests and their average yield; for instance, a value of 10 could mean 10 tests with an average yield of one kiloton or two tests with an average yield of five kilotons. The ordinate is a measure of the confidence that a test or series of tests with the specified yield-number product would be detected.

The "deterrence" curve represents the situation as it might be viewed by a country undertaking a clandestine test program. The "assurance" curve represents the situation as it might be perceived by countries concerned about their ability to detect violations by others. The deterrence curve invariably lies to the left of the assurance curve because the country concerned about violations by others will, in comparison with the evaluations of the potential violator who presumably places a high premium on not being caught, tend to underestimate the chances of a violation's being detected.

For example, the great variability in seismic data may cause a violator to "play it safe." He would assume, as actually happens, that his explosions would produce at some observation points seismic signals substantially greater than the signals suggested by the averages implied by the curves in the top illustration on the opposite page. The violator would have to conservatively evaluate his chances of being observed from space or having an accident that resulted in the venting of radioactive debris. On the other hand, countries seeking assurance might well assume that explosions would produce seismic signals of an average size implied by the average curve, that the violator would make sure that there was no substantial deviation from the average, that there would be no basis for counting on anomalously large signals to reveal a clandestine test, and that the test would be conducted in a manner so as not to produce a collapse crater or other evidence that might be collected by intelligence systems.

Such curves or their conceptual equivalent are an aid in evaluating the risks associated with a nuclear-test ban even though they are necessarily imprecise because of the large number of intangibles and uncertainties they encompass. The inability of anyone to develop more quantitative estimates has caused consternation among presidents, members of Congress and interested citizens. Adding to the uncertainty is the fact that the detection of clandestine tests must be considered an integral part of the broader question of how significant undetected violations would actually be.

It is fortunate that the recent advances in verification technology have simplified the issue. Many informed observers now conclude that the U.S. need no longer be concerned about developments that might result from *clandestine* * * * developments would not affect the strategic position of the U.S. with respect to its adversaries. It is thus possible to focus on the role of *any* nuclear tests at the present juncture of the arms-development cycle.

In discussing nuclear testing it is necessary to consider global questions, including what the intentions of adversaries are, how nuclear testing would influence the probability of a nuclear war's starting and what effect nuclear testing would have on the outcome of the war if it should start. It is clear that such complex questions cannot be answered conclusively, but certain facts, opinions and speculations can be stated, and inferences can be drawn from them.

The public record contains very few details of the U.S. nuclear-weapons program. Information about what goes on in the U.S.S.R. is even scantier. Nevertheless, it is possible to get an idea of both the objectives and the costs of U.S. activities from official testimony before committees of Congress and from committee reports based on that testimony. From these sources it appears that during each of the past six years the U.S. has spent approximately $450 million on the development and testing of nuclear weapons. The objectives are to develop weapons that have greater explosive yield for a fixed weight, to develop weapons in which certain nuclear effects are either increased or decreased with respect to other effects, to verify that the performance of existing weapons does not decline with the passage of time and to gain confidence in safety against accidental nuclear detonations. Some nuclear explosions are used as sources of radiation and blast in experiments to determine their effects on weapons systems and their components.

Nuclear detonations for these purposes can be justified to some extent on the grounds that in the long run they will make it possible to save money. For example, it may be that a missile warhead with a certain explosive power and a specified weight could be developed only through nuclear testing. If tests were not allowed, the same destructive power would have to be put into, say, three missiles instead of two, thus preventing a saving in the cost of producing a given amount of damage.

Similarly, there could be uncertainties about the performance of stockpiled weapons or the effect of nuclear explosions on military hardware that could be resolved only by subjecting the hardware to the effects of a nuclear explosion. If such uncertainties could not be eliminated by nuclear tests, it would be necessary to eliminate them through the more costly route of conservative design. In "National Security and the Nuclear-Test Ban," an article that appeared in the October 1964 issue of *Scientific American*, Jerome B.

Wiesner and Herbert F. York addressed the uncertainty question at some length. They pointed out that whatever uncertainties might be resolved by nuclear testing would be very small compared with those that abound in military planning. The fact that some of these uncertainties might be removed by nuclear tests would, in their view, "contribute virtually nothing more to management of the real military and political problems, even though it would produce neater graphs."

Some have argued that nuclear testing must continue because of the possibility of surprise findings: either findings that lead to important new developments or, what is more likely, findings that expose a problem where none had been expected. Others argue that tests are necessary to help ensure that the Russians do not acquire knowledge not in the possession of American experts. It is of course not possible to demonstrate that surprise results will not be obtained. Nor is it possible to prove that the Russians do not know things of which American experts are unaware. As for the likelihood of there being a surprise of the kind that suggests a new line of weapons, one may take note of York's belief that the rapid technological advances of recent decades are neither typical of the past nor predictive of the future.

It is sometimes suggested that the U.S. could not forgo testing as long as China or France was continuing its tests. This contention has little validity. For the indefinite future whatever dangers might arise from the fact of Chinese or French nuclear-weapons developments are most unlikely to be ameliorated by the products of U.S. tests. Such dangers must be countered by other means.

More generally, the need for continued testing should be considered in the light of the fact that in this 27th year of the nuclear age some thousands of nuclear weapons of proved design are fully deployed. No foreseeable weapons developments based on further nuclear tests, conducted either openly in the absence of a complete test ban or clandestinely in the presence of one, would affect the ability of either the U.S. or the U.S.S.R. to deliver a substantial portion of its strategic stockpile to an opponent's cities. McGeorge Bundy has remarked on the implications of even a small fraction of these weapons being detonated over urban targets: "In the real world of real political leaders—whether here or in the Soviet Union—a decision that would bring even one hydrogen bomb on one city of one's own country would be recognized in advance as a catastrophic blunder; 10 bombs on 10 cities would be a disaster beyond history, and 100 bombs on 100 cities unthinkable."

In brief, the advanced status of nuclear-weapons development, the existence of very large weapons stockpiles and the deterrent value of the ability to destroy even one city suggest that neither the continuation of nuclear-weapons tests nor the cessation of such tests will affect the strategic position of one superpower with respect to the other. If this is the case, it should mean that continued testing need not necessarily be a source of international tension and a motive force in the arms race.

Yet in spite of the decline of the substantive importance of nuclear tests, testing has developed a life of its own and, as was evident in the Cannikin episode, does exacerbate international discord. If only because there are such strong feelings concerning the need for either an indefinite continuation of testing or its elimination, the matter retains a large symbolic importance. Accordingly there is much to be said for a treaty that removes nuclear testing as an issue that obscures the real problem: how to avoid nuclear war.

The ban on atmospheric testing grew out of the fears generated by the Cuban missile crisis of 1962 and the increasing radiation levels caused by fallout. The superficial reason the treaty did not encompass underground tests was the inability of the signatories to reach agreement on verification procedures. Underlying the omission of such tests was the opposition of persons in and out of the U.S. Government who believed it was essential that this country continue its test activities. At the same time the importance of a prohibition on underground tests was recognized in the preamble of the Limited Test-Ban Treaty of 1963 and later in the Nonproliferation Treaty of 1970, both of which incorporated a commitment to continue negotiations toward a ban on all nuclear-weapons tests.

Not only has little been done to fulfill this commitment but also it is debatable that the atmospheric ban has had much effect on the development of nuclear weapons. In order to secure the endorsement of the U.S. Joint Chiefs of Staff for the Limited Test-Ban Treaty the Kennedy Administration agreed to implement a program of safeguards that included "the conduct of comprehensive, aggressive and continued nuclear-test programs designed to add to our knowledge and improve our weapons in all areas of significance to our military posture for the future." This was to counter the Joint Chiefs' concern that the treaty might presage a "euphoria in the West which will eventually reduce our vigilance and willingness of our country and of our allies to expend continued effort on our collective security." The results of these safeguards has been what many believe is a nuclear-weapons development effort that is indistinguishable in scope—if it is not even larger—from the one that had been under way before the treaty.

Since 1963 there has been little serious discussion of extending the Limited Test-Ban Treaty to include underground tests. The ostensible obstacle remains: the U.S.S.R. continues to maintain that on-site inspections are not needed; the U.S. asserts the contrary. The verification issue is still a pretext for not achieving agreement. As the foregoing discussion suggests, however, the plausibility of the pretext has dwindled to the vanishing point.

The failure to prohibit underground tests plays into the hands of those in the nonnuclear nations who press for the acquisition of nuclear forces; it tends to reinforce the contention that the statements of the superpowers are not matched by actions, and it undermines the credibility of the U.S. Government, which has maintained for more than a decade that unresolved verification problems are the obstacle to a ban on underground tests.

The attainment of a treaty banning underground tests would demonstrate to the nonnuclear countries that the major nuclear powers would accept substantial restrictions on their own nuclear activities, a demonstration that would strengthen arguments against the acquisition of nuclear weapons by other countries. As a result of its symbolic value, a cessation of underground testing, particularly in the absence of a major agreement at the Strategic Arms Limitation Talks, would more than any other likely step signify an almost irrevocable commitment to seek security through arms control agreements rather than through the never ending cycle of weapons and counterweapons that has characterized the period since World War II.

SENATE RESOLUTION 231—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

(Referred to the Committee on Rules and Administration.)

Mr. ALLOTT (for Mr. JACKSON) reported the following resolution:

S. RES. 231

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Interior and Insular Affairs, or any subcommittee thereof, is authorized from March 1, 1972, through February 28, 1973, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $400,000, of which amount (1) not to exceed $25,000 shall be available for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. To assist the committee in a study of national fuels and energy policy pursuant to S. Res. 45, agreed to May 3, 1971, the chairman and ranking minority member of each of the Committees on Commerce and Public Works, or members of such committees designated by such chairmen and ranking minority members to serve in their places, and the ranking majority and minority Senate members of the Joint Committee on Atomic Energy, or Senate members of that committee designated by such ranking majority and minority Senate members to serve in their places, shall participate and shall serve as ex officio members of the committee for the purpose of conducting the fuels and energy policy study.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1973.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 811 THROUGH 819

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

Mr. ERVIN (for himself and Mr. ALLEN) submitted nine amendments intended to be offered by them jointly to the bill (S. 2515) to further promote equal employment opportunities for American workers.

AMENDMENT NO. 822

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

Mr. SAXBE submitted an amendment intended to be proposed by him to the bill (S. 2515), supra.

SOCIAL SECURITY AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 820

(Ordered to be printed and referred to the Committee on Finance.)

WELFARE FISCAL RELIEF

Mr. RIBICOFF. Mr. President, today, on behalf of myself and Senator NELSON, I am introducing an amendment to H.R.

1, to provide a measure of emergency welfare fiscal relief to the States.

In recent years no one has been happy about the welfare system. Its inefficiency and inadequacy assure recipients of low payments and States of high costs. Only a uniform, federally administered program will relieve the States of crushing welfare cost burdens and budget uncertainties.

But until welfare reform legislation takes effect on July 1, 1973, something must be done to assist the States which are coming under increasing financial strains. In fiscal 1971, welfare budgets in at least 20 States ran into the red as costs of increasing caseloads mounted. As the State costs mounted—from $1.8 billion in 1965 to $4.7 billion in 1970—almost half of the States have been forced to reduce their welfare payments to individuals. The result is that welfare recipients are having to learn to live with the worst deficiencies of the existing system at even lower benefit levels than ever.

Immediate interim measures are needed to provide welfare relief to the States during the period before the July 1, 1973, effective date of the family assistance plan.

My proposal, which was introduced in the House by the chairman of the Ways and Means Committee, WILBUR MILLS, and the Congressman from Illinois, GEORGE COLLINS, would provide fiscal relief to the States by limiting State expenditures for fiscal years 1972 and 1973 to the level of expenditures incurred in fiscal year 1971. The Federal Government would assume all additional costs.

If adopted, this proposal would afford $900 million of immediate tax relief to State and local taxpayers nationally for fiscal year 1972 and $1.1 billion for fiscal 1973. I estimate that this year alone my proposal will result in over $50 million in savings on welfare costs in the State of Connecticut.

The administration, Senator LONG, WILBUR MILLS, and many other Senators have expressed their support for the principle of emergency relief. I am hopeful that the Senate will accept my proposal as an integral part of an overall welfare reform program.

EDUCATION AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 821

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Educational Act of 1963, and related acts, and for other purposes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 559

At the request of Mr. RIBICOFF, the Senator from Oregon (Mr. HATFIELD) was added as a consponsor of Amendment No. 559 intended to be proposed to the bill (H.R. 1) the social security amendments of 1971.

NOTICE OF HEARING ON NEW TECHNOLOGIES FOR THE GENERATION OF CLEAN ELECTRICITY FROM COAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an announcement by the distinguished Senator from Washington (Mr. JACKSON).

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

STATEMENT BY SENATOR JACKSON

On February 8, 1972, the Senate Interior and Insular Affairs Committee will hold a hearing on new technologies for generating clean electricity from coal.

In many cases traditional methods for the generation of electricity are not compatible with Federal and State environmental standards. There are, however, several future technological options which offer promise for the development of environmentally acceptable methods for the generation of electricity from coal. One of these options appears to be new or advanced power cycles which combine coal gasification with advanced gas and steam turbine technologies in an integrated system. Successful demonstration of this technology offers the potential for more efficient utilization of coal for power generation, a better atmospheric environment, and a reduction of thermal pollution of our waterways.

This hearing is being held in order to review the Federal research and development program on advanced or combined power cycles for the generation of electricity. The hearing will be convened at 10:00 a.m. in Room 4200 of the New Senate Office Building. Invited witnesses include representatives of the Office of Science and Technology, the Environmental Protection Agency, and the Department of the Interior.

Because of his long recognized leadership in the formulation of national energy and environmental policies and as co-author of Senate Resolution 45, I have asked Senator Randolph (D.-W. Va.), Chairman of the Senate Committee on Public Works and an Ex-Officio member of the National Fuels and Energy Policy Study to chair this hearing. The hearing is being conducted pursuant to Senate Resolution 45, which authorized the Interior and Insular Affairs Committee and Ex-Officio representatives of other Senate Committees to undertake a comprehensive study of national fuels and energy policy.

The Committee invites the submission of statements for publication in the hearing record by any interested persons or organizations. The hearing record will remain open until February 28, 1972 for additional statements.

ADDITIONAL STATEMENTS

THE 1973 BUDGET

Mr. SCOTT. Mr. President, notwithstanding all the political breastbeating over President Nixon's 1973 budget, the American people have every right to hail it as a genuine confirmation of his administration's reordering of national priorities. In 1968 under the Johnson-Humhprey administration we spent 45 percent of our Federal money on defense and only 32 percent on domestic needs. This year's budget is just the reverse—45 percent on domestic needs, and 32 percent on defense.

Moreover, for the first time, the budget for the Department of Health, Education, and Welfare will exceed that for the Department of Defense. Although the President is asking for an increase in the size of the Defense budget next year, the fact of the matter is that the percent of the total Federal budget spent on defense will be at the lowest level since fiscal year 1950. Those who argue that the President has not reordered the Nation's priorities have their heads in the sand.

Like most other issues that Congress will consider this year, the budget is the subject of intense partisan rhetoric and gobbledegook. It is a good budget and after the smoke has cleared will be recognized as such by the American people. Those who try to politicize the budget in committee hearings, on the Senate floor, and on the political stump may find they are doing themselves a great disservice in the end.

THE POLITICS OF INTERNATIONAL TRADE

Mr. RIBICOFF. Mr. President last week, on behalf of the Committee on Finance, I traveled to London, Paris, and Brussels to discuss outstanding trade issues with government and business leaders in these capitals.

During my trip, I was asked to speak informally to the American Club in Paris. I commented on the political realities of trade and investment problems with an eye to America's future role in the world economy.

I ask unanimous consent that the text of my remarks be printed in the RECORD.

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

THE POLITICS OF INTERNATIONAL TRADE

(By Senator ABRAHAM RIBICOFF)

Today Congressional concern over trade matters is framed by the very real political problems posed by a nation-wide 6% unemployment rate. In my own home State it is 9%, and in the manufacturing town of Bristol, Connecticut, it is an incredible 24%. What these figures mean is that 5 million American workers can't find work. I would note that there is hardly a country in Europe with half the national U.S. rate of unemployment. People out of work represent a political fact of life.

What does a Senator say to a 52-year-old draftsman in Connecticut with three children who has been laid off after 21 years with the same company, losing his pension rights and health benefits? Does he recite the economic theory of comparative advantage and advise him to uproot himself and his family and take a job in Phoenix, Arizona?

What does he say to a small manufacturer in an old family business who learns that a Hong Kong firm is planning to sell an imitation of his product in the United States at less than half his price? Can you explain to him how he can keep paying his work force while he struggles to develop a competitive new product line? These are dilemmas facing men in politics every day.

President Pompidou, I am sure, can understand this. And that is why I, in turn, could appreciate his candid comments the end of last month on French adherence to the Common Market's agricultural policies. As

President Pompidou put it—"French farmers can count on my interest in them and on my obstinacy." It puzzles me why a stance similar to President Pompidou's when taken by an American Senator, or by an American President, should come as so great a surprise to Europeans.

I think that there are humane, people-oriented solutions to these problems, solutions which can lead both to an expanding world economy and prosperity in the United States. All the industrialized nations have been lucky so far in avoiding economic disaster. The recent realignment of exchange rates achieved in great measure by an unprecedented American economic offensive, has by no means brought an end to the international crisis. The decision to devalue the dollar has only bought us some time—several months or perhaps a year or two, but no more. This crisis has now passed but we must get on with solutions to our common problems if we are to avoid future reruns.

Ecopolitics is rapidly replacing geopolitics as the prime mover in the affairs of nations. The realization is growing that an international monetary conference in Washington can be just as important for the future tranquility of this globe as the SALT talks in Vienna.

The United States is now in a new kind of international ball game. Our political leaders have been very slow in grasping the significance of the shift from geopolitical to ecopolitical issues. This is not surprising. Most men in political life today gained their familiarity with international affairs at a time when the political, strategic and military issues of the late 1930's and 1940's dominated. The giants who strode across the stage of history during that turbulent period were certainly not preoccupied with shifting trade balances, but with shifting armored divisions across the face of Europe.

For many years now European and Japanese leaders have acted on the assumption that economics makes powerful politics. With such a high percentage of their nations' GNP's devoted to foreign trade, they could ignore this only at their peril. But the United States Government seems to have grasped this reality only very recently. The creation of a Council on International Economic Policy in the White House a year ago was one welcome indication of a changing attitude. And the shockwaves of August 15th make it appear as though we have seized upon this realization with gusto.

But policy by adrenalin can be used just so often. Now that our trading partners realize that we are serious about protecting our economic interests, we need responsible follow-up. It is time that the leadership in America and the American people got down to finding the answers to some very hard questions.

One of our greatest problems is the inability of our present institutions to generate enough technological progress to keep the American economy competitive and at the same time meet pressing social objectives at home. While our large corporations plan their investments and allocate their priorities 5, 10, and even 20 years ahead, our Federal Government operates on annual budgets and programs.

Except in the area of national defense, we have no systematic way to encourage our industries to develop along lines which keep them up to date. Nor do we direct them into areas of high social priority on a long-term basis.

Once our government can persuade industry that it is seriously committed to new sets of priorities, businessmen will have the necessary incentive to embrace conversion rather than resisting it. Profits earned from supplying low-cost housing units look just as good on a balance sheet as profits earned from producing sophisticated anti-missile systems.

Clearly, new forms of government-industry cooperation are required if the United States is to commit more resources to maintaining our technological superiority. And technology, today, is the key to remaining competitive internationally.

This means establishing a high level of ongoing research and development programs. Although these kinds of programs inevitably offer uncertain results and are costly, we have little choice. The production of high technology content products must be, to use the modern description—"our bag". In 1970 the United States' trade surplus represented by high technology products, excluding automobiles, was over $10 billion. This should be viewed against the 6 billion dollar trade deficit in other manufactured goods—and America's first overall trade deficit since 1893—some $1.8 billion in 1971.

Right now we find ourselves in a situation where cutbacks in military and space programs have coincided with a general industry recession, which has lowered budgets for private reseach and development. Instead of increasing our government's contribution to the total R & D effort, it has actually declined in recent years, dropping from 60 percent of the total in 1968 to 53 percent in 1971.

The most appropriate institution to deal with the need for new forms of government-industry cooperation would be a permanent board which would select areas of national priorities, make long-range plans, and then actually design the government-industry programs to be funded. As a practical matter, our existing agencies, including the Council of Economic Advisers, are simply too busy on day to day problems to be able to do this long-range job properly.

In the Congress serious thought should be given to modifying our anti-trust laws if in fact they are a deterrent to progress—so that resources could be polled for specific ends. It is obvious that if you want to rebuild our own devastated inner cities or build a dam in Africa you need a number of companies working closely together. The application of 70 year old anti-trust laws to modern-day operations by international consortiums clearly puts American companies at great disadvantages. We need workable rules that protect our own citizens from monopolistic trade practices while enabling our corporations to combine to take advantages of changing world markets. In fact, all of our laws and regulations that inhibit the application of new technology should be scrutinized with an eye to helping rather than hindering.

It will take a number of years before new permanent institutions can translate their decisions into generating trade surpluses, and jobs. In the meantime, effective solutions must be found to ease the interim dislocation.

Where the dislocation of people is involved, you cannot write them off as some economists do, as "frictions". According to the theory these frictions are supposed to be absorbed in the long-run. But, in the long-run, as Keynes used to say, we are all dead. When someone loses his job because of frictional or any other kind of employment he is immediately in desperate circumstances and can't wait for the long-run to take care of him.

Adjustment assistance as it was conceived ten years ago was obsolescent the day it was enacted. Its requirement of strict proof of a direct relationship between injury due to tariff reductions and imminent financial ruin is about as useful today as buying insurance against being trampled by a herd of buffaloes in mid-Manhattan. The emphasis must now be put on spotting in advance those industries and companies in the entire economy which are running into trouble, and concentrating on helping workers and advising management *before* the company is a financial basket case. Unless we do this, the government will always be in a position of doing too little, too late—and the pressures for quotas and other forms of work protection will become irresistible.

Another issue which must be dealt with more directly is the shifting of manufacturing operations abroad by American-based multinational corporations. The so-called "runaway mill" problem has already created great resentment in the ranks of organized labor

Before the Congress can act responsibly in regulating these conglomerate concentrations of power, it is absolutely essential to know more about the nature of this new phenomenon. Given the growing interdependence of nations and the shrinking of the globe, we must begin seriously studying the operations of all these corporate giants both American and foreign. Already multinationals create one-sixth of the world's gross product—and by the turn of the century it is predicted this will be one-half.

All companies with international interests must become more aware of the implications of their activities for the governments of the countries with which they are involved. And conversely, all governments, our own included, must know more about their operations, and seek to shape their activities towards the achievement of desirable social and economic goals.

H. L. Mencken once said—for every human problem there is a solution which is neat, simple—wrong. There are no easy solutions to the problems posed by the flow of international trade and investment. The only rational road ahead is for the U.S. to sit down with its major trading partners and work out workable international norms for trade and investment so that all may benefit. What is needed is a world system where there are only winners and no losers. This involves creation of a process of ongoing high-level negotiations rather than hastily arranged conferences that paper over differences and then disband.

Last year, during my discussion here in Europe, I discovered to my dismay that nowhere were such trade negotiations taking place. A high level working group within the Organization for Economic Cooperation and Development here in Paris has started to work. Now that this group is functioning, a potentially significant new forum exists for removing irritants and points of conflict in international trade and investment.

By now it should be obvious that the older, more traditional method of negotiation can't do the job any more because the problems themselves are new. Tariffs, which were significantly reduced in the Kennedy Round negotiations from 1963 to 1967, are no longer the major impediments to a free flow of international trade. Nontariff barriers, in a bewildering variety, are today the major impediments to world trade.

There is an urgent need for instance, to begin dealing with the brand new problems posed by different national safety and environmental standards before they are set in concrete and before the seeds of future conflicts are sown.

But if we are to begin serious trade negotiations, a solid consensus must first be built in the United States supporting the expansion of world trade and investment. Economics is not only a dismal science, it is largely an esoteric one.

It must be presented to the American people that there are benefits for all nations from expanding world markets through a freer flowing technology, the availability of services, the upgrading of quality and fair competition.

In order to put the level of discussion of this subject above that of who is imitating

whom, and who is flooding whose market with cheap imports, the United States must devise better mechanisms to stimulate our economy and manage our ecopolitical relations with the rest of the world. This involves enlisting the cooperation of labor, industry and the Congress. This is the only way we can ensure greater prosperity in the last quarter of the Twentieth Century, and the only way to remove the high drama from these issues.

THE NEED TO END DOCK STRIKES

Mr. CURTIS. Mr. President, the need for congressional action to put an end to the dock strikes is very important. These strikes are damaging our entire economy, but more especially agriculture. The loss suffered by Nebraska farmers in the past 12 months by reason of transportation strikes runs into the hundreds of millions of dollars.

The Committee on Labor and Public Welfare should promptly advance the President's proposal for dealing with transportation strikes (S. 506) or come up with a better and more effective proposal. Delay is not in the public interest.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated January 20 from Secretary of Agriculture Earl L. Butz to the Honorable HERMAN E. TALMADGE, chairman of the Senate Committee on Agriculture and Forestry.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., January 20, 1972.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to commend you and your colleagues on the Senate Committee on Agriculture and Forestry for your concern over the plight of the Nation's farmers who are suffering a loss of exports and a loss of income as a result of the prolonged dock strikes.

I understand that you earlier conducted a one-day hearing on the effect on agriculture of labor-management disputes in the shipping industry. I am told that more than 60 witnesses appeared and generally recommended emergency action, such as is embodied in the Emergency Interest Protection Act (S. 560) pending in the Senate.

I commend you for your leadership in voting yesterday morning to send the transcript of that hearing to the Senate Labor and Public Welfare Committee and to the Senate Commerce Committee as a means of showing your concern for the Nation's farmers and the immediate need to provide legislation to deal more effectively with dock strikes.

This action on your part will be deeply appreciated by farmers who, as innocent bystanders, are suffering such heavy losses in markets and income as a result of the prolonged strike.

Sincerely,

EARL L. BUTZ,
Secretary.

SENATOR RANDOLPH OPPOSES BUDGET RECOMMENDATION TO ABOLISH APPALACHIAN PROGRAM

Mr. RANDOLPH. Mr. President, when the President submitted his budget proposals to Congress a year ago, they reflected the announced intention of the administration to abolish the Appalachian regional development program as a separate entity. The administration wished at that time to make Appalachian activities an indistinguishable part of the rural revenue sharing program that was then proposed.

The new budget we received today reflects a similar desire by the administration to abandon what is essentially a revenue sharing effort and one that has been extremely successful.

In view of events that took place within the last year, I am surprised that the President again recommends that the Appalachian program be abandoned. The suggestion a year ago met with almost unanimous rejection from Members of Congress. Congress specifically endorsed the Appalachian concept by passing legislation extending its life for another 4 years. President Nixon voiced approval of the Appalachian approach when he signed this extension into law.

While Congress has given neither approval nor disapproval to revenue sharing, it has declared emphatically that it believes the Appalachian program is a worthwhile undertaking that should be allowed to continue toward the goals established for it in 1965.

The Appalachian regional development program has frequently been called a model to be used for similar efforts elsewhere in the country. The Committee on Public Works is utilizing the Appalachian experience in preparing legislation for a comprehensive national economic development program. This legislation will be introduced in the Senate soon.

I call these matters to the attention of the Senate, for I believe we must move with caution in considering any recommendation to dismember a program such as that now underway in Appalachia which embodies many of the goals of revenue sharing. To abolish the Appalachian program would severely compromise the investments already made and break faith with the people of the region who look to it as the all important program for a better life.

SENATE ATTENDANCE REQUIREMENTS

Mr. SCOTT. Mr. President, at the request of several members of the press, I ask unanimous consent that the column written by Bob Roth relating to Senate attendance requirements, suggested by the senior Senator from Maine (Mrs. SMITH), and published in the Philadelphia Bulletin of December 28, 1971, be printed in the RECORD.

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

THE LADY FROM MAINE: SENATOR SMITH STRIKES BLOW AGAINST ABSENTEEISM

(By Robert Roth)

WASHINGTON.—Sen. Margaret Chase Smith of Maine has several distinctions besides that of being the only woman in the Senate of the United States.

A Republican, born and bred, she is fiercely independent, amenable to party discipline only when she is persuaded that it has been properly invoked.

She has conscience, courage and gumption that make her stand and fight when others yield and bargain. She is unimpressed by blandishments from high places, including the Pentagon and the White House. A Supreme Court nomination or a military appropriation gains nothing in her eyes because it has important backing.

DENOUNCED M'CARTHY

Her denunciation of the late Sen. Joseph R. McCarthy, uttered as what she called "an act of conscience," came at a time when most others—including those in the White House—were seeking ways to appease and placate the man whose name became a synonym for baseless accusation and unprincipled intimidation.

Her energy at 74 is unflagging. When the Senate roll is called she is there. Her vote is her proudest, most jealously guarded possession, and woe to the special pleader who takes it for granted, or tries to predict how it will be cast. On top of it all, she is highly skilled in political maneuver. She knows how to get what she wants for the people of her state. It is hard to imagine them electing anyone in her stead.

It was, then, a matter of no small consequence last week when Senator Smith sponsored a constitutional amendment providing for the expulsion of any member of the House or Senate who was absent in a single year from more than 40 percent of the roll calls.

REVOLUTIONARY PROPOSAL

Only a Washingtonian can appreciate what an epoch-making, revolutionary, iconoclastic proposal this is. It is true that there are rules requiring the presence of members at meetings of Congress and provisions for compelling the attendance of those who absent themselves without permission. These strictures are, however, laughed at when they are not ignored. Most members consider themselves the best judges of when their attendance is necessary. Many attend only when it suits their convenience. Some do not bother to attend at all.

Dozens of members commute here from their homes which, in this air age are almost all in commuting distance, arriving here on Tuesdays and going home on Thursdays. Rare is the senator who does not miss roll calls because he is out on the lecture circuit, and there are some who are out often enough to double their $42,500 salaries, and then some.

PRESIDENTIAL CANDIDATES

Senators who are also candidates for presidential nomination divide their timing—and not always equally—between the constituents they have and the delegates they hope to gain. A congressman who is ill, or who needs a change of scene, absents himself—at full salary, of course. More than one member has served his term in a jail cell.

Philadelphia had a congressman, Herman Toll, not long ago who served an entire term without setting foot in the House. South Dakota has a senator now, Karl E. Mundt, who suffered a totally disabling stroke more than two years ago but who still holds his seat, his committee chairmanships and all the prerequisites of his office.

Of all the ills that Congress is heir to, of all the factors that prevent it from getting its work done, absenteeism is the most obvious, the most pervasive and the most debilitating.

IMPOSSIBLE TO CORRECT?

So deeply is absenteeism ingrained in the very marrow of Congress that many believe it will be impossible to get it out and are more amused than impressed by efforts to deal with it. Certainly the odds are heavily, perhaps astronomically, against the enactment and ratification of Senator Smith's amendment.

It is a good deal more, however, than an exercise in futility. Even in being defeated, it is bound to stir things up. It will not be the first time that the Lady from Maine has jolted the complacent.

MILWAUKEE JOURNAL ASKS FOR CRITICAL EXAMINATION OF VALUE TAX

Mr. PROXMIRE. Mr. President, in his state of the Union message, President Nixon spoke of the heavy burden of State and local property taxes. He gave no immediate alternative to that system but advised us of a series of studies due in the next few months on this issue. As everyone knows, these studies are primarily concerned with the question of a value-added tax as a substitute or as an addition to our present tax system.

The value-added tax—VAT—must be studied carefully. It is a regressive tax. It is a hidden tax. It, therefore, invites big increases once it is in effect. It is an inflationary tax because it means a pyramiding of price increases. I have asked the Joint Economic Committee, of which I am chairman, to prepare studies and hearings leading to a searching and critical examination of this issue this year.

In an editorial published on January 17, 1971, the Milwaukee Journal supports this move and adds a few more points to the argument. It points out that the ultimate payer of the tax is the consumer and hence is a "national sales tax that eats at low incomes in much greater proportions than it does high incomes."

The editorial also points out that—

If instituted, it probably would not replace any tax but be just another layer on the present tax structure.

If the history of taxation is any measure, that is bound to be true.

The Journal editorial makes one further and penetrating point. Before it becomes a reality in the United States the editorial states:

The present progressive income tax structure should be tightened up. Billions now go uncollected because of loopholes and shelters in the tax laws. When these holes are plugged, and if the Government can prove it still needs revenue, then lets talk of VAT.

It would be irresponsible of the Government to propose a national regressive sales tax at a time when billions escape taxation because of the loopholes in the present system.

Furthermore, I would make the point that we could also cut back on unneeded spending—on excessive defense spending, on the space shuttle, on wasteful public works, on the excessive highway expenditures, and on the billions in subsidies which go out the back door of the Federal budget.

Let us look at and act on all of these matters before giving the imposition of VAT serious consideration.

I ask unanimous consent that the excellent editorial from the Milwaukee Journal be printed in the RECORD.

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

THE VALUE-ADDED TAX

Sen. Proxmire plans to turn the Joint Economic Committee loose on an in depth examination of the value added tax (VAT). This is needed. The public knows very little about this super sales tax, popular in Europe. And one day soon the public is liable to wake up and find that VAT is here.

Current interest in VAT stems from the uncomfortable suspicion that the tax cuts just instituted are going to be transitory. The reason: Government expenditures consistently are outstripping revenues. Yet the Nixon administration wants to initiate revenue sharing. It has proposed welfare reform with an income floor. The president last month promised to try to alleviate "the crushing burden of property taxes." All this will cost more money and where is it coming from? Administration spokesmen have sent up trial balloons about VAT.

The beauty of VAT is that it is simple to administer and is, in a sense, hidden and thus rather painless. It is a tax on each new increment of value added to a product from the raw material to the store shelf. Everyone along the line pays a little.

There are some bad features underneath this outward sheen. One is that the ultimate payer of the tax is the consumer, for VAT is included in the sales price. But most of all, the tax is highly regressive. It is a national sales tax that eats at low incomes in much greater proportions than it does high incomes. What is more, if instituted, it probably would not replace any tax but be just another layer on the present tax structure.

Ultimately, VAT may become a reality in the US. Before it does, the present progressive income tax structure should be tightened up. Billions now go uncollected because of loopholes and shelters in the tax laws. When these holes are plugged, and if the government can prove it still needs revenue, then let's talk of VAT.

A DISTINGUISHED OREGONIAN

Mr. PACKWOOD. Mr. President, one of Oregon's outstanding citizens, Henry, Cabell, is dead. The death of Mr. Cabell was a personal loss to me. I valued his advice, and I enjoyed his friendship. I will miss him, and Oregon will miss him. He was truly a distinguished Oregonian.

I ask unanimous consent that an editorial published in the Portland Oregonian of January 12, 1972, be printed in the RECORD.

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

HENRY FAILING CABELL

Henry Failing Cabell, who died Monday in his 77th year, had an extraordinary record of public service in Oregon. He served long periods as a member and as president of the State Board of Higher Education and as chairman of the State Highway Commission, exemplifying the Oregon tradition of unpaid ministry of government functions of the highest importance.

He also had held a host of other voluntary offices in national, state and local educational, cultural and business organizations. But those who knew Henry Cabell best say that his most important contributions, to the community and region in which he spent his life were private ones. He was always the one to call upon when one needed substantial help for a good cause. He was exceptionally well informed on a wide range of public issues and well able to judge the merit of his causes.

Mr. Cabell was the grandson of Henry Failing, banker and mayor in Portland's pioneer era. He spent a good part of his professional life as a lawyer managing the extensive Failing estate. In doing so, he set an example for others who have made fortunes as well as a good life in the Oregon Country. He generously shared his—both the fortune and the good life—to the great benefit of his fellowmen.

ANOTHER CHANCE TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, last week another session of Congress began. The previous 22 sessions had the opportunity to act on the International Convention on the Prevention and Punishment of the Crime of Genocide, but for reasons of their own did not. So once more the Senate has a chance to act on this important treaty.

The Senate should ratify the treaty to show the world that we abhor this crime, to show that the American people do not want this to happen anywhere in the world. Many nations look to the United States for moral leadership, to set an example of a country providing its citizens with freedom, justice, and peace. These nations are perplexed at our perennial failure to ratify the Genocide Convention. Our enemies, on the other hand, are happy, for they can continue to say that the United States does not act upon what it professes to believe.

Ratification of the Genocide Convention will not endanger the American people. Because this treaty, like all treaties, is subject to the language of the Constitution and cannot in any way modify or abridge it, we do not have to fear any loss of our rights. Failure to ratify the convention is detrimental to the best interests of the United States, not only because of what such failure means to the international community, but also because it denies the American people of the benefits of a world where genocide is less likely than before.

Mr. President, I hope the American people and all the people of the world will soon have the benefits which the Genocide Convention has to offer. I urge the Senate to ratify it as soon as possible.

THE ANDERSON PAPERS

Mr. HARRIS. Mr. President, the publication of the Anderson papers concerning our disastrous policy toward India and Pakistan raises fundamental questions about the type of foreign policy machinery which President Nixon has established under the authority of Dr. Kissinger. In the Washington Post of January 20, 1972, a distinguished American diplomat and former U.S. Ambassador to the United Nations, Charles Yost, discusses these questions with great depth and intelligence.

According to Ambassador Yost, never in 35 distinguished years of Government service did he ever attend meetings of the type revealed in the Anderson papers. What disturbs Ambassador Yost and should disturb us is the manner in which Dr. Kissinger seems to have completely dominated the meeting described in the papers and in the process to have missed the opportunity to learn something about an area with which he has little experience and on which disastrous policy recommendations were being made.

The lesson from this must be that apart from the extremely poor judgment displayed by our top officials, the highly touted machinery at the White House which this administration has established to deal with foreign policy crises

is also at fault. Thus, as Ambassador Yost notes:

While the Anderson papers did not reveal anything about U.S. policy which was not already known, they did show how the present machinery and style of conducting foreign relations can lead to very serious errors.

At the time of the war between India and Pakistan in December, I urged the appropriate committees in the Senate to open hearings on our South Asian policy. One purpose I contended would be to determine whether our foreign policy machinery had contributed to the disastrous foreign policy mistakes we made in South Asia.

I believe that Ambassador Yost's article makes it clear that such hearings would be useful. If it is true that, as his article suggests:

Setting up a second State Department inside the White House . . . is bound is cause immense confusion and may have contributed to the mishandling of this critical issue.

Then it is the duty of the administration and the Congress to investigate the present foreign policy machinery in the administration and to demand improvements. For one thing is certain, we simply cannot afford another mistake of this magnitude of this administration's policy in South Asia.

Mr. President, I ask unanimous consent that Ambassador Yost's provocative article be printed in the RECORD.

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

A LOOK AT HOW FOREIGN RELATIONS ARE CONDUCTED NOW

(By Charles W. Yost)

It is with considerable astonishment and uneasiness that I have been reading the "Anderson Papers" and the accumulating mass of editorial comment upon them. Never in my 35 years of government experience, during which I took part in a very large number of White House and State Department gatherings of the sort reported in those papers, did I ever encounter meetings quite like these appear to have been.

There are several things that strike me about them. First is the extent to which they were dominated by one person—not the President, the Secretary of State or the Secretary of Defense, but the national security advisor, Dr. Henry Kissinger.

He did about three-quarters of the talking, and his tone was frequently that of a professor addressing a rather backward class. That the class was skeptical about the line he was taking is apparent from numerous comments by senior representatives of the State and Defense Departments, but any hint of active dissent was peremptorily suppressed by invoking the wishes of the President.

Of course, the Anderson Papers report only a small fragment of the whole story. One can only hope that there were earlier meetings of the National Security Council at which the responsible cabinet officers and officials, more knowledgeable about India and Pakistan than Dr. Kissinger, had an opportunity to present their dissenting views directly to the President, and at which he presumably overruled them.

There is, however, no reference in the Anderson Papers to any NSC discussion and, having in mind White House modus operandi in recent years, one cannot frankly be confident the President was ever exposed in depth to the arguments for a policy different from the foolish one he pursued.

While presidential decisions obviously must be accepted and carried out, no practice in government is more pernicious, or indeed more harmful to the President himself, than to inform the bureaucracy that his mind is irrevocably made up and that they better conform—or else.

This leads to my second impression on reading the Anderson Papers. There seemed to be an element almost of hysteria running through these meetings. There is a frantic floundering about to find means to make work a policy which has obviously failed and which its proponents, being intelligent men, are probably beginning to suspect, though of course not to admit, should never have been adopted in the first place.

Dr. Kissinger is quoted in the papers as saying on December 8 that "one could make a case that we have done everything two weeks too late in the current situation." The fact is that "everything" was done at least six months too late.

The time to have acted, both directly on the government of Pakistan and indirectly by bringing the issue to the United Nations Security Council, was in the spring, when the magnitude of Pakistani President Yahya Khan's atrocities in East Pakistan, and the political repercussions they were bound to have if uninterrupted, could already have been clearly foreseen.

One columnist has claimed that during all those earlier months the White House left the India-Pakistan crisis in the hands of the State Department, and did not itself become involved until just before war broke out.

This rather childish ploy to shift the blame seems highly implausible, first, because that is not the way the White House operates under this administration, and second, because Dr. Kissinger himself conferred with the leaders of both India and Pakistan on his way to Peking in July. He could hardly have been unaware of what was going on at that time.

One must admit, however, that setting up a second State Department inside the White House, as the Nixon administration has done, is bound to cause immense confusion and may have contributed to the mishandling of this critical issue.

Dr. Kissinger is reported as inquiring in the same meeting on December 8: "Can we allow a United States ally to go down completely while we participate in a blockade?" The real question is whether Pakistan was or should have been any more of a United States ally than India.

In a formal sense it was, since Pakistan is still technically a member of the moribund SEATO. In the past, however, the United States has always been as close to India as to Pakistan, sometimes closer. It was the foolish tilting of the balance toward Pakistan by the White House in 1971, perhaps because of its obsession with the Peking visit, that turned India into a formal ally of the Soviet Union in August. And that, since it was a consequence of its own miscalculation, was what produced the near-hysteria in the White House, and the futile lashing out at India and at the United Nations which followed.

So, while the Anderson Papers did not reveal anything about United States policy which was not already known, they did show how the present machinery and style of conducting foreign relations can lead to very serious errors. Of course, if United States administrations would get over the illusion that only a handful of people at the top know what the United States' interests abroad really are, and that foreign policy is best conducted behind double-locked doors, neither Pentagon nor Anderson Papers would be needed, and some future disasters might be avoided.

ADDRESS BY DAVID ROCKEFELLER

Mr. BAKER. Mr. President, I recently had brought to my attention a speech delivered by David Rockefeller to a dinner meeting of the Advertising Council in New York City on December 13, 1971. In his address, Mr. Rockefeller shared with his audience some of his views on how the business community could and should respond to the more substantive and constructive criticisms that are today being leveled against private enterprise with increasing frequency. I found Mr. Rockefeller's thinking challenging and encouraging. I ask unanimous consent that his address be printed in the RECORD.

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

THE ROLE OF BUSINESS IN AN ERA OF GROWING ACCOUNTABILITY

(By David Rockefeller)

I am grateful beyond measure for the honor which the Advertising Council has conferred on me this evening.

To be singled out for recognition for public service to the country and to one's fellow citizens is a distinction I shall cherish for a long time.

To be honored by an organization whose enterprising leadership in public service is as well known and widely respected as that of the Advertising Council, makes the award doubly gratifying.

Beyond these considerations, I must confess to deriving great personal pleasure from the fact that recent recipients have included such close and respected friends as Jack Connor, who headed the Dinner Committee that arranged tonight's very pleasant affair, and Jim Roche, who was feted here a year ago.

Frankly, I admire the Advertising Council's extraordinary courage in presenting an award, at this particular time, to anyone associated with business and banking. If I judge the temper of the times correctly, the Council might have won greater acclaim—in some quarters—by fashioning its silver in the form of a brickbat instead of a bowl.

Even in the Christmas toy departments, business seems to have suffered at least a minor setback in semantics. Where once the game of "Monopoly" dominated the counters, we now find a proliferation of new ones with such topical names as "Smog: The Game of Environmental Awareness," and "Extinction: The Game of Ecology."

That's hardly a progression to inspire confidence—from "Monopoly" to "Extinction" in one generation!

Of course, criticism of business is not a new phenomenon. It has always existed and probably always will. Businessmen can truthfully say with Sir Winston Churchill that we have "benefitted enormously from criticism and at no point have we suffered from any perceptible lack thereof!"

But it is scarcely an exaggeration to say that right now American business is facing its most severe public disfavor since the 1930's. We are assailed for demeaning the worker, deceiving the consumer, destroying the environment, and disillusioning the younger generation.

Recent trends in business criticism differ from the Populist-Progressive-New Deal attacks of the past in certain significant respects that could have a profound bearing on the future role of business in our society. All of us who support the Advertising Council are concerned with this role and with the public accountability of private business. So I would like to direct my remarks this eve-

ning to some of the deeper implications of the current climate of criticism and what business can do about it.

In keeping with the passions and polemics of our time, it is tempting for businessmen to react by striking back at their critics, matching them invective for invective. Tempting, I say, but hardly very fruitful if the rebuttal stops there. A far more productive course, in my view, would be to keep our own activities constantly under scrutiny to anticipate criticisms that may have validity—and some of them have—then determine what we can do to meet them. To cry "Foul!" almost as a reflex action is to risk impairing our credibility for those occasions when we need it most.

It seems to me that recent attacks on business differ from those of the past in at least three major ways—in focus, in ultimate aim, and in scope. If the business community is going to meet these challenges effectively, it must understand the differences and face up to them realistically.

When I say that present day criticism differs in *focus*, I refer to the fact that earlier attacks concentrated primarily on size. Corporations were efficient enough, it was said, but they were too big and should be broken up. Bigness became synonymous with badness.

Today's criticism focuses not so much on size as on performance. One frequent charge is that through their performance, corporations are making our communities dirtier, more polluted and less congenial. Another, that in performing their day-to-day activities, corporations are too heavily oriented toward profits at the expense of service to the community. Still another, that corporate performance is often to be flawed because minorities don't participate equally, because waste goes unchecked, and because output is sometimes unfit for human use.

Business must respond to these criticisms, in my judgement, through consistently better performance effectively communicated.

I have purposely put better performance first and effective communications second. I suspect that the professional communicators among you are tired of being lectured on the theme that business has the greatest story in the world to tell if it could only communicate more effectively. You're tired of hearing this and I don't blame you. More often than not, I fear the problem is not so much with communications but with performance. The essence of developing a favorable reputation lies not in trying to tell a good story when the performance does not justify it, but in upgrading the performance so there will be a good story to tell.

John Hersey put this succinctly in his book, "Letter to the Alumni" in which he tells about his experiences as master of one of the residential colleges at Yale.

"The vast majority of young people," he wrote, "believe that greed is at the root of the misery in the world, and that most businesses systematize greed. No professor could possibly lecture that conviction out of students' minds," he continued, "because there are too many demonstrations of the truth of it on the part of American businesses—and labor unions. If American business could persuade young pepole (public relations would not persuade; only performance could persuade) that careers in business would enable them to relate and to help, then they would flock into business. Until that day," Hersey concluded, "they will flock into every available avenue of social service, politics, reform and revolution."

Business would do well, I think, to reexamine its performance in light of this sobering assessment. For example, what about the opportunities in business "to relate and to help" on community problems?

I realize, of course, that many corporations are working energetically to prevent urban deterioration, to train and place the hard-core unemployed, and to minimize pollution. But have we made these an integral part of our business activities, or are they regarded as simply a costly "extra" that can be readily dropped at the first sign of economic stringency?

On this score, surveys reveal a wide difference in perspective between the business leadership and the community at large. The businessman sees urban affairs involvement as one in which he has a choice. He is inclined to feel that it is a generous gesture on his part, an effort in which he may or may not involve himself and his company, depending on alternative ways of spending his time, money and energy.

The community, on the other hand, sees the businessman's involvement in urban affairs as an absolute obligation he assumes when he opens the doors of his enterprise, and it is increasingly insistent on holding him accountable for his social as well as his economic performance.

In view of this, I think business should step up its efforts to devise incentive systems which will lead more private firms to serve public needs while at the same time making a profit. Encouraging steps in this direction have been taken in experiments with what has come to be known as "performance contracting." The most significant example is in the field of education where private companies have taken over public classrooms in some thirty cities, have tried out novel teaching methods, and have been rigidly judged on the results. In Gary, Indiana, test sources for the most comprehensive project to date, confirm preliminary reports from other schools, showing that the technique can produce notable educational gains.

If private businesses could work out a sound basis on which they could get into the field of public-problem solving, I'm convinced that they would not only contribute creatively to solutions, but would also respond in the most dramatic way possible to the critics' charge that business is failing "to relate and to help" in community service.

A second difference between business criticism, past and present, lies in its ultimate aim. Earlier critics, for the most part, aimed at reforming business within the capitalist framework. Many of today's critics—not all, to be sure, but many—appear to feel that the system is beyond reform, and that the only solution is to destroy the capitalist framework and start all over again.

One radical critique describes capitalism as "highly destructive, wasteful, exploitative and irrational." It stridently proclaims that "we can only solve our social problems and create the Good Society by doing away with capitalism and the institutions that support it."

Considering the seriousness and growing prevalence in some quarters of this attitude, it seems to me that businessmen have no choice but to respond by becoming reformers themselves, making a conscious effort to adapt the operation of the market system to our changing social, political and technological environment. The question really comes down to this: Will business leaders seize the initiative to make necessary changes and to take on new responsibilities voluntarily, or will they wait until these are thrust upon them by law?

Here we can profit from hindsight. During the 1930's when the social contract, binding business to society, was being extensively rewritten, the business community resisted innovation and wound up with some unpalatable reforms and a blemished reputation. Now with the social contract again up for revision, new social and environmental problems are generating increasing pressure for further modification and regulation of business. By acting promptly, business can assure itself a voice in deciding the form and content of the new social contract. By taking the initiative, it can contribute technical competence, rational analysis and imaginative innovations to the process of adjusting our system—but it must recognize that some adjustments are inevitable. Even now, the outlines are becoming discernible.

In certain areas, there may have to be new laws to force consideration of the quality-of-life dimension so that the more socially responsive firms will not suffer a competitive disadvantage at the hands of others who refuse to aid voluntarily. Businesses are likely to find themselves prodded persistently by governmental edict into concerted action on pollution.

The allocation of scarce capital to meet social needs, even at the expense of greater economic efficiency, is another area that will come in for attention. Unless business and finance take the initiative in this area, government may decree that a businessman must be concerned not only to find the quantity of money he requires but also to obtain specific authorization to use the funds in the manner he proposes. Investment projects not sufficiently high on the "social agenda" may have to pay a premium or wait in line for approval. There are already prominent members of Congress who would favor precisely this kind of directed investment.

In a related field, it can be anticipated that a more knowledgeable public will demand a higher level of marketing ethics than has always been evident in the past. Among the advertisers of the future there may well be large consumer groups, specifying what they will accept, and inviting businesses to meet their specifications. Is is not unthinkable that advertising agencies may directly serve these consumer groups to help make known their wants.

Because of the growing pressure for greater corporate accountability I can foresee the day when, in addition to the annual financial statement, certified by independent accountants, corporations may be required to publish a "social audit" similarly certified. In anticipation of this, businesses should begin now to seek ways of reflecting in their accounting procedures their concern for the less tangible elements of the quality of life.

In view of the emerging demands for revision of the social contract, a passive response on the part of the business community could be dangerous. Any adaptation of our system to the changing environment is far more likely to be workable if those who understand the system's problems share in designing the solutions. So it is up to businessmen to make common cause with other reformers—whether in government or on the campus or wherever—to prevent the unwise adoption of extreme and emotional remedies, but on the contrary to initiate necessary reforms that will make it possible for business to continue to function in a new climate as a constructive force in our society.

Not only does present-day criticism differ in focus and ultimate aim from that of the past, as I've tried to point out, but it also differs in scope. Where earlier attacks concentrated on one or two industries, today virtually all industries find themselves being raked with scornful broadsides. Consumerism is equated in the public mind with the idea of the individual against business—all business.

Contrast this with earlier waves of criticism. In the Granger Era, for instance, the railroads were the chief targets. During the Great Depression, the banks and Wall Street were the whipping boys. But today all these and more are under simultaneous assault, so all must join in the response. Isolationism can be as disastrous in business as in foreign policy.

In dealing with critics, I think all businesses would do well to keep in mind the words of Justice Oliver Wendell Holmes, a master of judicial summation. "We must sail sometimes with the wind, sometimes against it," he said, "but we must sail and not drift or lie at anchor."

The urban affairs "pilot projects" initi-

ated by a number of individual companies have been very much worthwhile, and have taught us valuable lessons about what can and cannot be done with limited resources. But the need now, as I see it, is for more massive collaboration by groups of corporations in diverse fields to tackle some of those major problems that surpass the resources of a single company. Businesses must learn to create consortiums to achieve social objectives so as to surmount their fears of inadequate effort, unsophisticated effort and effort exploited by free riders.

One area where they could be immensely helpful would be in the development of new towns, satellite cities and new towns within existing cities to accommodate the 75 million more Americans who will be with us by the year 2000. It is recognized that the bulk of the new growth will come through expansion of existing communities, but a significant supplement could come through newly created towns and cities. About a dozen of these new towns are now being built, but the need is estimated not in the dozens but in the hundreds if we are to provide adequately for the well-being of our additional population without worsening the problems of existing cities.

To build the number of new towns needed will, I believe, require two things: first, a new federal agency or an existing agency endowed with new powers for planning and obtaining sites in cooperation with the appropriate local authorities; and second, a private or quasi-public organization to provide the pre-development financing. As I envisage it, this might be a new kind of community development bank offering long-term bonds that would make possible full evolution of a new town.

The opportunities for broad business participation in such an undertaking are numerous. For example, banks and insurance companies could further the new town concept by purchasing their share of bonds to provide the initial capital. Industrial corporations could help by considering new towns as sites for the expansion of their facilities, thus providing the economic base and job support so essential to development. Beyond this, companies interested in land development could form a consortium to build a town once a site had been selected and could participate in the venture as co-sponsors.

If the business community can respond to criticism in active ways such as these and then relate the story of its successful performance, I think we can win over the majority of citizens and convince them that we are contributing constructively to the building of a better society.

By first recognizing that today's criticisms are different in kind from those of the past, we can then map out more intelligent approaches to meet them. As I see it, these new approaches should take into account the need for consistently better performance effectively communicated; the need for businessmen themselves to become reformers; and the need for all business enterprises, not just a few, to participate in the effort.

Since the early writings of Karl Marx, critics have been predicting the demise of the corporation and the downfall of the American business system. Thus far these predictions have not come to pass because through the years the American corporation has proven remarkably resilient in adapting to changes, and I am confident that it can and will demonstrate equal adaptability in the decade of the Seventies.

In my view the most successful companies, in the future, will be those that are creatively concerned not only with increasing the nation's wealth but also with enhancing the people's welfare.

Mr. THURMOND. Mr. President, citizens band two-way radio is a system which has many multiple and worthwhile uses among amateur operators across our Nation. Besides serving as an interesting form of entertainment, this two-way communication has many useful services relating to emergency communications in the event of accidents or natural calamities.

The popularity of the citizens band radio is well established by the fact that nearly 2 million licenses have been issued by the FCC.

It is becoming clear to experts that the current class D citizens band will soon become too overcrowded to fulfill demands that will be placed upon it. There has been a proposal for a new class E citizens band. It appears that this proposal has some merit.

An article published in the February 1972, issue of Popular Electronics goes into this matter in some detail. Because this article offers more detailed information on this subject, I submit it for the consideration of Senators.

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:

CLASS "E" CB OF THE FUTURE?

Back in 1958, the Federal Communications Commission recognized the need and the right of individual citizens to have the safety and convenience of personal two-way radio. And so, it established our current class D Citizens Radio Service at 27 MHz. In past years, citizens radio has grown beyond the wildest dreams of those who created the service. Somewhere around 1,800,000 licenses have been issued with about 900,000 currently active.

As the number of CB users continues to grow, it becomes increasingly clear that more channels—beyond the original 23—are required. It is this very real need that has led many individuals and groups to present countless proposals to the FCC for its consideration.

Last year (see "Communications," POPULAR ELECTRONICS, September 1971), the Citizens Radio Section of the Electronic Industries Association recommended the establishment of the class E Citizens Radio Service at 220 to 222 MHz. It should be stressed here that the new proposed class E service would be in addition to the present class D service. Briefly summarizing the EIA proposal, the new service would utilize a relatively unused portion of the amateur 220–225–MHz band, and would provide 80 new channels. Industry sources indicate that 80 channels would provide uncrowded operation for a minimum of 2.5 million licensees.

Power output to the antenna would be limited to 25 W, with special public safety agencies permitted to license a base station at 100 W output to the antenna when using this band to assist in public convenience or necessity for safety. Antenna height would be limited to 20 ft above the nearest man-made structure or natural object within 500 yards; or 60 ft above the existing terrain (whichever is higher).

The proposal suggests guidelines for the specific use of channels for various applications, such as highway communications assistance, home-to-vehicle, car-to-car, etc. The basic reason for such recommendations is to guide the service in an ordered growth, foreseeing potential requirements.

What would it be like to operate on class E CB? First of all, a class E CB system is intended to be—and definitely is—a short-range system. Range would be 10 to 20 miles mobile-to-base depending upon antenna height, location, etc. At 220 MHz communications range is essentially limited to line of sight. Skip communications and skip interference would be non-existent in the class E service. Communications quality and range would be very consistent since atmospheric conditions have little effect on 220-MHz propagation. Also almost non-existent on class E would be man-made interference (often found on class D) caused by such things as ignition noise, diathermy, and other industrial radiations. To summarize, if you've ever heard a very good police communications radio system, class E CB would be very similar in performance.

Is Class E right around the corner and what will equipment cost? No one can really answer that question. Too many factors are involved and too many details still require further analysis and discussions by the FCC. Best industry estimates put the proposed service at least a year away even if immediate rule making were to take place. It takes a while to put the machinery together for such a significant step in personal communications.

If you're currently considering getting into CB, take a close look at the present class D service which will admirably serve the CB'ers needs for years to come. Equipment in the $100 class is quite common in Class D. It is estimated that class E equipment will be in the $250–$300 rank when it is introduced. Manufacturers anticipate that it will take two or three years after the establishment of class E before unit volume will enable cost of radios to drop to $100 or $150. You may find that class D is the low-cost way you'll want to go or perhaps you'll choose to wait for class E. There's also much talk on the air by people who want both!

TRIBUTE TO SENATOR MONDALE

Mr. HARRIS. Mr. President, it is perhaps the mark of our critical national mood that when we see favorable articles about a public figure we usually suspect the hand of the politician's own press secretary. But the New Republic for December 25, 1971, contains an article on an outstanding Senator that was as laudatory as it was deserved. There is no cause for skepticism.

Entitled "Mondale of Minnesota," the article is both accurate and sympathetic in its portrayal of a brilliant Senator, close friend, and promising national leader.

In the U.S. Senate only 7 years, WALTER MONDALE has moved quickly to establish himself as one of the most resourceful Members of this body. This year he coauthored one of the most important pieces of legislation to emerge from the Congress in years, the day-care bill which President Nixon mistakenly and tragically vetoed.

Senator MONDALE's solid reputation is explained by his outstanding work in this body. Members of both parties have learned that when he takes the floor, they may expect, as a matter of routine, well researched, penetrating analyses, whether the issue is child welfare, foreign affairs, or any other matter. Moreover, they know that an issue will not be dropped once the glare of publicity fades; for when Senator MONDALE champions an issue, real work then begins.

I ask unanimous consent that this excellent article about one of our most

talented colleagues be printed in the RECORD.

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

CHAMPION OF POWERLESS PEOPLE—MONDALE OF MINNESOTA

(By Robert Coles)

Minnesota in recent years has done rather well in Washington. Within the past three years two of the state's sons have joined the Supreme Court, one as Chief Justice; and in 1968 the state's two senators fought for the Democratic presidential nomination. Hubert Humphrey and Eugene McCarthy were sent to Congress and kept there by the people rooted in the Granger movement of the 1870s, in the Farmers Alliance and the Populist Party, in the effort of small landowners and workers of the Midwest to fight the economic and political power of Eastern banks and corporations. Both parties in Minnesota have responded to that popularist tradition: the Democrats with men like Humphrey and McCarthy; the Republicans with men like Charles Lindbergh's father, a strongly progressive congressman from the state's sixth district, former governor Harold Stassen, and most recently, former senator Edward Thye, who back in the forties and fifties was a vigorous internationalist, a champion of federal aid to the country's colleges and schools, an enemy of racial segregation.

Walter F. Mondale took over Hubert Humphrey's seat in the Democratic landslide of 1964. He was then 36, had been attorney general of Minnesota, and before that active in the state's Democratic and Farmer-Labor parties, which successfully bring together (in contrast, say, to what happens to Nebraska or Indiana) the workers of St. Paul and Minneapolis and Duluth and the rural people who predominate in the hundreds of villages and small towns that stretch from the Iowa state line to the Canadian border.

Right off Senator Mondale showed his inclinations. He chose, out of a number of possibilities, membership on the Senate's subcommittee on Housing and Urban Affairs. He has since joined an interesting group of subcommittees which do not have the political clout and power of the Judiciary Committee or the Armed Services Committee but have insistently and skillfully revealed how very much needs to be done if a wealthy United States is going to be just and free. The names of the subcommittees tell a story of our continuing difficulties: Migratory Labor, of which the senator was for a time chairman; Education; Employment, Manpower and Poverty; Indian Education; Labor; Retirement and the Individual, of which he has been the chairman; Housing for the Elderly; Consumer Interests of the Elderly; Health of the Elderly; and finally the Select Committee on Nutrition and Human Needs and the Select Committee on Equal Educational Opportunity, of which he is now the chairman.

Mondale is an active, outgoing, attractive, and unusually intelligent man, who does not need legislative aides and administrative assistants to tell him what to say, what to do, or how to vote. His concerns are not shared by powerful lobbyists, or members of the military-industrial complex—all of whom have other things to do than worry about how, for instance, thousands of migrant children get along as they are dragged all over America, and at 10 or 12 or 13 set to work picking crops. "I am concerned with powerlessness," the senator begins bluntly when he speaks to a visitor, and he goes on to say what he has said for the record many times in the course of hearings held by his subcommittee on Migratory Labor: "I don't believe the American people really know just how impoverished and hungry and above all, powerless so many of their fellow citizens are—not only in the urban ghettos, but in the rural areas, where migrants like the people I've heard testify before our committee live by the hundreds and hundreds of thousands. They move all over. They belong nowhere. They don't vote. Often their children don't even go to a school. It's a disgrace, and it's even *more* of a disgrace that the public doesn't know what's going on, because such conditions are not considered 'news.' These people just go on being exploited. They are paid less than other workers and they do the hardest work imaginable. I have tried to find out for myself how migrants live, and I want to help them—*really* help them, not urge band-aids for the deep wounds they have. It's easy to disguise the problem and talk about 'increased benefits' for them. Sure they need medical care and schools that even half take notice of their children; but the real problem is that migrants (and maybe a lot of other people, too) are *powerless*, which means they have no real say in what happens to them. They don't get the protection of a whole group of laws we enacted in the thirties to protect the working man, to guarantee him collective bargaining rights and a minimum wage and unemployment compensation and all the rest. This committee's job is to document all that."

Mondale knew about migrant workers long before he came to the Senate. As a youth he worked his way through college in canning factories and out in the rich farmland of Minnesota, where he saw first-hand how migrants live. He lived with them and eventually began to organize them: "That was something you don't forget. I guess every working man has heard those kinds of stories, even if now most workers have unions, which prevent such practices. I'll never forget how quickly it all happened: we asked for better wages, and a little money to tide us over, because the summer was unusually wet, and the crops couldn't be harvested for a while and the migrants were left sitting around with no money, nothing. The next thing we knew they were all packed up and shipped South, like so much bad merchandise. They were "troublemakers," and I guess I was too, for trying to organize them. We didn't get far that summer, but you have to keep trying. My father was a Methodist minister, and when I was a boy he taught us to care, to be concerned about social problems, and not to give up easily. We were fortunate to be in a state like Minnesota. In the finest of the small towns—in Ceylon, for example, where I was born—people are ultimately affected by the way Americans live up a hollow in Appalachia or on an Indian reservation or along that Mexican border of ours."

The senator has seen what goes on along the Mexican border. At six in the morning one day a couple of years ago he had been watching Mexicans cross into Southern California for hours. Finally a US Customs official told him to "get out of here." Mondale looked like a tramp, or a troublemaker. He had on khaki pants and an old sweater and a sports shirt. When told to leave he refused. He was then asker to identify himself. The long lines of Mexican nationals were then stopped, and their credentials checked. The senator has no illusions, however, that anything short of new laws will stop what he describes: "At one in the morning they start crossing the border, and at two in the morning American farm foremen start signing them up on the streets of those border towns. By three you can see the buses and trucks driving farther into California or Texas, and by five or six they're working. You can't blame the Mexicans; they get 20 or 30 cents an hour in their own country, and I met some in our country working for 60 or 70 cents an hour, way below the minimum wage. What it all amounts to is very simple: American farm workers are undercut—in several ways. Their wages are undercut by foreign labor; just as important, they can't bargain with owners when all the owners have to do is bring in hungry, docile, frightened Mexican workers. The problem of the migrant workers won't be solved until we close that Mexican border to imported, underpaid farm labor. No union in America could survive that—the use of foreigners by a company whenever it finds domestic workers too 'demanding.' And now Mr. Nixon and Mr. Mitchell have emphasized that they will try to close the Mexican border all right—to drugs."

Mondale has marched with California's United Farm Workers to the Mexican border in protest against the hiring of Mexican labor to break the strike Cesar Chavez and his men worked so long and hard to make effective. He has traveled to Alaska in order to see first-hand how Indians and Eskimos live, or rather, barely survive. He and his wife have gone on a "welfare diet," eating only what poor people on welfare can afford to eat: "I went on that diet and I went to the border to see, to feel, to *be there*, to experience what is going on, rather than read about it. A lot of people, well-meaning people, never know how it really goes for the poor—down along the Mexican border, or in the cities or out in the countryside, too. That's why I've wanted to take our Senate investigations out of Washington—and also, bring the workers themselves to the hearing rooms of government buildings. It's very hard, though; you hear heart-breaking testimony, and you wonder how the public can be told about what you and your staff have found—how these very poor and hurt people live and try to get by, against overwhelming odds. And, of course, you try to get laws passed that will help them."

Mondale's office has in recent years sent out one after another remarkable law to the Senate floor. He sponsored the bill, vetoed December 9 by President Nixon, to create an effective "child development program," one that would commit billions of dollars for "needed health care, nutritional aid, educational assistance, and social services." (The text of the bill provided a long and first-rate description of what hunger and poverty do to children psychologically and physiologically.) He has asked for an annual "social report" that would do for health and education what has long been done with the nation's business and commerce by the President's Council of Economic Advisers. He has proposed that the various legal services programs for the poor be given much more money and the kind of organizational and administrative protection they will need if they are to continue working for penniless clients, who have complaints against people rich enough not only to hire good lawyers, but exert all sorts of pressures on governors, congressmen, and the White House. A while back he went to Vail, Colorado, during the Senate's August vacation, to meet with some hundred lawyers from local offices of the OEO's Neighborhood Legal Service Project who feared that offices set up to help Navaho Indians, migrant workers in Florida and California, and ghetto residents were in serious jeopardy.

On Vietnam, Mondale is candid "I came to the Senate in 1964 and didn't know much about Asia and Vietnam, like many others here in Washington at that time. I supported the President at first. In all honesty I think I was wrong, and over the past few years I've said why. I guess I began to wonder what was *really* going on there in 1966, and that's why I went to Vietnam then. I became more and more concerned as I listened to the growing dissent of people I respected very much. I eventually became totally convinced that this country has been terribly hurt by that war; not only have we lost men and wealth, but our whole sense of what is and is not important has been affected for the worse. In recent years I have spent hours with students all over the

country, and I believe I've heard and responded to their message; they see us in a moral and political swamp, full of corruption, intrigue, and worse. I think over time a lot of us came to see that—but it took us too much time, much too much."

He worries about the future. Are we headed for years and years of conservative rule, with high military budgets and stingy, if well-advertised domestic expenditures for what he calls our "human needs"? He can range wide and eloquent on the subject: "I don't believe the people want a stop to the progressive legislation we've put through since 1933. Yes, you have the backlash, and the fear of the ordinary worker that he's being left out. He is, too. He needs more efficient and less expensive—less ruinous, if the illness is serious—medical care. He needs to be protected from fraudulent advertising and from products that are useless or dangerous. He deserves a tax system that gives him as much consideration as the oil industry or a millionaire who somehow ends up paying nothing to the government every April 15. I've talked in union halls, to steelworkers, to men and women who work hard all day and try desperately to make ends meet and have a little left over for a vacation or maybe some repairs on the house. They're not fed up with the thought of more social legislation.

They know what they want and need. I'll start talking about some of these problems and they won't let me go. The problem is that we've talked a lot about changing things, about fighting poverty and improving our national life—but we've voted a pittance of money to achieve these goals. Then we turn around and say the people are 'fed up,' and of course they are—at a lot of words that aren't backed up by concrete, well-subsidized action. I hear that there's a new majority and that they can be brought together on negative promises: we won't bother you on school desegregation; we won't ask you to do this or that for the next guy. People will get wise to that kind of appeal after a while. They can be scared and frustrated, but if my party keeps saying what it's for, not against, the majority of the American people will listen, as they have in the past."

Mondale keeps on trying: "Three minutes after we launched our men to the moon from Cape Kennedy I banged the gavel here in Washington to open hearings on the miserable conditions of the blueberry pickers in eastern North Carolina. I was proud to be in Washington that day, holding those hearings. The pickers were out on strike, and we thought we should listen to their complaints. Perhaps we belong on the moon, but we surely belong there, in North Carolina, aiding such workers—belong there with all the resources the nation could mobilize, if it only wanted to do so."

There are times when the mind dreams of what it would be like if an effective majority of the Senate shared Senator Mondale's concerns, and if the President of the United States did, too. One can also wonder how the American working man would respond to a presidential candidate like Mondale. But most senators like him, senators who carry on the populist tradition, stand little chance of heading a national ticket. They are apt to be without means, they speak too bluntly, they show a deeply felt compassion that gets them nowhere with lobbyists and tends to turn off many of those rich "backers" who decide for their own reasons whether a candidate will ever have a chance to get going and stay going.

U.S. EXPROPRIATION POLICY—SHORTSIGHTED

Mr. KENNEDY. Mr. President, I invite the attention of Senators to the recent Presidential pronouncement concerning expropriations of U.S. private companies abroad.

I believe that the editorial in the Washington Post aptly characterized the policy as shortsighted. Instead of additional fuel to the charges by developing nations that the interest of the United States is primarily one based on the private interest of foreign investors, we should seek to divorce Government policy from private interests. Our primary goals should be to encourage social and economic development of the low-income nations of the world as a fundamental prerequisite for political stability. The expropriation policy enunciated by the President works against these goals.

And in the general context of our relations with Latin America, this policy is viewed as an affront to independent nations. It will be resented by Venezuela or Costa Rica as much as by Chile. For these nations naturally object to the President deciding that it is not in their interests to nationalize any American company.

The action by the President reflects an accommodation with the corporate interests of the United States, an assurance that the administration will stand with them, regardless of their past activities, against the decisions of Latin American governments.

This announcement by the President is merely another indication that there exists at the White House a disturbing lack of understanding of the forces at play in Latin America. From the original decision to send Governor Rockefeller on a study tour through Latin America to the imposition of the import surcharge last August, and now to the current expropriation announcement, there has been a demonstrated absence of interest and absence of understanding of the needs of the people of Latin America. I hope that attitude changes before it is too late.

The expropriation decision also contained a disturbing change in U.S. policy toward multilateral institutions. As part of the economic retaliation against a nation which expropriates U.S. companies, it is now to be our policy to oppose those nations' development loan requests in multilateral institutions.

I find this policy decision particularly disturbing. It implies that multilateral agencies such as the World Bank and the Inter-American Development Bank are our tools to wield however we wish. It directly conflicts with the President's previously expressed view that we should be seeking a partnership with other nations in multilateral development efforts.

I ask unanimous consent that articles in the New York Times and the Washington Post concerning the President's decision be printed in the RECORD at this point, as well as the Washington Post editorial which aptly cites the negative consequences of this policy.

Also, since this decision obviously was prompted by the recent events in Chile, I would ask unanimous consent to have printed in the RECORD the commentary on the Chilean expropriation by a group of Rutgers University scholars.

Also, I would urge that a short treatise on the question of private foreign investment and the need for alternative strategies, a study by Prof. Albert O. Hirschman, be printed in the RECORD.

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

[From the New York Times, Jan. 20, 1972]

NIXON ANNOUNCES TOUGH U.S. STAND ON EXPROPRIATION

(By Robert B. Semple, Jr.)

WASHINGTON, January 19.—President Nixon announced today that the United States would now follow a tougher attitude toward foreign countries that expropriate private American holdings without adequate and swift compensation.

He said in a statement that foreign countries could assume that the United States would refuse to make any new aid agreements with them unless they were taking "reasonable steps" to provide just compensation, or unless there were other factors that in the judgment of the United States required the continuation of aid.

The statement, issued at the White House, appeared to be directed largely at several Latin-American countries that have nationalized United States investments.

INTERNATIONAL LAW CITED

The key passage declared:

"Under international law, the United States has a right to expect that the taking of American property will be nondiscriminatory; that it will be for a public purpose; and that its citizens will receive prompt, adequate, and effective compensation from the expropriating country.

"Thus when a country expropriates a significant United States interest without making reasonable provision for such compensation to United States citizens, we will presume that the United States will not extend new bilateral economic benefits to the expropriating country unless and until it is determined that the country is taking reasonable steps to provide adequate compensation or that there are major factors affecting United States interests which require continuance of all or part of these benefits."

For the first time Mr. Nixon set forth a systematic Presidential view of expropriations. Officials said that until now most expropriations had been handled case by case without general guidelines.

The new policy represents a compromise between the positions taken by John B. Connally, Secretary of the Treasury, and the State Department. Mr. Connally had wanted an automatic cutoff of United States loans to countries that take over private foreign holdings without prior settlements. The State Department had wanted more flexibility.

Economic retaliation will not be automatic, as the Treasury had hoped, but the new policy includes the threat of eventual retaliation if the expropriating country fails to move quickly to provide compensation.

Peter C. Peterson, the President's foreign economic adviser, who briefed newsmen, said that the policy should also "accelerate decisions" on expropriations and presumably those decisions would be to withhold funds.

The State Department got the flexibility it wanted, however, in Mr. Nixon's language permitting aid to continue if other "major factors"—that is, national security—were considered more important than prompt and fair compensation. The State Department had argued that an approach that was too tough would jeopardize American foreign policy interests for the sake of a few investors.

The statement also said that to strengthen its bargaining position with nations that expropriate American-owned companies, the United States could be expected to "withhold its support from loans under consideration in multilateral development banks."

This was a reference to the World Bank,

the Inter-American Development Bank and other international lending institutions in which the United States, because of its large contributions, wields great influence. In the case of the Inter-American Bank, its influence permits it to veto long-term, interest-free loans to countries of whose policies it disapproves.

The statement said that the new policy would not apply to "humanitarian assistance"—earthquake and famine relief, for example. And Mr. Peterson emphasized that any cutoff in aid would not apply to funds already obligated, but to "new requests."

The debate within the Administration that finally produced today's statement began after several Latin-American countries, including Chile, Peru, Ecuador and Bolivia, expropriated private foreign holdings of which the United States share is estimated by its owners to be worth between $500-million and $1-billion. A large part of this is accounted for by the holdings of three major copper companies—Kennecott, Anaconda, and Cerro—seized by Chile.

In his statement, Mr. Nixon voiced strong belief in the value of foreign aid, especially to less-developed nations. But he suggested that the chief victim of expropriation was not the United States but the country that stood to lose American investment—both public and private—because of its actions.

Mr. Nixon said that "the wisdom of any expropriation is questionable," but he did not deny the right of a nation to take such action.

Mr. Peterson readily conceded in his briefing that the Administration hoped the new policy statement would head off mounting sentiment in Congress for "mandatory withholding" of aid. And Mr. Nixon, in his statement, made an appeal for more Congressional support for the United States contribution to the Inter-American Development Bank.

"Our contributions to this bank represent our most concrete form of support for regional development in Latin America," he said. "While the Congress did approve partial financing for the bank before the recess, it is urgent that the integrity of this international agreement be preserved through providing the needed payments in full."

[From the Washington Post, Jan. 20, 1972]

PRESIDENT WARNS OF AID CUTOFF WHEN U.S. PROPERTY IS SEIZED

(By Carroll Kilpatrick)

President Nixon announced a new and tougher policy yesterday against nations that expropriate U.S. property without paying compensation.

He said that in most cases the United States will approve no new economic aid to nations that expropriate American property without reasonable compensation.

He also said that the United States will oppose the granting of loans to those countries by such international agencies as the World Bank.

The new policy statement is aimed particularly at Latin American nations and it is designed to answer congressional critics who have argued that the administration has not followed a clear line in dealing with the problem. Officials acknowledged that the new policy statement would not be a panacea, but they said it would act as a warning to nations considering expropriation. They said that it should influence some countries not to expropriate.

The new policy is not retroactive, so it does not apply to countries like Chile and Peru that have expropriated American property in recent years.

The President's aim in defining his policy more clearly is to remove some objections in Congress to foreign aid. The expropriation question has become a major issue in Congress in foreign aid fights, with some congressment arguing that they could not vote for aid while recipient countries were expropriating American property.

Officials said that while the Treasury Department has consistently pressed for a tougher line than the State Department—which said no action here could stop a nation bent on expropriation—there was agreement on the final statement.

It was clear from the President's statement that overriding interests of national policy might allow for some exemptions from the stated policy. But he said the "presumption" is that the United States will grant no new economic aid and that it will oppose new loans in the international agencies when a country violates the principles he laid down.

"When a country expropriates a significant U.S. interest without making reasonable provision for such compensation to U.S. citizens, we will presume that the U.S. will not extend new bilateral economic benefits to the expropriating country unless and until it is determined that the country is taking reasonable steps to provide adequate compensation or that there are major factors affecting U.S. interests which require continuance of all or part of these benefits," Mr. Nixon said.

Peter G. Peterson, the President's assistant for international economic policy, said that in 1970 the U.S. had private overseas investments valued at about $78 billion, of which about $20 billion was in the less developed countries.

In 1960, Peterson said, over 35 per cent of American private investment abroad was in less developed countries but by 1970 only 28 per cent was in these countries.

The decline in the percentage of investment in the less developed countries, he said, was in part due to "a rapidly growing concern over investment security."

The President said that there was no argument over a country's inherent right to expropriate.

But he said that "such actions by other governments are wasteful from a resource standpoint, shortsighted considering their adverse effects on the flow of private investment funds from all sources, and unfair to the legitimate interests of foreign private investors.

"The wisdom of any expropriation is questionable, even when adequate compensation is paid.... Expropriations in one developing country can and do impair the investment climate in other developing countries."

To carry out his new policy, the President established an inter-agency group under the Council on International Economic Policy to review each case and recommend courses of action.

The final decisions would be made by him.

The Hickenlooper amendment to the foreign aid act requires that aid be cut off to expropriating nations, but the President may waive the suspension if he finds the national interest required it.

The amendment has been invoked only once, in the case of Ceylon, which expropriated property of two American oil companies in the Kennedy administration.

Officials said that the President's statement made more explicit than the Hickenlooper amendment the government's intentions.

"I announce these decisions because I believe there should be no uncertainty regarding U.S. policy," Mr. Nixon said. "The U.S. full respects the sovereign rights of others, but it will not ignore actions prejudicial to the rule of law and legitimate U.S. interest."

Peterson said it was decided that everyone would benefit by having "a clearer picture of our policy," one that "minimized ambiguity."

"If we are to reverse the downtrend in support of less developed countries, which we certainly want to do, we felt such a policy is a requirement as a way of gaining more congressional and public support in this country for increasing development support," Peterson said.

WARNING IS CRITICIZED BY CHILEAN PRESIDENT

SANTIAGO, January 19.—Chilean President Salvador Allende tonight citicized President Nixon's warning that the United States will take punitive measures against nations that expropriate U.S. property without compensation.

"I hope the majority of Chileans will repudiate without vacillating any attitude that would imply a trampling of our independence," the Marxist President told a news conference.

[From the Washington Post, Jan. 21, 1972]

THE WHITE HOUSE VERSUS LATIN AMERICA

Countries that don't pay "fair" compensation to American companies whose properties they nationalize are now on public notice that the United States will not only halt direct economic aid but will prevent them from getting aid through the World Bank and the regional development banks as well. Such is our new policy on "economic assistance and investment security in the developing nations," announced at the White House this week. What is means is: treat our corporations the way we want or we will use all our influence to stymie your development. A meaner and more short-sighted policy would be hard to conceive.

Latin America is the chief taregt. The other principal regions of American investment either don't get aid (Mideast) or pose no nationalization threat (Europe). Despite Mr. Nixon's pledge to shape hemispheric policies jointly with our Latin "partners," this one was done by unilateral fiat. It was done, moreover, despite the *treaty obligation* we accepted in joining the Alliance for Progress to participate in hemispheric development.

The policy apparently originated in the notion that, had we cracked down on Peru in 1968 when it nationalized an American oil company, IPC, instead of trying to negotiate a fair settlement, Chile would not have moved against American copper firms. This contention is unpersuasive. It ignores the fact that the IPC case has virtually been settled—to Mr. Nixon's credit. It ignores the further facts that Chile's nationalization impulse was profound and political and owed little or nothing to conditions elsewhere, and that Chile and like countries want not so much our aid as fair terms of trade. The reality is that in respect to oil in Peru, copper in Chile, bauxite in Guyana, and so on, we are dealing with the liquidation of politically obsolete foreign ownership of basic natural resources. No general threat to other types of investment in Latin America can be demonstrated; nor does the White House so pretend.

The White House claims it merely wants to appease Congress for purposes of having it vote more aid, but one suspects the largest stimulus to the new policy lies in situations in Venezuela and Ecuador. They made very big gas and oil deals with American investors at a time when the current sense of a world energy crisis was lacking. Now they see their bargaining position is improved and they want in effect to obtain better deals. But after all, they are not the first countries who, for reasons of national self-interest, have wanted to change the rules in mid-game. In precisely that spirit, Mr. Nixon last August unilaterally abrogated the 1963 Kennedy Round trade agreements and devalued the dollar.

The administration evidently hopes that by issuing this new clarification of policy, further expropriations and requests for renegotiation will be deterred. We suspect the results may be quite the contrary. Latin nationalists, not merely leftists, will quite properly be outraged. And Mr. Nixon may well end up harming those very American business interests he has undertaken to help.

CHILEAN COPPER NATIONALIZATIONS AND U.S. POLICY

(David Eisenhower and Dale Johnson, coordinators)

The United States is apparently headed toward a serious confrontation with Chile. The immediate issue is Chile's nationalization of the copper mines of Anaconda, Kennecott, and Cerro Corporations. In reaction to the threat to properties of American Corporations, the government of the U.S. has already begun to apply economic sanctions against Chile. The Export-Import Bank refused credits for Chile's proposed purchase of Beeing jets and our aid programs, previously reduced, are now suspended. The State Department and the President himself have expressed an attitude of hostility toward the Chilean government. A new, "tough" policy on nationalization is expected to be formulated soon. Further sanctions against Chile are probable and Chile will likely respond with retaliatory measures of her own in a continuing escalation of conflict.

Escalating conflict between the U.S. and Chile is avoidable only if the government of the U.S. adheres to the principles of nonintervention and respects the right of Chile to sovereignty over its own natural resources and to construct a socialist society. We offer this analysis in the hope that Americans of reason and good will become more conscious of the factors involved in the situation and energetically act to prevent U.S. corporations and government from pursuing a very dangerous course.

COPPER, CHILE'S WAGES OF TOIL

Copper has been Chile's principal export since the collapse of the world market for natural nitrates after the First World War. The benefits that accrue to Chile have been largely in the form of foreign exchange and tax revenues. Seventy-five percent of Chile's foreign exchange derive from copper. The enormous size of the operations—in recent years the mines have exported over 600,000 tons of copper annually—also involves large local expenditures for operating supplies. The mines employ about 18,000 workers who, after long and bloody labor struggles, are relatively well-paid. Nevertheless, these benefits are small in comparison to those derived by the American copper corporations. Since their establishment in the early part of this century, Kennecott and Anaconda have operated in the worst tradition of the "imperialist" corporation.

(1) The copper corporations have taken out billions of dollars in profits with minimal reinvestment of earnings to the benefit of the Chilean economy.

Foreign capital began extracting copper in Chile early in the century with an investment of $3.5 million. Since that time, the Chileans contend, foreign corporations extracting copper, nitrates, and coal have taken out $10.8 billion. This sum is more than the present value of the entire capital stock accumulated by Chile throughout long years of development efforts. The figure cited may be exaggerated, but it reffects a basic truth: foreign capital appropriates the wealth of Chile, while reinvestments or new investments by the corporations have been a fraction of total profits. According to the U.S. Department of Commerce, in the period between 1953 and 1968, U.S. mining and smelting operations in Chile (about 90% copper) earned $1,036 million while new investments and reinvestment of profits together totalled only $71 million. By 1969, 17% of Anaconda's total investments were in Chile, yet the corporation received 80% of total profits from Chilean operations. The "Chileanization" agreements reached with the previous government required the companies to double production between 1966 and 1972. But the only increase was in corporate profits which totaled $426 million for Anaconda and $198 million for Kennecott between 1965 and 1971. In 1967 and 1968 the return on U.S. investments in Chilean copper was 27% and 26%. In 1969 Anaconda had profits on investments of 39.5% and Kennecott 24.1%.

The profits involved in copper assume great importance because the Chilean government contends that Law no. 11,828 of 1955 establishes the right of Chile to define a fair rate of return on the investments of foreign capital which can be repatriated as profits. Considering a 10% annual return on investments as fair, the Allende government has determined that Anaconda and Kennecott took out $774 million in excess profits between 1955 and 1970. This capital is generated by the exploitation of Chile's natural resources and it is logical that Chileans strongly feel that these huge sums should be utilized for national development and not go to line the pockets of wealthy stockholders, or to enable the copper corporations to expand copper production elsewhere in the world which then compete with Chilean exports, or to invest in the corporations' copper manufacturing activities located in the U.S.

(2) They have exported copper ore to markets in the U.S. and Europe, resisted refining copper within Chile, and made no attempt to initiate the manufacture of copper products in Chile.

During the 1950's, the Chilean government insisted on smelting the ore in Chile. Up to 85% of exports then were refined copper. By the 1960's, only 40 to 45% of exports were refined copper. The Chileans estimate that this cost them over $100 million a year during this period. In this, as in other instances, the U.S. government backed corporate interests by imposing a tariff on the import of refined copper, with even higher duties on copper products. No duties are levied on the unrefined ore imported. In its loss of the refining process, Chile has also lost the industries developed from copper processing, such as sulfuric acid, as well as valuable by-products like molybdenite, gold and silver. This costs Chile additional millions each year.

In general, the copper monopolies realize profits on all facets of production. Their Chilean subsidiaries mine ore, refining part of it in Chile and more in the U.S., and sell in European markets or to America subsidiaries such as Anaconda's American Brass Company or Anaconda Wire and Cable Co. which manufacture copper products in 17 different plants in the U.S. There is very limited manufacturing activity using copper in Chile and none by Anaconda or Kennecott.

(3) The copper corporations have controlled and manipulated the price of copper to the detriment of Chile.

Until the nationalization, Chile had no control over the marketing of copper. The price at which Chilean copper was sold, export taxes computed, and foreign exchange earned was a "producer's price" set by the corporations. This price was consistently lower than the price quoted on the London Metals Exchange which reflects world supply and demand for the metal. The difference between what Chile could have gotten selling its copper in the best world markets and the producer's price has cost the Chilean economy hundreds of millions. The U.S. government has also acted to deprive Chile of its rightful earnings from copper. In 1966, for example, when the Vietnam build-up was well underway, the U.S. got Chile to sell 90,000 tons of copper for our strategic reserves at a price of $.36 per lb. when the producer's price was $.42 and the world market was at $.60 per lb. Such generosity on the part of Chile's Christian Democratic government was rewarded with an AID loan. The U.S. also stockpiles copper and sells it in times of supply shortages to keep prices from rising. A rise of one cent in copper prices means $9 million for Chile. During World War II and the Korean War, the government fixed the price of copper at artificially low rates. This hit Chile hard, but not the American copper corporations since what they lose in lower metal prices they gain back in reduced raw material cost for their manufacturing operations.

(4) The companies have subverted every effort of succeeding Chilean governments to gain reasonable advantages from the foreign exploitation of national resources.

During 1852–1955, Chile tried to gain greater benefits by requiring more refining in Chile, by widening markets, by imposing customs duties on imports used in mining operations, by maintaining special exchange rates to gain greater dollars from local operations of the corporations, and by increasing taxes on copper exports. The response of the copper monopolies to this was to hold back production in Chile and increase their activities in other countries. As a consequence, Chile's share in the world production of the metal dropped from 21% in 1948 to 11.6% by 1953–54.

In 1955, "New Deal" copper legislation was established which attempted to stimulate the corporations to increase production by lowering taxes and by a better exchange rate for pesos. Production did increase, but the benefits to Chile did not.

By 1964, an entirely new approach to copper was the principal issue in the presidential election which pitted Salvador Allende, candidate of the socialist left advocating nationalization of the mines, against Eduardo Frei, the Christian Democratic candidate with a program of "Chileanization." After Frei's victory, several mines were Chileanized through purchase of 51% of Kennecott's "El Teniente," 25% of Anaconda's new "La Exotica" mine, and 25% of Cerro's "Rio Blanco" mine. Anaconda at first refused to sell shares to its Chilean subsidiaries "Andes" and "Chilex", but in 1969—after wide recognition of the lack of benefits from Chileanization, Anaconda's failure to increase production as agreed, and other activities of the corporation—the Frei government made a last desperate attempt to remedy the situation through purchase of 51% of Anaconda's "Chuquicamata" and "El Salvador."

The principal aim of Chileanization was to increase benefits to Chile by increasing production. The companies were to double production by 1972 in return for decreased taxation and other advantages to the companies, new investment capital provided by Chilean stock purchases, government loans, and government-guaranteed loans negotiated with the Export-Import Bank and other U.S. financial institutions.

Incredible as it may seem, a $579 million new investment of borrowed capital between 1966 and 1970 failed to increase production significantly. The corporations accumulated $632 million in debts, without investing any of their own capital, in spite of the fact that Anaconda and Kennecott's profits increased substantially due to the Chileanization and rising copper prices.

President Allende has indicated that Chile will probably assume the debts incurred by the companies. However, this may depend upon whether the U.S. "gets tough." There is also increased questioning of the justice of assuming the debts in Chile as the full implication of the bad deal given to the country by the corporations is realized. The Controller General has also determined that Anaconda and Kennecott owe Chile $388.5 million, which Chile will have no way to collect save a refusal to assume the corporations' foreign debt obligations. However, the suspension of U.S. aid and dollar credits, as well as the recent drasic decline in copper prices, may make it difficult if not impossible to repay these debts under the existing terms.

(5) The mines have been left in a condition of general disrepair, creating production problems and need for large expenditures to get the mines in shape.

In 1971, a team of ten engineers from a French technical consulting firm carefully survey the mines and prepared a report on their condition. The report, collaborated

by a team of Soviet engineers, spelled out in detail an appalling picture of neglect, mismanagement, and corporate irresponsibility. The mines, especially Anaconda's Chuquicamata, exhibited glaring deficiencies. These include: poor construction of new plant, including use of inferior materials, badly planned roads, and failure to provide for adequate water; negligent installation and maintenance of equipment; widespread unsafe and unhygenic working conditions; sabotage of future production caused by such practices as leaving dross on top of deposits yet to be mined; inferior or nonexistent training of Chilean technicians.

This is by no means a complete inventory of the means by which the copper monopolies acting as imperialist corporations, and enjoying the support of the U.S. government, have essentially sacked the national wealth of Chile for sixty years. The facts cited seem to us sufficient to justify nationalization of the mines. It is a matter of historic justice for a poor country long exploited and manipulated by monopolistic giants.

Moreover, no compensation is due. In fact, the finding of the Controller General that the copper corporations owe Chile $388.5 million seems to us to be reasonable in view of the facts of the case.

FOREIGN DEPENDENCE AND NATIONAL DEVELOPMENT

Corporation executives, government officials, and many other Americans believe that foreign investment is indispensable for development in Third World countries. The nationalization of foreign enterprise is consequently viewed as an irrational political act which will have adverse economic effects. Although this is no more than a rationalization for the promotion of the interest of private foreign capital, it is adhered to as a rigid dogma.

Nationalists in Chile and other underdeveloped countries, on the other hand, contend that development requires control of the resources of the country and control of the decisions as to how and to whose benefit natural resources are to be exploited. Proceeds from the exploitation of resources, they argue, should be retained within the economy and used to reduce the excessive dependence upon primary exports that historically has been the key structural element in the development of underdevelopment. These arguments are sound.

In the history of Chilean underdevelopment, copper has made the Chilean economy dependent upon primary production and structurally thwarted development of other sectors of the economy. Controlling its own rsources, Chile will be able to retain the substantial profits from copper production within the country for investment in other sectors which will produce goods and services to meet the needs of the Chilean people.

The Chilean economy has been essentially stagnant for 17 years. The nationalization of copper is certainly no guarantee of economic development, but it is a necessary condition for development. Controlling its prime national resource, Chile will have the opportunity to create additional economic activity, increasing employment, and earn greater foreign exchange by manufacturing and exporting copper products rather than raw or refined copper. Moreover, Chile will be freer (though not totally free) of the price manipulations of the private copper monopolies and the U.S. government and will be able to market its copper wherever the best price is offered—assuming, of course, that the U.S. does not initiate a successful embargo in the "Free World" of Chilean copper and copper products.

The needs and aspirations of the Chilean people, as in all of Latin America, have long been denied and thwarted by their inability to break out of the structure of foreign dependence and underdevelopment and by their inability to make their own development decisions. In Chile these decisions will no longer be made in the Board Rooms of corporations based in the U.S. They will now be made by people who know what underdevelopment means because they experience it, by Chileans with a vision of a better future, by Chileans who are determined to develop along lines of their own choosing.

CORPORATE INTERESTS AND GOVERNMENT POLICY

Shortly after an October, 1971 meeting between executives of American corporations with nationalized investments in Chile and high officials of the U.S. government, the State Department announced its decision to suspend all aid to Chile. This is apparently to be followed by a "tough" policy statement and possibly by the application of other sanctions. The identity of the U.S. "national interest" wtih the private interests of U.S. investors abroad is clear for all to see.

This identity has been institutionalized in an important way which is intimately involved in the Chilean case, namely, in the establishment of an independent government agency called the Overseas Private Investment Corporation. OPIC's mandate is "to selectively promote, insure, guarantee, and to a limited extent participate in financing the investment of U.S. private capital and know how" in economic ventures throughout the Third World. In Chile, $313 million in investment is insured against expropriation. Anaconda and Kennecott are among the companies whose investments are covered.

This direct and immediate involvement on the part of the federal government in the affairs of overseas private investors makes it almost inevitable that private business becomes a matter of public business. In the case of Chile, this is guaranteed, given that OPIC's reserves are insufficient to make good on potential claims, forcing OPIC to go to Congress for funds. OPIC should go out of business.

The identity of the national interest with the private interest of U.S. investors brought the intervention of the U.S. military forces in Latin America no less than 92 times between 1806 and 1940. Since the end of World War II, this identity has led to a conception of U.S. "security" as based upon the preservation of the "Free World" from the forces of nationalism and socialism. Acting on this conception of national security, the U.S. has become policeman of the world in order to turn back the forces of nationalism and socialism and thereby to preserve the "Free World" as a safe place for the operations of American corporations.

The most tragic consequence of this is the War in Southeast Asia. Fortunately for Chile, as long as the U.S. remains tied-down in Southeast Asia it will be difficult to undertake an operation to roll back the tides of nationalism such as that carried out in the Dominican Republic in 1965.

POLICY ALTERNATIVES

A policy of reason would be based upon a clear recognition that the national interest is the interest of the American people as a whole and not the private interests of giant American corporations. The American people have no other interest in Chile and in other underdeveloped countries than to promote their dignity, freedom, and development. In practical terms, this means that U.S. foreign relations must be restructured to conform with established principles of international law. At a minimum, this involves strict adherence to United Nations' and the Organization of American States' principles of non-intervention in the internal affairs of other nations. With respect to foreign investment, a policy of reason would be based upon respect for the United Nations' Resolution on the "inalienable right of all countries to exercise permanent sovereignty over their natural resources in the interest of their national development." This resolution of the 21st Session of the General Assembly also "confirms that the exploitation of natural resources in each country shall always be conducted in accordance with its national laws and regulations."

In the case of the copper nationalizations, it is absolutely clear that the Chileans have proceeded within the context of law. The nationalization act was nothing less than a constitutional amendment approved, without a single dissenting vote, by a Congress under control of Christian Democrats and right-wing parties. The method of determining compensation was imposed upon the Allende government by an opposition historically very friendly to the U.S. and to the copper companies.

Nevertheless, the U.S. government demands that Chile conform to the only international law which our government seems to recognize, namely, that "prompt, adequate, and effective" compensation be made for expropriated properties. This ignores the clear intent of the UN resolution on nationalizations. Moreover, it is gross hypocrisy for a powerful country—which has consistently flaunted the spirit and the letter of international law on numerous occasions—to exercise economic sanctions, themselves illegal by international law, against a small nation engaged in a simple act of sovereignty and historic justice.

Suspension of aid programs in Chile and other coercive acts already undertaken will have very serious consequences unless reversed. By denying aid we are encouraging Chile not to honor but to renounce its financial obligations. Moreover, to deny aid is the first step in an escalation of conflict in which both parties may end up losers.

The United States government, therefore, should:

(1) refuse to allow the behavior and vested interests of a few corporations to destroy the traditional cordial relations that have existed between the two governments;

(2) recognize the legitimacy of the excess profits deductions levied by the Chilean government;

(3) reconsider its decision to deny aid and Export-Import Bank credits;

(4) maintain normal relations with Chile.

If these policy suggestions are not followed, U.S. sanctions will set-off a pattern of actions and counter-reactions that may escalate into a major international crisis. To sanctions applied by the U.S., Chile could respond with a number of drastic measures. These include:

(1) expropriation of all remaining American properties;

(2) renunciation of compensation agreements satisfactory to U.S. industrial corporations and banks for the purchase of their operations in Chile;

(3) reconsideration of the promise to assume the debts (with interest this totals $736 million) incurred by the copper companies under the 1966–1970 expansion program and to redeem the promissory notes issued under the Frei Administration as payment for purchase of part of the stock of the Chilean subsidiaries;

(4) declaration of a moratorium on debt payments to the U.S. government and to largely U.S.-controlled international lending institutions such as the World Bank and the International Monetary Fund; *

*This debt of $3 billion inherited by the present government is a consequence of Chile's dependent underdevelopment. On November 9, 1971, President Allende announced that efforts would be made to refinance this debt. Chile may have no other choice than to suspend payment on its foreign debt if the copper price continues to fall and Chile is unable to rapidly locate new copper markets in Western and Eastern Europe, if the U.S. deprives Chile of dollars by suspending aid and credits, and if the U.S. refuses to negotiate refinancing in good faith as it would with any of our "Free World" allies.

(5) shift from a neutralist foreign policy and maintenance of trade and other ties to Western countries toward a full political and economic alignment with the socialist countries.

If the U.S. moves from cutting aid toward the type of measures applied against Cuba, Chile can hardly be expected not to respond with the means at its disposal.

The consequences within Chile of escalating conflict with the U.S. are very serious. The Nixon Administration would like to undermine the mild gradualistic socialism of the Popular Unity government. In fact, there are many in the corporate world and in the government who would be delighted if Chile goes the way of Bolivia, Brazil, or Guatemala. But to do that in Chile would require forcibly removing workers from what they now consider their factories, dispossessing peasants from their newly acquired land, and, possibly, a slaughter of the left such as in the Indonesian counter-revolution of 1965. The simple fact is that Chile has freely chosen a socialist future—and there are no viable political alternatives to democratic socialism in Chile, only instability and bloodshed. The impact of U.S. sanctions will be to increase the level of political tension, develop a strong nationalist reaction among large numbers of Chileans of all classes and political persuasions, encourage violent and seditious rightist elements, and strengthen the Marxist parties, especially the most militant sectors of the left. This is a formula for polarization and internal instability which may well lead to violent confrontation of political forces in a country where relatively peaceful and civilized resolution of conflict has long been the norm. The U.S. can provoke a civil war in Chile. In that event, the outcome will be either a bloody counter-revolution, covertly or overtly aided by agencies of the U.S. government, or Latin America will have a second Cuba.

[From Essays in International Finance, November 1969]

HOW TO DIVEST IN LATIN AMERICA, AND WHY

(By Albert O. Hirschman)

The dispute between Peru and the United States over the expropriation of the International Petroleum Company is only one of a monotonously long list of incidents and conflicts which call into serious question the wisdom of present institutional arrangements concerning private international investment. This paper will discuss the principal weaknesses of these arrangements, with particular emphasis on political economy rather than on economic proper, and will then survey a number of ways in which current institutions and practices could be restructured. It is written against the backdrop of rising nationalism and militancy in the developing countries, particularly in Latin America, and of an astounding complacency, inertia, and lack of institutional imagination on the part of the rich countries.

The basic position adopted here with respect to foreign private investment is that it shares to a very high degree the ambiguity of most human inventions and institutions: it has considerable potential for both good and evil. On the one hand, there are celebrated and undoubted contributions of private international investment to development: the bringing in of capital, entrepreneurship, technology, management and other skills, and of international market connections, all of which are either wholly lacking in the poor countries, or are in inadequate supply given the opportunities and programs for economic development. On the other hand, foreign investment brings not only the dangers of economic plunder and political domination which are the stock-in-trade of the various theories of imperialism, but a number of other, more subtle, yet serious effects and side-effects which can handicap the development efforts of countries placing prolonged and substantial reliance on private investment from abroad. The picture that has sometimes been painted of the career of foreign investment is that at one time, long ago, the negative aspects predominated: there was sheer exploitation of human and natural resources as well as crude power play in the early free-wheeling days, when capital followed the flag or was, on the contrary, the "cat's paw of empire"; but this unfortunate phase has been outgrown, so it is widely thought, with decolonization, with the world-wide assertion of national sovereign states and their taxing powers, and with the desire, on the part of modern foreign investors, to perform as "good corporate citizens" of the host country and as "partners in progress." Unfortunately, this edifying story of human progress is incomplete and one-sided. It can, in fact, be argued that certain negative aspects of foreign investment do not only continue to coexist with the positive ones, but typically tend to predominate over them as development proceeds, at least up to some point. These are the just-mentioned "more subtle" effects and side-effects that will now be briefly explained.

PRIVATE FOREIGN INVESTMENT—AN INCREASINGLY MIXED BLESSING

The positive contribution of foreign investment to an economy can be of various kinds. In the first place, it can supply one of several *missing* factors of production (capital, entrepreneurship, management, and so forth), factors, that is, which are simply and indisputably not to be found in the country receiving the investment. This is the situation often prevailing in the earliest stages of development of a poor country. More generally, foreign investment can make it possible for output to increase sharply, because it provides the recipient economy with a larger *quantity* of comparatively scarce (if not entirely missing) inputs.

Another contribution of foreign investment, conspicuous in relations among advanced industrial countries and inviting often a two-way flow, is of a rather different nature: it can have a teaching function and serve to improve the *quality* of the local factors of production. By on-the-spot example and through competitive pressures, foreign investment can act as a spur to the general efficiency of local enterprise. This effect is likely to be particularly important in economic sectors which are sheltered from the competition of merchandise imports from abroad. Such sectors (services, industries with strong locational advantages) appear to expand rapidly at advanced stages of economic development. If foreign investment is successful in enhancing the quality of local enterprise, then its inflow will be providentially self-limiting: once the local business community achieves greater efficiency, there will be fewer openings for the demonstration of superior foreign techniques, management, and know-how. But what if local businessmen, faced with overwhelming advantages of their foreign competitors, do not respond with adequate vigor and, instead, deteriorate further or sell out? This is, of course, the nub of recent European fears of the "American challenge." I cannot deal here with this problem, but the fact it exists has interesting implications for the topic at hand.

If foreign investment can fail to improve and may even harm the *quality* of local factors of production, then the question arises whether it may also, under certain circumstances, lead to a decrease in the *quantity* of local inputs available to an economy. In other words, could the inflow of foreign investment stunt what might otherwise be vigorous local development of the so-called missing or scarce factors of production?

This question has been little discussed. (Important exceptions are the article by J. Knapp "Capital Exports and Growth," *Economic Journal*, September 1957, and the paper by Felipe Pazos cited below.) The reason for the neglect lies in the intellectual tradition which treats international investment under the rubric "export of capital." As long as one thinks in terms of this single factor of production being exported to a capital-poor country, it is natural to view it as highly complementary to various local factors—such as natural resources and labor—that are available in abundance and are only waiting to be combined with the "missing factor" to yield large additional outputs. But, for a long time now, foreign investors have prided themselves on contributing "not just capital," but a whole bundle of other valuable inputs. In counterpart of these claims, however, the dought might have arisen that some components of the bundle will no longer be purely complementary to local factors, but will be competitive with them and could cause them to wither or retard and even prevent their growth.

The possibility, and indeed likelihood, that international *trade* will lead to the shrinkage and possibly to the disappearance of certain lines of local production as a result of cheaper imports has been at the root of international-trade theory since Adam Smith and Ricardo. This effect of trade has been celebrated by free traders through such terms as "international specialization" and "efficient reallocation of resources." The opponents of free trade have often pointed out that for a variety of reasons it is imprudent and harmful for a country to become specialized along certain product lines in accordance with the dictates of comparative advantage. Whatever the merit of these critical arguments, they would certainly acquire overwhelming weight if the question arose whether a country should allow itself to become specialized not just along certain commodity lines, but along factor-of-production lines. Very few countries would ever consciously wish to specialize in unskilled labor, while foreigners with a comparative advantage in entrepreneurship, management, skilled labor, and capital took over these functions, replacing inferior "local talent." But this is precisely the direction in which events can move when international investment, proudly bringing in its bundle of factors, has unimpeded access to developing countries. (In the fine paradoxical formulation of Felipe Pazos: "The main weakness of direct investment as a development agent is a consequence of the complete character of its contribution." See his paper "The Role of International Movements of Private Capital in Promoting Development," in John H. Adler, ed., *Capital Movements and Economic Development*, 1967, p. 196.)

The displacement of local factors and stunting of local abilities which can occur in the wake of international investment is sometimes absolute, as when local banks or businesses are bought out by foreign capital; this has in fact been happening recently with increasing frequency in Latin America. But the more common and perhaps more dangerous, because less noticeable, stunting effect is relative to what might have happened in the absence of the investment.

As already mentioned, foreign investment can be at its creative best by bringing in "missing" factors of production, complementary to those available locally, in the early stages of development of a poor country. The possibility that it will play a stunting role arises later on, when the poor country has begun to generate, to a large extent no doubt because of the prior injection of foreign investment, its own entrepreneurs, technicians, and savers and could now do even more along these lines if it were not for the institutional inertia that makes for a continued importing of so-called scarce factors of production which have become potentially dispensable. It is, of course, exceedingly difficult to judge at what point in

time foreign investment changes in this fashion from a stimulant of development into a retarding influence, particularly since during the latter stage its contribution is still ostensibly positive—for example, the foreign capital that comes in is visible and measurable, in contrast to the domestic capital that might have been generated in its stead. One can never be certain, moreover, that restrictions against foreign investment will in fact call forth the local entrepreneurial, managerial, technological, and saving performances which are believed to be held back and waiting in the wings to take over from the foreign investors. Nevertheless, a considerable body of evidence, brought forth less by design than by accidents such as wars, depressions, nationalist expropriations, and international sanctions, suggests strongly that after an initial period of development, the domestic supply of routinely imported factors of production is far more elastic than is ever suspected under business-as-usual conditions. If this is so, then the "climate for foreign investment" ought to turn from attractive at an early stage of development to much less inviting in some middle stretch—in which most of Latin America finds itself at the present time.

The preceding argument is the principal economic reason for anticipating increasing conflict between the goals of national development and the foreign-investment community, even after the latter has thoroughly purged itself of the excesses that marred its early career. The argument is strengthened by related considerations pertaining to economic policymaking, a "factor of production" not often taken into account by economists, but which nevertheless has an essential role to play. In the course of industrialization, resources for complementary investment in education and overhead capital must be generated through taxation, the opening up of new domestic and foreign markets must be made attractive, institutions hampering growth must be reformed, and powerful social groups that are antagonistic to development of these tasks is considerably facilitated if the new industrialists are able to speak with a strong, influential, and even militant voice. But the emergence of such a voice is most unlikely if a large portion of the more dynamic new industries is in foreign hands. This is a somewhat novel approach to foreign capital, which has normally been taken to task for being unduly interfering, wire-pulling, and domineering. Whatever the truth about these accusations in the past, the principal failing of the managers of today's foreign-held branch plants and subsidiaries may well be the opposite. Given their position as "guests" in a "host country," their behavior is far too restrained and inhibited. The trouble with the foreign investor may well be not that he is so meddlesome, but that he is so mousy! It is the foreign investor's mousiness which deprives the policymakers of the guidance, pressures, and support they badly need to push through critically required development decisions and policies amid a welter of conflicting and antagonistic interests.

The situation is in fact even worse. Not only does policy-making fail to be invigorated by the influence normally emanating from a strong, confident, and assertive group of industrialists; more directly, the presence of a strong foreign element in the dynamically expanding sectors of the economy is likely to have a debilitating and corroding effect on the rationality of official economic policymaking for development. For, when newly arising investment opportunities are largely or predominantly seized upon by foreign firms, the national policy-makers face in effect a dilemma: more development means at the same time less autonomy. In a situation in which many key points of the economy are occupied by foreigners while economic policy is made by nationals it is only too likely that these nationals will not excel in "rational" policy-making for economic development; for, a good portion of the fruits of such rationality would accrue to nonnationals and would strengthen their position. (For some interesting remarks along these lines, See Hans O. Schmitt, "Foreign Capital and Social Conflict in Indonesia," *Economic Development and Social Change*, April 1962.) On the other hand, the role and importance of national economic policymaking for development increases steadily as the array of available policy instruments widens, and as more group demands are articulated. Hence the *scope* for "irrationality" actually expands as development gains momentum. That its *incidence* increases also could probably be demonstrated by a historical survey of tax, exchange-rate, utility-rate and similar policies that were aimed directly or indirectly at "squeezing" or administering pin pricks to the foreigner, but managed, at the same time, to slow down economic growth.

The preceding pages have said next to nothing about the direct cost to the capital-importing country of private international investment nor about the related question of the balance-of-payments drain such investment may occasion. While these matters have long been vigorously debated, with the critics charging exploitation and the defenders denying it, the outcome of the discussion seems to me highly inconclusive. Moreover, undue fascination with the dollar-and-cents aspects of international investment has led to the neglect of the topics here considered, which, I submit, raise issues of at least equal importance and suggest a simple conclusion: strictly from the point of view of development, private foreign investment is a mixed blessing, and the mixture is likely to become more noxious at the intermediate stage of development which characterizes much of present-day Latin America.

Hence, if the broadly conceived national interest of the United States is served by the development of Latin America, then this interest enters into conflict with a continuing expansion and even with the maintenance of the present position of private investors from the United States. Purely political arguments lend strong support to this proposition. Internal disputes over the appropriate treatment of the foreign investor have gravely weakened, or helped to topple, some of the more progressive and democratic governments which have held power in recent years in such countries as Brazil, Chile, and Peru. Frictions between private investors from the United States and host governments have an inevitable repercussion on United States-Latin American relations. In a number of cases such disputes have been responsible for a wholly disproportionate deterioration of bilateral relations. The continued presence and expansion of our private-investment position and our insistence on a "favorable investment climate" decisively undermined, from the outset, the credibility of our Alliance for Progress proposals. Land reform and income redistribution through taxation are so obviously incompatible, in the short run, with the maintenance of a favorable investment climate for private capital that insistence on both could only be interpreted to signify that we did not really mean those fine phrases about achieving social justice through land and tax reform.

If these political arguments are added to those pertaining to economics and political economy, one thing becomes clear: a policy of selective liquidation and withdrawal of foreign private investment is in the best mutual interests of Latin America and the United States. Such a policy can be selective with respect to countries and to economic sectors and it ought to be combined with a policy of encouraging new capital outflows, also on a selective basis and with some safeguards.

THE "LOST ART" OF LIQUIDATING AND NATIONALIZING FOREIGN INVESTMENTS

Before the possible elements of such a policy are examined, it is worth noting that liquidation of foreign investment has frequently happened in the history of capital movements. But, as a result of convergent developments, such liquidation has strangely become a lost art. Worse, this art has not been properly recorded by economic historians. In part, this is so because economic historians, like both the advocates of foreign investment and its critics, have been far more interested in the tides of capital flow than in its occasional ebbs. Moreover, the tides have been more regular and easier to detect and measures.

Some of the "mechanisms" which in the past permitted partial liquidation of foreign investment have been the unintended side-effects of such large-scale, sporadic and wholly unedifying happenings as wars and depressions. The two World Wars led to a substantial decline in both the absolute and the relative importance of foreign investment in the national economies of Latin America. In the first place, with most Latin American countries joining the Allies, German investments, a not unimportant portion of the total (think of all those prosperous breweries!), were expropriated. Secondly, the British were forced in both World Wars to liquidate a good portion of their security holdings, in order to pay for vitally needed food, materials, and munitions. Some of these securities were acquired by the citizens of the countries for which they had originally been issued. Thirdly, Latin American countries acquired large holdings of gold and foreign currencies during the wars, as they continued to export their primary products, but were unable to obtain industrial goods from the belligerents. These accumulated holdings made it possible for them to buy out some foreign investments in the immediate postwar period. The most conspicuous, but by no means the only, instance of this sort of operation was the purchase from their British shareholders of the Argentine railways by the Perón government in 1946. Finally, the wars led to a complete interruption of capital inflow. Since at the same time, Latin America's industrial growth was strongly stimulated, the relative importance of activities controlled by foreign capital declined substantially.

The depressions which periodically afflicted the centers of capitalist development until the Second World War had similar results. Again, capital inflow would stop for a while during periods in which the Latin American economies frequently received growth impulses because, with foreign-exchange receipts low, imports had to be throttled, giving domestic industrial production a fillip. Moreover, when overextended corporations based in the United States and Europe fell on hard times, a sound management reaction was frequently to retrench and consolidate. In the process, foreign branch plants and subsidiaries were sold off to local buyers, a process which has been well documented in the case of American investments in Canada during the depression of the thirties. (See H. Marshall, F. A. Southard Jr. and V. W. Taylor, *Canadian-American Industry*, 1936, pp. 252–262). Sometimes, especially in the case of European firms, these transfers took the form of ownership and control passing into the hands of the parent company's local managers who, while of foreign origin, would eventually become integrated into the local economy. Finally, of course, there were cases of outright bankruptcy and forced liquidatiton.

The quantitative importance of these various factors remains to be established. But, in the aggregate, they must have had a substantial limiting effect on the foreign-investment position in Latin America during the first half of the 20th century.

Actually, a less cruel mechanism permitting the nationalization of foreign investment was also at work before the "good old days" or portfolio investment had been eclipsed by direct investment. While those days were of course by no means wholly good, portfolio investment, which took primarily the form of fixed-interest bond issues, did have several advantages for the capital-importing country. Among these, the lower cost and the existence of a termination date have been mentioned most frequently. There is, however, one further property of portfolio investment which is of particular interest in the context of the present essay. This is the fact that nationalization of portfolio investment could take place at the option of the borrowing country and its citizens, who were free to purchase in the international capital markets securities that were originally issued and underwritten in London or Paris. I have collected (and hope eventually to publish) considerable evidence that these so-called "repurchases" of securities by nationals of the borrowing countries took place on a large scale in such countries as the United States, Italy, Spain, Sweden, and Japan in the late 19th and early 20th centuries. They also occurred in much poorer countries, such as Brazil, and were in general so widespread that the phenomenon is referred to in one source as "the well-known *Heimweh* [homesickness] of oversea issued securities." (J. F. Normano, *Brazil: A Study of Economic Types*, 1935, p. 157.) As a result of this *Heimweh*, then, an increasing portion of maturing bond issues often came to be owned by the nationals of the borrowing country, so that payment at maturity did not occasion any balance-of-payments problem.

This is not the place to speculate on the reasons for which the bonds issued abroad became so often a preferred medium of investment for national capitalists; suffice it to say that patriotism or nationalism on the part of local investors probably had little if anything to do with it. Whatever the reason, it appears that international investment, as formerly practiced, permitted the gradual transfer, via anonymous market transactions, of foreign-held assets to nationals, entirely in accordance with the capabilities and wishes of the borrowing country's own savers.

Today's arrangements are totally different, of course. Transfer to local ownership and control of foreign-held subsidiaries requires either an initiative on the part of the parent company or a decision to expropriate on the part of the host government. A valuable mechanism of smooth, gradual, and peaceful transfer has become lost in the shuffle from portfolio to direct investment.

Upon to this point, it has been established (1) that progressive liquidation and nationalization of foreign private investments is likely to become desirable in the course of economic development, and (2) that mechanisms to this end functioned, if unwittingly and irregularly, in the 19th and through the first half of the 20th century, but have no longer been available over the past 25 years or so.

The purpose of recalling these mechanisms was to sharpen our institutional imagination and perception for substitute mechanisms which it may be desirable to put into place at the present time. An open and far-ranging discussion of various possible alternatives is obviously desirable. The following pages are meant as a contribution to such a discussion, rather than as a fixed set of proposals.

A SURVEY OF POSSIBLE DIVESTMENT MECHANISMS

An attempt will now be made to sketch possible answers to the following questions:

(1) What arrangements should be made to permit the transfer to local ownership and control of existing foreign-held investments?

(2) What arrangements should exist for this transfer in the case of new foreign investments?

(3) To what extent should devices that are designed for the purposes just indicated be modified in the light of other important objectives of the developing countries, such as the export of manufactures and the promotion of local centers of technological research and innovation?

These questions will be taken up in order, although there is considerable overlap between the answers to the first two questions.

LESLIE TINDALL

Mr. THURMOND. Mr. President, the Progressive Farmer has honored a distinguished South Carolinian, Leslie Tindall by renaming him," Man of the Year, in Service to Agriculture."

Mr. Tindall is from Pineville, S.C., and he is engaged in general farming in Sumter and Clarendon Counties. His farming interests include cattle, hogs, corn, cotton, and soybeans, but it is his participation in the soybean industry which has earned him national recognition. He helped organize the South Carolina Soybean Association and served as its first president. As president of the American Soybean Association for two terms—1969–1970, 1970–1971—he actively worked to help promote soybean markets abroad. In addition to this high honor bestowed by the Progressive Farmer, Mr. Tindall was recently selected as one of 15 farmers in the United States to win the Ford Farm Efficiency Award for farm management.

Mr. President, the article which selected Leslie Tindall as the "Man of the Year, in Service to Agriculture" appeared in the January issue of the Progressive Farmer. The article cites many of the agricultural and civic accomplishments of Mr. Tindall. I ask unanimous consent that it be printed in the RECORD.

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

MAN OF THE YEAR IN SERVICE TO AGRICULTURE

Marketing is the name of the game as far as Leslie Tindal is concerned. He is a general farmer involved in the production of cattle, hogs, corn, cotton, and soybeans in Sumter and Clarendon counties, S.C. However, it's the soybean industry that has really profited from Tindal's energies.

Tindal helped organize the South Carolina Soybean Association and served as its first president. He did an outstanding job of promoting a ½-cent-per-bushel checkoff program in the state.

Then he served two terms (1969–70, 1970–71) as president of the American Soybean Association. During this time he made several trips abroad in his efforts to increase soybean markets.

Tindal's philosophy regarding markets was well stated in his annual report to the membership of ASA in 1970.

"There are really no secure markets unless you continuously work toward developing new uses, expanding old uses, and staying right in there, demanding a sizable share of whatever size market there is.

"Secure markets? That is what we in the cotton-producing states thought we had for 200 years, just to see the whole structure of that once-fabulous king of crops crumble before synthetics," said Tindal.

And when Tindal speaks about cotton, the fact that he raises 450 acres of it lends credence to what he says. In addition, he has 800 head of cattle, produces 1,400 market hogs per year, and raises 700 acres of corn and 600 acres of soybeans.

But back to the soybeans and marketing. Tindal is a staunch believer in producers paying their own way as much as possible through checkoffs. He also likes to see this money well spent.

This is why he is particularly proud of the efforts of ASA. This group has been very purposeful in their market-building program. They've laid out their objectives clearly before taking action in order to cut down on wasted motion.

Japan is exhibit No. 1 as to how well this approach works. Last year American growers invested $70,000 in Japan as "seed money." This brought in $338,000 from the Foreign Agricultural Service. Another $306,000 came from Japanese soybean processors. Through this type effort, soy oil consumption in Japan has gone from 5 pounds per person in 1956 to about 22 pounds.

The foresight for such programs and the desire to see them bear fruit came from Leslie Tindal and others like him.

Tindal is presently on the board of directors of ASA and is president of the ASA Research Foundation. He has been a member of the board of the South Carolina Crop Improvement Association since 1957 and has served twice as president of the group.

He is also a member of the board of trustees of the county school system, member of the board of commissioners of Clarendon County, and has been active in Farm Bureau, the local REA cooperative, Lions Club, and the Baptist Church. He recently received the 1971 Ford Farm Efficiency Award for farm management.

THE CONCENTRATED INDUSTRIES ACT

Mr. HARRIS. Mr. President, on September 30, 1971, I introduced a bill entitled the "Concentrated Industries Act," aimed at decentralizing the one-third of American industry dominated by shared monopolies. At that time, I noted that, while I was introducing new legislation to explicitly prohibit shared monopolies, I believed that the Federal Trade Commission and the Justice Department already had the power to move against these concentrated industries under the Sherman and Clayton Antitrust Acts.

According to an article written by H. Joost Polak, of the Newhouse News Service, and published in the Washington Evening Star of December 16, 1971, the staff of the FTC has recommended to the Commission that it initiate its first deconcentration suit against a shared monopoly. Their recommended target is the breakfast cereal industry.

Mr. President, I am most hopeful that the FTC will follow the advice of its staff and take the first step toward making passage of the Concentrated Industries Act unnecessary. The choice of the breakfast cereal industry is, in my view, a good one. It is a classic shared monopoly. The top three companies—Kellogg, General Foods, and General Mills—control 85 percent of the industry's sales. As a result, advertising spending, prices and profits are abnormally high, while product quality is distressingly low. For example, about 15 cents out of every dollar spent by consumers on breakfast cereal is plowed back into advertising, particularly television spots. The profits of Kellogg, the General Motors of the cereal industry controlling over 40 percent of the market, every year produce an after-tax return to stockholders of about 20 percent on their investment, more than twice the rate in competitive

industries. As pointed out so well in congressional committee hearings, competition in the cereal industry is concentrated on a proliferation of brandnames, advertising gimmicks, and slogans, and away from product quality—that is, nutrition.

Mr. President, the breakfast cereal industry eminently deserves to be decentralized. And as the National Commission on Food Marketing documented in 1966, the industry can be decentralized without any significant loss of economies of scale. A firm needs no more than 5 percent of the breakfast cereal market to be efficient. Thus, the industry could be made up of over 20 firms rather than the handful that now control it.

The prospect that the FTC may move against this industry is most encouraging. I ask unanimous consent that Mr. Polak's article be printed in the RECORD.

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

TARGET: BREAKFAST CEREAL FIRMS

(By H. Joost Polak)

Federal Trade Commission lawyers and economists have recommended splitting two of the nation's largest dry cereal manufacturers into five separate companies to break the "shared monoply" power they hold over U.S. breakfast tables.

A commission vote on the secret staff proposal is expected within a few weeks.

The FTC's target is the $720 million-a-year dry cereal industry and its alleged domination by four firms that account for over 90 percent of its sales.

FTC economists and lawyers have discussed for years theoretical attacks on industries they felt were dominated by a few large firms for years.

The proposed attack on the cereal industry marks the first time the commission has been asked formally to put those theories into practice.

FTC sources said the agency staff views the proceeding as a test case to see if government regulators have the legal basis, the power—and the courage—to move against industrial concentration.

The sources would not name the cereal firms involved in the alleged complaint. The six largest cereal producers are Kellogg, General Mills, General Foods, Quaker Oats, Nabisco and Ralston.

Under the staff's proposed order, the two companies affected would have to establish three competing companies—one of the firms would be required to set up two more companies, and the other would be required to establish one new one.

Each of the new companies would have the exclusive right to produce and market a number of the "parent" firm's leading cereal brands.

Such a move would immediately change the cereal industry from one dominated by four firms to a seven-firm market, with none of those companies large enough or powerful enough to dominate the others.

According to FTC, Capitol Hill and private sources, commission economists feel they have pinpointed a classic case of shared monopoly.

Instead of price competition, shared monopoly industries tend to compete through heavy advertising designed to convince consumers that a company's products are somehow distinctive or more worth buying.

Among the alleged shared monopoly characteristics of the cereal industry, the sources say, are:

The presence of extremely heavy advertising outlays—one source says the cereal firms plow back more than 12 percent of their revenues into advertising and that those figures would be even higher if such extras as boxtop offers and packed-in gifts were included.

In fact, the sources say, the cereal industry is almost devoid of price competition, but uses instead such devices as controlling shelf display space in supermarkets, designing eye-catching boxes or getting testimonials from athletes to try to woo consumers.

The FTC lawyers also charged, the sources say, that the industry's ad campaigns were not only "anticompetitive," but also often false in claiming that cereals were "energy foods" that help athletes do better in sports.

Thus the proposed order would forbid all such claims and force the companies to disclose in future advertising that their previous claims had been found false.

COLLECTIVE BARGAINING—A TWO-WAY STREET

Mr. FANNIN. Mr. President, during the past decade we have seen organized labor gain tremendously in power. Although the number of union men still is not great, union leaders wield a power that is awesome.

Unions have the power to make industries thrive, or to wipe out entire industries. We have seen all too many industries wiped out in recent years. This has resulted in the loss of thousands of jobs that are needed to provide support for American families.

The time has come for union leaders and union members to give some thought to what they can do to maintain their industries and their jobs.

Walter J. Campbell, the editor in chief of Industry Week magazine, summed up the situation very well in the January 17, 1972, issue of his magazine. He says that the time is coming, and the sooner the better, when bargaining will become a two-way street in which union "gives" as well as "takes" from the industries which they dominate.

I ask unanimous consent that Mr. Campbell's editorial be printed in the RECORD.

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

PRODUCTIVITY BARGAINING

Twenty years ago, we were trying to assess the issues in upcoming bargaining negotiations between the United Steelworkers of America and the steel companies. A member of the bargaining team for the industry had outlined for us what he expected would be the demands of the union.

"What," we asked, "will the companies ask of the union?"

He replied: "We take the position that we are the givers. We will not weaken that position by asking the union for anything."

We suspected then, and are now convinced, that that was a shortsighted attitude. True collective bargaining implies negotiation between equals. One party should be as free to make demands as the other.

We now make a prediction. Within this decade, collective bargaining as we have known it will give away to productivity bargaining.

Instead of two antagonistic parties sitting at a table at which labor makes outrageous economic demands and industry grudgingly gives as little as possible, we will tend toward bargaining to raise productivity and to make America more competitive in the world market.

It will not be easy. It will not be marked by quick success. But, in time, productivity bargaining will usher in a new era of cooperation between managers and workers.

Labor will agree to give up old work rules in favor of new and more efficient ones desired by managers.

Management will return to the workers some of the gains of increased efficiency.

At long last, we will be making progress toward relating compensation to productivity gains.

Some important changes in attitude will be required.

Both labor and management will have to scrap the belief that their interests are antagonistic and realize that without labor there can be no production and without increased productivity industry cannot provide the jobs that Americans need.

The interests of both are best served by a healthy and prosperous industry.

SPEECH BY ED W. HILES

Mr. THURMOND. Mr. President, it has long been a habit of mine to read the speeches of outstanding citizens when the opportunity presents itself. When thinking men express their thoughts, there is something to be gained if we avail ourselves of their views.

Occasionally, I hear or read a speech that I wish I had made myself. Such is the case now.

This speech by Ed W. Hiles, executive vice president of the Georgia Savings and Loan League, was recently recognized by the Freedoms Foundation of Valley Forge. That organization awarded this address the George Washington Gold Medal for its contribution to a better understanding of the American way of life.

Mr. Hiles' address is entitled, "What's Happening to the Spirit of America?"

In it he calls attention to the great threats today which pose a menace to our freedom as individuals, the sanctity of our homes, the solvency of our businesses, the stability of our economy, the integrity of our Nation, and the peace of the world.

He says our freedom—more precious than security—rests upon four cornerstones. They are: First, a basic fundamental belief in—and reliance upon—an Almighty God; second, a government limited by Constitution; third, Christian ethics; and fourth, individual strength of character among the people.

Mr. Hiles says most eloquently that the spirt of America rests upon these four cornerstones, and that spirit will rise or fall as the cornerstones are protected or allowed to erode.

I had the pleasure of hearing Mr. Hiles deliver this speech at the annual ladies' night meeting of the chamber of commerce in Aiken, S.C., on January 13, 1972. Not only is it an excellent speech, but Mr. Hiles delivered it in a most effective and moving manner.

Mr. President, I recommend this speech to the Senate and ask unanimous consent that it be printed in the RECORD.

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

WHAT'S HAPPENING TO THE SPIRIT OF AMERICA?

(Address by Ed W. Hiles)

Whenever I am fortunate enough to get this many people in a captive audience, I

am tempted to take advantage of the situation and talk about the savings and loan business which I am privileged to represent. As a matter of fact, the subject which I have chosen is not altogether unrelated to our business of encouraging thrift and home-ownership, and it is definitely something in which you and I and the savings and loan business have a common interest.

The slogan of our business is, "The American Home—Safeguard of American Liberties". I want to devote my time with you today to the matter of our safeguarding of these liberties.

I have chosen as my topic the question "What's Happening to the Spirit of America?" I have done so purposely and not with any intent of trying to answer the question for you, but primarily for the purpose of impressing upon you the truth of the fact that something *has* been happening to the "Spirit of America" over the years, and I hope to leave you with your minds made up to do some real soul-searching in an effort to determine for yourself just what it is.

In referring to the "Spirit of America" I am talking about that spirit which is built upon and which evolves from the interrelationship of *Christian morality* and *individual responsibility*. To me, these are the basic components of the true spirit of America, and it is my personal feeling that during the past three or four decades we have witnessed a gradual breaking down in the interrelationship of these two components to the extent that it poses a genuine threat to:

Our freedom as individuals,
The sanctity of our homes,
The solvency of our businesses,
The stability of our economy,
The integrity of our Nation, and the peace of the world.

I recognize that this is an election year, and I am sure some of you are going to attempt to read into my comments implications of a political nature which certainly are not intended; however, let me say this—if it is true (and I believe it is true) that our individual freedoms are being sacrificed away bit by bit at the altar of political expediency, then I firmly believe it is high time that we resorted to whatever political influences are available to us in order to recapture them.

But, I am not here today as a politician, not as a Republican or as a Democrat, or as a member of any of the much discussed extremist groups. One thing which bothers me a great deal is the fact that today whenever a man gets on his feet to publicly endorse the philosophy of government that has made the United States of America the greatest nation on the face of the earth, he immediately is branded as an extremist. If being extremely concerned about what is happening to the "Spirit of America" makes me an extremist, then I will admit to being an extremist.

But I feel somewhat like the old man who had always loved to listen to a clock strike—he bought an old clock and hung it on the wall of his living room, and he would go to bed at night and listen to the clock strike. As the clock would strike, he would count. One night something went wrong with the mechanism in the clock. It began to strike, and he began to count. He got up to ten, eleven, twelve, thirteen, fourteen, fifteen—suddely he realized something was wrong, he reached over, shook his wife and said, "Wake up Ma—it's later'n I've ever knowed it to be."

I feel as though it's later than a lot of us realize it to be—and so I want to talk with you, not as a politician nor as the Executive Vice-President of the Georgia Savings and Loan League, but as Ed Hiles—a husband, father, professed Christian, and a fellow citizen of the United States of America.

This matter of individual freedom and Christian morality, as the basis for the true Spirit of America, has been of interest and concern to me for many years. But my decision to take a public stand on some of the issues involved was actually triggered by a very simple—yet significant—incident a few months ago.

While attempting to assist with the coaching and organizing of a group of Little League beginners in baseball, I could not help but notice how much greater effort one of those little fellows would put forth when trying to win the right to play the position he wanted to play on the team than when playing in a position assigned to him by his coach. Here was a very simple—yet very positive—example of how the exercise of freedom of choice was serving as the incentive for these boys to reach the very pinnacle of their individual abilities.

I found myself comparing this simple example with some of the results of the ever-changing concepts of the so-called American Way of Life in our time. I asked myself: Just how much honest-to-goodness freedom of choice is going to be available to these boys as an incentive to make the most of their individual lives when they get a few years older?

God has blessed my home with three wonderful children. But I shudder at the thought of the very real possibility that their futures are going to be determined for them—not through their individual choice, but is a result of our steady and positive drifting into a state of controlled lives; not under Communism, but under a converted form of Americanism as envisioned by those who espouse the idea of exchanging *freedom for security*.

If this should actually happen—and we are most surely headed rapidly in that direction—it will be due largely to default on the part of our generation in allowing something to happen to the Spirit of America as based on Christian morality and individual freedom and responsibility.

I am taking my stand with those who believe that this is too big a price to pay for the type of security promised. History records that throughout all time, whenever people have decided they wanted security more than they wanted freedom they have ended up by losing both.

Two boys in England were watching some birds flying about the tree tops above them. One of the boys asked the other why he was looking so sad. "I was thinking of those poor little birds up there," he said; "they haven't any cages."

He was sad because the birds were not safe in bondage like boys and men in a socialistic planned economy. He was born into—and was growing up under—that kind of philosophy. How about my Little League ballplayers?

Remember, we actually started on our paternalistic binge some 30 years ago, when the hardships brought on by the Great Depression shortened that famous cry of Patrick Henry from "Give me Liberty or Give me Death" to just plain "*Give Me*".

We began to take liberties with the Ten Commandments similar to those which are being taken today with the Constitution of the United States of America. We began to twist our interpretation of the Ten Commandments in order to satisfy our immediate needs and desires, or to justify our actions. We apparently changed our interpretation of the Tenth Commandment from "Thou Shalt Not Covet." to "Thou Shalt Not Covet *except what thou would have from thy neighbor who owns it.*"

We began asking our government not only to protect us in what we had, but to give us a part of what someone else had. We failed to recognize that if we granted to the government the power to give us everything we wanted, we had to also give it the power to take from us everything we have.

We have followed this line pretty closely regardless of which political party happened to be in power in Washington. We have seen the tentacles of the octopus of federal aid and federal subsidy extending into virtually every phase of our economic, social and cultural life. And, we have been swallowing the sugar-coated propaganda that we can have all this and *freedom too*.

But, is this the same kind of freedom that our forefathers deemed worthy of such tremendous sacrifices as were made in the founding of this great nation of ours? I don't think so. I believe there is a difference—a great difference—between "freedom *from* something," which might be called protective freedom, and "freedom *for* something," or dynamic freedom, which serves to inspire man to strive to reach greater heights.

I am of the personal opinion that the finest statement yet made in referring to the court decision on prayer in the public schools was that made by evangelist Billy Graham. He said: "The trouble appears to be that a lot of people are of the opinion that the Constitution grants them freedom *FROM* religion instead of freedom *OF* religion. . . ."

We, as a people have consistently over the past three decades sought freedom from individual responsibilities by either asking or simply allowing the federal government to assume more and more of such responsibilities without any objection on our part.

It is this trend toward "protective freedom" or "freedom *from* something" which, in my opinion, is eating away at the "Spirit of America."

So my hope today is that you will think along with me while we attempt to establish the four cornerstones of the foundation of true freedom as envisioned by our forefathers.

First of all, we are well aware of the great conflict which exists today between two basic ideologies of government—one based on *freedom*, the other on *enslavement*. We have heard and read many lengthy discussions attempting to set forth the differences between these two systems. But, if I were asked to write a book on the subject, it would probably be the shortest book ever written. I would have an artist prepare an attractive cover setting out the title in bold letters: "The Real Difference Between Americanism and Communism." Inside there would be just one page, and on that page one word. The word would be *GOD* in capital letters.

Our nation became a great nation because it was a *good* nation. Whenever it ceases to be a good nation, it will cease to be a great nation.

We in America take great pride, and rightly so, in the fact that we enjoy the highest standard of living of any people on the face of the earth. We take great pride, and rightly so, in the tremendous material wealth of this country. We take great pride, and rightly so, in the tremendous productive capacity of this country. We take great pride in, and place great reliance upon, the tremendous military might of this country. These things are important, but in placing a measure of value on the importance of these things, we must not lose sight of the truth of the fact that our ultimate salvation as free individuals is going to depend, not on these things we have in our hands, but what we have in our hearts.

So the *First Cornerstone of Freedom*, so far as I am concerned, must of necessity be a basic fundamental belief in—and reliance upon—an Almighty God. This cornerstone was set by the signers of the Declaration of Independence when they wrote into that great document, these words: "We hold these truths to be self-evident—that all men are endowed by *their Creator* with certain inalienable rights, among them being life, liberty, and the pursuit of happiness."

They firmly believed that these rights came

from *God*—not from *government*. Our own belief today should be just as genuine and not the "lip service" type of belief which exists in so many quarters. We stamp our coins with the words, "In *God* we trust"—and then we cast our lot and our loyalties, sometimes blindly, with some political party or group espousing an ideology which time and again throughout history has led other nations to disaster.

Sometimes I wonder if we aren't unwittingly breaking the First Commandment by getting ourselves in the position of making a god of government and forgetting about the government of God.

It has been suggested that we are rewriting the 23rd Psalm so that it would read:

"The government is my shepherd, I shall not work
It maketh me to lie down in a fool's paradise,
It leadeth me into deep water,
But it refills my dinner pail."

Is this what's happening to the "Spirit of America?"

The *Second Cornerstone of Freedom* is a government *limited* by Constitution.

We know that government is necessary and that it costs money. But, whatever degree of government we have, it must be the servant and not the master of the people. That was clearly the intent of the framers of our Constitution.

They had learned from experience that the gravest and most constant danger to a man's life, liberty and happiness is the government under which he lives.

They were not only students of history—they were victims of it.

They had no federal subsidy—nor did they seek any. All they had was character. All they did was work. All they wanted was self-respect.

They earned through sacrifice what we have been privileged to enjoy through heritage—and what is now being *dissipated by our complacency*. To make certain we would never have to suffer the tyranny from which they had fled, they wrote into the Constitution three unique characteristics:

1. The authority of the government was limited to specific delegated powers.

2. All authority or power not so delegated remained with the states or the people.

3. The power of government was divided into three separate branches with specific duties and realms of influence.

This was a written contract between the government and the people. It wasn't intended to be made flexible or amended by court interpretations in order to comply with some expressed policy of whatever political party happened to be in power.

This was no doubt the greatest governmental document ever struck by the pen of man. And, as it has been handed down from generation to generation, it has carried with it some very definite responsibilities for its preservation and protection on the part of those for whom its benefits were intended—the people of the United States of America.

On leaving the Convention Hall when the final draft had been agreed upon, Ben Franklin was approached by a citizen with this question: "Dr. Franklin, what have you given us?" He replied: "We have given you a Republic—if you can keep it." He didn't say, "If the *President* can keep it." He didn't say, "if the *Congress* can keep it." He said to that citizen, "If *YOU* can keep it."

But, somehow, when we changed Patrick Henry's cry to "Give Me," we either lost sight of—or deliberately turned our backs on—Ben Franklin's challenge.

With the help of a few government planners, we developed a new game of "ring around a rosie." In it, we all stand in a circle, each with his hand in the pocket of the person next to him—expecting to get richer therefrom. We still seem to be blind to the truth of the fact that whenever a man gets something without earning it, someone else must earn something without getting it. That is morally wrong, and any society building upon such a foundation is bound to crumble.

We hear a lot of talk about federal aid. To me this is a misnomer. There is no such thing as *federal* aid. In fact, the thing which we refer to as federal aid can only be obtained in two ways.

The first way is for the government to take something from us in order to have it to give back to us. That is ridiculous, and to me it is like a person giving himself a blood transfusion by taking the blood from the right arm and inserting it in the left arm—meanwhile, running it through a tube that leaks. Under this system, we would soon find ourselves in the position cited in the legend about the wolves in the Arctic Region, who are tricked into capture by the Eskimos.

The Eskimos imbed a sharp knife in the ice, with only a small portion of a razor sharp point of the blade protruding, Around this blade they pour a small quantity of seal blood. The wolves, attracted by the blood, begin to lap at it and soon find that the faster they lap up the blood, the more blood appears. They become so overwhelmed with this apparently inexhaustible supply of blood that they continue to lap at it until they grow so weak from loss of their own blood that they fall over on the ice and freeze to death.

Is that what is happening to the "Spirit of America"?

The other way in which we can receive this so-called federal aid is for the government to take it from someone else in order to give it to us. If we remove the government from this operation, it would become a direct violation of the Eighth Commandment—"Thou Shalt Not Steal"—unless, of course, we want to "amend" this one to read "Thou Shalt Not Steal—except for a worthy cause."

I think it is unfortunate today that even our churches, which are supposedly the custodians of the Ten Commandments, not only are condoning, but are actually demanding by their active and aggressive support of do-good welfare-type legislation that the fruits of the labor of some citizens be taken by force of law for the benefit of other citizens. To me this is an admission of failure on the part of the churches in their rightful area of persuasion and influence, and effort to substitute *compulsion*.

Is this a result of, or a contributing factor to, "What's happening to the Spirit of America?"

The *Third Cornerstone of Freedom* is Christian ethics.

If something is morally wrong, I do not believe it can be made morally right simply by passing a law making it legal. By the same token, if something is not morally wrong, it can't be made so merely by passing a law making it illegal. This is basic to some of the problems confronting us as a Christian Nation today.

The criteria for right or wrong come from sources outside the government and existed long before any current government was formalized.

I am going to attempt to draw for you an extreme analogy and I will admit to its extremeness, but I am hopeful that it will help to make a point. All of you have read during recent months about a young fellow by the name of Billie Sol Estes. Let's remember that when we started on our paternalistic binge in this country some three and a half decades ago, Billie Sol Estes had not yet begun his first grade education. He was born into, and grew up, in an era and an area where one group of citizens was collecting money from another group of citizens for *not* planting cotton, for *not* planting corn, and for *not* producing pigs; and what is Billie Sol Estes being sent to prison for? He is being sent to prison for collecting money from farmers for *not* producing fertilizer tanks. Here are two operations similar in nature, both of which are morally wrong, because each consists of one person getting something without earning it, thereby making another person earn something without getting it. One is sending a man to prison, the other is perfectly right and legal in the eyes of the law.

Let's take a close look at the Christian Ethics of this philosophy of federal aid, of the subsidizing of one segment of our economy at the expense of another. Do we honestly believe it is morally right for the government to say to us: "We will protect you from being robbed on one hand; but if you can demonstrate the need, we will arrange for others to be robbed in your behalf"?

What sort of progress are we making in America when we urge our elected officials, by resolution and otherwise, to pass laws which will destroy human dignity by making half of the people victims of piracy and the other half victims of charity?

Please understand that I am not against charity. But it has always been my personal belief that charity, in order to be effective, must be voluntary. I refer briefly to the 13th and 14th verses of the 12th Chapter of the Book of Luke from the New Testament. Jesus was talking to a large crowd when a man approached him saying: "Master, speak to my brother that he share his inheritance with me." To this Jesus replied: "Man, who is it that would make me a divider among men?"

The *Fourth Cornerstone of Freedom* is found in the individual strength of character among our people themselves.

It is my feeling that we have been witnessing a tremendous amount of erosion at this cornerstone of the Foundation of Freedom. This erosion has reached a point where we now find ourselves entrapped in a tremendous web of inconsistence. Somehow we must generate the strength of character to throw off these inconsistencies one by one, if we are going to recapture or re-establish the true Spirit of America.

For example, we are trapped in an inconsistency between what we truly believe and what we do. This is personal and individual—and consists primarily of giving our consciences a little bigger voice in the making of our decisions.

We are trapped in an inconsistency between our true political philosophies and our traditions of blind loyalty to political parties. As far as I am personaly concerned. I have no special preference as to whether my children grow up under a *Democratic Republic* or a *Republican Democracy*, but I do not want to see them grow up under a politically amalgamated autocracy.

We are trapped in an inconsistency between our desire to have government take from others and give to us, and our objections to having the government take from us and give to others.

Between our demands for freedom from government control of our respective businesses and our failure or refusal at self-regulation.

Between our desire for less government and our rejection of more individual responsibilities.

Between the enactment of laws purported to guarantee *opportunity* to succeed and the application and enforcement of those laws in such a way as to destroy the *incentive* to succeed.

Between court decisions purported to protect *human* rights and the application and enforcement of those decisions in such a way as to destroy *property* rights.

Between court opinions purported to grant freedom of choice to a *buyer* and the application of those decisions in such a way as to deny the freedom of choice to a *seller*.

Between court decisions purported to guarantee *freedom to associate* and the application and enforcement of those decisions in such a way as to deny the *freedom not to associate*.

Between the enactment of a law under the so-called title of "Civil Rights" purported to guarantee freedom *"from"* discrimination and the application of that law in such a way as to *compel discrimination* by destroying freedom of choice.

Last, but not least, the inconsistency between a pledge of allegiance which contains the words "One Nation Under God" and court written laws which deny to that God admittance to the classrooms of our children.

These are just a few of the hundreds of inconsistencies in which we find ourselves entrapped. I am inclined to attribute our predicament:

Not to our action, but to our inaction;

Not to our choice, but to our surrender of choice to somebody else;

Not to our desire to follow, but to our failure to lead;

Not to our inability to prevent it, but to our indifference towards it;

Not to our failure to recognize the threat, but to our refusal to admit its imminence.

And so this cornerstone of strength of character is extremely important because freedom and character will rise and fall together—and freedom cannot long endure where there is no character to sustain it. Freedom is a precious thing. It is a God-given thing, it is a voluntary thing. But *freedom is not free,* and it must not be taken for granted. It was won through sacrifice, and it must be maintained through sacrifice wherever necessary. It can be lost just as surely, just as completely—and just as permanently—tax by tax, subsidy by subsidy, and regulation by regulation, as it can bullet by bullet, bomb by bomb, or missile by missile.

And, so there you have one man's view of the basic foundation of freedom. It is my feeling that we are witnessing a steady decline of freedom in America. But it is not too late to stem the tide. You can be sure it will take strength of character of individual citizens. It will take a firm application of Christian ethics in the conduct of our relations with each other. It will take the restoration of constitutional limitations upon government. And it will also take one thing more.

At a critical period in Biblical History when Joshua was chosen to lead the Children of Israel into the land of Canaan, he said to his people—"Choose you this Day whom you will serve—but as for me and my house, we will serve the Lord."

Some years ago there was discovered an epitaph on a tombstone along the coast of Greece. It read: "A shipwrecked sailor on this coast bids you set sail—full many a ship, ere we were lost, weathered the gale."

Still more recently in the news was a 45-year-old Marine Colonel responding to a question about his upcoming space attempt. He said to the people of America: "Some men will die—but keep on striving for your goal."

These three men lived centuries apart, but they had one thing in common: They had faith. They had faith in themselves. They had faith in their fellowmen. They had faith in their purpose. And above all, they had faith in God.

Real faith such as this is a living, vital force—and a constant source of strength and comfort.

The very faith that freedom will survive will, in itself, help freedom to survive. But we must never stop working at it if we are to recapture the true "Spirit of America."

To make our work most effective then, we must stand on the first cornerstone we mentioned—a fundamental belief in and reliance upon God. We must ask Him to grant us the willingness to accept those things in our lives which cannot be changed. We must seek from Him the courage to change those things which can and must be changed. And we must look to Him for the wisdom to know the difference.

COALITION FOR RURAL AMERICA ENDORSES HUMPHREY-TALMADGE BILL—S. 2223

Mr. HUMPHREY. Mr. President, there has come to my attention a speech made by former Governor Breathitt endorsing S. 2223, a rural development credit bill, cosponsored by HERMAN E. TALMADGE, the distinguished senior Senator from Georgia and chairman of the Senate Agriculture Committee, myself along with 48 other Senators.

The President, in his message yesterday, also endorsed the proposal to greatly expand the amount of credit made available in rural areas.

Former Governor Breathitt's speech was sent to me by Mr. Shelby Edward Southard, of the Cooperative League of the United States. He states:

It is such a good speech on Rural Development that I want you to read it and if you agree, perhaps put it in the Congressional Record.

Mr. President, I agree with Mr. Southard's assessment of the speech and ask unanimous consent that the text of his letter and former Governor Breathitt's speech be printed in the RECORD.

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

THE COOPERATIVE LEAGUE
OF THE USA,
Washington, D.C. December 21, 1971.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: In what was for me a memorable address at the annual meeting of Farmland Industries in Kansas City earlier this month, former Governor Breathitt of Kentucky vigorously endorsed S. 2223 (Humphrey-Talmadge Rural Development) bill. It is such a good speech on Rural Development that I want you to read it (see especially pages 7 and 8) and, if you agree, perhaps put it in the Congressional Record.

More than 12,000 registered for the Farmland meeting this year.

Sincerely,

SHELBY EDWARD SOUTHARD.

ADDRESS OF FORMER GOVERNOR EDWARD T. BREATHITT

A popular songwriter once asked this nation facetiously, "How ya gonna keep 'em down on the farm, after they've seen Paree?"

That was a funny song for the revelers in Broadway speakeasies following World War 1. But in a way, the song proved to be prophetic, and we in the New Coalition for Rural America don't think it's funny anymore.

You and I have too quietly witnessed the greatest migration of human beings in the history of mankind. Thirty million Americans have left the countryside in the past thirty years for the major cities. Our farm population has dwindled to the point where 800,000 farms produce 90 per cent of all our food and fiber. Ninety-five percent of our people live on ten percent of the U.S. land area, and 14 million people have been left behind in Rural America—many of them in terrible poverty.

The President's National Advisory Commission on Rural Poverty concluded in 1967:

"Rural poverty is so widespread, and so acute, as to be a national disgrace, and its consequences have swept into our cities violently. The urban riots during 1967 had their roots in considerable part in rural poverty. A high proportion of the people crowded into city slums today came there from rural slums."

No, we of the Coalition for Rural America don't think it's funny any longer.

The Coalition is newly formed and has come into existence to deal with a problem of long standing in our country. Through a complete lack of any governmental policy we have permitted rural America to deteriorate like a rusting hand plow languishing in a fallen down barn, while the social and economic problems once scattered across the thousands of square miles of our great land have become compacted into urban ghettoes where they have become both more evident and more volatile. As former Secretary of Agriculture Freeman says, this process couldn't have occurred in a more insiduously efficient way if we had planned it in our national policy councils. Governor Tiemann and I have been chosen to lead the Coalition for Rural America. In directing the activities of the Coalition, we will be guided by these principles:

We are strongly in support of a structure of agriculture that includes prosperous family farms and an economically viable marketing and processing system based in rural areas.

In building Rural America, our aim is to see that development is consistent with the preservation and enhancement of a quality environment.

We are concerned, not just with the aggregate development of the Rural Economy, but with eliminating the causes and ameliorating the effects of rural poverty, through such measures as welfare reform and public service employment.

We are committed to the principle of equal concern for, and equal involvement of, all the people of Rural America, without discrimination on any basis.

Admittedly these are broad purposes that take in a lot of territory. But the need clearly exists. The people who live in Rural America need a voice, and we hope to give it to them. One thing is certain. The great American dream resides uneasily in the suburbs of our great cities, while the news media and the policy makers have all but forgotten the hardworking people in Rural America.

It is not only the rural poor who have been forgotten. Since the depression we have paid great lip service to the family farm while generally pursuing farm policies designed to promote corporate and conglomerate farming.

The farmer spends over $40 billion a year for goods and services to produce crops and livestock; and another $16 billion a year to buy the things which city people buy like appliances, clothing, drugs and furniture. Three out of every ten jobs in this country exist because they are related, in some way, to agriculture.

Our food is inexpensive because one hour of farm labor produces nearly seven times as much food and other crops as it did in 1919. Crop production per acre has doubled.

That's the kind of friend we all have in the American farmer. Yet what do we give him in return.

The President doesn't even bother to send a farm message to the Congress. Last year's farm bill was rammed down the throat of Congress with the threat of "either this or nothing." A proposal has been made to abolish the U.S. Department of Agriculture, combining it into an omnibus agency that would clearly favor urban areas.

And what is happening in the countryside? The farmer is getting 17 cents a pound for hogs; 90 cents a bushel for corn; and as little as $1.10 a bushel for wheat. His net profit margin hovers around two or three percent.

Parity is at 68 percent, the lowest level since the depression.

Something is seriously wrong, and I suggest that it's simply a matter of fact that

there aren't enough people in Washington who any longer give a hoot about Rural America.

Well I care, and I know that you do too, but we have to get the message to the people who count.

Now let me ask you to do me a favor right here and now. Stand with me here and let's show *our* appreciation to the hardworking men and women who have the courage to stick it out in American Agriculture today. Let's stand here and give them an ovation!

Since the depression we have heard talk about Rural Development, but something seems wrong. Somehow there has been only talk and not much action.

In the past ten years we have heard a lot of talk about balanced national growth—a balance between rural and urban America. Again, we have just heard talk. There are about 200 Federal Assistance programs designed in whole or in part to help Rural America and somehow they are not having an economic impact that would promote balanced growth.

Balanced growth for the United States is hardly a controversial objective. It is accepted on both sides of the aisle as something that is desirable and which should be encouraged. But what does it really mean and how can it be accomplished? These are questions that have never really been adequately answered, by either Government or the private sector, and the search for these answers is one of the principal reasons the coalition has been formed.

Clearly some new approaches are needed.

Some of our rural programs—especially some of the farm programs—are relics of an earlier time when things were different than they are now. These programs were developed without a realization of what farm mechanization, three wars and vast urban industrial expansion would do.

As a matter of fact, there is considerable evidence that much of the continuing research and human development efforts of the Federal Government do not promote balanced national growth, but merely speed up the migration process from rural to urban society.

The U.S. Department of Agriculture, for instance, is still sponsoring research into the development of more efficient machinery which will take more and more people off the farm.

It's easy to understand the motivation for these efforts. They are part of a desire to increase production and decrease operating costs. But when is someone going to take cognizance of the social costs of continued migration out?

Take a look at the age of our farm population. It's old.

Obviously, certain factors will take hold to prevent this from happening, but at the present rates of farm family outmigration, in 20 years there will be no one left in America who knows how to operate a farm. Then no amount of fancy new machines will be enough to restore our proud claim as the best fed nation in the world at the lowest cost in terms of take home pay.

This dire prediction is not going to take place. But who are our farmers likely to be if the trend continues? They will be employees of large corporations.

There are some who will give reasons why this will not come to pass either, but few can contest the fact that a young man today who is not born into the ownership of farm land will find it all but impossible to get a start in agriculture.

The new approaches must also recognize that the solutions to our rural problems must be arrived at in a far different manner than has historically been the case.

Our problems are totally inter-related and equally complex, and they cannot be resolved in isolation. As the President said in his 1970 State of the Union Message:

"What Rural America needs most is a new kind of assistance. It needs to be dealt with not as a separate nation but as part of an overall growth policy for America."

With this in mind, the Coalition has developed certain legislative objectives described by Governor Tiemann as:

"The direct infusion of dollars into the rural economic system—The investment of job tax credit, Non-Agricultural credit, and the regional approach toward public works assistance.

Our reasoning is simple enough. Our organization is composed of a number of former Governors. Through sometimes brutal experience, they have learned what works to stimulate economic development.

Both Governor Tiemann and myself testified on behalf of S. 2223. This bill provides for a Rural Development credit and incentives. Introduced by Senator Hubert H. Humphrey and Senator Herman E. Talmadge to promote rural economic development this legislation has been co-sponsored by fifty members of the U.S. Senate. It is important, because it would reverse a serious trend and begin to infuse new money into the development and growth of countryside U.S.A.

This is a big and complicated bill. It may not pass without the aggressive support of groups like yours.

Again I say we must stop talking about balanced national growth and begin to do something about it. Take a look at what has been done in the past to stimulate economic development in rural areas, such as waterway development and reclamation projects. They worked. They stimulated development where there was none before. They were among the few federal actions planned and executed on the basis of cost-benefit ratio.

The Humphrey-Talmadge Rural Development Credit Bill would expand the activities of the Secretary of Agriculture to encompass all federal rural development projects—a total approach, rather than one based solely on farming.

This is something I believe is sorely needed. We have rural development programs scattered among so many government departments that President Nixon's Task Force on Rural Development couldn't even locate all of them.

The Federal Government is a large employer of hundreds of thousands of people, who take home millions and millions of dollars worth of paychecks. But where are the federal facilities located?

Now this is a good example of how they care about balanced growth:

At one time, those federal offices were in the central cities. But now the government doesn't even have the courage to leave the jobs in the central cities. It's moving them out to the suburbs, following the trend of private business.

Each year, the federal government spends millions for many kinds of research and development. But where does that money go?

It goes to the Harvards and the M.I.T.s and the Berkeleys. It might be argued that those institutions have the Nobel Prize winners. But I ask simply if the Nobel Prize winners aren't there because the federal R & D dollars are there? And I also wonder how many of these men would have become Nobel Prize winners without the R & D money.

If we really want balanced national growth, why don't we spend some of these dollars at places like the University of Kentucky or the University of South Dakota? I submit that this is partly because no one ever questioned the system before.

And what about credit?

There simply isn't enough of it avilable in rural America to stimulate local growth and a real trend toward balanced development. Small town banks either don't have the resources to lend great amounts of money for venture and enterprise capital, or they tend to hoard assets. There are small towns in this country where the banks don't even give auto loans.

I believe that the President's call for an investment tax credit will do much to stimulate economic development in rural areas. In fact, the Coalition feels sufficiently strong about the use of tax incentives to spur economic development that we are vigorously supporting an amendment by Senator Pearson of Kansas to provide a differential in favor of enterprises that locate in rural areas.

An investment tax credit of the type proposed by Senator Pearson is a powerful economic tool. It can be used quickly and is relatively simple to administer. Since it relies on the initiative of the private sector, it has the potential to be more effective than direct federal spending. The leverage gained from such an incentive can be tremendous. For example, under Senator Pearson's amendment, if new rural investment is stimulated and takes advantages of the investment tax credit, every dollar lost to, or in effect spent by, the federal treasury will be matched by seven dollars invested by the private sector in rural America. It also has the advantage of encouraging rural industrial development without destroying the tax base of rural communities—when tax incentives are left to the state or local communities alone, those who can least afford the loss of revenues are often those who have to make the biggest concessions to attract industry.

Federal assistance programs are fine. But what is needed in the countryside is money—investment money that can go directly to work.

Manpower programs and the like are just fine, but they can only supplement this basic need. There is no point in training a man from the country to run a drill press if there is no possibility that there will be a nearby drill press to operate. He will simply take his new skill to a major city, where it can make money for him. As important as things like vocational training are, they will only speed up the migration process unless there is local development capital to put new trade skills to work.

Now I want you to notice something. I began this speech talking about family farmers, and now I am talking about drill press operators.

The reason for this is quite simple. Rural America is no longer made up of a predominantly farm population. It is as complex a society as urban America and must be viewed accordingly. The Coalition clearly recognizes the need to tie together these diverse interests in order to mutually reinforce all segments of rural America. Unless this happens the future of rural America will continue to be marked by continued outmigration and a further loss of our youth to the cities. This need not happen. This will not happen if strong and vigorous leadership is able to define and fight for the real rural America in all its complexities. This is your challenge.

Your challenge because you have successfully represented that key figure in our population—the farmer. We must now expand our horizons and develop a rural America that can bring together all the different economics so that all can together create a strong and dynamic rural America.

THE 54TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

Mr. FANNIN. Mr. President, the history of the Ukraine is a history of struggle. These valiant people have carried on their fight for independence for many centuries.

In the closing months of World War I, the Ukrainians established their own government. But within a few years the Ukraine was again under the heel of a new oppressor, the Soviet Union.

Last Saturday marked the 54th anniversary of the proclamation of independence of the Ukraine. On that day Ukrainians in the Free World celebrated to give proof that the spirit of 48 million persons is not broken.

Despite the more than half century of Soviet rule over the Ukraine, these people have not lost their desire for independence; this desire is very much alive and grows stronger each year.

We must not forget the heroic struggle of these people.

I join with the Ukrainian people living in the State of Arizona in paying tribute to those who carry on the fight for freedom.

TRAGEDY IN ULSTER—XIV—NBC TELEVISION DOCUMENTARY

Mr. KENNEDY. Mr. President, on January 11, 1972, the Nation was treated to a remarkable and moving television documentary on the situation in Northern Ireland. The program—prepared as an NBC News White Paper by Robert Northshield, and entitled "Suffer the Little Children"—vividly and eloquently describes the terrible effects of the killing and brutality in Belfast on the children of that troubled city.

I commended NBC and Mr. Northshield for their insight and courage in helping America to understand the very real tragedy that is now unfolding in Ulster, and the way it is brutalizing the children, the most innocent victims of the terror. I believe that the program will be of interest to all of us concerned with achieving an immediate end to the violence.

I ask unanimous consent that a transcript of the program be printed in the RECORD, together with an excerpt from a column reviewing the broadcast, written by John J. O'Connor, and published in the New York Times of January 13, 1972.

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

[From the New York Times, Jan. 13, 1972]

TV: "SUFFER LITTLE CHILDREN" OF NORTHERN IRELAND

(By John J. O'Connor)

The most successful offering of the week turned out to be an hour-long National Broadcasting Company documentary on Northern Ireland. But this being television, that program could also claim its quotient of bad news, namely the glaring lack of sponsors, enlightened or otherwise.

The subject of Northern Ireland, or the Irish generally, isn't easy. Last Saturday morning on "Take a Giant Step" several youngsters put it succinctly. Ticking off the world's disaster areas, such as Vietnam and Bangladesh, they ended up with Belfast as "the hardest one of all to understand." Whether the basic problem is seen as religious, economic or political, no proposed solution is yet totally convincing. The potentials of reunification, for instance, have to contend with the mediocre economic progress of southern Ireland over its last 50 years of independence.

Still "the troubles" exist, and have been existing for the last 100 years in a land of intensely practicing Christians. A few weeks ago, the American Broadcasting Company producer-writer Ernest Pendrell presented a broad and effective examination in "Terror in Northern Ireland." N.B.C.'s "Suffer the Little Children," seen Tuesday evening, focused on the effects on Belfast's children of the violence between Catholics and Protestants.

With Robert Northshield as producer and reporter, an N.B.C. crew spent all of last November recording primarily the comments and reactions of children, most of them Catholic because the Protestants did not want their children to participate. The thoroughly affecting portrait captured normal children in an abnormal situation that, on both sides, was leading to the "rearing of another generation of bigots."

For the Catholics, there is the reality of British soldiers and internment without trial. For the Protestants, there is the terrorism of the Irish Republican Army. The Irish children, who happen to be a remarkably attractive and articulate group, are eloquent on those realities, yet neither the Catholic nor Protestant child seems able to truly define his hated enemy on the other side of the segregation fence.

"Suffer the Little Children" collected a series of remarkable images: children playing in the rubble of a bombed-out home, the funeral of a young man, bitter women blowing celebration whistles after the shooting of a British soldier, a young boy and girl discussing their knowledge of guerrilla weapons, young people in a pub singing boozily sentimental song about past wars and victories, a housewife staggering out of her home after having been hit in the face by a soldier's stray rubber bullet.

Beautifully filmed, the program was directed by Fred Flamenhaft and edited by Chris Callery. Taking a different approach, it brought new insight to an incredible war in which "both sides are losing."

[NBC News White Paper, Jan. 11, 1972]

SUFFER THE LITTLE CHILDREN

(Produced and reported by Robert Northshield)

NARRATOR. His name is Joe McCann. He spent November 1971 in Belfast. So did we, a documentary film unit from NBC News. Everything you will see and hear in the next hour was seen and heard in that one month, November, 1971. It is very little of what happened to that troubled city that month.

The most significant thing that happened to Joe McCann that month is that he existed on one side of something called the "peace line," an iron wall that separates Catholics and Protestants. The wall is an official acknowledgment of the power of fear and a guarantee of continued hatred.

Nowhere else in the world, only in Belfast, do the official maps make such a guarantee.

MAN. Somebody pointed out to me the other day that the trouble was now in its fourth year, which carries for most people, for me certainly, the frightening implication that there are children now running about the streets who have never really known normal life.

Of course, the thing that we will be very disturbed about as psychiatrists are the long term effects. What we are doing about that is that we are rearing another generation of bigots who are going to hate.

NARRATOR. Among many things Christ said that these passionate Christians didn't hear was this: "Suffer little children to come unto Me, and forbid them not, for of such is the Kingdom of God."

Every Catholic neighborhood in Belfast is a ghetto. Not each ghetto is poor, but everyone who live there is impoverished by the fact of segregation. This is a world of tradition. Some of it is beautiful.

(Church service in music.)

Some of the tradition is of treason and of glories that never were.

MAN. Are we ready, lads? (Leads group singing.) "We are the boys of Waxford, . . . with heart and hand, and . . . the darling chain, and free our name at last."

NARRATOR. And there are new traditions growing. The funeral of Michael McLarnin on the first day of November was the first of its kind that month. There were nine more before November was done. Through them all, there were children growing.

(Funeral service in chant and song.)

PRIEST. Oh, God, who is always ready to be merciful and to spare us, we make this prayer to You on behalf of Your servant Michael, whom You have commanded to depart this life. Bid Your holy angels to receive him and lead him home to Paradise.

(Hail Mary's.)

NARRATOR: Violence and pathos are ever more common in Belfast now. But they are only a part of the long tradition of poverty, unemployment, bitter hatred and family love that form a boundary around a Catholic ghetto. Within it, there are a subjugated minority, few hopes, many fears, and dozens of myths about an Ireland that once included four kingdoms but now has but three. Ulster. this place, is the one that's lost.

WOMAN (singing). "What did I have, said the fine old one. What did I have? This proud old one did say. I had four green fields. Each one as a jewel. But jaybirds came, and tried to take them from me. I had fine brown sons. They sought to save my jewels. They fought and they died, and that was my grief, said she.

"Long time ago, said the fine old one. Long time ago, that proud old woman did say, there was water and bread, thundering and chilly. My people died by mountain, valley and field. And their wailing cries, they reached the very heavens. And my four green fields ran red with the blood, said she.

"What have I now? said the fine old woman. What have I now? that proud old woman did say. I have four green fields, one of them's in bondage. In strangers' hands that tried to take it from me. But my thousand sons, as brave as were their fathers, and my four green fields, will bloom once again, said she."

(Street noise, children's voices.)

CHILD. Here they come!

NARRATOR. The British Army has been in Northern Ireland in force this time since August 1969. Since July 1970, the British Army has been at war with the Roman Catholic community, Both sides are losing.

On this November afternoon, a patrolling soldier was shot, and in his enemies there was no compassion.

The war is fought relentlessly, probably finally, on hundreds of bizarre battlefields.

(Children's voices—Not clear.)

CHILD. I climbed up a wall, and I saw two men on stretchers. They were policemen, and I saw—I shall tell you how they were shot. A car pulled outside of . . . (words not clear) . . . and a man and a woman got out. At the same time, the police car stopped and said . . . Suddenly there were shots. The man and the woman ran out and got in a car and got away.

MAN. In reality, a lot of these children are terribly frightened. Now, to me, the British soldier is more or less the kindly Tommy, but I have to accept that children in a certain culture have been brought up with a very strong concept of their Irishness, and that they do regard the British as the invader, and even before the first rubber bullet is fired, the British soldier has the image of the jack-booted invader.

And these children are terrified of the soldiers, and they believe that they have to defend themselves. I have been in riot situations, and I have experienced this fear myself. When you see these chaps coming through the smoke with their riders, their guns and their shields, it's a terrifying experience. I've seen people, children, adults,

turn absolutely chalk-white when the soldiers appeared.

And I think that this element of fear has been very much underplayed and underestimated.

(Song.)

NARRATOR. Every night the warriors celebrate with old myths and new hopes.

(Song continues.)

NARRATOR. And the war comes home.

(Street noise, shrieks, violence, voices.)

NARRATOR. What happened to us was made possible by a law that would be unthinkable in the United States. It was designed 50 years ago to take terror off the streets. Since it was invoked again last August, about a thousand people have been taken to this place, interned without trial, hearing, or confrontation with charges. It is called Long Kesh. It is a limbo.

In November, there were about 500 men in Long Kesh. Every one of them was reported to be a Roman Catholic. Long Kesh and the Special Powers Act are monuments in a war that the society and its authorities still fight against the Irish Republican Army.

The government hoped to stop the I.R.A. in its fighting by interning all its leaders. But the war has intensified dramatically since then. The modern I.R.A. has the same old goal: a union of Northern Ireland and the Republic to the south. Some of its soldiers are children.

VOICE. We are taught to respect weapons, not to become . . . (words not clear) . . . If we could have a peaceful revolution, we would want this, but this is an impossibility, because . . . the Catholic resistance are not prepared to give up their riches and hand them over to the working class who need the Catholics for them to keep them in their positions and . . . struggle. So, we will have to make this, and if they use weapons against us, we will certainly use weapons against them.

NARRATOR. Well, have you ever had reason to use this weapons training of yours?

YOUTH. Yes, I've used a gun, but I've never killed anyone.

NARRATOR. But have you seen people killed?

YOUTH. I've seen people killed, yes.

NARRATOR. And surely you're prepared to do such a job if it's necessary, I suppose?

YOUTH. I'd be prepared to defend myself and any of my friends because it's a very hard thing to go out deliberately to kill. We don't do this. We defend. If the British Army are going to shoot at us, we shoot at them. It's either kill or be killed. And we don't use violence; we use defensive action. We don't preach a kind of gospel of go out and have a riot and shoot British soldiers just for the fun of it. There's a reason why they're shot, and the reason is because they shoot at us and they murder our people. They subject old people to torture and brutality, and they can't be allowed to run wild. If they came over here and thought they'd get away with it, we'd be suffering a hell of a lot more now, but you must understand that we are guerrillas, an urban guerrilla group, and we take our time, and that's it.

NARRATOR. And do you feel that as of now you're about even? Do you owe them any or are they ahead of you or are you ahead of them?

YOUTH. Well, it's not a ame of numbers, you know. We're not playing games. We don't collect scores. We are the army of the people, and that's not a carnival show now. We don't keep on record how many British soldiers we have killed, but we remember all the Irish people who have been murdered at the hands of British forces.

NARRATOR. You must be too young to be involved in the weapons training, Sean. What do you do?

CHILD. We get trained in weapons, but we don't use the weapons . . . with the armor.

NARRATOR. Do you know how to use weapons?

SEAN. Yes.

NARRATOR. Which ones?

SEAN. The Luger, short arms.

NARRATOR. And you've had target practice and so on?

SEAN. Yes.

NARRATOR. Do you use live ammunition?

SEAN. Yes . . .

MAN. Sean, could you kill someone? Would you be willing to use that pistol?

SEAN. If I have to . . . (not clear) . . . I'll use it.

MAN. Have you worked with explosives?

SEAN. Not yet. Just worked with guns, but I know—we've been taught about it.

MAN. How old are you?

SEAN. Fourteen.

* * * * *

NARRATOR. On each November morning in 1971, part of the British Army did a slow march through part of its homeland. The soldiers sought hidden arms and ammunition and specific enemies of the state. Sometimes they found some. On this morning, while we watched, they seemed to find nothing more than children late for school because of the excitement.

MAN. Tell me about the soldiers. What did they do?

CHILD. They kind of laughed . . . (difficult accent) . . . Mommy looked in at the bed, at me, and . . . help him with his purse . . . I asked here . . . telephone . . . she went out again, overheard glass breaking. There was glass here in the door . . . and at the glass window, and they're always smashing at that window. They were smashing away at it, and then there were two of their bullets, and after that, and they came in there and . . . they came in through it, and they were just standing there and staring and staring. After that, Dad put on his coat and Mommy said to him, "Where are you going?" And Daddy says, "I don't know." And after that he took his coat off. Mommy had . . . in the oven.

NARRATOR. This is a Catholic school, so the girls here are more familiar with the war than the Protestant children in public schools. Joan McKnight is a very good student, usually. She showed us her work book and a writing assignment. She had been given a grade of "excellent." Between that lesson and the next, a bomb went off at night near her home. Next day, she tried to repeat the assignment.

GIRL. Don't have nothing to tell you.

MAN. Don't you have anything to tell me? Don't—no, leave that don't touch it, sweetie. Tell me, you started to talk before about Protestants. Do you know any Protestants?

GIRL. No. Protestants . . . are they? The Protestant church, they have the Protestant school kids.

MAN. What is a Protestant?

GIRL. I don't know.

MAN. Are you afraid of them? Why?

GIRL. Well, I'm just scared of soldiers.

MAN. Well, do you think they're the same as soldiers?

GIRL. Yes. They really shoot, and they have real bullets.

MAN. The soldiers have real bullets?

GIRL. And the green ones have toy bullets.

MAN. Is that right?

GIRL. We play guns . . . (crackling noises, like shots)

MAN. I said earlier that by and large children weren't disturbed psychologically in a short time. Of course we have some exceptions to this general rule. We have some very particular stresses that are operating in certain homes, such that some children see their homes being burnt down. Some children witness relatives being shot dead, and then a third stress that has occurred in the last few months is the fact that fathers have been taken away, so some children have seen the army calling through the night, taking a father out of bed, and the father has been missing from the home now for three or four months.

And this is a stress, and this will certainly cause considerable disturbance in these young children.

MAN. Now, where—is your daddy home now?

CHILD. Nope.

MAN. Where is he?

CHILD. Long Kesh.

MAN. And do you know what Long Kesh is?

CHILD (not clear). Tell me that much. (?)

MAN. How long has he been there?

CHILD. I couldn't tell you because I don't know.

MAN. What—when will he be home, do you know?

CHILD. Don't know. My Mommy said he may be home at Christmas, but she said, don't be getting your wishes up because he might not. That's all I know.

NARRATOR. Most of the girls like to talk to us. They were demonstrative and open and trusting. Michele was unique. It seemed that there had been a terrible loss of innocence.

(Conversation drowned in background noise.)

NARRATOR. We went back to St. Vincent's School on another day that month. There had been a change in the classroom.

WOMAN. Well, she had this fear all the time. Her mother did say to me that she was going: "Will these soldiers be back again tonight, Mother?"

The mother called today. She mentioned to me that during the raids, the soldiers had destroyed their home, wanton destruction. Pulled up the floorboards and broken down the staircase. So, she said she just couldn't live another day in the home, and she hasn't told anyone where she's gone.

MAN. Now, how did this harassment show itself in Michele?

SISTER. Well, in school she was very upset and cried a lot and we couldn't find out what was wrong with her, and at home the mother told me that she couldn't leave the living room. Michele cried every time she left the living room and going to bed at night, the light had to be left on, and in fact, the mother had to sleep in the bed with her.

So, she thought, rather than bring up the child under these conditions, it would be better to move right to this new house. And no one around the district knows where she's gone. It's the only way that she can go so that she can have peace, which she hopes to find there. Whether she will or not, that's another story. She may be followed by the Army.

MAN. (Shouting unintelligibly.)

MAN. I have no doubt but most of you who are viewing today have seen the guards in London in their ceremonial duties and have witnessed the discipline and bearing of the guardsmen on those occasions. This same discipline and bearing and attitude are expected from the soldiers in Ulster.

MAN. We arrived in Ireland about August of 1971, and we took up the duties, our duties in Belfast as part of the internal security situation. During the time we have been here, we have suffered a number of casualties, having had about four men killed and about 37 wounded, either by bullet or by bomb blast or by stone throwing.

(Parade music, drill calls.)

MAN. Forward march! (Other calls unintelligible.)

MAN. These children are not freaks. They're normal children in a very abnormal situation, indeed. This is a situation in which the boundary between fantasy and reality has become very blurred indeed as can happen in a very stressful situation.

NARRATOR. The opposing forces sometimes come together peaceably. This place is a school for some and a barracks for the others. It is a place where daydreams meet nightmares.

MAN. These children are living in a situation in which the image of "daddy" has become projected onto other members of the community in which they live. And this produces in these children tremendous fear, and this stress that leads to the blurring of the boundary between fantasy and reality, so that in the street you can have children one night playing at riots using tomato sauce for blood, and the next night, they're having a real riot, and it's really blood. They just don't know the difference any more.

MAN. The kids go up and start throwing stones at us. I mean, we just get the range of the stones; all of a sudden, somebody opens up on you from a hedgerow. There again, one of yez might get hit. What can you do? You look around you, all you see is kids looking at you, little kids throwing stones. You don't see the gunman lying in the hedge. Or you don't see him behind the window or around the corner or from in back of a car. All you see is a sea of little faces looking at you.

Obviously you cannot start shooting indiscriminately, blasting at those little kids. There you are again. One of yez is hit. Nothing there but a lot of kids. Nothing you can do about it. Just goes back as it comes.

MAN. (Barely intelligible.) We can't . . . Protestant or Catholic, it makes no difference to a real soldier, I mean, nothing you do, politics or . . . as for myself—there you go, there the shooting starts up. (Remote sound of shooting). There we go. (Voices blur.)

NARRATOR. The guardsmen did their ritual walk through this unfriendly part of Britain. They found nothing as usual.

(Children's voices.)

(Dog barking.)

NARRATOR. Many of the soldiers are armed with weapons that fire something huge and hard called rubber bullets. It sounds humane. Usually they move among their countrymen with tenseness, with restraint and courage. There were 14,000 soldiers in Northern Ireland in November. Fifteen of them were wounded in Belfast that month. Seven were killed.

And then another morning more than a thousand soldiers made a massive search of another Catholic ghetto. There, one of them told us, is the only war we have. Just one shot, a rubber bullet, is fired.

(Woman screaming unintelligibly.)

MAN. Have a look at that! In our own home! In our own home!

(Screaming woman, crying children, voices.)

NARRATOR. Most of the people in Belfast are neither Catholics nor soldiers. The Protestants defeated the Catholics in 1690, and the two sides act as though it happened yesterday. The Protestants have the jobs, the money, the government, the control, and at least 110,000 licensed guns. They think of themselves as loyalists.

WOMAN. We are British. Some people think we are not. We are British people, and the British Army is our army.

MAN. I'm a Protestant. This thing was set up for me.(?) And as a Protestant, I understand it.

MAN. I think myself that the whole blame should be laid at the Roman Catholic Church for the agitation of these children and not being integrated with Protestants and Catholics together.

NARRATOR. On the Protestant side of the peace line, they were unwilling to have us meet their children, but one day some parents met with us. On the same day, a prominent psychiatrist did, too.

MAN. I fear the Church is a dismal failure in Northern Ireland. They are completely divided, yet, as you say, they have this basic thing in common that they are Christians, and there should be Christian love. However people are hating.

NARRATOR. That hatred brought the British Army into Northern Ireland in 1969. Its military mission was to build a peace line between the two groups of British Christians. Even now, most of one regiment spends its afternoons keeping Protestant school children on one side of the road and Catholics on the other.

MAN. The two communities are completely divided into the Protestants and the Catholics, and the leaders of each church constantly snipe at each other, instead of uniting together to lead the people to love one another.

The Catholic children, they go to Catholic schools, and the Protestants go to Protestant schools, so even before our present troubles there was no mixing of the children at all, and I think one of the answers is the future is that religion must be withdrawn completely from education, and religion must be made a personal thing and not a political or an educational issue at all.

NARRATOR. On several afternoons in November, we saw the peace line breached. The army tried to keep them apart and let the wall build itself higher. And a majority sometimes abandons its silence.

WOMAN. I thought there was good and bad on both sides, but there's not. Because if there was good Catholics, the I.R.A. wouldn't be getting away with it, and they are, because there's somebody harboring them somewhere, and if they want the decent life for their children which all of us want for ours, they'd go out and work. And they're shouting about what the Catholics get and what they don't get. The Catholics get more than the Protestants.

WOMAN. And I'm sure the children on the other side, as we say, "on the other side." I mean the Roman Catholic children, I don't know what sort of children they're going to grow up as, when a child of eight years old can come out with a shotgun or a machine gun. I've seen it beyond, and when you see the women on the TV actually say they would put their daughters out for these people . . . because there's always a British soldier, where's the motherly love in that? I can't see any.

MAN. Well, the love should come originally from the parents, from the example of the parents, but the example that the children are getting in Belfast at the moment and have for many years but especially now, is to hate, because the parents hate, and the children then learn to hate from the parents.

MAN. Nothing has hardened the opinion more than this trouble now, and as I said before, they're only a lot of gangsters and the likes.

WOMAN. I don't think we'll ever get together, our generation anyway. There is too much hatred, killing, bombing, all this, and I don't think—and anyway, our generations will see it.

MAN. Well, I would like to see that for my kids and my children's children, that there'd be no talk of religion. People in our countries can live without mentioning religion.

MAN. I'd like to see the children educated together and sort of get to understand each other and understand each other's problems, but I'm afraid that will not happen in this generation only because as I said before, things is just too bad now, and as I said before, I think it's the Roman Catholic Church that is mainly responsible.

MAN. Hatred comes from suspicion and fear, and it is taught by example of the parents, the example of the leaders, the example of the politicians, the various societies that exist teach the people to hate, but it's largely based on fear and suspicion of what's going to happen.

WOMAN. And I always had Roman Catholic children; in fact, I had two at my wedding. But since the trouble, I waved across the peace line at one. She lived just facing McTodd (?) Street here, and she was frightened to wave back at me, and I'd known her for ten years.

WOMAN. I'm a long time in this street, about nearly 70 years in this street, so, I'm too old to be bothered about it anyway, but still withal, the Protestants and Catholics are not fighting. It's the I.R.A., and they're doing all the damage that can be done. And it's just things that—

WOMAN. Hello!

WOMAN. Hello, it's not so bad at all.

MAN. You have children?

WOMAN. Pardon?

MAN. Do you have children?

WOMAN. No, I have just one, my daughter, but I was burned out in Clifford Street.

MAN. What effect do you think the troubles are having on the children?

WOMAN. Well, I don't think it's very good for the children at all, both Catholic and Protestant, I do not indeed, and I do think what the world needs is Jesus, just a glimpse of Heaven, and if the both sides would get down on their knees and ask God to forgive them, this would be a better world to live in. And I hope and pray that Catholic mothers and Protestant mothers will realize that, because it's the children, them children there that is the future of this world.

MAN. What do you think of the troubles? What do you think is happening?

CHILD. It's all the Catholics, it's the I.R.A. doing it.

MAN. Do you know what a Catholic is?

CHILD. Yes.

MAN. What is a Catholic?

CHILD. (Unintelligible.)

MAN. Do you know?

CHILD. Aye, a man that causes trouble then he can join the I.R.A., and the I.R.A. burns up, bombs up all the Protestants, and the Catholics are—the Catholics make the trouble.

MAN. How do you know what a Protestant is?

CHILD. I always know, because Mommy always told us what they are. Catholics may be beat up by someone because there are some bad ones out there, and she told me they are Protestants.

MAN. Well, what is a Protestant, do you know?

CHILD. No, I don't know.

MAN. I think it would be fair to say that the churches haven't done nearly as much as they might have done, and their attitude is very strange to the whole situation. This is a situation which they have in part produced by the religious policy of segregation over the years, and I believe that you can't build this big wall between these two communities, telling them not to intermix, and then scold the people for fighting.

I think you can't have it both ways. You must either integrate the community or, if you're going to segregate them, you can't complain if aggressions build up between the groups, and clergy are calling the people thugs and holligans. But these people are just acting out their very fears that the church has implanted in them over the years.

MAN. What do you think's going to happen in the future? What'll it be like to grow up here?

CHILD. I think it'll end.

MAN. You think what'll end?

CHILD. I don't think the troubles will end.

MAN. You don't. What do you think will happen?

CHILD. I think it will just keep going and go on and on.

MAN. Well, it's got to end some time.

CHILD. Aye, some time, but I don't know when. Nobody knows.

MAN. Well, what would happen to all the people if the troubles kept going?

CHILD. Be more dead and all that.

MAN. If one looks at Northern Ireland's history or Irish history over the past hundred years, you will find that there have been riots approximately every decade, and this may be one of the reasons for them,

that a new generation is coming up to hate.

This is the most pessimistic thing about our present troubles. It's not that the children are being very disturbed at the moment psychologically; it's the effect it's having on their personality development at this very important stage of their lives.

MARION, S.C., RECREATIONAL PROGRAM

Mr. THURMOND. Mr. President, the city of Marion, S.C., under the able guidance of Mayor T. C. Atkinson, Jr., is developing a recreational program that should serve as an incentive to other towns which have similar needs.

It has been long established that good health and recreation go hand in hand. Because this is true and because it affects all citizens, it is good to see a city administration take the initiative in doing something to provide recreational opportunities for as many people as possible.

The Marion program is just beginning. Their plans for the future indicate that it will grow.

Mayor Atkinson, assisted by City Councilmen William S. Derrick and Henry V. Sawyer, has worked closely with City Director Charles H. Ellenburg and City Athletic Director William E. Gardner in developing two community centers, a municipal pool, and four play areas.

The two community centers, the Gurley Street Center and the Watsonia Street Center, are open all year round from Monday through Friday. The municipal pool is open to the public each afternoon during the swimming season, and morning sessions are directed toward beginning swimmers.

Marion's Department of Parks and Recreation sponsors many activities designed to attract a wide range of interests. They include baseball, basketball, billiard tournaments, ceramics, coin clubs, crafts, football, piano, ping-pong tournaments, quiet games, a senior citizens club, slimnastics, swimming lessons, tennis, and a TV room.

Looking to the future, their list of proposed activities include art, bridge clubs, canasta clubs, Christmas crafts, dance, flag football, and horseshoe tournaments.

The department has one of the best ceramic programs in the area. Mrs. Fannie Grose, the Watsonia Street director, conducts the entire program. At present, classes are held at Watsonia Street Center only, but plans call for a program at Gurley Street Center very soon.

The Marion Senior Citizens' Club was formed in December 1970. It will meet on the 2d and 4th Wednesday of each month. There is no minimum age limit for membership, and the opportunities for fun and relaxation are unlimited.

Summer recreation begins in June and goes through August. Many different activities are offered, as well as a large variety of supervised games. This is the most active time of the entire program, and everyone can join in the fun.

Plans are now being discussed to open up various school gyms for recreational activities. The gym would be open 2 or 3 nights a week for 3 hours each night. If approved, the program would operate during the winter months.

The department plans to purchase 2.8 acres next to the Watsonia Community Center and develop a lighted combination athletic field. It will include a little league diamond and a football field. Also proposed in the development is a picnic area with parking facilities. The completion date is scheduled for July 1972.

Additional plans call for more tot-lots—mini-parks—located throughout the city, playground improvements at Gurley Street Community Center, and the tennis courts to be lighted at Watsonia Center.

The city definitely needs a gym to use permanently in its recreational program. It is hoped that through Federal funds a gym will be built in the near future. There also may be another swimming pool built to serve the community needs.

Mr. President, I wish to commend Mayor Atkinson and his city administration for their efforts in this worthwhile endeavor. So that other city officials may see that such work is going on, because such efforts might inspire them to look deeper in to their own recreational needs.

THE SOVIET UNION AND THE INDIA-PAKISTAN WAR

Mr. HARRIS. Mr. President, James Reston, in the December 17, 1971, New York Times, lucidly explains the political implications of the war between India and Pakistan. According to Mr. Reston, the Soviet Union has emerged from this "avoidable and tragic conflict as the military arsenal and political defender of India, with access for Moscow's rising naval power to the Indian Ocean, and a base of political and military operations on China's southern flank."

While we must hope that Soviet gains will not be so substantial, there is no doubt that Mr. Reston's fears are well placed. In the last several months the Soviet Union has moved a considerable distance toward goals it has sought for decades. And it has been able to do this because we ourselves were so blind.

Mr. President, I read reports now that Dr. Kissinger is attempting to discount possible Soviet gains in South Asia by citing the famous retort of Austrian Prime Minister Schwartzenberg in 1848 after Russian troops had helped the Austrian Empire crush a popular revolt in Hungary. Asked whether Austria was not in danger of becoming a Russian puppet as a result, Schwartzenberg replied:

Dear friend, our ingratitude will astonish the world.

We can only wait to see if Indian ingratitude will also astonish the world. But I would point out that such behavior was astonishing only because it was so totally unexpected. And I ask, should the United States have risked its fundamental interests in South Asia on a similar hope of unexpected behavior? Should we not base our policy on what is likely rather than unlikely?

Mr. President, I believe it is a major tragedy for the United States that our President and his advisers did not understand the implications of the war on the subcontinent until, as Mr. Reston suggests, it was too late. Because the issues involved are so important, I believe that other Senators will find Mr. Reston's article of interest, so I ask unanimous consent that it be printed in the RECORD.

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

WHO WON IN INDIA?

(By James Reston)

UNITED NATIONS, N.Y., December 16.—India has won the battle for East Pakistan, but in the larger perspectives of world politics, this is not the main thing. For the Soviet Union has emerged from this avoidable and tragic conflict as the military arsenal and political defender of India, with access for Moscow's rising naval power to the Indian Ocean, and a base of political and military operations on China's southern flank.

This was the big background question in the Indo-Pakistani war. It was not only a local war between India and Pakistan, not only another phase in the long religious conflict between the Muslims and the Hindus, not only a moral conflict between Pakistan's vicious suppression of the Bangladesh rebels and India's calculated military aggression to dismember the Pakistani state. Back of all this, there was a power struggle between China and the Soviet Union, and a strategic struggle between Moscow and Washington, and at this point in the story, which is not the last chapter, Moscow has probably gained more than anybody else.

Everybody has been so preoccupied with the struggles, blunders, and tragedies of the Indians and Pakistanis, who cannot even share their common misery, that they have forgotten these larger world strategic struggles between Washington and Moscow. But the leaders in Moscow have obviously not forgotten the larger question, or allowed their arguments in the Middle East or their efforts to reach a strategic arms agreement with the United States to get in the way of their nationalistic interests in the Indian subcontinent.

In the strategic arms talks with the United States in Vienna and Helsinki, and in the Middle East debates between Israel and the Arab states, the Soviet diplomats have been arguing for compromise and accommodation. Their propaganda is plain: The great powers must work together for peace, military power must not be used to achieve political objectives, and when it is—as in the case of Israel in the war with the Arab states—the territory captured by military aggression must be given up.

But when the United States invoked these principles in an effort to force the Indians and the Pakistanis to stop the fighting and withdraw within their own borders, the Soviet Union switched. It was not interested in compromise or accommodation with the United States and the other permanent members of the U.N. Security Council. It went against the will of the overwhelming majority of both the Security Council and the General Assembly, and cast its veto against a cease-fire and withdrawal.

In short, Moscow reverted to Russia's historic ambitions. It saw a chance to weaken Washington's long association with India and India's democratic experiment in Asia, to create a new alliance with India and weaken China, to dismember Pakistan, and to do so at a time when the passes between China and India were choked with snow and Peking could not easily counterattack in the North.

Well, maybe all these cunning tactics will work, and India will be able to encourage independence for one faction in Pakistan without encouraging independence for other factions in India itself, including the powerful Communist faction in the Indian state of Kerala, but the success of India and the Soviet Union in this squalid tragedy is not the end of the story.

They could, by their momentary triumph, have created the things they fear the most. Moscow has certainly encouraged by this calculated power play a closer relationship

between Washington and Peking just before President Nixon's visit to China.

Also, India, which won with Soviet military arms and Soviet diplomatic vetoes in the United Nations, is now dependent on aid from the Soviet Union, rather than from the United States, and in the long run, this could be a more awkward alliance.

Somebody is now going to have to pick up the pieces, finance the repatriation of the Pakistani refugees and rebuild the Indian Army; and Moscow will probably pick up the bill. For this was not only, and maybe not even mainly, an Indo-Pakistani conflict, but a Soviet-Chinese conflict, and the Soviets now have the possibility of bases in India, south of China, in addition to their million men on the Sino-Soviet border in the north.

This is really what the Nixon Administration had in mind when it sided with Pakistan against India. Washington was late and dense in reacting to Pakistan's violent repression of the Bangladesh rebels and the tragedy of the ten million Pakistani refugees driven into India, and it might have avoided the worst of the tragedy if it had reacted sooner; but in the middle of the Indo-Pakistani crisis, it finally understood the larger strategic challenge of Moscow's power play.

Maybe this puts the confrontation of the United States, the Soviet Union and China in Asia in terms that are too bleak and pessimistic, but the Indo-Pakistani war should not be underestimated. It is not merely a political, religious and geographical struggle in the subcontinent of India but part of a much wider conflict in a rapidly changing world.

AMERICAN POLICY IN GREECE

Mr. PELL. Mr. President, I recently read an informative article concerning American policy in Greece, written by George Anastaplo, and published in the Baltimore Sun of October 31, 1971.

Because it is a piece which contains so many thoughts of value, I believe it will be of interest to Senators.

I therefore ask unanimous consent that it be printed in the RECORD.

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

AMERICAN POLICY IN GREECE: A DECLARATION OF BANKRUPTCY [1]

(By George Anastaplo)

Congress continues to debate whether the United States should supply military aid to Greece. But, it should be noticed, it may not matter, in assessing the influence of American policy upon Greek affairs, whether we actually deliver military aid to the colonels' regime. It does matter whether we are believed by the Greek people to be delivering such aid. Instead, the colonels would much prefer to have us pretend publicly to be providing them military aid, while not actually doing so, than to have us repudiate publicly our aid while continuing to deliver it in private.

It has been of great importance to the colonels that the United States should appear in public to regard the Greek regime as a respectable ally. Such fraternization tends to paralyze those elements in Greece which remain hostile to the colonels. If the United States continues to support the colonels, it is asked, what can unarmed citizens do to unseat them? And, it is further asked, would the American Vice-President be permitted to conduct himself as he has in Greece if the United States does not really support the regime?

The political effect in Greece of the Vice-President's visit cannot be corrected by whatever he may have said in private to the colonels about a return by Greece (as part of "the Free World") to constitutional government. Tyrants, on whichever side of the Iron Curtain they may be entrenched, cannot be argued out of office. The colonels have dug themselves in, partly by exploiting since 1967 our public acquiescence in, if not support of, their regime. Our State Department experts now realize that they were deceived into "going along" by the colonels' repeated assurances that they intended to return the country to constitutional government.

No matter what kind of welcome can be staged in Athens for American leaders, there smoulders in Greece today the resentment of a proud people who can easily be led to regard themselves as having been subjected to a tyrannical rule in order to serve the strategic interests of the United States. Such resentment can damage the permanent national interests both of Greece and of the United States in the Eastern Mediterranean. In fact, the United States may have already so compromised itself in Athens that it is now limited to an effort to salvage what it can of its relations with Greece after the colonels do go.

How has a country which had been so influential in Greece gotten itself into the helpless position we now find ourselves? First, we misjudged the Greek constitutional crisis of 1965–1967, a crisis in which the legitimate leaders of Greece did conduct themselves irresponsibly. We did not do what we could have at that time to moderate the passions which had developed in Athens and to which we contributed.

Then, we misjudged the usurping colonels who seized power in April 1967. We failed to see what should have been evident to everyone who ever saw these men close up, that they were crude opportunists with a talent for conspiracy. We failed to see as well that there was (and perhaps still is) available as a popular alternative to the colonels an experienced conservative, a former prime minister of considerable prestige in Greece, who was clearly friendly to the United States. In short, we betrayed our friends and the cause of decent government in Greece by permitting ourselves to be gulled and used by the colonels.

We have, in our collaboration with the colonels, ignored the interests and wishes of the Greek people. We did not see that the legitimate interests and sensibilities of the Greek people were necessary concerns for us to take into account if our policy was to be sound. Nor did we see that our much-publicized association with the colonels was creating a permanent reservoir of resentment against the United States, resentment which may be found even among the conservatives, royalists and better army officers of that country. We have, that is, succeeded in uniting articulate opinion in Greece on one simple proposition, that the United States is in large part responsible for the tyranny which Greeks seem destined to endure for a generation.

Another effect of our policy has been that it has permitted the colonels to corrupt and exploit the Greek-American public. That public remains, despite its good intentions, curiously uninformed about Greek affairs. If the American government had been more perceptive and more responsible in recent years, the more influential Greek-Americans would not have been as foolish and harmful as they have geen in their uncritical support of the colonels. But even Greek-Americans cannot help but notice, upon returning to Greece, the marked absence of discussion of political matters by ordinary Greeks in public places.

This unnatural public silence of the Greeks is revealing, eloquent and ominous. The longer the present regime continues, the less likely it will be that a moderate resolution of "the Greek problem" will follow the departure of the colonels. Since it is unlikely that we Americans will do publicly what might still be done to help the Greeks rid themselves immediately of the colonels, we should begin to consider what can be done (in the interest of both the United States and Greece) to blunt the effect of the passions which have been generated against the United States among the more articulate Greeks, passions which can lead some day to disastrous experiments by a liberated Greece.

Would it not be prudent for us (as part of our "salvage" operation) to encourage the Greeks to move into closer association with Western Europe and away from their recent dependence upon the United States? This may be a safe and humane way to minimize the potentially explosive results of our miscalculations and self-deceptions in Greece of the past decade. Greek democrats cannot help but notice that they deserved less and yet got more from European governments than from their American ally since the colonels struck in 1967. Thus, whereas the United States (like the Soviet Union) accepts without serious public criticism the Greek government as it is today, the Governments of Western-Europe refuse to do so.

The deference by Europeans to what decency requires may be seen in the condemnation in the Council of Europe, despite American lobbying in opposition to this action, of the widespread and deliberate use of torture by the colonels. Such repudiations of the American approach should make Western Europe appear more plausible than the United States as a reliable ally for a liberated Greece. Perhaps there can be minimized by an increased reliance upon Europe the effect of our failure in Greece, a failure which anticipates the permanent loss of the pre-eminent influence America has had there for a generation.

Is there not something shoddy and unimaginative in the willingness of a great power to be used as the colonels have been using us since April 1967? Which is worse, that we did not know better or that we did not care? However that may be, we have permitted ourselves to be crippled by the self-seeking conspirators who continue to control Athens.

There remains for us Americans, whatever may happen in the Mediterranean, the duty of reflecting upon why our policy in Greece has been such a miserable failure and what that failure reveals about the way we conduct foreign affairs everywhere.

[1] This article was published, in a slightly edited form, in the *Baltimore Sun*, Sunday, October 31, 1971, p. K2.

George Anastaplo, who was born in St. Louis and now lives in Chicago, is Lecturer in the Liberal Arts, The University of Chicago, and Professor of Political Science, Rosary College. He is the author of *The Constitutionalist: Notes on the First Amendment* (published in 1971 by The Southern Methodist University Press).

Dr. Anastaplo has been declared *persona non grata* by the Greek government because of his articles about American policy in Greece. Citations to those articles may be found in the Cong. Rec., vol. 117, pt. 16, p. 20710. See also Cong. Rec., vol. 117, pt. 21, p. 28130.

AIRTIGHT CEILING ON FEDERAL EXPENDITURES

Mr. ROTH. Mr. President, I was delighted to see the article in yesterday's Washington Post which indicated the President may introduce to this session of Congress an airtight ceiling on Federal expenditures. This article has been confirmed earlier today by an announcement from the White House, placing the

limit at $246.3 billion, the estimate of expenditures for fiscal year 1973.

The Federal budget—both in size and composition—has become too important an influence on our national economy for Congress to neglect its effect on inflation and interest rates. Though a sluggish economy needs stimulative Federal support, we simply cannot continue to spend beyond a level of receipts that would normally accrue to the Treasury under conditions of full employment.

Last year I offered an amendment to the Revenue Act of 1971 to provide for a fixed limit on spending for fiscal year 1972. Though bipartisan support for this measure was very encouraging, the motion lost by six votes.

It has been my intention to reintroduce similar legislation. I have been in touch with the administration and plan to work in concert with the President's desire to achieve, for the first time, an absolute limitation on spending—including the so-called uncontrollables—which will bind Congress and the executive branch to a responsible program of fiscal restraint. I am hopeful that we can develop a bill that will again have bipartisan support.

Mr. President, I ask unanimous consent that the article by Mr. Hobart Rowen, of the Washington Post be printed in the RECORD.

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

NIXON MAY ASK A CEILING ON SPENDING

(By Hobart Rowen)

President Nixon is seriously considering asking Congress to enact a rigid ceiling on federal expenditures.

The possibility is a consequence of soaring government outlays which reportedly will boost the budget deficit for fiscal 1972 (which will end June 30) to a level just short of $40 billion. Exact figures will become public at noon Monday when the President sends his budget message for fiscal 1973 to Congress.

The ceiling would apply to the executive as well as the Congress and, according to one informant, "would admit of no escape hatches whatever."

The possibility of a request for a ceiling on expenditures crystallized in the past few days, too late for inclusion in the budget message itself. But a number of key government officials have been urging the President to make the move, and believe that the big bulge in spending (and in the deficit) has convinced him.

Congress has tried expenditure ceilings before, but usually with exceptions that defeated the purpose.

Some officials fear that interest rates will tend to rise when the money markets begin to appraise the large amounts that the Treasury will need to borrow to finance the new deficits. But if the President asked for and Congress agreed to an expenditure ceiling, the advocates of that step see "a significant influence" on interest rates.

According to published reports, the fiscal 1973 deficit might be about half of the extraordinary fiscal 1972 deficit. The combined red ink of $60 billion or so for the two years would require an increase far above the existing $430-billion public debt ceiling.

Some officials in the Nixon administration, distressed by the high level of spending, think that the budget will run out of control completely without some new gimmick to halt the flood of new federal programs.

One strong advocate of expenditure reform is Federal Reserve Chairman Arthur F. Burns. When he was counselor to the President, he publicly advocated not only an expenditure ceiling but "zero-base" budgeting, in which a departmental official would have to make a case for his entire appropriation request each year, just as if it were new. Currently, departments only have to justify an increase.

Officals in the Treasury Department and in the Office of Management and Budget are also looking for new ways to trim back spending.

Within the administration, the feeling is that Congress will be in a mood to accept the suggestion for a ceiling, provided it can saddle the President with the responsibility for reconciling appropriation bills with the over-all expediture ceiling. Mr. Nixon is being urged by some of his closest associates to accept that responsibility.

In a speech Dec. 2, 1969, Burns said:

"Such a mandate by the Congress would, of course, not make the President's job any easier; it could well lead at time to uneconomical cutbacks; and it might even mean that we will have only one-term Presidents in the future. However, by enabling the members of Congress to satisfy both their conscience and their constituents, such a mandate would probably assure that total expenditure is kept under decent control."

THE REAL STATE OF FARMERS

Mr. MONDALE. Mr. President, last week in the state of the Union address President Nixon mentioned farm income. In the written text which was delivered to Congress, he mentioned corn prices specifically, saying:

A surprisingly large harvest drove corn prices down last year, but they have risen sharply since last November.

Mr. President, corn prices have not risen sharply; they have made only normal after-harvest increases. But they are still far behind the prices of a year ago. The picture in rural America today is bleak. Every time I go home to the State of Minnesota and talk to farmers, I see that they are facing an increasingly disastrous situation. Prices are at depression levels.

Farmers do not demonstrate or carry signs. They keep on with their work seriously and silently. Several will just live on their equity until, seeing they can not make any more, they move off the land. Others seek off-farm jobs to supplement their modest income from the farm. But each year, many more are joining the rural to urban exodus.

Last week I attended a conference at Worthington, Minn. on the "Crisis in the Cornbelt." Farmers, businessmen, and rural residents there in southwest Minnesota are concerned and disturbed by the latest census figures for their area.

Several farms in northern Minnesota were abandoned during the great depression. Now, a drive through the countryside of our more productive southern Minnesota counties is starting to show the same thing. A recent population study of southwest Minnesota showed demographically what is happening in that agriculturally rich area. These findings were featured in a series of articles by Lew Hudson and published in the Worthington Daily Globe, one of our fine rural newspapers. The series has been compiled into a booklet entitled "Exodus: People in Flight."

Mr. President, I think this information and the speeches given at the "Crisis in the Cornbelt" conference which I attended last week show more realistically the state of rural America than does the President's state of the Union message.

I ask unanimous consent that the booklet and the speeches be printed in the RECORD.

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

EXODUS: PEOPLE IN FLIGHT

Eighteen counties of southwestern Minnesota are facing grave population and economic problems. This was the conclusion of a comprehensive study completed in the fall of 1971 by Gerald Heil, researcher for Southwest Planning. Heil's report was entitled "Southwest Minnesota Population Study."

This booklet is a condensation and summarization of Heil's findings. It was written by Lew Hudson, Regional Editor of the *Worthington Daily Globe*, Worthington, Minn., and the series was published in the *Daily Globe* October 18–24, 1971. Hudson's articles are presented here in booklet form, the reprinting being financed cooperatively by Worthington State Junior College and Southwest State College, Marshall, Minn.

CHAPTER 1—ONE IN FOUR AREA FAMILIES LIVE IN POVERTY

Back East, the Blue Book is the social register, but for southwest Minnesota, it is something vastly different.

Here the blue book is a tabulation of the poor. Its author is Gerald Heil and the publication is entitled, "Southwest Minnesota Population Study." Heil wrote it as a project of Southwest Planning, the joint federal war on poverty effort in southwest and west central Minnesota.

Among other things, the report says:

1. One-fourth of all southwest Minnesota families live in poverty and the total is growing.

2. A mass migration, selective in nature and hitting hardest at young adults, has been taking place and is accelerating.

3. The region is becoming increasingly populated by old people.

4. The region's total population is declining at an accelerating rate.

5. Farm consolidation continues at an accelerating rate.

6. Costs of providing governmental services are rising sharply while productive citizens who are best able to pay for them are declining in numbers.

7. In all these matters, the picture is worsening and is likely to continue worsening unless major changes not now foreseen take place.

Heil's book will never make the best selling lists because of the grim nature of its subject matter although it will be must reading, directly or indirectly, for civic and governmental leaders in the entire area. It cannot be ignored.

Its 155 pages are jammed with statistical data and interpretation on the 18 counties of southwest and west central Minnesota include in the Southwest Planning Project. They are Nobles, Rock, Jackson, Cottonwood, Murray, Pipestone, Watonwan, Lyon, Yellow Medicine, Swift, Redwood, Renville, Pope, Martin, Lincoln, Lac Qui Parle, Chippewa and Kandiyohi. These counties are compared in the study with each other, with the state of Minnesota and with the nation.

Southwest Minnesota is different from the rest of the country. One of the more glaring examples is in the incidence of poverty. Just how different can be seen in Heil's figures. They are drawn from the Social Security Administration and may well have some limitations as to complete accuracy.

In some respects they differ from other published sources such as Editor and Publisher Market Guide and Sales Management Magazine data book. There are variances among the three sources regarding incomes and even the number of families in the region.

Despite this, it is probably safe to say that while Heil's sources may not be the best possible, they certainly are the best available and should be considered in that light.

The poverty line varies with the number of family members and whether people live on a farm or in a city. For farm people, the line is $1,600 for a single person and $3,200 for a family of four. For urban people the line is $1,900 for a single person and $3,800 for a family of four.

By these standards, Heil lists 77,580 families in the 18-county southwest region and places 19,613 of them below the official federal poverty standard. This figures to a percentage of 25.3, almost twice the state poverty average of 13.3. To put it another way, one out of four southwest families live in poverty compared with one out of eight statewide.

The local region, with only 7.3 per cent of all families in the state, has 13.9 per cent of all the poor ones, or one out of every seven in the state.

Within the region there are vast differences in where the poor live. Heil declares, "The problems of poverty in southwest Minnesota is predominantly an agricultural and small town one."

He reports 52.6 per cent of the poor families live on farms, 33.9 per cent of them live in small towns, and only 13.5 per cent live in urban areas (the 16 communities of more than 2,500 population).

Not only are the actual numbers of poor highest in the rural areas and small towns, the proportions also were highest. Considering the entire region, 46.2 per cent of the entire population lives on farms while 52.6 per cent of the poor live there.

Small towns contain 30.9 per cent of the families and 33.9 per cent of the poor. Urban areas have 30.3 per cent of the families but only 13.5 per cent of the poor. The figure for the urban areas is almost exactly the state poverty average.

Of the 18 counties, six have poverty incidence below the regional average and all six have major urban areas within them. Two counties in which no urban centers exist, Lac Qui Parle and Lincoln, had the highest poverty incidence, with the former recording 32.4 per cent and the latter 31.9 per cent. Rock was the lowest at 20.3 per cent.

Heil says, "The greater the urban population, the lower the incidence of poverty. The greater the per cent of agricultural workers . . . and senior citizen households, the greater the incidence of poverty. Poverty is concentrated in the agricultural workers, senior citizens and farmers."

Heil goes on to look into the future by saying, "It is altogether possible that the incidence of poverty, already very high, may increase. Two factors, per cent of senior citizens and per cent of households headed by a senior citizen, may cause this. Current and future economic growth will have little direct effect upon them because of fixed incomes. This factor, along with rapidly inflating costs, will function to worsen their position on the socio-economic scale."

"The problem of poverty among the aged will be even more severe because of increasing life expectancy . . . and proportionate growth of the aged category will change the consumer population. This will retard retail trade precisely when it is needed to generate more public money."

"Another implication is that the high incidence of poverty may make the area harder to develop economically. Industry is reluctant generally to locate in areas with high proportions of low-income families."

He goes on to suggest that selective outmigration of young adults and the resulting altered age structure will lead to fewer births, more deaths, fewer young adults, fewer marriages, and fewer new families. The trend toward smaller families will intensify the already declining population and will lead to empty classrooms and a reduced work force, with the resulting heavier tax burden on those who remain.

Heil offers six recommendations to attempt to combat the trend. They are to find ways to alleviate the high incidence of sub-standard housing, find ways to provide income supplements for senior citizens, seek ways to assure agricultural workers equitable incomes and improved vocational training to those who want to find alternative careers, establish multi-jurisdictional cooperation between units of government to establish common industrial parks for the recruitment of industry and to deliver public services, and to hire on a regional basis professional planners and consultants to better make use of federal and state programs for depressed areas.

INCOME ANALYSIS

County	Number of families	Number of low-income families	Percent of low-income families
Chippewa	4,025	1,034	25.7
Cottonwood	4,069	1,046	25.6
Jackson	3,746	981	26.2
Kandiyohi	7,913	1,685	21.3
Lac Qui Parle	2,848	922	32.4
Lincoln	2,332	743	31.9
Lyon	6,331	1,500	23.7
Martin	6,834	1,435	21.0
Murray	2,960	819	27.7
Nobles	6,079	1,452	23.9
Pipestone	3,413	873	25.6
Pope	2,878	779	27.1
Redwood	5,181	1,450	28.0
Renville	5,425	1,464	27.0
Rock	2,906	589	20.3
Swift	3,375	880	26.1
Watonwan	3,536	862	24.4
Yellow Medicine	3,702	1,099	29.7
Totals	77,580	19,613	25.3
Minnesota	1,055,777	140,626	13.3

CHAPTER 2—POPULATION OF REGION HIT PEAK IN 1950

Someone has said the wide open spaces are getting quieter and quieter while the cities are getting noisier and noisier.

In southwest Minnesota, there's no question about it. The 18-county region reached its all time population peak in 1950 and has been dropping since. And in the last decade the exodus has become almost a rout.

Gerald Heil's "Southwest Minnesota Population Study" has charted it graphically. Minnesota as a whole has grown steadily in the last 30 years, increasing 36.3 per cent from 1940 to 1970. But southwest Minnesota has dropped from its all time peak of 317,512 persons in 1950 to 295,808 in 1970, a decline of 20,871 persons or 6.6 per cent loss.

In 1940, 11.3 per cent of the entire state population lived here. In 1970 only 7.8 per cent lived in the southwest.

Not only that, but 96.5 per cent of the decline took place between 1960 and 1970. During that decade the rate of loss was 13 times the loss of the previous 10 years and if this trend is not halted, serious economic and social consequences are certain.

Heil says the drop is attributable to both migration and declining birth rates. Had there been no migration of any sort over the 30 years, southwest Minnesota would have had a population of 439,127 in 1970 compared with the actual count of 295,808. This means that 143,319 more people moved out than moved in or were born here. This is called net migration.

In the last 10 years when the net migration has become most intense, the highest figures were in Murray county with a loss of 26.2, Lincoln with a loss of 21.1 and Lac Qui Parle with a loss of 19.6 per cent.

By contrast, lowest net migration rates were in Kandiyohi with a loss of 6.2 and Lyon with a loss of 4.7. The three counties with greatest loss were all rural counties without any urban centers. The two of lowest loss were counties with major urban areas, prompting Heil to note the higher the percentage of urban population the lower the net migration rates.

Within these raw figures are even more disturbing ones considering their impact on the future. The heaviest migration was of young adults.

Of young people from 20 to 24 years of age, the net migration rate from 1960 to 1970 ranged from a loss of 36 per cent in Watonwan to 65.9 per cent in Pope. For young people from 25 through 29 years of age, the migration rates ranged from 23.8 per cent in Martin county to 46.8 per cent in Lac Qui Parle.

Total population is also declining. Only two counties, Kandiyohi and Lyon, grew during the 1960 to 1970 decade. The 16 others declined.

All counties have high net migration losses when compared with the rest of the state during the 30-year period, a loss which because of its selectivity, undercuts the age structure of the remaining population.

This, in turn, leads to what Heil calls "serious demographic, social and economic consequences by accelerating population decline."

In the final analysis this results in a rising of the general age level, a drop in the number of child bearing age families, a decline in school populations, a rise in the population of people requiring nursing home care, more dependent people and fewer producing and tax paying people. There will be a rise in the costs of public services, more need for facilities geared to the elderly and less to family groups.

Hiel says his study indicates a relationship between poverty and net migration. The higher the poverty, the higher the migration. The reverse is also true.

All of which points to the lack of suitable employment as being a major cause of the loss of productive citizens throughout the region.

OEO POVERTY GUIDELINES, DEC. 1, 1970

	Nonfarm family	Farm family
Family size:		
1	$1,900	$1,600
2	2,500	2,000
3	3,100	2,500
4	3,800	3,200
5	4,400	3,700
6	5,000	4,200
7	5,600	4,700
8	6,200	5,200
9	6,800	5,700

Note: The figures in this table afford the Federal measure for the rating of poverty in this region.

TABLES SUMMARIZE SW MINNESOTA POPULATION TRENDS

County	Total population				Population Change		Actual and percentages		Net migration figures (Comparison of what population should have been with what happened)					
									1940–1950		1950–1960		1960–1970	
	1940	1950	1960	1970	1940–70	Percent	1960–70	Percent	Number	Rate	Number	Rate	Number	Rate
Chippewa	16,927	16,739	16,320	15,109	−1,118	−10.7	−1,211	−7.4	−2,555	−15.1	−2,962	−17.7	−2,304	−14.1
Cottonwood	16,143	15,763	16,166	14,887	−1,256	−7.8	−1,279	−7.9	−2,650	−16.4	−2,054	−13.0	−2,431	−15.0
Jackson	16,805	16,306	15,501	14,352	−2,453	−14.6	−1,149	−7.4	−2,803	−16.7	−3,230	−19.8	−2,270	−14.6
Kandiyohi	26,524	28,644	29,987	30,548	+4,024	+15.2	+561	+1.9	−749	−2.8	−3,049	−12.8	−1,846	−6.2
Lac Qui Parle	15,509	14,545	13,330	11,164	−4,345	−28	−2,166	−16.2	−2,792	−18.0	−3,069	−21.1	−2,616	−19.6
Lincoln	10,797	10,150	9,651	8,143	−2,654	−24.6	−1,508	−15.6	−2,025	−18.8	−1,947	−19.2	−2,038	−21.1
Lyon	21,569	22,253	22,655	24,273	+2,794	+12.5	+1,618	+7.1	−2,964	−13.7	−3,805	−17.1	−919	−4.7
Martin	24,656	25,655	26,986	24,316	−340	−1.4	−2,670	−9.9	−2,760	−11.2	−3,162	−12.3	−4,763	−17.6
Murray	15,060	14,801	14,743	12,508	−2,552	−16.9	−2,235	−15.2	−2,943	−19.5	−3,143	−21,2	−3,867	−26.2
Nobles	21,215	22,435	23,365	23,208	+1,993	+9.4	−157	−.7	−2,449	−11.5	−3,546	−15.8	−2,754	−11.8
Pipestone	13,794	14,003	13,605	12,791	−1,003	−7.3	−814	−6.0	−2,077	−15.1	−2,767	−19.8	−1,978	−14.5
Pope	13,544	12,862	11,914	11,107	−2,437	−18	−807	−6.8	−2,278	−16.8	−2,555	−19.9	−1,277	−10.7
Redwood	22,290	22,127	21,718	20,024	−2,266	−10.2	−1,694	−7.8	−3,686	−16.5	−4,177	−18.9	−3,772	−17.4
Renville	24,625	23,954	23,249	21,139	−3,486	−14.2	−2,110	−9.1	−4,161	−16.9	−4,430	−18.5	−3,799	−16.3
Rock	10,933	11,278	11,864	11,346	+413	+3.8	−518	−4.4	−1,386	−12.7	−1,495	−13.3	−1,654	−13.9
Swift	15,469	15,837	14,936	13,177	−2,293	−14.8	−1,759	−8.0	−2,022	−13.1	−3,299	−20.8	−2,800	−18.7
Watonwan	13,902	13,881	14,460	13,298	−604	−4.3	−1,162	−8.0	−1,679	−12.1	−1,553	−11.2	−2,185	−15.1
Yellow Medicine	16,917	16,279	15,523	14,418	−2,499	−14.8	−1,105	−7.1	−2,771	−16.4	−3,020	−18.6	−2,013	−12.9

CHAPTER 3—ONLY TWO OF 18 COUNTIES GREW IN 1960'S

In the 30 years from 1940 to 1970, southwest Minnesota saw vivid evidence of a mass out migration of people rivaling in numbers the influx into the area in the earliest years of settlement.

It hasn't been quite as spectacular but its effects are easily seen in vacant farmsteads and decaying and vacant houses in small towns of the region.

Gerald Heil in his "Southwest Minnesota Population Study" has traced the movements of the people and set down the pattern they have followed. During the three decades, Minnesota grew by 36.3 per cent and the United States by 53.7 per cent.

Southwest Minnesota grew from 1940 to 1950 but then started a decline which has become precipitous in the last few years. For the 30 years, the loss of population in the 18 counties has totaled 20,871 persons, a drop of 6.6 per cent. Virtually all of the decline, 96.5 per cent of it, came in the last 10 years.

Only four counties showed growth for the 30 years. They were Kandiyohi, rising by 15.2 per cent; Lyon, up by 12.5 per cent; Nobles, up by 9.4 per cent; and Rock, up by 3.8 per cent.

By contrast, Lac Qui Parle topped the list of decliners by losing 28 per cent of its people. Lincoln lost 24.6 per cent. On the other end Martin lost only 1.4 per cent.

But in the decade from 1960 to 1970, only two counties, Kandiyohi and Lyon showed growth—and that was small. Kandiyohi gained 561 persons for a 1.9 per cent gain while Lyon grew 1,618 for a 7.1 per cent increase. (Most, if not all, of the latter was due to the opening of Southwest State College in Marshall.)

The rates of decrease are picking up. Losses in the last 10 years ranged from .7 in Nobles to 16.2 per cent in Lac Qui Parle. Other heavy losses were Lincoln, down 15.6; Murray, down 15.2; and Swift, down 11.8. These four alone accounted for 38 per cent of the region's decline in the last decade. In numbers, Martin county's loss of 2,670 was the greatest. Murray lost 2,235 people, Lac Qui Parle lost 2,166 and Renville lost 2,110 to lead the list.

For all of the southwestern counties except the two that grew, the 1960 to 1970 decade showed greater rates of loss than the previous 10 years, and in the two counties that gained, rates of increase were down sharply.

The pattern of the migration, Heil says, is from the farms and small towns to the larger towns of the region and from there to other parts of the state, and finally to other parts of the nation.

Nationally, farm and small town population dropped from 43.5 per cent of the population in 1940 to 26.5 per cent in 1970, a loss of about one out of every 16 persons. Two out of five Americans lived in rural areas in 1940 while one out of four was the count in 1970.

In Minnesota, 50.2 per cent lived in rural areas in 1940 while only 35.6 per cent lived there in 1970. In southwest Minnesota, 81.4 per cent of the total population lived in rural areas in 1940 while this had dropped to 69.7 per cent in 1970, a drop of 51,729 persons, or 20.1 per cent.

At the same time, urban growth (areas of more than 2,500 population) was on the rise. It doubled nationally in the 30 years. In Minnesota it rose 81.8 per cent. In southwest Minnesota it grew 52.5 per cent. The rate of urban growth in southwest Minnesota was 50 per cent of the United States rate and 64 per cent of the Minnesota rate. This indicates that most people are moving directly from rural to urban areas with most of them moving outside of southwest Minnesota.

The small towns also showed growth across the region but many individual communities declined. The rural population, calculated at 55.1 per cent in southwest Minnesota in 1940, dropped 72,130 to a total of 102,246 persons or 34.6 per cent of the total population by 1970. The small town population, figured at 83,772 or 26.3 per cent in 1940, rose to 103,874 or 35.1 per cent in 1970, an increase of 20,101.

The urban population grew from 58,830 or 18.6 per cent in 1940 to 89,688 or 30.3 per cent in 1970, a growth of 30,858 people.

In percentages, the rural segment of southwest Minnesota dropped 41.4 per cent in the 30 years, the small towns grew 24.4 per cent, and the urban proportion grew 52.5 per cent. But, the decade of 1960 to 1970 saw significant changes taking place in this pattern. During those 10 years the rural decline intensified with a 21.6 per cent drop, the urban rose 13.4 per cent and for the first time the small towns dropped 2.5 per cent. This trend in small towns is directly opposite to statewide trends.

In population density, Minnesota has climbed from 34.9 persons per square mile in 1940 to 47.6 in 1970 but southwest Minnesota has dropped from 25.7 to 24, a decline of 6.6 per cent. This will be reflected in taxes in the future, for areas of low population density tend to have higher per capita expenditures for road and transportation costs. Heil calls this, "just one more example of the ramifications population loss has beyond mere numerical change."

Southwest Minnesota had 157 incorporated communities as of 1970 ranging from 12,869 at Willmar down to 37 at Kinbrae. The median is Granada with 381 persons.

Since 1940, the study shows 74 towns growing while 80 were declining. Fifty-one communities grew by up to 25 per cent, 16 grew from 26 to 50 per cent, four from 51 to 75 per cent and two from 76 to 100 per cent. The growth rates changed from .4 at Hardwick and Walnut Grove to 115.4 per cent at Marshall.

Of the 80 declining, 54 lost by up to 25 per cent, 22 by from 26 to 50 per cent, four from 51 to 75 per cent. Actually the biggest decline was at Kinbrae with 65.4 per cent of the population leaving.

Again, the decade of 1960 to 1970 saw intensifying changes. During those years, 49 communities grew while 107 declined and one stayed the same. Of those that grew, 38 increased up to 10 per cent, seven increased between 11 to 20 per cent, three increased between 21 to 30 per cent and one increased from 41 to 50 per cent. That was Marshall, spurred by the college development to a reading of 48 per cent growth.

Of the 107 decliners, 60 lost by up to 10 per cent, 35 from 11 to 20 per cent, seven from 21 to 30 per cent, four from 31 to 40 per cent and one by more than 50 per cent. That was St. Leo in Yellow Medicine county which lost 62.8 per cent in just 10 years.

In 1970, there were 119 communities, or 75.8 per cent of the total, with fewer than 1,000 persons. Ninety, or 57.3 per cent, had fewer than 500. Only 16, or 10.2 per cent, had more than 2,500 to qualify them as urban areas. Ninety villages, or 33.1 per cent, had between 200 and 500 persons. In 1970, 32.9 per cent of the entire region's population lived in the six largest towns.

Heil summed up by saying that the smaller communities in southwest Minnesota tended to decline more often than did the larger ones. Of all the decliners, 93.8 per cent were below 1,000 persons. Those under 200 decreased in four out of five cases, those between 200 and 500 in about seven out of 10 instances, and those between 500 and 1,000 declined in about one out of three cases. Only five of the communities of more than 1,000 persons declined while none of the cities of more than 5,000 declined in the 30 years.

But, only 28 communities in the region showed appreciable growth in the last 10 years of the survey period while 129 others either declined or were stable.

Heil says, "The data seems to indicate that most of the incorporated places of less than 2,500 persons will either remain the same or decline. Population growth will most likely occur in the places with greater than 2,500 persons which means the majority of the communities in southwest Minnesota can expect to continue to decline in population."

CHAPTER 4—A LOSS OF 7,552 FARMS IN 15 YEARS

Southwest Minnesota's problems of excessive property and mass out migration of productive people start with the perplexing "farm problem."

Gerald Heil's "Southwest Minnesota Pop-

ulation Study" puts it this way, "The problem of poverty (and resulting migration) in southwest Minnesota is predominantly an agricultural and small town one."

The loss of farms has been a national trend between 1939 and 1964, the period examined by Heil's studies on agriculture. During those years, Minnesota's farms dropped from 197,351 to 131,163, a decline of 33.5 per cent. In southwest Minnesota, the number also dropped, but at a slower rate. This is the only category in Heil's study of poverty and out migration where the trend favored southwest Minnesota as compared with the rest of the state.

And under closer examination, this too may be an illusion for the fact more persons remain on the farms in the southwest than elsewhere is one reason for the high incidence of poverty found here. The fact is, farms are no place to be if one wants to avoid poverty unless he happens to have the resources to cope with the economics of modern American agriculture.

In 1939, southwest Minnesota had 37,016 farms. This grew slightly to 37,179 by 1949 but then started declining and stood at 29,464 in 1964. The loss for the period was 7,552 farms or 20.4 per cent.

In 1939, the southwest had 18.8 per cent of the state's farms. In 1964 it had 22.5 per cent. The ratio of loss statewide was about one in three while in southwest Minnesota it was one out of five, but the rate of loss is accelerating.

From 1959 to 1964, about one fifth of the survey time, the southwest farm loss was 48.5 per cent of the total for the whole survey period while the state's loss was steady throughout the period. In other words, southwest lagged behind the state early in the period but caught up and passed it late in the 25 years. The rate of loss, however, was lowest in the four southwestern-most counties of Rock, Nobles, Pipestone and Murray.

Since farm land is not destroyed unless utilized for other purposes, the cut in farm numbers produced a corresponding increase in farm size. The state average went from 165.2 acres in 1939 to 234.9 in 1964 while southwest went from 206.6 acres in 1939 to 256.1 acres in 1964.

In 1939, all southwest counties had farm sizes above the state average. By 1964 Kandiyohi, Watonwan and Martin had dropped below as the farms ranged from an average of 220.9 in Watonwan to 302.1 in Swift.

Between 1940 and 1960, total employment in agriculture in the United States dropped despite a rising trend in total number of people holding jobs in all categories. Minnesota's agricultural employment dropped from 282,000 in 1940 to 177,000 in 1960. In percentages of the total work force, agriculture in Minnesota went from 30.3 per cent in 1940 to 14.4 per cent in 1960. Nationally, the drop was 18.5 per cent to 6.6 per cent.

In the southwest there were 59,810 persons working in agriculture in 1940, but only 41,876 in 1960, a drop of 17,934 persons of 29.9 per cent. Again, the trend is accelerating with 72.9 per cent of the 20-year drop coming in the last 10 years. About four out of 10 persons employed in southwest Minnesota were engaged in agriculture in 1960.

Kandiyohi had the lowest per cent of persons employed in agriculture in 1960, a percentage of 29. Lincoln with 56.1 per cent was the highest. Nobles had 32.2, Murray had 49.8, Pipestone had 32.4, Rock had 40.9, Jackson had 44.4 and Cottonwood had 39.6 per cent.

Heil said trends indicate the need for agricultural workers will continue to decline during the next 10 or 15 years, perhaps as much as 45 per cent. If this estimate is correct, the 18-county survey area will have only 23,032 persons engaged in agriculture by 1985.

If he's right, poverty will no longer be primarily an agricultural problem in the region.

CHAPTER 5—POPULATION IS "TOP HEAVY" WITH OLDER CITIZENS

There is no one who is getting younger as the years go by but in southwest Minnesota there seems to be more than a fair share of people getting a lot older.

This impression is borne out by the facts of the situation. The region is getting more than its share of older people.

This is pointed up by Gerald Heil's "Southwest Minnesota Population Study." In 1950, in the 18 southwest counties covered by the study, 9.1 per cent of the population was over 65 years of age. By 1970, this had grown to 14.8 per cent and the rate of increase was accelerating.

Not only had the proportion of elderly increased, the actual number had grown as well. It went from 28,848 in 1950 to 42,792 in 1970, a jump of 14,008 or a 48.7 per cent increase. This age group was the only one actually to increase in numbers during the 20 years.

The numerical increase represents the natural growth one would expect but the proportionate increase represents a more serious problem: years of out-migration of younger citizens with the resulting distortion of the population make-up.

The group of persons under 14 went from 30.2 per cent of the southwest population in 1950 to 29 per cent in 1970. It peaked midway in the 20-year period at 33.4 per cent, which means the drop in the last 10 years was at a rate of 18.4 per cent, reflecting the drastic changes in birth rates.

The group from 15 to 34 years went from 27.3 per cent of the population in 1950 to 23. 6 per cent in 1970, reflecting an out-migration of this vital and producing segment of the population. The 17.7 per cent loss rate was the highest for any age group and was accelerating at the close of the period because of the disappearance of the last effects of the baby boom of the immediate post World War II years.

The 35 to 64 age group went from 33.4 per cent of the population in 1950 to 32.6 per cent in 1970, a drop of 9.5 per cent and again the greatest decline was in the last 10 years.

Minnesota's figures generally follow the same pattern, but to a much less degree. The over 65 group increased from 9.3 per cent to 13.2 per cent, an increase rate of 41.9 per cent compared with the rate of 62.6 per cent in the southwest.

Statewide, the zero to 14 went from 29.9 per cent to 30.1 per cent; the 15 to 34 group went from 27.2 per cent to 25.8 per cent; and the 35 to 64 group went from 33.6 per cent to 30.9 per cent. Minnesota also has its problems of out-migration to other parts of the nation.

In 1970, 7.8 per cent of the state's entire population lived in the southwest but 10.5 per cent of its senior citizens lived here, or one out of every 10.

For other age groups, variations from the 7.8 per cent which would be expected with an equal population per cent which would be expected with an equal population distribution were noted. The area had 7.5 per cent of the state's zero to 14 age children; only 6.3 per cent of the state's 15 to 34 age people; and 8.5 per cent of the state's 35 to 64 age people.

In 1950, the southwest had 42.5 per cent of its population over 35 but this had grown to 47.4 per cent in 1970. This increase in proportion of older persons is occurring at four times the state rate.

The natural outgrowth of these changes will be fewer births in years to come and a declining birth rate. These factors, in turn, will cause further alterations in the age structure.

Net out-migration will also continue to function to accelerate this trend with a net result of fewer and fewer children and young adults, both proportionately and numerically, and more and more older and aged adults.

This will be reflected in changing demands for social services and in sharply increasing costs of providing them because of the decreasing number of persons who will be in the productive and taxpaying years of life.

CHAPTER 6—AREA'S DEATH RATE EXCEEDS BIRTH RATE

Population growth in the United States is slowing down, but it has long since stopped in southwest Minnesota and is now sliding downhill at an increasing pace.

The national fertility rate during the 1950's was 3.35 per woman. By the 1960's this had dropped to 2.78 and stands now at 2.45. Zero growth rate is 2.11 without taking into consideration immigration which currently accounts for about 20 per cent of the United States population increase.

The national trend is for increasing concentration of people into smaller and smaller areas. In 1970, about one in four persons lived in the 10 largest areas. By 2,000 A.D. 70 per cent of the people are expected to live in the 12 largest centers.

But all that is of little concern to southwest Minnesota which is expected to continue losing its people. While Minnesota is expected to grow by 14.7 per cent by 1985, an increase of 561,149 from the present time, southwest Minnesota is expected to decline 6.9 per cent, a loss of 20,364 persons. While about one out of 13 persons now lives in the southwest, the figure will be one out of 16 by 1985.

Only three of the 18 southwest counties are expected to grow during the period. They are Kandiyohi, Lyon and Nobles which together are expected to increase 2,783 persons to a total population of 80,812, an increase of 3.6 per cent.

Birth rates in the southwest rose from 20.5 per 1,000 persons in 1950 to 25.9 per 1,000 in 1960 and then dropped sharply to 14.2 in 1969. Watonwan was the only county of the 18 to increase its birth rate during this time.

Death rates are shooting upward. Minnesota's rate per 1,000 persons was 9.4 in 1940 and dropped to 8.9 in 1969. The southwest rate has gone up from 8.3 in 1940 to 10.5 in 1969. In 1969, only Rock, Nobles and Lyon had death rates below the state average. The 18-county range was from 8.2 per 1,000 in Rock to 13.6 in Lincoln.

In terms of natural population changes, defined as comparing births and deaths without taking into consideration migration, three counties had losses and five others were nearing that mark in 1969. Lac Qui Parle, Lincoln and Pope had more deaths than births in 1969. Those on the border were Chippewa, Cottonwood, Renville, Watonwan and Yellow Medicine. Only Lyon, Murray and Nobles had rates near the state average.

It is expected that several will fall below the mark in the next decade since the out-migration of people of child bearing age will accelerate the trend which already sees southwest Minnesota's birth rate dropping at three times the state rate.

All this will have exceedingly serious repercussions, some of which are touched on by Gerald Heil in his book "Southwest Minnesota Population Study." He says the trends point to continued population decline which will be increasingly rapid. The total number of people will drop and the drop will be most intense among the younger age groups, particularly those in their 20's and 30's.

The number of farms will continue to decline and more and more people will be living in the more populous counties containing the major urban centers.

The people of the region will be much older. Already, there are twice as many senior citizens as there are children under 14.

The region is becoming an area populated

chiefly by older and aged adults and the trends of birth rates and migration indicate the situation will be even more out of balance in the future.

Per capita costs of maintaining services at even present levels will increase while the tax base will continue to shrink since there will be fewer persons to pay taxes. The result will be a greater need for the expensive social services needed by the elderly and less ability to provide them.

Heil says, "Future planning for services of any kind, whether they be educational, medical or municipal, must take into consideration these trends. There will be fewer children in need of educational facilities while at the same time a numerically larger senior citizens population will require more services.

"These demands for services will come while the population is changing its composition and continually growing older. Indeed these trends might very well determine the nature of future planning in the area."

CRISIS IN THE CORNBELT

A citizens' conference to consider the problems of out-migration, declining population, and rural economic development.

Cosponsored by: Southwest Minnesota Area Vocational Technical School; Pipestone Area Vocational Technical School; Northwest Iowa Vocational Technical School; Worthington State Junior College; and Area Chambers of Commerce.

Held on January 18, 1972 at Worthington State Junior College, Worthington, Minn.

8:30 Registration—Worthington State Junior College Gymnasium.

9:00–11:45 a.m.—Open Forum—Worthington State Junior College Gym, Presentations by a panel of area citizens.

A. Agriculture—Norman Larson, Bigelow.

B. Transportation—Walter Franz, Mountain Lake.

C. Industrial Development—Robert Soleta, Windom and Don Hall, Sibley.

D. Continuing Education—A. F. Gertjejansen, Fulda.

E. Quality of Life—Physical Services, Maurice TePaske, Sioux Center.

F. Quality of Life—Human Services, Lawrence Gavin, Wilmont.

12:00–1:15—Luncheon with address by Governor Anderson.

1:30–3:30—Group Discussions.

A. Agriculture—Room 214–216.

B. Transportation—Room 115.

C. Industrial Development—Room 114–116.

D. Continuing Education—Room 215.

E. Quality of Life—Physical Services, Auditorium.

F. Quality of Life—Human Services, Fine Arts Room 100.

3:45–5:30—Group Reports, Gym.

6:00–7:00—Social Hour, Worthington Country Club.

7:00–8:00—Dinner with address by Senator Mondale.

8:00—Rural Development Corporation: An open meeting to form an on-going action group to promote the growth of the area.

AGRICULTURE

(By Norman Larson)

Farming in the United States plays a vital part in the economic growth of our country. It is the largest industry in this country of ours. In fact it is 2/3 as large as all of the rest of the industries put together. It is a sick industry at the present time. It is time some positive thinking be done, because the future of the United States (the kind of an America we, our children, and our grandchildren will live in) hinges on the decisions that are made now. The following is a quote from the Detroit Lakes, Minn. newspaper: "The farmer is still getting less than 1950 prices for his products and has to pay three times as much or more for machinery and other items now as he did then. Is it any wonder machinery sales have gone down? There are plans in Washington to make it possible for farmers to get more credit to buy these things. But what the farmer really needs is not more credit and more debts but just a little fairer income. Wonder why no one thinks of that solution."

Representatives of three farm organizations of Southwest Minnesota and Northwest Iowa (FB, FU, NFO) have held a series of meetings and have agreed upon the following proposals to present to the Senate Sub Committee on Rural Development and all other government officials present at the "Crisis in the Cornbelt" meeting:

No. 1. The Government Crop Reporting Service should be stopped. It has not been a benefit to the farmer. In fact most of the time it has been price-depressing. In July, the USDA came out with the report that there was going to be the largest corn crop ever on record. Inside of 2 months corn prices went down about 35 to 45¢ a bushel, or about 30%. This was before the new corn crop was even mature or harvested. Furthermore the USDA and all other government officials should stop saying we have a surplus. Just that word in itself is price-depressing. Some of our agricultural experts say that a farmer feeds himself and 47 other people. For easy figuring let's say that he feeds himself and fifty other people. There are almost 3 million farmers in the United States. Fifty people times 3 million farmers equals 150 million people. Who is feeding the other 50 million people? How can we have a surplus when we have hungry people in the United States? It should be called an inventory and not a surplus. This inventory is a small one and insufficient to feed our nation in case of a national disaster.

No. 2. No person, group, corporation, or organization in business other than farming should be able to use the losses in a farming operation to give them a tax advantage. For example, one conglomerate which is involved in the food industry from the planting to the retailing had an income of $464 million and a taxable income of $88.7 million. Yet, due to federal tax breaks this conglomerate not only paid no taxes on that income, but had a tax credit of $13.3 million. This is Unfair Tax Advantage!

No. 3. In 1934 Congress passed The Trade Agreement Act. Under this act, the president is authorized to enter into trade agreements in which the United States reduces or agrees not to increase existing duties applying to its imports in exchange for similar concessions by other countries on products exports to the United States. Any negotiations dealing wth agricultural production should have producing farmers sitting in on these negotiations. After all the farmers are directly involved in the outcome of these agreements. The United States is the largest exporter of farm products in the world. The world market should be a market instead of a dumping place.

No. 4. The prices of corn are based on 15½% moisture and soybeans at 13% moisture. Farmers are docked for grain above these moisture tests. So to be fair, farmers should be given a premium for tests below these standards. A law should be passed to put this into effect. Standards should be revised for both local and foreign markets.

No. 5. The reports that many farmers and farm organizations receive are that the quality of the grain seems to deteriorate from the time it leaves the farm until it is loaded on the ships to go to our foreign customers. For an example, a buyer from Japan was in the State of Iowa to negotiate a contract for some grain from one of our farm organizations. After they had completed a contract on soybeans they asked him if he didn't want to contract some corn, too. Then he said, "We can't buy good quality corn from the United States. We buy our corn from Africa." They asked him if he would go out on a farm and look at some corn. He agreed to this so they took him out on a nearby farm. This farmer opened up one of his bins of corn for this buyer to look at. The Japanese buyer crawled in the bin of corn and put his hands in the corn. He did this several times and then said, "Where did you get corn like this. I have never seen such nice corn." The farmer told him that he had raised it. The buyer then said, "Impossible, we can't buy corn like this from the United States."

If the standards are so low that the practice of putting foreign material in grain is legal, then the law should be changed.

The Bitterness of Poor Quality Lingers Long After the Sweetness of a Cheap Price is Forgotten. The Selling of Quality Leads to the Selling of Quantity.

No. 6. How can we rid ourselves of car exhaust pollution and help ourselves at the same time? This can be done by blending grain alcohol and gasoline together. What would this blending program do? It would conserve on unrenewable national resources of petroleum, in addition to reducing air pollution. The conversion of grain to alcohol to blend with gasoline will accomplish the following tremendous benefits: 1. It will increase farm income by about $5 billion per year. 2. do away with all government controls, restrictions, soil bank and Washington subsidies. 3. restore the farmer to complete freedom of enterprise. 4. require maximum production from every farmer. 5. create two markets, food and fuel, for the farmer. 6. lift government inventory of grain and relieve taxpayers of billions of dollars on farm programs. 7. return farmers and farm laborers back to the farms. 8. revise the national economy and avoid a threatened depression.

This could be the greatest program that ever came to this country. With its ability to cut pollution and at the same time help the national economy by putting billions of new wealth in our monetary system.

No. 7. The USDA should explain to the public its expenditures in detail. Such as how much is spent on the school lunch programs, federal meat inspection, forest service, and many other programs that come from the USDA. Misleading information is given to the public about what the farmers receive. This would help the general public to realize that the farmers don't receive the lion's share of the department's expenditures, and also, that the USDA spends millions to benefit the consumer.

No. 8. The Secretary of Agriculture should be producer-oriented. Agriculture is the largest industry in the United States and the prices it receives for its production is the basis of the U.S. economy. Therefore, he should represent the producing farmer.

No. 9. The quality standards of food imports should be the same as the American farmers have to produce by. We believe in good quality food, so food imports produced by lower standards should not be allowed to come into this country, to compete against American production.

No. 10. The 3 farm organizations represent a proud independent group of people who are asking for a pricing structure that will grant a cost of production plus a fair profit. We do not believe that the production of food should be reduced to a public utility while federal welfare programs tend to reduce farm families to welfare recipients.

No. 11. On the subject of transportation, agriculture and public interest require continuation of service. Therefore we suggest an 80 day cooling-off period, at which time there would be required bargaining to try and avoid a strike.

No. 12. Youth are the most important resource that agriculture has. With the age of the average farmer at about 58 years of age, agriculture is approaching a dangerous point

in its history. It is losing its replacements. The pricing structure is such that it is almost impossible for youth to get started in farming. The marketing structure has to be changed so farming will become attractive to our youth.

Also we suggest that farm co-ops and county farm organizations give young people the opportunity to be active in programs and business in order to take advantage of their ability and enthusiasm.

No. 13. A requirement that G.I. farm trainees spend a minimum of 12 hours a week in the classroom tends to prevent thousands of veterans from using the G.I. educational eligibility for farm training. It is almost impossible for a young farmer to spend that much time in a classroom and also take care of a farming operation. It would be more realistic if it were about 6 hours of classroom work a week. This would be more in line with the classroom requirements and provisions of the post Korean G.I. training program.

TRANSPORTATION

(By Walter Franz)

Someone has suggested that if one stands long enough in Times Square in New York City, sooner or later, just about everyone in the world will pass by.

Times Square is one of the crossroads of the world. People congregate there, and around them can be found just about every imaginable type of merchandise and service. Transportation, to the New Yorker, is pretty much an abstract concern for he needs only go a few blocks to find anything he wants.

Not so in the rural areas of the nation. Take southwestern Minnesota and northwestern Iowa, for example. People living here are 180 miles from the Twin Cities and 250 miles from Des Moines. All that is present around them is the abundance of farm production. Everything else needed must be transported to them, and it probably costs a little more as a result.

A person can stand on some of the street corners in this region and see very little traffic at all and much of what he does see will be heading away toward the Times Squares of the nation.

So transportation is no longer an abstract. It is a reality on which our very lives depend. If we can improve our transportation, we can improve our economic position, and if we can improve that we can sustain our population and stop exporting people to the cities where they contribute to the urban crisis.

There's a lot of room for improvement. While the post office is bragging about 24-hour mail delivery between New York and San Francisco, we're living with 48-hour mail service between Orange City and Sanborn.

Out where we live, where distances are great and the need for high speed highways is imperative in order to cut travel time, we have to content ourselves with the worst two-lane cowpaths Iowa and Minnesota have to offer. Small wonder we find ourselves crying with frustration when we read of urban people fighting highway construction when we so desperately need good roads out here.

Airline fare between the Twin Cities and New York is $78 and passengers ride the big jets, eating steaks and sampling the wines. Out here, where we are three hours from the Twin Cities and four hours from Des Moines by road, the only airline service we have is that provided by North Central's propjets. And it costs us $24 to fly to Minneapolis while being treated to powdered coffee. Not only that, but we live under constant threat of cancellation of service because the airline says it can't make money serving us.

Out here, our commerce is agriculturally based. As such, we deal in bulk cargoes of corn, soybeans, cattle and hogs, ideal products for rail transportation. But our railroads can't wait to abandon service, claiming they can't make a profit serving us.

Every time this happens, it throws that much more of a load onto the trucks, but in Minnesota, 45 per cent of the towns are serviced by roads on which load restrictions are placed in the spring. Fortunately for them, Iowa's small towns don't have this problem because Iowa does not restrict roads. But in Minneapolis, 45 per cent of the state's communities are in effect economically isolated for extended periods of time each year.

If transportation is defined as the business of moving goods and people, it stands to reason that it becomes all the more important with each additional mile of distance involved. For those people living in the rural areas of southwestern Minnesota and Northwestern Iowa, transportation is one of the most vital problems to be solved by those concerned with economic growth.

Let's consider the problem from its component parts. Let's start with highways for they are the backbone of commerce. What does the region need in the way of highways?

To begin with, it must have no less than a useable road to every single municipality. That's not too much to expect. Iowa has it already. Minnesota needs it too. This means an all year round, non-restricted road over which trucks can move.

Iowa achieved this, not by building better roads, but simply by removing restrictions. It may in the long run find the decision costly, but in the meantime its people are being served.

Minnesota must either do the same or move immediately to upgrade carrying capacity of roads serving those 45 per cent of isolated towns. There are too many of them to list individually, but just the isolated Nobles county towns may provide some sort of idea as to the extent of the problem. In Nobles county, Leota, Lismore, St. Kilian, Rushmore, Dundee and Kinbrae all are on restricted roads. They cannot stand much more delay in solving the problem.

Beyond this, there are certain major highways that are more than mere roads. They are economic development arteries.

They serve communities in which major industrial growth is taking place and are, in fact, in large measure responsible for that growth. Foremost, of course, is Interstate 90 across the southern edge of Minnesota. It serves the entire region on both sides of the border. After a slow start, it is getting more emphasis now and is scheduled for completion in 1976.

But other roads of equal importance are not. They are Highway 60 cutting diagonally across the region and providing its main link to the port of Duluth, the Twin Cities, Sioux City, Omaha and the southwest; Highway 71, the north-south federal link from Canada to the Gulf; and highway 18, the east-west regional carrier in northwest Iowa.

All three of these—Highway 60, Highway 71 and Highway 18—have been designated four-lane expressways by the highway departments of both Iowa and Minnesota, but all are languishing because of lack of money.

New industrial growth that has taken place has been predicated largely on the premise that someday these roads are to be upgraded. Chese Bag at Sibley, Allied Mills and Boise Cascade at Worthington, Tony Towns at St. James, Univac at Jackson, McQuay, Inc. at Spirit Lake—these are just a few new industries that have recently moved to the country and are served by these three roads. How many more would there be if road building promises were road building realities?

If this region is to grow, it must be given the tools with which to work. Highways are one of the major ones.

If government is serious about reversing rural migration, then let government get serious about building economic development highways. If this takes diversion of funds now being spent in urban areas where people are fighting road construction, then let the diversion begin. It's one way of making everyone happy.

Harry Heltzer, chairman of the International Road Federation and a 3-M executive from Minnesota, says, "As you talk to people who work in rural communities where industry has moved its plants, you discover many of them are farm people who would have had to uproot completely and move into a larger city if industry had not come to them. If we are people oriented as well as construction oriented, we'll serve best by doing what we know best—building arteries of the nation. We have an obligation to fulfill, both to city dwellers pressured by too many neighbors and the young men and women who prefer to remain in smaller communities if it will offer them the opportunity to develop themselves."

Or listen to Secretary of Transportation John Volpe who described the economic growth centers program of the federal aid highway act of 1970 as "designed to show that areas with a potential for economic growth can be substantially aided by highway improvements."

Mr. Secretary, we don't need more test programs to prove the point. We need broad federal aid state commitment to get on with the job we all know needs doing.

Now, let's talk about railroads. It never seemed to me that one could move goods cheaper by investing in a $25,000 truck, fueling it with diesel carrying a tax of seven and one-quarter cents a gallon, hiring a $5 per hour driver, and running it on $200 tires than one can do by rail.

The fact that this is so is an indictment of someone and proof positive that something is wrong somewhere in the system.

Railroads say they can't compete despite the fact that one "driver" can operate locomotive controls to transport as much as 100 truckloads, and that one diesel engine can move weight a dozen times more efficiently than can 100 separate truck motors.

The railroad's solution has been to consolidate depots, abandon branch lines and withdraw service. It's happening throughout our region on both sides of the state line with distressing and increasing frequency. It doesn't make sense.

Just last month, the Minnesota Public Service Commission approved consolidations which closed depots at Adrian, Brewster, Heron Lake, Slayton, Mountain Lake, Jeffers and Westbrook.

The railroad claimed it would save $270,000 annually. If this is so, those depot agents were the highest paid people around, for it is obvious the railroad never invested any money in physical equipment for the seven stations.

Ron Anderson, chairman of the commission, said, The estimated annual savings by the railroad could help avoid the possibility of branch line abandonments by reducing the cost of operation on each branch line." He might have added it also reduced the chances of making a profit by making it just that much harder to do business with the line.

Maybe the decision will result in extended life for the branch lines, but railroads do abandon branch lines just as quickly as they can do so. Ask the people at Champion Homes in Slayton who had to battle to get a spur into their new mobile home plant and who even today face the threat of abandonment even though they use the railroad extensively and need it for continued growth.

Take note also of the fact that three of the most recently closed stations were not branch line, but main line stations. At Brewster, the depot is across the road from a major elevator, but the railroad's inability to provide adequate service and its rate structure makes it better business to ship by truck, resulting in just that many more of the big

rigs grinding up Highway 60 running parallel with the line.

Minnesota Commissioner of Agriculture John Wefald, in speaking recently about one of the newest abandonment applications by the Northwestern and the Burlington Northern involving 20 communities, said, "These represent a continuation of a curious and extremely damaging policy—to deliberately sever vital economic and social lifelines of rural America." He went on to say the abandonment will deny the communities a balanced and competitive commercial transportation service, increase costs for transportation to farmers and small town businessmen, and unnecessarily shift a heavy freight volume to the public highways adding to the safety and maintenance problems. "We need improved transportation service, not more discontinuance, if rural America is to attract the industrial development it needs for growth," Wefald concluded. We add our fervent "Amen".

Rails, in theory, are the most efficient method of moving bulk cargoes over land. The fact they aren't could well be due to a combination of unfair governmental regulations, archaic work rules and unwillingness by management to really work at the business of running the railroads.

If tariff regulations put rails at an unfair competitive advantage, change them.

If management is siphoning off rail profits to subsidize other activities of conglomerate rail companies, then let us have legislation to force railroads to fulfill their function, for they are in reality quasi-public utilities.

And work rules need to be changed. Right now, the minimum train crew is made up of an engineer, fireman, brakeman and conductor even on branch lines where the number of men in the train crew sometimes exceeds the number of freight cars in the train.

Where rail lines are carrying numerous trains this may be justified, but it is simply ridiculous on branch lines where there is not another single bit of traffic to pose a hazard. Four men doing the work of one is a luxury we can no longer tolerate where branch line profit potential is small. It is time to split the work rules between the branch lines and the main lines since there no longer is any resemblance between them.

Freight rates also work to our disadvantage and need to be adjusted if the outstate areas of Iowa and Minnesota are to compete successfully. We find it necessary to pay too much for the miles that lie between us and our markets, and this factor alone is powerful persuasion for industry to remain in the cities .

We think government has a legitimate interest in seeing to it that outstate areas can compete on an equal basis even if this entails a federal transportation subsidy to equalize competition between plants in rural areas and those in cities.

Much the same is true when it comes to air travel. We already pay for the miles, but under the present system we also pay more per mile for a lower standard of service than do people elsewhere.

It costs us almost as much to fly by North Central or by one of the third level carriers in our region to Des Moines or Minneapolis as it does to fly first class from either city to Chicago.

It is impossible for commerce to exist in any reasonable volume in outstate areas without air travel because the distances are too great and the time lost in travel too high. So again, government has a legitimate reason, if it is serious about equalizing growth and reversing rural migration, to subsidize air travel on commercial carriers to a greater extent than it now does.

One way of doing this and achieving a second goal as well, is to make more extensive use of third level and scheduled carriers for hauling of mail to urban centers. Postal contracts could go a long way toward improving the economic base upon which air service rests and could make a major improvement in postal service too, something that is also of major concern to outstate areas.

In recent years, bus lines have begun cutting back on service in much the same way the rails did a few years back. They are scheduling more express buses bypassing the smaller towns—an action that indicates closing down of small town bus depots is soon to follow to save money.

Express buses sound like a good idea, unless you happen to live in a small town where you can watch the rigs roll by without stopping for you to get on.

The bus companies say maintaining small town depots is unprofitable. This may be, and again there may be an answer to a dual problem in utilizing the buses more for the carrying of mail. Most northwest Iowa and southwestern Minnesota towns have only a single mail dispatch daily, but intelligent use of aircraft and bus departures could boost this to several times a day in many cases. All that is needed to accomplish it is willingness to break from the chains of tradition.

Our leaders these days are increasingly calling for establishment of a stay at home policy equally as effective as the "Go West, Young Man" policy was a hundred years ago. We heartily agree and say flatly that a transportation policy which makes possible the rapid flow of people and goods and which places urban and rural people on somewhat of an equal basis is one major way of accomplishing it.

INDUSTRIAL DEVELOPMENT

(By Wm. Robert Soleta)

"The big picture" of what is happening in the rural areas of South West Minnesota and North West Iowa, is "depopulation and poverty". Americans don't like to be losers, worse yet when the winners become the losers.

"The Winners the remaining farmers of today are the best in the world. Their capabilities have supplied the United States with unlimited food and fiber, plus a surplus for export."

However if you couple excessive productivity with the failure of our government and our international sales force to put these valuable resources into a distribution system to where they are needed you spell disaster for our farmers.

The local result of this overall situation is an ever narrowing margin between the cost of production and the sale price of the farm products put into the market. This narrowing margin causes the farmer to use, to the best of his ability, more productive seed, fertilizer, feed additives, production equipment and better practices. The end result being, the forced displacement of the farmer's own sons, smaller farmers and future farmers. All of this "push" is necessary just to retain his net earnings at a worthwhile level. This struggle has also raised the farmer's age level to 57 years, making farming "an old man's game". This has become true not by desire but by economic pressures.

Who will replace these skilled retiring farmers? They will be replaced partially by greater investment in machines, or technical advancement, but the final replacement must be by new skilled young farmers, diversified individuals, and specialists.

There is something very curious about our rural area, we EXPORT raw materials in the form of feed grain, young people, high school graduates, displaced farmers, and the money that our people invest in mutual funds, bonds, shares, most of which leaves the local area. Raw material, people, and money are three necessary ingrediants for economic growth and we ship them out. How stupid can be be? What can we do the change this? We must adopt a policy of processing all our raw material "one step farther" before we ship it out. We must apply technology, management, and salesmanship to these basic commodities of raw material, people and money.

A metropolitan banker recently said, "Show me an ultra-conservative small town banker and I'll show you a man who is killing his community." Is this our problem? Has our money been so hard-earned that we are not willing to risk it here? Don't kid yourself, someone else is taking our money and risking it somewhere else—processing our raw materials and employing our displaced people. Is it also the lack of "leadership" in our educational systems that is causing our good people to be up-rooted and used in someone else's industry? Our people already have a background training and understanding that is available for this one step further processing of our raw materials.

Three forms of industrialization must take place in the rural areas to raise our economic level, they are: 1. The production of food; 2. Processing of food; 3. The manufacture and assembly of products for local and national resale.

Just as we have industrial manufacturing parks being built in each progressive city in our area, why can't we create agricultural industrial parks where these additional skills of technology, money and people, management, and the use of raw materials can be developed into new gross national products. We should draw together our risk capital that someone is using and build the confinement feeding systems for cattle, hogs, and poultry that need PCA requirements and couple them with the high school and adult agricultural-vocational school programs, so that the father of a farm boy or individual doesn't have to take such extreme risks before he is trained in the processing of raw materials—"the one step further"—before letting them leave the area.

These Agricultural Industrial Parks are not intended to be competitors to our free enterprise farmer, but the training ground for the expanded specialized use of raw material, people and money.

The manufacturing Industrial Park of each developing city should always have a vacant speculation building for the relocation or expansion of an industry as long as it is determined there is an available supply of labor. Just as we provide a home for people, we should also provide a home for new industry. They can not wait six months for a maybe. When we lose our available supply of labor we also lose the need for money and raw material for further growth.

There is one gross inequity in our system of taxation that adds to the narrowing margin in farming. That is the taxing of real estate to support social services such as health, education and welfare. A farmer must use large quantities of real estate to make a living. Therefore he pays from five to twelve times more to educate his children than does his fellow citizen in the same income category. The only difference is their method of employment.

Our educational leaders preach that a good education gives a better job throughout life, yet they continue to promote the use of real estate tax—"an unrelated source of taxation"—to support education. They may some day be one of the unemployed, disabled or retired that can no longer afford to keep their real estate because of this unrealistic tax system burden.

If we believe in education, free enterprise and the capitalistic system, then let us use the profits of the system to pay the expenses of its operation. Any banker, accountant, manufacturer, farmer, businessman, or la-

borer can tell you profits are the only way you can pay the expense of any operation including education. If we remove the unjust tax burden from the farmer, improve our processing ability, expand our use of money, improve our technology and yet are not able to sell our farm products locally or abroad at a profit we will still have a sick economy.

I liken our farmers as to rain drops in a cloud, each drop does not create much water, but put them all together and you have a cloudburst that fills the streams of distribution to flood stage. Too much food and fiber, like too much water is a waste unless properly controlled.

If we can't sell or barter the foods in our streams of distribution, then we must control the source at its origin—at the same time properly compensating those who must produce it. If we do not—the source shall surely fail.

It has been said "cheap food" is a "political policy" of the U.S.A. If this is true, then those who preach the policy of cheap food shall also fail. Slavery of our farmers shall also fail to produce a world wide supply of food for all.

My fellow citizens, politicians, educators, farmers, industrialists, and business people, we must gather together *now* to solve these problems or we will become part of this national failure. On Dec. 30, 1971 C.B.S. TV Report, the one glaring statement that stood out above all others was—the U.S. economic strength is the strongest of all forces in the shaping and controling of world peace. After I returned from eight years of service in the U.S. Air Force in World War Two and during the Korean conflict, I met Senator Humphrey at the Windom high school and asked him at that time, why is it with all the smart people in Washington, can't they see that our surplus food is the greatest weapon we have for world peace. I am sure Senator Humphrey was a supporter of the food for peace program. Let us all carry on this program by employing our greatest assets "the American farmer" and his creative ability in producing this weapon of peace.

As Dad hollered up the farmhouse stairway at 5:30 Monday morning, "Everybody up, the day after tomorrow is the middle of the week and you ain't got a damn thing done yet."

CONTINUING EDUCATION

(By Mr. A. F. Gertjejansen)

The Storden Times recently carried an editorial with the caption "A Ghost Town is Still a Ghost Town, even with sewers and running water." It goes on about farms getting larger, run by less people and about less and less business places in our small towns.

The booklet you received at the entrance tells a sad story of what is happening in this area of Southwest Minnesota and Northwest Iowa. And, it forecasts a very grim future for our economy and well being, unless we can do something to change it.

We came together today to discuss our mutual problems and to try to find answers if we can, to these two questions:

1. How can we provide the opportunities necessary to keep people from leaving the area?

2. How do we go about improving the quality of life so that one out of every four families need not live in poverty?

At the turn of the century this was a booming area. The land was opening up, the towns were flourishing. We grew even through the great depression. Up to about 1960 we were pretty well holding our own. Today it's a different story.

In its heyday my home town boasted three hardware, five blacksmith shops, three restaurants, a millinery store, theatre, banks, and, mind you, five saloons.

Today it's down to a handful of businessmen. Main street has more than its share of vacant buildings, and about half of its homes house retired people. The young people have gone and vacant farms dot the countryside. With the exception of a few of our larger towns, this is true of the whole area.

How in the world could we go from boom to almost bust in 70 short years?

From my own experience I can tell you about one contributing factor.

My grandfather brought his family from Germany to this area of "Cornbelt" in 1895. He came because he wanted a better opportunity for his family than he had in Germany. My father who only managed a 4th grade education told me, "I'm going to see that you get a better education so you can have a better life." And he did. I went to school and learned a trade and went into the electrical business.

I told my children—"Go to college—get a good education so you can get a good job." And they did. And—they no longer live in the Cornbelt. This is the story of most families.

From our grandfathers down to us we wanted more and better things for our children. In this we were highly successful. They work shorter hours for more money and have more of the comforts of life than we ever thought possible.

We have encouraged higher education to the point where they want to leave the land and the small towns to seek their fortunes where they can work for someone else, in a ready made job.

We have not instilled in them a desire to stay and start their own businesses from scratch. They have not gone through some of the hardships we did, so they really don't know the good feeling of carving out a slice of the economy for themselves. We wanted them to start at or near the top. Now they are gone. And those that did not seek higher education are gone also. The high salaries of factory production lines in the Metro areas hold more glamour for them than the good life in the rural area.

Two things have happened—

1. We have over-emphasized college education to the point where we now have a surplus of degree bearing people. For the last 20 years we taught the youngsters that if you didn't have a college education you may as well resign yourself to being a nobody.

2. We have under-emphasized vocational and special education—especially for those who could not afford—or refused to go to college. In the meantime the cornbelt area goes begging for trained and skilled craftsmen and technicians, both male and female.

Let me give you a few examples. One high school I checked sheds some light on where most of our young people go. In the last five years 44% of their graduating classes headed for college. After graduation from college very few will find opportunities in our area. In this same school, of the 1966 and 1967 graduates, another 20% went to vocational or business schools. In the last three years of the five year period—35% went to business and vocational schools. This is an improvement and there are other area schools where the percentage to vocational schools is higher and the percentage to college lower. As I see it, this trend is favorable and I'll dwell more on it a little later on.

If you decide to build a house or any other good sized building, you have fairly good success in getting carpenters, brick layers, plumbers, and electricians. But, try to make some small extensions to your house wiring, plumbing, or a small remodeling job and you are apt to get on the waiting list sometimes for quite a period.

There are job opportunities in the area for skilled mechanics, body men, carpenters, electricians, plumbers, and right on down the line. Some opportunities lie in jobs that are unfilled. Other towns could support a new small business. In our own business of supplying electric power, we have in the past taken high school graduates or men returning from the service and made linemen, plant operators and technicians out of them by on the job training. The office clerks and stenos were recruited the same way with only basic training in high school. Until the last few years very few came from vocational and business schools.

Technicians are driving out here from the Twin Cities and Omaha to service our hydraulic equipment. What a field this would be to start a business in.

In our own ten county area we have one of the best tools available to help reduce out-migration and to improve the areas living standards. That tool is the training available at our vocational schools and Junior College. In less than an hour's drive from any corner of the area you can be at the door of one of the vocational schools or the Junior College.

In the 1930's vocational technical training was available mainly from a few private schools in both states. In 1945 the Minnesota Legislature passed the vocational school law. Today there are 32 area vocational-technical schools in Minnesota with two of them located in our area at Pipestone and Jackson.

The Iowa law was passed in 1966. Today there are 15 vocational-technical schools in Iowa with one of them located in our area at Sheldon.

This may come as a surprise to some of you but the Worthington Junior College was established in 1936. It is now a State Junior College and part of an 18 school Junior College System.

Tuition is low in these schools, and the state line is no barrier. Out of state tuition is slightly higher, of course. For most vocational courses high school diplomas are not required. In fact, training is available to give you a high school equivalency certificate.

The vocational schools offer a wider variety of courses in trades and occupations for both men and women of all ages. The junior college has been mainly geared to preparation for further college work, however, many occupational programs are now available. For instance, their catalog lists programs in production agriculture; agribusiness—management or sales and service, and business management as well as tuition-free programs in clerical, secretarial, and practical nursing.

Here is an interesting example of what the vocational-technical schools are doing.

In the last four years in the fields of auto mechanics, fashion designing, business, agricultural banking, carpentry, food merchandising and supermarket management, and meat cutting, the Pipestone vocational school graduated 703 full-time students. Of these 403 or 57% took jobs in rural rather than metro areas. And, of this number, 20 went into business for themselves.

Education is not just for the young. Adults can secure further training in their present field. They can retrain at night for a job or trade they are more interested in without loss of time from their present work.

Last year Jackson had over 2,000 adults enrolled in various courses, mostly at night. Sheldon had about 3,000. Pipestone trained over 600 last year in their Adult Program.

The schools are run by very dedicated people and they are willing to teach most anything the people of the area are interested in. On visiting the schools I was amazed at the number of courses being offered.

The schools are attempting to keep abreast of the times, reshaping their programs as needed.

One way or the other, our education continues from the cradle to the grave.

Formal education is really the knowledge and experience of many people over many years, compiled into text books and passed on to us through instruction. By using our area schools we can take advantage of this

vast store of knowledge and increase our earning power at a much faster rate that we can through the school of experience and hard knocks.

For purposes of this afternoon's workshops and discussions I would ask *these* questions of all the segments of the economy represented here:

Can you secondary school board members do more to update and expand your basic vocational offerings, so that you expose your students to the benefits of staying in the rural area. How about having your counselors talk about rural life, at least to some extent, rather than counseling all students possible toward bachelors, masters, and doctor degrees in some far off specialized position? True, we *need* well educated people in all fields but shouldn't we try for more of a balance especially when our rural area is at stake?

Are you people in business and industry getting acquainted with your area school? Can you give them more cooperation in the way of furnishing competent members of your firm to help with instruction in special classes? Are you encouraging your employees to take additional training to improve both their lot and yours?

Can you help your area school in getting them acquainted with new equipment and new techniques? Remember, their best source of information is you.

What can you mayors and councilmen and you folks in the civic and church organizations do to furnish the best possible municipal, recreational, educational, and social services to make your town attractive to small businessmen, professional people, and tradesmen? The news media has always had a deep concern for the area's economy and problems. Certainly they should never relax in promoting what is good and speaking out sharply against whatever appears to be detrimental.

Can the farm organizations do more to encourage people to train for and start related business and services in our area?

Development corporations are continually on the lookout for new industry in their towns. I would ask you men to consider back up financing for the individual that has the training and ability but little or no money to start in business.

Our State and Federal officials, both elected and appointed, have a tremendous responsibility, and their decisions are not easily made. It is important, however, that an equitable tax balance be maintained between rural and metro areas to keep from draining away too many dollars that could be used by individuals and industry to pour back into the economy of the area.

I ask these questions, not in criticism, but in the interest of the welfare of the Cornbelt and of making the afternoon's workshops more productive and meaningful.

The continuing education group discussion will be held in Room 215. Staff members and administrators from the area schools will be there. Your questions are welcome and your ideas and suggestions will be most helpful. We invite you to attend to help us help you make continuing education a real benefit to the area.

QUALITY OF LIFE—PHYSICAL SERVICES

(By Maurice A. Te Paske)

Basic to studying the matter of population, community services, public revenue and spending is an understanding of community goals. In a recent public statement made by a very responsible opinion-maker in one of Iowa's cities, the suggestion was made that his city should confine itself to "absolute essentials" such as water, sewer, streets, fire protection and police protection. He then went on to call libraries, recreation, and community improvement the "frosting on the cake" which could be dispensed with. Sometimes we're inclined to think that his city looks exactly like that, and yet maybe this has a very definite appeal—to cut out anything like absolute essentials on the assumption that, "we can live without the frosting."

So the basic question is: What services does society want and need from local government? This is very basic to an agricultural area, because "society gets what it wants", and it will "get" it even if it must move out to do so!

The lessons of the 1970 census include the following:

1. Most of the small rural communities of Northwest Iowa and Southwest Minnesota are losing population, and this is particularly evident in Iowa where we have 800 towns of less than 2000 people.

2. A growing demand for more sophisticated services against a backdrop of a shrinking population base.

3. Limited revenues for local government are further eroded by inflationary pressures of payroll and other operating costs.

4. And saddest scene of all—local municipal government, which provides more day-to-day service than all other government combined, is "low man on the totem pole" for revenue sources and most vulnerable as the victim of taxpayer frustration.

In spite of clamoring for it for 30 years, I have been a notable failure in my efforts to promote inter-community cooperation on the very nub of our situation: adequate community services for a static or shrinking population.

a. Until sheer economics or exhaustion drives us to it, it is doubtful if we can expect any change in our competitive patterns, which border on hostility. (Probably rooted deeply in the independence of an agricultural tradition, it seems to be a basic philosophy of our rural social life to "proliferate mediocrity.")

b. It is difficult to turn back irresponsible "new starts" when once they gain a foothold: how do we do local and area planning to avoid wasteful duplication of interior services.

c. So my remarks are directed at what is "In the Realm of the Possible" . . . through societal action, on which we can work together for the benefit of all of us. If the rural areas are to provide viable living qualities it requires aggressive affirmative effort to match the services of the more densely-populated areas where a diversity and sophistication of human achievement is accomplished out of sheer bulk of numbers! I hate to point out that there are also some "minuses" which creep into crowded populations, but strangely enough people seem more willing to adjust to commuting, crowding, crime and pollution more readily than they do to accepting a less complicated life style to begin with!

Adequate revenues to provide quality living for small (and large) communities:

A. Basic to every societal effort is the matter of public revenues. Large centers do not have the revenue to cope with their massive problems; small communities do not have the revenue to cope with even their small problems. Result: Population keeps moving to larger centers to aggravate the problems for both large and small communities.

B. Nobody has said it better and more concisely than John W. Gardner, formerly Secretary of Health, Education, and Welfare, and now Chairman of Common Cause, said recently that "Americans must tax themselves to deal with what ails us." Mr. Gardner said, "Handing money back to the private sector in tax cuts and starving the public sector is a formula for making all of us—as individuals—richer and richer in filthier and filthier communities, more and more sated with consumer goods in an unlivable environment."

C. This is the acid test: Are we willing to tax ourselves for the needs to provide local governments with resources to provide quality living?

1. An outstanding case in point is how we handle the cost of highways: the most sensible and fair user tax—gasoline tax—is collected by the Federal Government and the States and used principally for inter-state and primary systems, whereas municipal property taxes and local special assessments are called on for municipal streets. Federal income tax and revenues for "significant" regional, federal and international demands leave only the merest trickle for local needs, e.g.—at a time when the Indo-China fiasco was costing American citizens $600 per capita per year, Congress was seriously curtailing funds for local library support.

2. In almost every area, the mainline revenue sources (except property tax) are in the hands of every other interest in society. This is not to debate the worthiness of all other programs, but simply to call attention to it that the support of local government—the "street where you live" is dependent on the most unattractive and most vulnerable source of revenue. It may be heresy, but even under educational auspices, we should fairly recognize that a disproportionate percentage (not dollars) is utilized on education.

So may I abruptly come to the point by quoting Congressman Mills who made the comment in reference to revenue sharing, "money is the name of the game!" And I am firmly convinced that the "game" in which rural communities should be required to "play" is that through the processes financial, social and psychological, of incentives of categorical grants.

Although we sometimes have difficulty in convincing our rural friends that this is our credo, over 900 of Iowa's 960 municipalities exist for only one reason: to serve the agricultural community where we are located. There are no real urban-rural differences for the vast number of Iowa's communities. The better the rural municipality serves the agriculture territory around us, the better are the living qualities for both rural and urban residents alike, and thereby the municipality retains its right to continued existence.

A parade of experts has told us that Iowa has "too many small towns," and once having admitted the principle, you are immediately involved in a most painful discussion as to what to do about it. If every existing municipality is to survive and provide viable living qualities in a modern society, "we are licked before we start." Not only will society find itself unable to allocate sufficient resources, but even if it did, it would be perpetuating and keeping alive inefficiency.

Which brings me to my first point of emphasis: a firm endorsement of categorical grants by which through federal and state partnership, incentives and inducements are offered to those communities which are willing to demonstrate the energy, the effort and the capacity to help themselves. No matter what form Revenue Sharing takes, it should *never* be permitted to rob individuals and communities of their initiative and effort. Federal matching funds have already demonstrated the processes by which a community can prove its right to continue existence. The encouragement offered in this way to generate community effort and concern, first of all in a wide variety of options and priorities, and then to do its share through bonding, taxation or individual contributions, is one of the most effective means ever devised to promote community development. It is sensible, fair, and leaves the decision with the people themselves as to how well they wish to serve themselves, their communities, and all of the society in which we live.

Both within the community itself, and also among neighboring communities, included in the application of matching-fund programs should be the encouragement to the work on joint ventures. The possibili-

ties in this respect are limitless; in actual application, only the first feeble steps have been taken. An infinite number of community programs can be maintained or enhanced in their service to society by offering strong encouragement to full utilization of facilities and personnel. The Mott Program of the Flint Board of Education, relating to the community school concept, is an outstanding example of a more efficient utilization of community facilities. These principles can be applied totally or in part to scores of situations in our society, and become virtually a matter of survival in the rural areas. Let me mention an area of community activity where resistance to the principle is almost traditional. Is there any reason in our small communities (or large population centers!) that the school library and the public library not be a joint venture for the entire community? I mention this example because seemingly it should be so obvious that sharing the use of books would be one of society's greatest economies, and yet this principle of joint use of library facilities has never found any acceptance. So I respectfully submit that it is at this very point and in this area that the principle of matching funds should be applied to encourage people to work together instead of working separately.

At this point may I inject a very specific recommendation: There is a fantastically useful film dealing with the maximum use of community facilities and personnel, particularly through the school systems. There are incomparable resources in this film for those with dedicated insights as to community service. The film is "To Touch a Child", and can be obtained free (return postage only) from: Modern Talking Picture Service, Inc.; c/o Pratt Educational Media, Inc., 200 3rd Ave. S.W.; Cedar Rapids, Iowa 52404; Phone: (319) 363-8144.

The protection of the farm economy from the fantastic hazards of inflation and price fluctuation is obviously far beyond the confines of my part of this discussion, but all of us require the constant reminder that the basic food and fiber industry of our area deserves to have better protection from these economic disasters.

In the meantime, there are some specifics which require immediate attention:

1. Rural water supply: Most of the farmers because of its lower cost have shallow, bored seepage-type wells. The majority of these are located in natural drainage ways below farmsteads and cattle yards. To locate them elsewhere would provide practically no water since this type of well in this location depends on surface runoff and the sub-parent soil which is relatively impervious glacial till with occasional sand pockets permits only limited percolation of rainfall through it. A tabulation of water samples from these kinds of wells in Sioux County, Iowa, for a recent two-year period conducted by the State Hygienic Laboratory showed that nearly 70% of the water samples submitted were either excessively high in nitrates, unsatisfactory or unsafe in bacteria or both. The alternate is also very unsatisfactory: deep wells from 500 to 800 feet can produce large quantities of water, but unfortunately water contained in the Dakota sandstone formation is of very bad quality, corrosive, attacking well screens, pump leathers and bearings, and piping. These expensive wells, because of the corrosiveness of the water, usually don't last very long.

Because of these reasons, many of the farmers in Northwest Iowa and Southwest Minnesota feel that their only recourse to solve the water problems they have had to live with for many years is a nonprofit rural water association which collectively has the financial resources to make it possible for them to obtain good quality water from a reliable source to distribute to the members for the first time in their memories.

2. Rural electric power supplies: Obviously much has been achieved, but with the tremendous increase in demands for electric power, local REC's and consumer power systems need the backup of vastly expanded generating and transmission facilities. Municipal electric systems and REC's must work together to assure an adequate bulk power supply, within their own control, so as not to be at the mercies of investor-owned utilities.

Without this additional REC support for generation and transmission, the result will be much higher power costs to the basic industry of agriculture, and which will have an immediate effect on the main streets of the thousands of rural communities throughout the nation, directly involved in the agricultural economy.

Almost everyone in a position of public responsibility is keenly aware of the stark philosophical differences between monopoly services in the control of investor-owned private corporations on one hand and the proponents of consumer-owned services on the other.

But I would like to believe that except for those who are irrevocably committed, for whatever the reason, to monopoly exploitation, that every other fair-minded person welcomes the presence of a dual system of energy distribution, so that there is some remote possibility of a "yardstick" which can be utilized by both points of view in public accountability.

Investor-ownership without comparative consumer-ownership (and vis-a-vis) present a most tempting and fascinating hazard for the consumer, and may no one claim that a measure of public support to maintain such a plural system is bound to undermine the "free enterprise system."

3. Health care in rural areas: The specialization and sophistication of health care tends to follow the out-migration of population from the rural area, and as a result, under present systems for the delivery of health care, the rural area will find itself farther and farther away from health facilities and personnel. No matter what pattern is indicated in the future for payment of health services, the natural operation of economics will deprive sparsely-settled rural areas of adequate health service. I believe that reversal of this process can be achieved by massive increases in the supply of health manpower at every level, with special inducements to health practitioners to locate in rural areas. As an example, at the present rate of attrition, very shortly there will be no general practitioners left in any of the smaller communities. This is not a complaint or attack on any professional group; it is a reminder of society's failure, and unless the situation is corrected, small communities are doomed.

4. Housing for the elderly: Communities which have demonstrated the "will to live", have put fourth demonstrable concern for an on-going program, are the logical placements for federal and state sponsored housing for the elderly. By keeping low-income elderly, by this means, near to families, churches and other social roots, performs some of the finest Spiritual, moral and humanitarian objectives we can possibly imagine.

5. Low-cost recreation: Federal funding and matching funds can continue to make a tremendous contribution to the quality of rural living through various recreational, Open Space, and other similar programs. Some of these efforts have lent themselves to unfortunate innuendoes and political bigotry, but the principle stands firm that encouragement toward the efficient and economical use of leisure time is of the utmost importance socially and economically for our rural areas.

Inherent in this programming is the matter which was referred to very briefly earlier in my remarks: an understanding of community goals. For obvious reasons, sparsely-settled rural areas cannot achieve a diversity of recreational programs offered by metropolitan areas. But by finding common denominators of interest and effort, concentrating on them, encouraging maximum utilization of high-quality facilities, by working together in the most carefully planned and calculated community cooperation, a rural population can support and enjoy living qualities which in many ways can transcend that of their urban peers.

In the deterioration of society's function at the local-government level, we need to do some hard thinking and exert the very best of personal discipline to rise above inertia, vested interests, and selfishness to achieve a better life and environment than is now indicated. If we can keep our public revenues in perspective with what is happened to the private and affluent indulgence of our own wishes, then there is no escaping the conclusion that those dollars we spend in combined efforts have brought us infinitely greater service and efficiency than virtually any other money we spend.

May I again express my appreciation to Dr. Frey and the planning committee for your efforts and concern for a better life for rural America.

Quality of Life—Human Services

(By Father Lawrence C. Gavin)

It may strike you as odd that a clergyman is asked to address a conference on "Crisis in the Cornbelt." Frankly, I am a bit uncomfortable too. However, this very fact that we do not feel fully at ease in one another's meetings, to a degree, pinpoints a problem of our complex society. We tend to divide life into tight compartments and we plan very little communication between these compartments. In fact, the very reason I am before you today is because I objected to the program or the compartments of today's conference. As I listened to the Planning Committee, the farm programs were there; the industrial development programs were there; the continuing education programs were there; the roads, rails and airplanes were there, but people were not there, or here. We tend to use people to develop material resources rather than using material resources to enrich the lives of people.

The problem of the pastor is that he often moves in a very idealistic world, and has little understanding of the basic economic facts of our complex productive society. The layman tends to proceed as though this is a man's world to be managed according to his own economic theories. Both are in error—this is God's world. God made it. Man is but the manager of God's creation. Man does not proceed as though God did not exist. You may object: "We are not here to talk about God." True, but I have a banner on my wall at home which gives the reason for my introduction. It says, "Nowhere does God come so close to man as in man." And it is that man that is the subject of my presentation. I am not an economist, nor am I a farm specialist. I am the pastor of a farming community, Wilmont, Minnesota. My concern is the well-being of the people of our small places.

The greatest natural resource any place has is its people. If those people are migrating, or staying and suffering injustice and inequities, there must be a way to solve the crisis. I would like to speak into three areas that need our attention: attitude, communication and cooperation with each other, and planning.

Who are these people? Rather, who do they feel they are in the eyes of the rest of America? An event that happened to me may shed light on this for you. Shortly after being assigned to Wilmont, I attended a church supper at Iona, Minnesota. I was standing in the middle of the church hall visiting when a woman I had worked with in the Winona Council of Catholic Women spotted me. In

a very loud voice she said, "Father Gavin, what did you do wrong to get sent out here?" I won't tell you what I did, but beneath the question lies years of conditioning, years of fact and fiction.

Who lives in rural America? Not who used to live here, but who lives here now. Those who stayed. We can marshal a lot of facts and figures to answer that question, but when all finished we will find that people are people, whether rural, urban, or metropolitan, they are basically the same. But wait—all men, indeed, have equal worth, since their worth is determined by their creation and not by their intelligence or place of residence. All men do not have the same capability. The greater the person's capacity, the greater his responsibility to help people of lesser capabilities to assure quality of life.

A spirit of neighborliness built the country side in the early days of our region. I am sure some of you here before me today have heard their grandparents tell of the cooperation in the Adrian Settlement that was started in September, 1877; or the Avoca settlement started in April of 1878, or the John Sweetman Settlement up around Currie in the 1880's. A barn-raising bee or a threshing ring. The same quality of neighborliness is needed today between the farms, the towns and the center cities to build the spirit of our area community.

The rural crisis that faces the nation is due not to a lack of food and fiber, but is due to a breakdown of meaningful relations between people. It is basically a problem of attitude toward our fellow man. Let us just take our attitude toward the poor as an example. First of all, do we really believe we have poor? The answer is NO, we do not believe there are any really poor people. Lew Hudson can write all he wants, and Gerald Hiel can give us all the statistics in the world and we still procrastinate, and hedge around and then finally just refuse to accept the obvious. If one or two or a hundred cases are dropped in our laps we hide behind the old myths, "It is their own fault if they are poor" or "I know a guy who . . .". Before we can have quality of life for all, we have to erase the myths that are dividing us as a people.

I don't know when I have been so disappointed as a year or so ago when it was reported that the President of the United States had requested a famous folk singer to sing "Welfare Cadillac" at a White House party. Thank God the man refused. The perpetrating of such myths on any level is the very heart of our crisis of attitude.

The poor are here—they are old, and the very young. They are hidden by our greatest asset "Open Space." As often happens, we have stereo-typed all poor in the ghetto. The fact is we have not only more open space, but more poor than the ghettos. Only when we accept the fact that they exist and are my brothers, can we then move on.

Move on to what? Finding ways to allow the people who have stayed to grow up if they are children, or be fulfilled by productive lifes if they are young adults or adults, and to share being alive if they are elderly. The Southwest Minnesota Opportunity Council—Community Action Agency has a great philosophy for doing just that. The basic purpose of the Community Action Agency is to stimulate a better focusing of all available local, state, private and federal resources upon the goal of enabling low-income families, and low income individuals of all ages, in rural and urban areas, to attain the skills, knowledge, and motivations, and secure the opportunities needed for them to become self-sufficient, or in keeping with the theme of this talk, so they can enjoy fully the quality of life.

If you want to be "where the action is" in Wilmont, you have to be over 55, which most of the town folk are, and be a member of the Senior Citizens' center. As productive as this program is, it could be even more productive of dignity and quality of life if our attitude toward the elderly would change. We have the American know-how to harness the power to shoot man to the moon. Can't we harness the power of our elderly in such a way that their last years may be productive, not of goods for money's sake, although this is a possibility, but productive for human dignity's sake.

The success of the Community Action Agency, Welfare Agency, Health, Housing, any people to people help agencies, depends so much upon "attitude" of the people of this region and of the leaders elected and appointed. It also hinges upon the second area of my presentation.

Bigness and newness are the mood of America. The bigger the better, the newer the nicer. The towns of these ten counties are not big nor are they new. There is a whole school of sociologists who say, "In that case, they will die. They have served their purposes, team-haul towns, sixty minutes from farm to market, and since, cars and trucks have replaced the team, so small towns must die." You and I know these people are right if the small town remains what it was founded to be; the trade center, the only center of life for its people, and the farms a team-haul around. These towns were built on a spirit of strong competition and rivalry; one with another, and this may have been necessary. We don't want the small town to lose its life or its identity, but how do we save them.

It calls for a people who foster goodwill. While they push their own interests, they will do it in a responsible way. They will seek to get ahead, but not at the expense of their neighbor. In all cases, two things are necessary. Each community has to take an honest look at itself, and come to a decision as to what it can really do and be—not all by itself, but in close interdependence on the farms, towns and cities in the six-minute area round it. Then in communication and cooperation with those around, be fully alive to what it does best.

The key to life is communication. America is organized on a vertical basis and the lines of communication run from a local unit to a county unit to a state unit to a national unit. There is little horizontal dealing within a county or between counties. Vertical communication makes us dependent upon far away resources. Horizontal communication makes people aware of their interdependence.

The Honorable Ray F. Schisler, Mayor of Worthington, invited the eighty-six mayors of this ten-county area to a brain-storming session December 6, 1971, at the Worthington Country Club in preparation for the conference. Those present were asked to voice their concerns and needs. The need for better communication between all people was mentioned in all the groups. The other concern that was voiced loud and clear was the lore of political punch, the lore of political power. Present time calls for a people who are willing to face up to reality. If the eighty-six mayors stand alone, they stand little chance of being heard. If all of us are willing to stand together, we can be heard.

We have asked our public officials to come here today to listen to these talks. Why? Not because we are going to tell them something new, but because we are doing it together. The three major farm organizations kicked things off this morning through their spokesman, Norman Larson, and by voice are agreed upon a thirteen-point program. This is a beginning and if we are really honest, we have to come face to face with our sins. Sins on the part of the public and private sectors. One of the purposes of this conference is to show the elected and appointed officials who were invited here today that we do want to speak with a united voice. Town and country people contribute to their own neglect by an unwillingness to face up to realities. There are still significant differences between life on the farm, the small town, the city, and the metropolitan centers. However, it will be more helpful in achieving the goals of this conference and fostering the enrichment of life to emphasize that the people in different places not only need each other, but today are willing to work together.

Communities have the capacity to fulfill different functions, but to do so, self-interest and large community concerns need to be in balance. We need interest groups; we need town pride. These must not be ends in themselves, but means to achieve the development of an area. Loyalty to a place must not stand in the way of meeting basic needs. It is no longer important at what particular geographical spot a high school, hospital, or church is located. The important thing is that educational, health, and church services are accessible to the people so that their needs can be met.

Town and country society is no longer a land area made up of independent family farm units, isolated villages, and towns, each with its own separate social institutions. Today it is one web of human activity tied together into an area complex.

The old image of loyalty to a place and social independence still exists in the mind of many. This image must be replaced by an image which reflects a spirit of involvement and coordination of business efforts, a concern for area development, and an interest in quality communities.

I have tried to draw together three things that may help develop and assure a quality of life for our people in the ten-county area. I would be gravely amiss if I did not speak strongly to the major need. We have made gods, false gods of the "things" of the earth—production, money, possessions, fame, power, and then wonder why we have trouble. The bickering, mistrust and selfishness of all of us has to be put aside. We cannot honestly ask the political sphere for help if we are not open and willing to help each other. The strong must help the weak, not stay weak but grow stronger. If all we are interested in is "building bigger barns" for ourselves at the expense of our fellow men, then we are doomed to fail.

We need roads and plants and crops and education, but for the quality of life of men, all men.

Meeting the Cornbelt Crisis

(By Senator Walter F. Mondale)

I always get a feeling of pride when I visit this area. It is a good feeling of coming home; seeing old friends. I always look forward to the Turkey Day Celebration each fall. But in recent years I have been disturbed to see in this area and several other fine communities, there are more and more abandoned farmsteads and in the wake of that, more closed businesses in the smaller surrounding communities.

Douglas Wallace, manager of Nobles Cooperative Electric, just recently pointed out in a letter to me, that, of the 4,914 farms equipped with that co-op's lines, 565 are idle services. It also is depressing to see the harsh facts pointed out in Gerald Heil's Southwest Minnesota Population Study.

But now, today, my spirits are lifted to see this tremendous initiative being taken, not only by the people of Worthington, but by people throughout this region.

It is encouraging to see people getting together and planning to work vigorously to revitalize the region while there are still people here. I am proud to see that not everyone buys the idea that the family farm is on the way out or that small towns have to die.

I don't think that the demise of the family farm or that of the independent local businesses and bankers is inevitable. And I am very proud to see so many other people who are not about to bow down to the idea

of bigness and let the big corporations take over.

By putting aside special interests and working together for a common goal of renewed development, you are indeed making history here today. For some time I have called for a national policy of reversing the trend and getting people back to rural America. It is heartening to see the idea catching on.

The piling up of people in increasingly unmanageable cities is needless. Law enforcement costs $40 a person in New York City.

In rural communities in Minnesota it costs less than $2 on the average, and we have better law enforcement than they do. Education costs an average of $1,300 per pupil in New York City and we spend an average of $750 in Minnesota. Education is better here than there. There are several other social and economic costs which are increasing in those unmanageable cities. Besides the problem of the poor and the unemployed, there is growing unhappiness on the part of all urbanites—the middle and upper income groups included. One recent Gallup poll showed that 56% of those living in urban and suburban areas said that they would like to live in a small town or rural area. Pollution, traffic congestion, the growing discontent of the young leading to a growing drug culture and complacency shows that the big-city idols of material wealth are not, in reality, enriching people's lives.

I was told that on one of the TV late night talk shows recently a movie producer just back from filming in the open spaces of Colorado commented that we should move people out of the crowded cities into those beautiful open areas.

The emcee's reply was—"Sure, but what are they going to do, grow radishes?"

That conversation brings up a good point. We should get people out into the open spaces. To do that, we can not just pick them up and move them there, not with the standard of living people expect these days. But there are many fine communities with declining populations all over the country and pumping life into them is what your meeting here today is all about.

In a national policy aimed at rural-urban balance, we must offer programs which allow equal opportunity for all who want to live in rural America to do so. Above all, I think it is high time we get going on constructive efforts to increase farm income to a reasonable level. I am appalled by the present farm prices which are lower than those right after World War II.

I agree with Norman Larson, who today spoke for himself, for the farm groups he represents as well as for farmers all over the country: "We need a Secretary of Agriculture who is producer-oriented."

I strongly believe we need a Secretary who knows what farmers want; a man who thinks like a farmer. That's why I opposed the nomination of Dr. Earl Butz and that's why I voted against his confirmation.

An editorial in the Worthington Daily Globe during the Butz controversy made a lot of sense when it suggested that Butz is more suited to the position of Secretary of Commerce than he is to that of Secretary of Agriculture.

His appointment, in my estimation, was as ill-conceived as the President's previous proposal to dismantle the Department of Agriculture. I can't, through any amount of imagination, understand why the President is so engrossed in the idea of diminishing the department's importance at a time when it is so desperately needed. We need to reorganize the department by strengthening its farm and rural development functions. The best way to reorganize the department is certainly not by diminishing it or by getting more corporation-minded men to run it. It needs new leadership, young leadership and above all, farmer leadership.

The upper echelons of the department are so full of the old, conservative Ezra Taft Benson crowd that it can no longer properly respond to the needs of farmers and rural America.

A Department of Agriculture study showed that in recent years nine times as much public research has been done as on people-oriented problems. Research and extension activities in regard to production efficiency are important, but I think we need to start placing equal emphasis on people-related programs. Farmers need a more effective voice in the marketplace and more effective co-ops. Rural groups need more guidance in their community development activities.

It is time for the land grant colleges and the Department of Agriculture to face up to the increasing needs for people-related programs.

The Department of Agriculture needs reorganization—not dismantling or diminishing. Both the department and the land grant colleges, which were set up to help independent farmers, have to be streamlined and strengthened in the services they provide to fill the needs for real farmers and farm communities.

Public agricultural research and extension activities of the department and of the land grant colleges have made great strides in developing new methods and technology benefiting the production side of agriculture. Now it is time to face up to the increasing needs for people-related programs. That includes making programs of rural development as important as production innovation.

The term 'rural development' is popular in political talk but if you ask a real farmer about it he'll say he hasn't seen much action. It is apparent that many of the rural development facilities presently offered by the Federal Government are inadequate or are so cloaked by bureaucracy that rural people are confused by them. Well, I believe in the extension service and I know most farmers have faith in their county agents. So I think we could do a great service to the whole idea of rural development by expanding the activities of the extension service into rural development consultation.

Some of this is already being done but is very limited. The national average is nine development personnel per state in extension per state while each state has hundreds of extension people devoted to the production phases of agriculture. The funds and personnel should be boosted.

In the next few weeks I will be introducing legislation to supplement current and pending programs in rural development by providing coordination and consultation services to farmers and rural groups interested in development projects. Experts knowing about the credit available, public and private, for each type of project, would provide legal and technical expertise to action groups and help them cut through the bureaucracy to get things done.

I think the Department of Agriculture through the extension service and the Land Grant Universities, can make a great contribution by working closely with the governor's office and state planning officials in revitalizing communities. They need to go beyond the organizational phase, however, to vigorous planning and action programs. Many communities need to bring in outside assistance to solve their pressing problems. I strongly feel that if we are to be successful in rural development, a blending of educational and governmental agencies must take place.

I am glad to see so much initiative being taken by junior colleges and vocational schools in revitalizing their local areas by helping in industrial development projects which will keep their graduates in the rural community.

I also strongly support legislation of the kind Senator Humphrey introduced emphasizing greater credit services for farmers and for nonfarm rural development requirements. S. 2223, The Rural Development Financial Resources Act, is probably one of the best steps toward population balance since the Homestead Act.

Father Gavin said today that as a society we have tended too often to use people to develop our material resources instead of using our material resources to enrich the lives of people. That is exactly the way I feel. Our greatest natural resource is people. And people are basically the same whether rural, urban, farm, or metropolitan. You rural people can't hedge the problems of the urban poor, the minorities or the children of this nation.

The people of the cities can't ignore your problems of farm income. All of these problems are complex and inter-related.

It has been encouraging to see the upsurge in emphasis of rural problems by metropolitan newspapers in recent months, especially a recent editorial in the New York Times which called for bringing rural issues out of "the political ghetto of the farm bloc" and making them matters of widespread national concern which take account of all the costs and consequences of the farm revolution.

That farm revolution, the trend towards fewer and larger farms has been extremely costly both economically and socially. Secretary Butz is noted for once saying that farmers must "adapt or die." But the saddest fact about that type of a struggle for survival is that the winners eventually are losers. The farmers we have left today need no defense. They have survived a rough race and are the most efficient businessmen in the world.

But if this ridiculous low price situation is allowed to continue, many more of them will be forced to leave their farms.

Farmers have all been hurt by the low farm prices of recent months. Several have held off the selling of their corn thus avoided selling at the minimum prices of 90 cents or less, but what about the farmers who depend on selling corn as a cash crop. What about the farmers up at Chaska who planted corn last year because they suddenly had no local market for sugar beets. Or what about the farmers up around Brooten who, seeing an opportunity to bring new life to their community, have invested in irrigation equipment to raise corn. Many of those farmers raised corn as a cash crop to sell at harvest time. They believed the Secretary of Agriculture last year when he said that the nation was in danger of a food shortage due to the threat of corn blight.

Now the Administration is blaming farmers for producing the surplus. An ASCS administrator recently went so far as to say that farmers should take the initiative to produce less corn, or the freedom to plant set-aside program will not work. That notion is precisely why I don't think the set-aside idea can work. How can they expect enterprising farmers to step back and let big farmers raise more corn. Under freedom to plant, I think each farmer will plant more corn hoping that enough others take the initiative to plan less to increase the price. That's why it won't work.

The recent corn buying activity of USDA is also inadequate. I don't have to tell farmers here tonight what a small drop in the bucket it is.

During the first month of buying, 7.7 million bushels of corn were purchased by USDA. That's roughly equivalent to ⅔ of the normal yearly corn production here in Nobles County or half that of Jackson county. Removing that amount every month until election time will amount to a total of about 93 million or less than one-fifth of one percent of the total production of corn in the nation.

Crop reports indicate that last year's crop

was 35% larger than that of 1970 and 26½% larger than the 1965–69 five-year average.

And Butz is trying to remedy that by taking one fifth of a percent off the market.

That's why I support Congressman Bob Bergland's bill to increase price supports rates by 25% and to establish a strategic reserve of grain. When that bill passed the house last month, corn prices jumped by 5¢ a bushel in several principal markets. So, it's obvious that grain buyer know the difference between USDA buying a million or so bushels at a time and a legislative measure which would require a purchase of 500 million bushels of corn to be put into a reserve, kept off the market for emergency use.

Besides stop gap legislation that is needed to remedy the current depressed farm price situation, more important are programs which allow the family farm to continue by giving the farmer the tools he needs to build collective and cooperative marketing strength. The agricultural bargaining and agricultural marketing bills I introduced in this Congress are an effort along those lines.

We also need to press forward in eliminating the tax loopholes which encourage absentee ownership of farms. In some states, as much as 80% of the private land is absentee owned. This is frightening to me when I think about a classic study of two California towns.

The towns were about the same size but one was surrounded predominantly by independent family farms, the other was surrounded by large, absentee-owned farms. The small farm community was definitely more responsive to local welfare local issues, local leadership and local business than was the corporate farm community, which tended to completely disregard the good of the local community. A more recent study, in Vernon County, Wisconsin, showed sufficient evidence that corporate farms were evading taxes, destroying natural resources, depleting tax bases, injuring local businesses and taking income out of, not only the rural community, but also out of the state.

Vital legislation like Senator Gaylord Nelson's Family Farming Act, which is aimed at preventing monopoly and helping the family farm to continue, must be passed. Also needed are more laws like the one passed by the 1971 Minnesota Legislature requiring farm corporations to disclose their holdings.

Further developments of the farm cooperative system and the Farmers Home Administration and the farm credit system are needed. Legislation is needed to implement new programs and the careful guidance of a more responsive Department of Agriculture to carry them out.

We need: programs to preserve the family farm, the independent business and the individual home town bank. Programs to give adequate hospital care and educational opportunities and most of all, jobs. Programs to let people work and find dignity in the communities where they were born.

Above all, general public concern must continue to grow. All Americans must be brought to the realization that there is real value in independent business, community pride, small local banks and family farms. Small neighborly communities, which at one time thrived on the competition from surrounding communities must learn that they can now gain strength by letting their neighborliness spread and by cooperating with other communities on a regional scale.

Industrial development is not the final answer or the only answer. Better farm income is not the final answer either. Both are, along with community services, quality of life, transportation and so on, components of a necessary policy for rural development.

The hope for rural America is in group effort on the part of rural people including meetings like this and also the establishment of effective relationships with urban America.

A SIGNIFICANT CHANGE IN FOCUS

Mr. HANSEN. Mr. President, I invite the attention of Senators to a situation that has arisen relating to the 22 U.S. oil firms' agreement to discuss giving six Persian Gulf nations partial ownership.

The upshot of the meetings in Geneva underscores the fallacy of the recent line of argument of some Senators who have called for the removal of our country's mandatory oil import quotas along with their urging that our country agree to go along with a much greater dependency on foreign oil to satisfy U.S. consumption requirements.

From the reports that I have read—from the Wall Street Journal and the Washington Post—it appears that the increase in the price of crude oil that the oil firms have agreed to pay the six Persian Gulf countries will apparently be passed on to their customers, at least by some.

Thus, it looks like the price is going to be going higher, and this in the face of statements from some who contend that all that the United States would have to do to solve its increased energy demands would be to do away with our oil import program and open up the floodgates to foreign oil, thus "saving" a great deal of money.

When one reads what is happening at Geneva, it is obvious that this is not the answer to our problems and, as a matter of fact, could do a great deal of harm to our U.S. oil industry and severely retard this vital business at a very real cost to our country's security.

The U.S. oil industry will have to invest some $150 billion in capital and exploratory expenditures during the 1970's to meet increased energy demands, compared with about $60 billion in expenditures during the 1960's.

When one combines the news from Geneva about partial foreign ownership of American oil concerns by the 11-nation organization of petroleum exporting countries with the fact that tax provisions enacted by the U.S. Congress in 1969, provisions that have increased oil industry taxes by $800 million a year, leading to a decline in domestic oil well drilling activities, it is obvious that we can ill afford precipitate action that would risk significant changes in our mandatory oil import program and a greater dependency on foreign oil.

To do those things, in the face of what is happening with OPEC, the group of countries which controls 90 percent of the world's oil exports, would court complete disaster for our domestic oil industry, which is faced with the demanding task of raising overall productivity in the face of almost insurmountable obstacles to avert a future energy shortage.

Because the two articles focus specific attention on this vital situation, I ask unanimous consent that they be printed in the RECORD.

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

[From the Wall Street Journal, Jan. 24, 1972]

OIL COMPANIES AGREE TO DISCUSS GIVING SIX PERSIAN GULF NATIONS PARTIAL OWNERSHIP

GENEVA.—The 22 oil companies operating in the Persian Gulf area agreed to open negotiations on giving the six nations involved a partial ownership in their operations.

The decision to negotiate the participation of the six nations—Iran, Iraq, Kuwait, Saudi Arabia, Qatar and Abu Dhabi—followed an earlier agreement with the oil companies for an increase in their taxes and royalties to offset the recent devaluation of the dollar. That settlement—which is expected to cost the oil companies $700 million in 1972—raised tax reference prices by 8.49%, or slightly less than the official 8.57% decline in the value of the dollar. The six nations had sought an increase of 12% to 15%.

The six nations, all members of the 11-nation Organization of Petroleum Exporting Countries, produce more than 16 million barrels of crude oil a day, or more than a third of the Free World's total output and well over half of all oil exports. OPEC, whose members also include Venezuela, Indonesia, Nigeria, Algeria and Libya, controls 90% of the world's oil exports.

The decision to negotiate the participation issue, reached late Saturday night, constituted a major change in the previous public position of the oil companies. The companies have until Wednesday to decide whether they will negotiate as a group or separately. The Persian Gulf six named Ahmed Zaki Yamani, the Saudi Arabian oil minister and a man described as a "moderate," to be their negotiator.

Several of the largest American oil concerns are involved, including Standard Oil Co. (New Jersey), Standard Oil Co. of California, Standard Oil Co. (Ohio), Texaco Inc., Continental Oil Co., Atlantic Richfield Co., Gulf Oil Corp., Phillips Petroleum Co. and Mobil Oil Corp. Foreign oil companies include British Petroleum Co., Cie. Francaise des Petroles and Shell Petroleum N.V.

It is believed the six nations would like to own at least 20% of all the Persian Gulf subsidiaries of the oil companies. Their demands are supported by the other five OPEC members.

Originally, the oil companies—represented at the talks here by 12 negotiators—were determined to resist any participation in their operations by the six nations. One oil company official even banged on the table and shouted "confiscation" when the six nations presented their demands. But the oil companies changed after the six nations, with the support of the other nations, announced that they would take part in a "combined action" if they didn't receive "satisfaction."

A spokesman for the OPEC said their negotiator, Mr. Yamani, would report back to the group at the end of next month, after having met with the oil companies, and a decision would then be reached whether "concerted action" were still required.

[From the Washington Post, Jan. 21, 1972]

SIX COUNTRIES, OIL COMPANIES REACH ACCORD

GENEVA, January 20 (AP)—Six Persian Gulf countries and Western oil companies signed an accord tonight that will increase the dollar posted price of crude oil by 8.49 per cent to offset the countries' losses caused by the devaluation of the dollar.

The agreement came close to meeting the original demand by the Organization of Petroleum Exporting Countries (OPEC) and will boost the gulf states' revenue by an estimated $800 million a year.

[Manchester Guardian correspondent Thomas Patrick reported that there would be no retroactive payments, which could have meant an outright payment by the oil companies.]

Finance Minister Yamshid Amouzebar of Iran said after the 15-minute signing ceremony that he was "glad that the oil companies finally conceded" on the producing countries' right to an adjustment covering the post-devaluation depreciation of their revenues.

"We agreed on the settlement of a very, very complicated and difficult issue," he added.

Standard Oil of New Jersey's vice president,

George T. Piercy, said: "We believe this is a realistic settlement."

REVENUE INCREASE

An OPEC source said the agreement would result in an 8 per cent increase in the actual revenue of the six gulf nations. The organization has said the posted price hike should not result in any increase in the consuming countries.

Piercy said that he could not comment at this time on whether the increase would have to be passed on to customers.

At one point during the 10-day talks, however, he said the companies would probably have to pass on to the customer any price increase in the neighborhood of what the producer countries were demanding.

Asked whether this statement still applies after the accord, Piercy said it was up to the individual companies to answer.

SOME SAVINGS FORESEEN

OPEC said that countries which revalued their currencies upward by more than 8.57 per cent would still be left with a saving. These countries include West Germany and Japan, both major buyers of crude oil from the gulf.

The agreement was signed by ministers and other high-level delegates from the six gulf states—Abu Dhabi, Iran, Iraq, Kuwait, Qatar and Saudi Arabia—and five oil executives representing 16 major companies and their operating subsidiaries.

The settlement includes provisions for further adjustments in producing countries' revenues between now and 1975—the duration of the oil-price agreement signed in Tehran last February—based on an index which will measure any significant changes in the dollar value. An oil company official said this would cover "both ups and down as does any index."

The new agreement, which provides for an "immediate increase" in posted prices—the reference prices used in calculating taxes and royalties—supplements the Tehran price pact that substantially boosted producer revenues.

The 8.49 per cent settlement compared with an OPEC demand for 8.57 per cent equivalent to the dollar devaluation in terms of gold. It comes on top of an annual 2.5 per cent annual inflation increment adopted at Tehran.

ADEQUATE WELFARE REFORM

Mr. HARRIS. Mr. President, last Tuesday I took part in a vigil on the Capitol steps for adequate welfare reform. The vigil, which will continue each Tuesday, is sponsored by a number of outstanding public-spirited organizations.

I ask unanimous consent that a statement I made at that time, together with the vigil's statement of purpose, a list of sponsors, and other materials related to welfare reform be printed in the RECORD.

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

WELFARE REFORM

(Statement of Senator FRED R. HARRIS)

I just want to say briefly that I am in wholehearted agreement with what this group is trying to achieve. The so-called "Welfare Reform" bill, H.R. 1, passed by the House and now pending before the Senate Finance Committee, is a disaster. It neither reforms the present system adequately nor does it begin to meet the crucial need for a fair income maintenance program.

There has been a growing chorus of persons urging a united front for welfare reform. Unfortunately, many of those persons have, in my opinion, been misled. H.R. 1 is not welfare reform. As a member of the Senate Finance Committee, I voted against the ill-begotten welfare bill of 1970 and I have never regretted that decision. H.R. 1 is worse in most respects than the 1970 welfare reform bill.

H. R. 1 blatantly disregards the rights and dignity of recipients. It provides a wholly inadequate level of income maintenance. It contains outrageous provisions which would take pre-school children from their mothers involuntarily and place them in custodial day care centers. The bill provides no standards for those centers and will have to rely on channelling pre-school and school age children through existing inadequate facilities.

H. R. 1 forces recipients to accept jobs for substandard wages. It doesn't provide the incentives necessary to make work a practical alternative to public assistance. H. R. 1 is predicated on the myth that welfare recipients are all no-good loafers, able to work but unwilling. That is patently untrue.

I believe that the great majority of welfare recipients in this country who can work *want* to work. They want to work at jobs that will provide at least the minimum standard of living for them and their families. Those jobs are not available because this Administration has followed a disastrous economic policy which has resulted in more than 6 million people unemployed. Now the Administration and Congressional supporters of H. R. 1 are adding insult to injury by proposing legislation which not only provides inadequate benefits, but also robs recipients of the dignity and respect that every human being deserves. H. R. 1 will fall most heavily on those very persons, a large majority of welfare recipients, who are unable to work because of disability or who are mothers with children—mothers who should have the right to determine for themselves whether or not to stay home with their children.

The list of inadequacies goes on and on. In short, H. R. 1 is completely unacceptable and I will make every effort to defeat it. In addition, I will participate in no tactic which has as its result passage of a bill only slightly better than H. R. 1—made more palatable to liberals by patchwork improvements. Unless we can work together to make substantial and fundamental changes in the present welfare system we are better off with no new legislation.

I will not participate in a political sell-out which comprises away those basic necessities fundamental to any just income maintenance and work incentive program. To do so would doom real welfare reform for at least a decade, not bring it closer.

SENATE VIGIL FOR ADEQUATE WELFARE REFORM—STATEMENT OF PURPOSE, JANUARY 1972

We have chosen to hold a vigil on the steps of the U.S. Senate because there is an urgent need for the Senate and all Americans to understand that: H.R. 1 is not Welfare Reform; that it is philosophically and substantively unacceptable; and that no package of amendments based on its essential framework can improve it.

We are holding a vigil to urge the Senate to understand and vote for adequate Welfare Reform or if that is not possible, to vote against H.R. 1 and the Ribicoff Amendments.

We also are holding a vigil to point out that the Ribicoff Amendments are serving ultimately to dissolve opposition to and strengthen support for the passage of H.R. 1, rather than offering any viable and adequate alternative to H.R. 1.

And we are holding a vigil to make it clear that these are the elements of real Welfare Reform:

Adequate level of payments now. (For a family of four, the current official U.S. poverty level is approximately $4,000; the Bureau of Labor Statistics Lower Living Standard defines the minimum level of adequacy as approximately $6,500.)

Preservation of the family unit:

Recognition of the right of a single parent to work or care for his/her children.

No filing criminal complaints against father as condition for welfare.

No forcing father to repay welfare payments if he rejoins family.

Real incentives to economic independence including:

No less than federal minimum wage.

Training for specific and suitable jobs.

Maximum retention of earnings for those who work.

Proportional payment levels for all welfare recipients, and coverage for all in need: individuals, couples without children, working poor.

Full assurance and protection of constitutional rights of recipients and provision for recipients to fully redress grievances.

No sex discrimination.

Simple system of administration which treats recipients with dignity.

Our vigil will start on January 18, the first day of the new session, and will continue every Tuesday until Adequate Welfare Reform is passed or until H.R. 1 and/or the Ribicoff Amendments are defeated.

ORGANIZATIONS SUPPORTING THE SENATE VIGIL FOR ADEQUATE WELFARE REFORM

American Friends Service Committee.

Women's International League for Peace and Freedom.

Health and Welfare Council/National Capital Area.

Union of American Hebrew Congregations.

United Federation of Temple Sisterhoods.

National Council of Churches.

Lutheran Social Services.

Friendship House.

National Welfare Rights Organization.

D.C. Family Welfare Rights Organization.

National Committee on Household Employment.

Women's Division, United Methodist Church.

National Association of Social Workers, Metro Wash. chapter.

H.R. 1, THE SOCIAL SECURITY AMENDMENTS OF 1971—A CRITIQUE

(NOTE.—The critique has been prepared by the Center on Social Welfare Policy and Law at Columbia University, 401 West 117th Street, New York, N.Y. 10027. A more detailed analysis of H.R. 1 with further documentation has now been completed and is being distributed to legal services programs.)

H.R. 1 is the most recent step in the effort to enact "welfare reform" legislation by the Administration and the House Ways and Means Committee. It would replace the Aid to Families with Dependent Children and Aid to the Aged, Blind and Disabled programs with three new grant programs: Family Assistance (FAP), Opportunities for Families (OFF), and a federalized Aid to the Aged, Blind, and Disabled (AABD). The first two provide a federal minimum grant to families with children. Families where one member is employable will receive aid under OFF, others, under FAP. Aid to the Aged, Blind, and Disabled (AABD) is a federally funded replacement of the state/federal programs covering the same category of persons.

If enacted, H.R. 1 may result in a loss of benefits to over 89 percent of current recipients. Establishing and maintaining eligibility would require compliance with a variety of onerous administrative requirements that are unresponsive to severe human need. In addition, many of the constitutional rights won by welfare recipients in the courts would be circumscribed.

BENEFITS LEVELS

H.R. 1 provides a basic federal guarantee of $2400 per year, or $200 a month, to a family of four, with proportionate amounts to families of different sizes. There is a family maximum of $3600 (no increases for fami-

lies of more than eight persons). This basic grant for a family of four is $1568 below the 1970 poverty level of $3968, defined by the Social Security Administration as the minimum amount necessary for subsistence. The grant is far below the $6500 which the Bureau of Labor Statistics estimates is necessary for a living standard commensurate with an adequate diet.

No family may receive both cash benefits and food stamps. The food stamp bonus (the difference between the cost of stamps and their cash value), which now varies from $90 to $24 a month for AFDC recipients, depending upon state grant levels, is eliminated. Only five states now pay less than $2400 in AFDC and food stamp benefits. Over 89 percent of all AFDC recipients (7,836,700 people) live in the other 45 states and the District of Columbia and may lose benefits. (Data as of July, 1970.)

OPTIONAL STATE SUPPLEMENTATION

There is no required state supplementation for FAP or OFF benefits. States choosing to supplement benefits for single-parent families will be held harmless by the federal government against cost increases above their 1971 welfare budgets. To take advantage of the hold harmless provision, however, a state must not raise benefits above 1971 levels for AFDC plus food stamps, and it must agree to federal administration of its supplemental program. Thus the same bill which institutes an automatic cost-of-living increase in Social Security benefits virtually mandates against such increases for the poor. Though not all states are expected to cut back immediately to zero, current trends indicate an inevitable lowering of benefits to, or close to the federal floor.

Forty-five states plus the District of Columbia now pay more than $2400 plus food stamps. Twenty-nine pay over $2400 without stamps. In nine states a family of four stands to lose $100 or more per month in AFDC benefits alone. The state may impose a residence requirement on receipt of supplemental assistance although the Supreme Court has specifically held such requirements unconstitutional.

ELIGIBILITY REQUIREMENTS UNRELATED TO NEED

No benefits are payable to families whose head is a student at a college or university, regardless of his additional work effort or the cost or non-cost of his education. A fully employed night student at a free public college is ineligible. The bill fails to provide any income to single persons or childless couples, unless they are over age 65, blind, or disabled. Failure to apply for pension, annuity, unemployment compensation, or similar benefit, by any family member results in a loss of benefits to the entire family.

No benefits are payable on behalf of any family member who is an alcoholic or a drug addict, unless he or she is in a treatment program. A family may be excluded if its head is self-employed and earns too high a gross income, despite low net income available for meeting the family's needs.

THE WORK REQUIREMENT

All employable persons must register with the Secretary of Labor and thereafter receive benefits under his jurisdiction in the Opportunities for Families Program. The only persons exempt from registration are mothers of children under three years of age (six years until 1974), persons unable to work because of the illness or incapacity of themselves or another, children under 16 or in school, or women in families where an adult male has registered. The Secretary of Labor is instructed to give priorities to training or job placement to "mothers and pregnant women under 19 years of age."

The penalty for refusing to register or accept work or training is $800 per year. Despite a 6.1 percent national unemployment rate (10 percent for blacks), it is assumed that jobs or training slots will be found for all employable recipients.

Wages, hours and conditions of employment must meet applicable state, federal or local minimums or prevailing conditions. Wages need be only 75 percent of the federal minimum. Persons unable to be placed elsewhere may be forced to work in public service employment programs, where wages must be $1.60 an hour.

CHILD CARE SERVICES

Child care is to be provided for those in the Opportunities for Families Program, but families have no right to object to the quality of care offered their children or to refuse to participate in training or accept employment because of the absence of child care arrangements satisfactory to them. Virtually all standards for the quality of acceptable facilities are left to the discretion of the Secretary of Health, Education and Welfare.

PAYMENTS AND BUDGETING PROCEDURES

Dual Programs: Benefit levels for individual families are to be determined by the Secretary of Labor for families of employable persons and by the Secretary of HEW for all other families. Past experience indicates that recipients may tend to move frequently between these two categories. The repeated redeterminations this would entail can cause loss or delay in receipt of benefits.

Annual Accounting: Benefit entitlement is to be determined quarterly, and any income not excludable under OFF or FAP which was received in the preceding three quarters is to be used to reduce benefits payable in the current quarter, regardless of whether or how the income was spent. A family whose head has lost his job, though it has no cash assets of any kind, may have to wait up to nine months to receive any assistance.

Penalties for failure to Report Information: Biennial Reapplication: Benefits terminate automatically after two years, when the family must reapply for benefits and be processed as a new applicant. Benefits also terminate unless a family reports quarterly income and expenses within 30 days of the close of each quarter. In addition, any change in circumstances affecting eligibility must be reported immediately. A monetary penalty of up to $100 is imposed for failure to so report, even though the change in circumstance would have resulted in a higher grant.

Earned Income Used to Reduce Benefits: There is an earned income incentive of $720 annually plus one-third of remaining income. Out of this must be paid all expenses of employment (union dues, local, state and federal taxes, transportation, etc.). Additional exemptions are allowed for reasonable child care costs, income of children who are students, and inconsequential or infrequently received income. These latter costs may not exceed the lesser of $3,000 or $2,000 plus $200 for each family member above four. The incentive is applied after these items are deducted on net, not gross, income, as under current law. Upon passage of H.R. 1, the states may elect to substitute these income disregard limits for the work-incentive now required in AFDC. (§ 402(a)(7)(8)—$30 per month plus one-third of the remainder plus work expenses.) Moreover, H.R. 1 amends Medicaid to impose on recipients a deductible of one-third of all earned income over $720.

Hearing Procedures: There is no requirement that hearings be held prior to termination or reduction of benefits. There are no standards governing the conduct of hearings, such as the right to examine evidence, cross-examine witnesses and present evidence in one's favor. No judicial review is permitted of any finding of fact.

Representation of Claimants Regulated: The Secretary of HEW may place extensive restrictions on who may represent claimants at hearings, and he may prohibit persons from practice before him for failure to follow his rules and regulations. Recipients view this as a direct attack on the use of lay advocates, including other recipients, to represent them in dealings with welfare officials. Many of these lay advocates have provided high quality representation resulting in increased protection for the legal rights of recipients. Virtually all act without charge.

Levy on Funds of Deserting Parents: Parents or spouses who desert their families are liable to the federal government for any assistance furnished such families. This debt can be recovered from any amount due such parents from any federal agency, with no judicial determination of the underlying support obligation and no prior notice of the levy.

Alternative Proposals: H.R. 1 is the fifth version of welfare reform sponsored by the Nixon Administration. The President's original proposal was passed, with minor alterations, by the House in 1969. Under pressure from the Senate Finance Committee, the Administration revised H.R. 16311 in June and October of 1970, and finally settled upon a third revision, in November, which never came to a Senate floor vote because of the legislative log-jam at the end of 1970. None of these prior bills provided sufficient grant levels or protection of individual rights. None, however, was as oppressive as H.R. 1 and none would so endanger the subsistence of so many recipients, since maintenance of current grant levels by the state were required. Congressman Rangel has introduced a bill guaranteeing $6500 to a family of four and covering all persons with income below this level (H.R. 16729). Representative Fraser has introduced a measure similar to the November revision but requiring a $3600 floor and universal coverage (H.R. 7388). A bill by Representative Pepper would federalize all welfare payments as of July 1, 1971 and provide a family of four $4150 in 1972 and $6250 by 1977 (H.R. 7254). Representative Ullman has sponsored a measure to end all assistance to employable persons and limit state payments to AFDC families (H.R. 6004).

NOBODY GETS HURT

These are the changes needed in the FAP-OFF program (H.R. 1, Title IV) and Medicaid (H.R. 1, Title II) to insure that no recipients will be worse off than they are under the present Welfare program.

1. *The federal grant level must be as high as possible and should include provision for adequate emergency assistance. The federal grant level should be adjusted annually for increases in the cost of living and it should not contain an arbitrary family maximum.*

The $2400 federal benefit level set forth in § 2152 of H.R. 1 is less than current AFDC benefits plus food stamps for welfare families in 45 states and the District of Columbia, almost 90% of the welfare families in the entire country. In 29 states, the federal level is less than present AFDC benefits alone, and it is $64 less than the $1600 plus food stamps provided in the original Nixon proposal. Moreover, under H.R. 1 emergency assistance is available only to families initially applying for benefits, who must show an emergency which must be met before their application is fully processed. The family must be presumptively eligible for assistance, and the amount of emergency aid is limited to $100. Any amount given to meet such an emergency is deducted from future benefits. § 2171(a)(4). Emergency assistance under current federal law is authorized without limitation as to amount where such payments are necessary to avoid destitution . . . or . . . provide living arrangements in a home for a dependent child. Emergency payments may be made whenever the need arises, not just upon initial application, and they are not deducted from any future benefits.

The federal benefit level set by H.R. 1 includes a maximum of $3600, regardless of the size of the family. § 2152. No such restriction is required by the current federal law, and there are no family maxima in 44 of the

states, including 4 of the 5 southern states supposedly helped by H.R. 1. Further, H.R. 1 requires no cost of living adjustment in the federal floor. States would have to pay the cost of such increases, if any, wholly out of state funds, since federal funds are not available to assist the states. It is therefore unlikely that cost of living adjustments will be made. Under current law, recipients in most states have been receiving periodic cost of living adjustments; roughly keeping pace with advancing inflation; at least one such adjustment in need standards was required by § 402(a)(23) of the Social Security Act.

H.R. 1 must be amended to include a federal benefit level, with mandatory state supplementation which would guarantee that recipients will receive no less than what they currently receive under the AFDC and Food Stamp programs, including adequate emergency assistance in amounts and under the terms currently in effect. The family maximum must be replaced by reasonable increases in the federal benefit for each additional person in the family, and provision must be made for annual cost of living adjustments in the federal floor.

2. *States must be required to supplement FAP grants up to present AFDC benefit levels, plus the amount of food stamp bonuses, and provision must be made for meeting the special needs of recipients.*

State supplementation above the federal benefit level is optional under H.R. 1 § 2156. Moreover, there is no incentive for states to supplement the federal grant. Federal payments are available only to hold the states harmless against costs above 1971 levels due to increased numbers of welfare recipients, and not to meet costs due to grant payments in excess of the federal benefit nor to meet costs resulting from extensions of eligibility to persons not currently eligible for AFDC, such as the employed or unemployed working poor. Finally, the 1971 state level for purposes of the federal contribution is measured by the actual grants to persons with no income, not by state need levels. H.R. 1 also contains no provision for meeting acute or unusual family needs. Many states currently provide grants for meeting such special needs, either for non-recurring needs such as major household appliances or winter coats, or for recurring needs such as a specially enriched diet.

H.R. 1 must be amended to require the state to supplement FAP grants up to present AFDC levels including grants for special needs, plus the amount of food stamp bonuses. Federal matching should be provided for all amounts expended by the states for such supplementation, so that costs to the states do not exceed 1971 levels.

3. *Medicaid benefits must be maintained at their present levels.*

Under the medicaid provisions in Title II of H.R. 1, the services available to medicaid recipients could be cut back and recipients would be forced to pay for benefits now received free. In particular, states will be allowed to reduce the number of services they offer, and those recipients who work would have to pay the entire third of the earnings they are allowed to keep as a work incentive on medical bills before they can receive medicaid benefits.

H.R. 1 must be amended to insure that medicaid benefits are maintained at their present levels.

4. *All persons presently eligible for AFDC must remain eligible for assistance under H.R. 1.*

H.R. 1 will result in a loss of benefits for many persons who are presently eligible for assistance under the AFDC program. This is accomplished by narrowing the definition of families who are eligible to participate; by excluding certain individuals and families who are now covered; and by counting income and resources which current federal law does not deem sufficient to disqualify a family from receiving aid:

(a) H.R. 1 defines an eligible family as two or more related persons, at least one of whom is a child dependent upon a family member, living in a residence maintained by a family member as his or her own home. Current federal law defines a family as a child of an absent, disabled, dead or unemployed parent in the care of a relative, regardless of whether the child is legally dependent upon such relative and regardless of whether his residence is maintained by a family member as his own home. 42 U.S.C. § 606(a). The requirement of own home added by H.R. 1 raises a significant barrier to coverage of migrant workers and may also preclude coverage of families living in the home of a nonrelated individual.

(b) H.R. 1 excludes from coverage persons essential to the well-being of a recipient and living in the same home as a recipient, who are eligible for assistance under current law. 42 U.S.C. § 602(a)(7). This provision alone will disqualify thousands of current recipients. The bill also denies benefits to any family the head of which is a regular student at a college or university, even though he or she is also employed or in the labor market and studies at a free public university. § 2155(a)(4)(A). Current law contains no exclusion of such students; welfare mothers regularly attend college under the WIN program in order to ultimately achieve maximum self-support. In addition, H.R. 1 provides that any individual who has been out of the United States for 30 days, other than because of employment or military service is subject to a 30-day resident requirement. § 2155(a)(4)(B); and the federal governments in administering any supplemental benefits on behalf of a state, would be required to recognize a durational residence requirement of any length, if the state decided to impose one. Durational resident requirements for the receipt of welfare benefits have twice been outlawed by the United States Supreme Court and are currently prohibited by federal regulations. Finally, H.R. 1 provides that stepparents will be presumed to contribute all of their income to their spouse's family, even where the stepparent has no legal duty to support that family under state law and does not in fact make any contribution. Under current federal law, as interpreted by the Supreme Court, the income of a stepparent may not be applied to deny eligibility or to reduce payments unless state law requires all stepparents to support their stepchildren. 45 C.F.R. 233.90(a). Not only will this provision disqualify many families who are presently covered by AFDC, but it will discourage persons from marrying an FAP recipient, even where they are living together in a family situation.

(c) Under H.R. 1, the family must have total countable resources of less than $1,500. This is a substantial lowering of the resources which a family may have; current law allows up to $2000 per person. 42 U.S.C. § 602(a)(7)(8); 45 C.F.R. 233.20.

As a result, many poor families will no longer be eligible and efforts by recipients to accumulate savings or to provide for the future through life insurance (the cash surrender value of life insurance is included as a resource) will be hampered. H.R. 1 also includes for determining eligibility under FAP certain irregular income such as gifts; scholarships or fellowships in the amount in excess of the tuition portion of such grants, and ⅔ of all child support and alimony payments. Current federal law disregards all irregular income, the total amount of scholarships and fellowships, and child support to the extent that it is not regularly received.

H.R. 1 must be amended to make clear that a family which contains a child in the care of a specified relative would be eligible, regardless of whether the child's residence is maintained by the family member at his own home. Eligibility should also be expanded to include those persons included under current law as "essential" and those families headed by a student at a college or a university. Further, the bill must be amended to prohibit durational residence requirements entirely and to track the current federal law concerning the attribution of stepparent income. Finally, total countable resources permitted should be raised to the current level of $2000 per person, the maximum placed on the irregular income disregard should be eliminated; and in all other respects the current federal disregards on unearned income should be adopted.

5. *Eligibility and grant levels must be based on current need.*

Under H.R. 1 benefits are to be paid at least quarterly. Income received during the previous 3 quarters in excess of benefit levels must be applied to reduce grants for the current quarter, regardless of whether the family received benefits during those quarters and regardless of whether the family currently is in need. § 2152(d)(2)(3). Under H.R. 1 there could be several months when a family had no income but was ineligible or eligible for very small benefits because of income received in the past but no longer available to the family to meet its current needs. This is a substantial departure from current federal law and practice in the states, which determine eligibility and the amount of the assistance payment on current need. 42 U.S.C. § 602(a)(10); 45 C.F.R. 233.20. Another departure from this principle is the provision in H.R. 1 which allows the recovery of past overpayments, whatever the reason for the overpayments, out of future grants, with certain narrow exceptions. § 2171(b). Under current law, recovery is permitted only when current assets exceed current needs. And another is the requirement that every family receiving assistance be terminated and reapply for assistance every two years, regardless of whether its needs have changed in the slightest. This procedure will be a wasteful burden on the administration of H.R. 1 and will cause extreme hardship to recipients in the form of missed benefits pending reapplication. Under current law termination is permitted only if the family is no longer needy (or because of the death, disappearance or voluntary withdrawal of a recipient).

H.R. 1 must be amended to track current law by requiring that a family which demonstrates present economic need have its needs met, without reduction or denial of benefits because of past or future presumed income, and that overpayments may be recovered only when current assets exceed current needs. The automatic two year termination must also be stricken from the bill.

6. *Recipients should not be subjected to arbitrary administrative procedures which deny their right to due process and interfere with their right to welfare.*

The administrative procedures established under H.R. 1 deny welfare recipients substantial rights protected under current law:

(a) H.R. 1 provides that families must report all income and expenses for a quarter within 30 days of its close, or the entire family automatically loses its benefits. Failure to so report or a delay in reporting subjects them to a further penalty of $25 for the first failure; $50 for the second; and $100 thereafter, even when failure to report results in fewer benefits to the family. § 2171(e). Under current federal law, recipients are under a continuing duty to report all changes in their status, but there is no automatic penalty for failure to do so. H.R. 1 should be amended to track current law requiring recipients to report all changes in their status and relying on the normal recovery procedures rather than the automatic

termination and additional penalties required by H.R. 1.

(b) H.R. 1 provides that once a person is alleged to have abandoned his spouse or child, he is made liable to the federal government for any welfare benefits made to such spouse or child. This obligation may be satisfied out of any amounts owed to such persons by any federal agency, such as Social Security benefits or future FAP benefits. No judicial determination of the debt or the underlying support obligation is necessary. § 2175. Parents travelling interstate to avoid child support are additionally subject to a $1000 fine, a year in prison, or both. § 2176. Current law requires that the state attempt to secure support from deserting parents, but only through state law enforcement officials in the same manner by which support is obtained from non-welfare parents who desert or fail to support children.

H.R. 1 should be amended to strike §§ 2175 and 2176 and to substitute therefor a provision obligating federal officials to attempt to secure support from absent parents and spouses by referring such cases for action under state laws which apply equally to all persons.

(c) H.R. 1 provides for a hearing to challenge any adverse decision but does not require that this hearing be prior to any reduction or termination of benefits. This Committee Report indicates that if prior hearings are given, recipients will be subject to recovery of any payments received during the pendency of their case if the decision of the Secretary is upheld. Further, there is no judicial review of questions of fact decided at such a hearing. § 2171(c). Current federal law requires a due process hearing prior to termination or reduction of benefits. Most states provide for judicial review in state courts, where findings of fact can be challenged as arbitrary or not supported by substantial evidence; and judicial review of all questions is available in cases involving social security benefits administered by the federal government.

H.R. 1 must be amended to guarantee to all recipients the right to a due process hearing before any reduction or termination of benefits, without any penalty if the hearing is not successful; and judicial review must be allowed on all questions of law and fact.

(d) H.R. 1 authorizes the Secretary to make rules governing who may represent recipients before administrative officials. The Secretary may require that such representatives be of "good character" and "in good repute" and able to render "valuable service." Current federal law guarantees recipients their right to be represented by a person of their choosing in all contacts with the agency. 45 C.F.R. 206.10. Recipients are often ably represented by laymen or friends without fee.

H.R. 1 must be amended to guarantee to recipients their right to a completely free choice of representative, including a friend or relative.

7. *No mother with children under the age of 18 should be forced to place her children with neighbors or in a day care center in order to accept work outside the home.*

H.R. 1 mandates forced work for mothers of children over the age of 6 years, and as of 1974 for mothers of children over the age of 3 years. Lack of acceptable child care is not recognized by the bill as a ground for refusal of employment or training, and there are no legislative standards for the quality of child care. In addition, recipients may be required to pay for the cost of child care, although they may not receive a full deduction for such expenses against the income they receive. § 2112.

Current federal law has a work requirement which includes mothers but with numerous safeguards to insure that mothers who do not have adequate child care may not be referred to work or training. Mothers are to be consulted in any decision as to the use of child care facilities. 42 U.S.C. § 602(a)(19); 45 C.F.R. 220.35.

H.R. 1 must be amended to give mothers of children under 18 a choice about whether they wish to work or stay home and care for their children. Adequate child care services as determined by the mother must be available before work could be required.

8. *Federal minimum wage and suitable work protections must be provided for people required to accept work or training, and parents who refuse work or training should not have their children's grants paid to a third party who is authorized to manage the family's affairs.*

H.R. 1 guarantees recipients only 75% of the federal minimum wage or $1.20 an hour at present standards. There are also few specified job standards or suitable work protections, such as are provided under unemployment insurance laws. § 2111. Moreover, H.R. 1 requires not only the termination of parents who refuse work or training, but directs the payment of their children's grants to a third party who is then authorized to manage the family's affairs. The family unit is thereby essentially destroyed.

Current federal law provides numerous reasons why an individual may refuse work, among which is that the job does not pay enough. Persons who refuse work may be terminated but third party payments are not required.

H.R. 1 must be amended to spell out specifically the reasons for which work may be refused. "Suitable" employment must be defined, and no one should be forced to work at a job which pays less than the federal, state or local minimum wage or the prevailing wage for similar employment in the community, whichever is the highest. The bill should also be amended to delete the requirement of payments to third parties where the parent refuses work or training.

9. *Meaningful work incentives must be provided to all recipients by provision for realistic earned income disregards.*

In order to encourage recipients to obtain gainful employment, current federal law allows certain earnings and expenses to be disregarded before eligibility or the amount of assistance is determined. All earnings of a child/student and all earnings of a child under 14, regardless of whether he/she is a student, are disregarded. Irregular income is also fully excluded. The entire cost of child care and all other work-related expenses such as transportation, uniforms, and equipment may also be disregarded without limitation as to amount. Where income is from self-employment, a reasonable proportion thereof may also be disregarded if it is used to increase capital assets in order to improve future production. Finally, thirty dollars a month plus ⅓ of all other income is deducted from *gross* income in addition to the above amounts. (For purposes of initial eligibility *only*, this amount is not disregarded.) 45 C.F.R. § 233.20.

H.R. 1 authorizes the Secretary to limit the amount of student earnings, irregular income, and child care costs which will be disregarded, and it allows no deduction at all for work expenses. The combined disregard for the above items cannot exceed $2,000 a year for a family of 4; an additional $200 is allowed for each individual family member up to a maximum of $3,000. All other income is disregarded at the rate of $60 a month plus ⅓ of the remainder; however this disregard would now be applied against net income. § 2156.

The appearance of a higher statutory disregard in H.R. 1 i.e. $60 a month plus ⅓ of the remainder, disguises a significantly lower disregard which results from the individual and combined effects of the application of the disregard to net rather than gross income, ceilings on costs now fully disregarded, and omission of any disregard for work expenses. The result is that many families will keep far less of their earnings under H.R. 1 than under current federal law, and the incentive to work is significantly reduced.

H.R. 1 should be amended to substitute the earned income disregard provisions of the current AFDC program.

AGRICULTURE IN FOREIGN AID

Mr. McGEE. Mr. President, no doubt the Senate will go through another controversial examination of the foreign-aid program during this session of Congress.

During the first session of the 92d Congress, many doubts were expressed as to the meaningful role foreign aid has played worldwide in general and in the underdeveloped nations in particular.

However, I would urge Senators to give close scrutiny to a paper written by Erven Long on "American Agriculture's Economic Interest in the Foreign Aid Program."

It is quite interesting, as Mr. Long points out, that the total U.S. agricultural income now depends very heavily upon a lively export market.

Long states:

Sixteen per cent of all total receipts from farm marketings in 1971, and 35 per cent of all cash receipts from crops, came from exports.

Many Senators have voiced public concern at the plight of the American farmer today, and I have joined in that concern. But it might behoove all of us to ponder the possible consequences to American agriculture should the foreign aid program be discontinued or reduced to insignificant levels of funding.

I ask unanimous consent that Mr. Long's paper be printed in the RECORD.

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

AMERICAN AGRICULTURE'S ECONOMIC INTEREST IN THE FOREIGN AID PROGRAM

What is the economic interest of American farmers and of the organizations which represent them, in the U.S. foreign aid program? Will technical and economic assistance to the less developed countries help or hurt U.S. agricultural interests? Does economic development of the less advanced countries expand exports of U.S. farm products, or increase competition for world farm commodity markets?

These kinds of questions—along with humanitarian and national security considerations—are, quite properly, raised when U.S. foreign aid programs are being discussed and reassessed.

Fortunately, enough time has now passed, since the aid program began, to give a clear and certain answer to the general question: a continued strong and effective foreign aid program is critically essential to the future economic well being of American agriculture!

In its simplest statement, this is because U.S. agriculture's future depends heavily upon an expanding total world market for farm products, and because most of this

expansion can come only from increasing consumer incomes in the less developed countries—requiring, in turn, an adequate U.S. foreign aid program. The facts given below, supporting these propositions, are quite startling.

1. U.S. AGRICULTURE DEPENDS UPON EXPORTS OF FARM PRODUCTS

Total U.S. agricultural income now depends very heavily upon a lively export market. Sixteen percent of all total receipts from farm marketings in 1971, and 35% of all cash receipts from crops, came from exports. Commercial export sales rose 300%, from 2.2 to 6.7 billion dollars, from 1951 to 1971. Exports to the developing countries more than doubled in the last ten years. And it is the commercial cash sales exports, rather than U.S. government sponsored (P.L. 480, etc.) concessionally-priced sales which have grown. Commercial sales were less than double concessional sales under U.S. government programs in 1951; they are more than six times as large as such U.S. government subsidized sales at the present time. Seventy-nine percent of all U.S. cash receipts for wheat are from exports; 74% for rice; 68% from soybeans—and even 28% from all corn produced.

The significance of export sales to American agriculture is actually much greater than these figures would suggest. For farm products in the U.S., a given reduction in quantity demanded has a much greater than proportionate negative effect upon price. In the economist's terms, the demand for farm products is very inelastic with respect to price; which means that, if our exports should decline, under free market conditions, tremendous price reductions would be necessary to sell these extra farm products in our own markets and total farm income would fall disastrously.

2. SUBSTANTIAL EXPANSIONS OF THE EXPORT MARKET MUST COME PRIMARILY FROM IMPROVED INCOMES IN THE LESS DEVELOPED COUNTRIES

Although it is the poorest people (and poorest countries) who are hungriest, it is only the richer to whom we can sell our farm products. Before the U.S.—and more recently other—foreign aid programs began to take effect, U.S. farm exports to the "less developed" countries was minimal; to many countries almost inconsequential. It has been estimated, for example, that U.S. farm products sales to Canada—itself a major food exporter—were approximately 100 times as much per capita as to the underdeveloped countries of Asia and Africa. Exports were, necessarily, primarily to the richer countries such as those in Western Europe. But the demands of these richer countries for farm products—like those in the United States—are becoming quite well satisfied. The majority of their people have incomes sufficiently high that they have quite well filled their food needs and, as their incomes rises, can be expected to spend little of this additional income on food. Future expansion of exports of farm products to those countries will necessarily be rather modest—limited largely to that resulting from population growth plus some from shifting to higher cost diets—especially, more animal products.

In the less developed countries, on the other hand, the needs and desires for more food and better quality food are vastly unsatisfied. Expansion in food purchases, for all but relatively few of their people, is limited primarily only by their low incomes. And, as their incomes go up, this fact is reflected in increased imports of farm products. This characteristic difference between the poorer and richer countries is demonstrated very well by a USDA study of the 1957–64 experience of 66 countries.

According to this analysis, as per capita incomes, rose 10%, agricultural imports increased . . .

25% in low-income countries (under $200/capita/yr., such as India, Korea, Taiwan).

11% in medium-income countries ($200–600/capita/yr., such as Argentina, Greece, Spain).

8% in high-income countries (over $600/capita/yr., such as Canada, France, Sweden).

In other words, agricultural import growth was more than proportional to income gains in the poorer nations and less than proportional in the richer nations.

Recent experience has borne out the implications of these facts. FAO figures show that during the ten years between 1957–9 and 1968 (the most recent figures available) the developed countries increased their total agricultural imports from all sources by 34% while the less developed countries increased theirs by 59%. Generally speaking, the rate at which these imports by less developed countries were increased depended upon their rate of general economic growth. More importantly, increases in net imports of agricultural products were much higher by the less than by the more developed countries. For example, about 90% of agricultural sales to the U.S. by the less developed as against about 50% of such sales to the U.S. by the developed countries.

One of the most significant factors, and most favorable to the long range U.S. agricultural interest, is the fact that the poorer countries' diets are so heavily limited to cheaper calorie sources. Their income levels are such as to restrict them primarily to cereals and other starchy foods. Meat, dairy products and egg consumption, for example, supply only a very small fraction of total calories for the majority of people in most less developed countries. The wealthier people in these countries normally consume much more animal products than the average—have diets more comparable in this respect to those in the richer countries—but there are relatively very few such people.

As incomes of more people in these poorer countries improve, so they can afford it, they sharply increase consumption of animal products and other such "luxury" foods. This greatly expands the market for farm production. It takes about 6 to 8 calories of grain to produce one calorie in the form of beef, and somewhat less than this to produce one calorie in the form of eggs or milk. Total demand for grain, in other words, is several times greater when people can afford to eat it in the form of animal products than if obliged, as at present in the less developed countries, to eat it directly as cereal products. This is why exports of feed grains and related products have risen from 13% to 40% of all U.S. farm exports in the last 20 years. The "income elasticity of demand" for animal products and other types of "luxury" foods is extremely high in the less developed countries, so that we can expect them to have a very strong demand for total U.S. farm products for almost as far as one can see down the path of their development, providing their incomes continue to rise! This explains the very strong demand for feed grains in Japan which has made it the world's greatest importer of U.S. farm products.

3. AGRICULTURAL GROWTH IN THE LESS DEVELOPED COUNTRIES IS ADVANTAGEOUS TO AMERICAN AGRICULTURE

Farmers, perhaps better than any group understand the reason for this seeming paradox. The general economic development of a country, and therefore its ability to buy farm products from us, depends upon its developing a strong, virile agriculture as a base for its own expanding economy. No country can build a very high stage of economic development upon the shaky foundations of rural stagnation, rural poverty, rural illiteracy, rural ill-health or rural indebtedness—especially, as is the case in the less developed counties, if most of the people are rural people, who make their living by farming. Therefore, the general economy cannot grow—and their consumer incomes cannot rise enough to enable them to buy U.S. farm products—unless they develop a strong agricultural institutional and productivity base.

Too often discussion on this issue gets confused with questions of competition for existing markets. Some of this, especially in the short run, there undoubtedly will be. In the case of the less developed countries, however, such competition is minimal, as they have an unsatiable appetite themselves for conventional foods of the type the U.S. exports. Their foreign agricultural exports (unlike those from the more developed countries) are primarily specialized, tropical crops such as coffee, tea, rubber, jute, spices, etc. But, in any event, the real interest of American agriculture is in expanding the total world market. Given a rapidly expanding, and essentially limitless potential world food market, U.S. agriculture can find opportunity to adjust as necessary and expand its total export sales. It is in working for this larger pie—rather than for slightly larger pieces of a shrinking pie—that the American farmers' economic interests are best served.

These are not insignificant issues, as the concluding table will show. An examination of 10 selected countries, with average annual growth rates in agricultural production substantially greater than in the United States, have developed their economies and consumer income levels to the extent that present imports of U.S. farm products are an average of 534% of what they were in 1955.

These are among the countries which have come furthest up the ladder of development. All have been major U.S. economic and technical assistance recipients; half have graduated from the need for such aid. Because their economic growth has been more rapid, they have increased their imports of U.S. agricultural products more than the average for all less developed countries. As other less developed countries continue to advance toward higher per capita income levels, we can expect the general patterns of increased food imports to be comparable. Not all the agricultural imports by any of them will be from the United States. And some may not increase such imports from the U.S. at all. But all will expand the world market for agricultural production—increasingly so as their incomes rise so they start shifting significantly toward higher quality diets. It is this potentiality for continuous, long-term expansion of the world market for agricultural products which answers the question with which these notes began: "What is the economic interest of American farmers, and of the organizations which represent them, in the U.S. foreign aid program?"

These figures, more powerfully than words, demonstrate the validity of U.S. programs to help the farmers of the less developed countries of the free world achieve economic progress and better lives, as a necessary base for the development of their own national economies. Because American farmers have comprehended so deeply their contribution to our own national development, they have through the years supported such U.S. foreign economic and technical assistance efforts. It is fitting that this should turn out also, to be in the American farmers' own best economic interest.

U.S. AGRICULTURAL COMMERCIAL EXPORTS, BY YEAR

[Dollars in thousands]

	1956	1960	1965	1971	Percent of 1971 is of 1955	Compound annual rates of growth in total agricultural output (1950–68) (percent)
Japan	$264,090	$465,239	$865,507	$1,089,232	412	3.3
Israel	7,421	12,700	38,092	52,112	702	9.3
South Korea	4,073	11,206	18,434	61,397	1,507	3.7
Spain	11,133	17,669	147,670	167,631	1,506	2.9
Taiwan	1,557	14,483	27,930	157,046	10,200	4.5
Thailand	6,143	6,648	18,520	41,582	677	4.5
Morocco	3,950	6,070	2,469	32,568	825	(1)
Nigeria	6,481	7,587	8,435	21,284	322	(1)
Jamaica	5,426	9,342	18,081	31,185	575	2.7
Brazil	8,856	9,025	5,969	37,672	414	3.8
Total of 10 countries	319,690	562,151	1,177,156	1,708,688	534	

SPEECH BY GEORGE R. BAGLEY AT CHARLESTON, S.C.

Mr. THURMOND. Mr. President, on December 8, 1971, I was privileged to attend the annual meeting of the South Carolina Association of Soil Conservation District Commissioners in Charleston, S.C.

The principal speaker at this meeting was Mr. George R. Bagley, national vice president of the National Association of Conservation Districts.

Mr. President, Mr. Bagley made a very fine speech, and he dealt considerably on the historical development of soil conservation districts in South Carolina. He named many of the substantial leaders, past and present, who have contributed so much to the success of the conservation movement in South Carolina and all over the Nation. The other portions of his talk dealt primarily with the need for comprehensive land use planning throughout the Nation.

Mr. President, the ideas presented by Mr. Bagley are of great importance to all of us. I recommend this speech to Senators and ask unanimous consent that it be printed in the RECORD.

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

THE ENVIRONMENTAL DECADE—THE DISTRICT'S ROLE

(By George R. Bagley)

Greetings from your National Association of Conservation Districts. We in Louisiana feel we owe your state of South Carolina a lot for you really trained one man well who has worked wonders for us as State Conservationist. That man is Joe B. Earle—really his heart belongs still to South Carolina, I'm sure.

One translation of your state motto is "Ready in Soul and Resource" and I believe this so accurately describes your early contributions to the Conservation Movement. I feel a bit like I'm following Bob Hope on a comedy hour, because of the two great and prestigious gentlemen who have preceded me on the program. Their contributions have been great to our nation. I cannot sing the praises of Senator Thurmond or U.S.D.A. Under Secretary W. E. Galbraith too highly. Fellow Conservationists, we are standing in tall timber today.

Maybe I should have just called South Carolina "the palmetto state" and let it go at that. But you have been rich in resources and the inspired souls of great men to go with them. You're first in South Carolina in many things like the manufacture of cotton textiles and being a cotton grower, I especially like this about your state.

Three years ago, after our 200 Louisiana Bankers and Farmers toured your outstanding South Carolina conservation projects and enjoyed your sincere hospitality we'd put you ahead of California in peaches. Your paper, lumber, and wood products and food products are extremely important as are your crops of tobacco, cotton, corn, hay, chickens and turkey. You're truly a great agricultural state and one where industry which manufactures agricultural products makes you about as vertically diversified as you can get.

You have early great beginnings that show your state has long attracted courageous leaders.

The Spanish tried to settle in 1526 and the French under Jean Ribaut in 1562 attempted colonization. It was Jean Ribaut who named South Carolina for Charles IX of France.

The first group of English pioneers arrived in April 301 years ago and settled at Albemarle Point. Ten years later in 1680 exposure to storms and pirate attacks forced these pioneers two miles farther inland. Here we are three centuries later at Charleston where their first successful settlement was. It is a pleasure to be here.

I wish I could have been here a few months ago when the memorial was erected at Gaffney, South Carolina, in memory of a real conservation pioneer in our nation—Mr. E. C. McArthur, who was the first president of this state Association and the first president of the National Association of Conservation Districts. We appreciate the efforts of Dr. Bill Brumback, Chairman of the Cherokee Commission for recognizing South Carolina's and the nation's first man of vision and energy in the conservation field, Mr. McArthur's untimely death in September 1947 deprived the nation of a great leader. The monument erected where he lies buried on a plot of land overlooking his farm appropriately states:

"Edgar Clifton McArthur, Mar. 7, 1882–Sept. 2, 1947. First President of the National Association of Soil Conservation Districts. He loved the land, especially his native land. He taught and practiced soil conservation."

Between the organization of his own District and the founding of NASCD and its first meeting in Chicago, "Mr. Mac", left a lasting impression upon the organization.

We appreciate the fact that a Clemson, South Carolina man, Mr. Joe Douthit, who was a Director of NASCD in 1956 and 1957 helped prepare a history of the NACD and the 18,000 leaders, who served without pay, and the now 3021 conservation districts who contribute greatly to proper land use on 97% of our nation's privately owned land with 2.2 million cooperators with Soil and Water Conservation Districts.

In South Carolina on February 4, 1942, E. C. MacArthur called a meeting with four states in attendance to organize Soil Conservation District Officials. This was World War II time and emphasis was on production of more food and fibre for the war effort, so it was January of 1946 before delegates from 32 states—Governors, District Commissioners and others interested in the Conservation Movement met in Washington to consider a national organization.

McArthur said, "I returned to South Carolina with some understanding of what it would take to do the job. I realize that much depended upon the type of men involved . . . NACD should be composed of men with a love of soil in their hearts—men of character, ability, aggressiveness and purpose." "Mr. Mac" invited 17 men to meet in Chicago on July 24 and 25 of 1946. The group worked hard. They asked Mrs. Ellen S. Cobb of Spartanburg, South Carolina who had been assisting Mr. McArthur from the time he was chosen Supervisor of the Board River Soil Conservation District in 1938 to serve as secretary.

E. C. McArthur presided at the first annual meeting in Chicago 25 years ago. The next year Clair P. Guess, Jr. represented South Carolina at our second annual NASCD meeting in Des Moines, Iowa. As early as 1956, at a convention in Louisiana, I remember Clair Guess. He ran the whole League City National Office and Service Department. He was appointed to establish a field office in Louisville in 1958. He had, along with Bob McClelland already been employed as assistant to the president and program advisor. Clair Guess, Jr. contributed much ingenuity to the cause of conservation and NACD.

Gorden Webb joined the NASCD staff in April 1954 and served as a special assistant for the Southeastern States from a Spartanburg, South Carolina headquarters until early in 1955.

The Soil Conservation Districts Foundation was established in 1952 at the suggestion of F. E. Coxe of South Carolina and W. Joe McArthur made the first contribution to the Foundation.

I would like to recognize and honor another great man in Conservation—Lewis E. Hendricks who has led your State Commission to outstanding accomplishments, for example, under the leadership of Governor John West in sponsoring along with the State Soil and Water Conservation Commission the highly successful Governor's Land-Use Conference this year. Major problems and causes for concern in holding this land-use conference were:

(1) Channel improvement work;

(2) Reorganization of state governments, though no immediate problems exist in South Carolina, your association is aware of activities in other states along this line;

(3) The general trend in soil and water conservation work with non-agricultural

needs. The necessity to stay abreast of these problems and to maintain a close working relationship with urban and suburban interests; and

(4) Adequate funding of Districts—which is always of concern.

NACD appreciates your financial support as well as the personal dedication of your many leaders from your early pioneers to your Treasurer, A. B. Carwile and Newman Buck who followed Joe B. Douthit as Director in 1958 and 1959 and was Area Vice-President in 1960.

You should be proud of your capable State Conservationist, George Huey. You're lucky to have him.

John W. Parris will be a worthy successor as Executive Director of the South Carolina Soil and Water Commission. He has such big shoes to fill in following Lewis Hendricks. He has had much help from W. B. Bennett, G. E. DuBose, L. H. Hicks, John McAllister, Reynold F. Suman. Never do I come to South Carolina without remembering the great work of Ned and Collough Dargan who have contributed much to the state and nation. Educationally speaking, we think Collough Dargan and South Carolina are the last word in environmental education. W. B. Wilkerson, Jr. certainly serves you well as President of the South Carolina Association of Soil and Water Conservation Districts.

You have many famous leaders and you in just this past year have led in great activities.

1) You participated in the Third Forest Program. John McAllister is a member of the NACD subcommittee. The South Carolina State Commission and the State Forestry Commission have developed a cooperative agreement for a special recognition program to Districts which excel in promotion of "The Third Forest Program."

2) You held the First Conservation Leadership Seminar at Cherry Grove Beach where twenty-two districts participated.

3) Districts leadership in youth activities were highlighted by youth commissicner Bruce Wilkins' impressive presentation at Southeastern Area meeting. Bruce Wilkins said, "I discovered that the Conservation District organization was set up somewhat like a "team". The District Commissioners—representing the local people—are actively determining the needs and promoting the solutions. The State SWC Commission provides professional and financial assistance to Districts to assist in getting the job done. The Federal Government, through the USDA's Soil Conservation Service provides technically trained personnel to help get "conservation practices on the land."

Leslie Morgan, President of the South Carolina FFA, was the featured speaker at our NACD convention in Chicago. He asked, "What about involvement of America's young people in the environmental challenge? I believe that the conservation district program throughout this nation has an unlimited opportunity to involve thousands of America's young people in solving the environmental problems of our day. A number of conservation districts in my home state of South Carolina have acted to bridge the generation gap and involve young people. They are naming conservation district youth commissioners to local boards."

Congratulations on your State Youth Advisory Council for Environmental Improvement, and your Annual Youth Conservation Workshop.

4) You had the outstanding leadership of Senator and District Commissioner Ed Garrison and NACD Area Research Chairman Ned Dargan in promoting a No-Till Evaluation Conference which brought together District Commissioners, Agricultural Research Service, Extension and SCS people for practical discussions on the subject.

At the NACD Area meeting in July you had Ned Dargan and some top ARS men in Dr. Jan Van Schilfgarrde, Dr. Robert Burns, Dr. R. W. Pearson, and other researchers who reminded the group that "today's agricultural research is tomorrow's agriculture."

5) Districts participation in Environmental Stewardship Week was best described by Lt. Governor Earle Morris' statement, "Conservation Districts are the key to improving our basic natural resources."

The work of ministers serving as District Chaplains has provided such outstanding sermons as the one delivered by Dr. George Lovell of the Horry District. That sermon was widely distributed and was placed in the Congressional Record.

Charleston lives up to its reputation for Southern charm and dignity. Aristocratic South Carolina spreads a carpet of historically important events. Your 280 miles of seashore are worthy of environmental protection. From the Low Country with your oaks and cypreses to your native pine in the Sand Hills, the rolling Piedmont section to the Virgin forests of the Blue Ridge you have much with which to concern yourselves as the farms are changing and cities are sprawling to protect your valuable land for food and cotton and other agricultural products.

I am pleased to be with you here in Charleston where, according to local opinion the "Ashley and Cooper Rivers unite to form the Atlantic Ocean."

A university law professor once said "The only real force with long-lasting effects are groups of people in their own communities, who have involved themselves in problems that affect their communities, and have pursued hard and deligently, and who then begin to see the power of persistent, well-informed local action. People only really become involved in problems that affect them close to home."

Your successes in meeting environmental problems head on in South Carolina have already been phenomenal. Conservation Districts need to be a big part of the action all over the state and the nation. Districts need to assume their role in this environmentally alert decade.

You have the resources. You have worked together with a semblance of your early colonization spirit of courageous people. You can continue to plan together with that same imagination and rare community pride and spirit in the future.

You are to be congratulated on your model sediment control program which many states will copy. Our problems have changed to include much more than soil erosion. We now need sediment control programs, solid and agricultural waste disposal programs, flood plain management, green span delineations, plans for highways, airports and subdivision locations.

Much credit is due you for your accomplishments in the past—for your splendid working relationships with Soil Conservation Service—and for the close ties your Districts have with your county boards and other local entities and agencies of government. This relationship is going to be of inestimable value to you in the years to come as we move into total comprehensive land use planning. You are richly endowed with human as well as natural resources. We in NACD are very proud of the leadership and support your fine state has provided to the constant growth of our organization.

But times are changing! We must change. Can you remember when Mother took her daughter to a doctor to get a smallpox vaccination where it wouldn't show? This is not possible today! Let's realize that pollution problems have always been with us. Pollution probably started with Adam and Eve. Ever since Eve tossed away the apple core in the Garden of Eden. "The ecology business is picking up in more ways than one. The 70's will be years of great change in resource planning.

The trend is toward much more intensive use of land—with many consequent conservation problems. In these times of change, NACD and Districts all over America must meet their responsibilities adequately. But in doing so, we must champion the principles for which conservation districts stand—individual initiative, local participation, and democratic self-government.

The whole big national problem of the environment is made up of thousands of local problems which can and must be solved on the local level by people such as you who are willing to give of your time and effort to insure good land use, clean and adequate water, and a quality environment. Comprehensive land-use planning, urban and rural is the key to the future of our nation if we are to succeed in environmental management. The planning we do must be based upon the facts revealed by soil surveys and their interpretations. You are to be commended on your activities in this regard.

We must develop a comprehensive program if we are to avert an environmental catastrophe that no amount of tax dollars can cure. There never will be enough tax dollars to do the job alone. It will take interested and informed people, such as you, to do the job.

It is going to take your city and your country people and cooperation between them. It is going to take your town and city officials, county and state officials, and federal people, too, to do the environmental planning and management job that we face. Management of our environment knows no city limits, no county lines. What happens on one man's land affects what happens on another's land.

Whenever we think of the environment as encompassing all the conditions and influences affecting our lives we have to go further.

We must think of the environment in terms of the quality of living or the good life. We need to think of the wise use and the renewal and reuse of resources as the basis of a good life. We have a responsibility to think not only of ourselves, but of the generations which will follow.

Being a Soil and Water Conservation District Official and a dedicated conservationist is a sort of torch which we hold only for a moment before handing it on burning brightly to future generations.

A generation ago, most men who finished a long day's work needed a rest. Now when they finish a short day's work they need exercise, and a golf course or a ski run to do it on. This involves a new outlook in resource planning for leisure time and recreational pursuits.

But there is something satisfying about doing what you can for those who are depending on you in districts to take the initiative and the lead. We need to think about wise land use as a responsibility not only to ourselves, but its influences and effects in the decades ahead. The uses to which our generation puts the land can expand or severely limit the lives of our children or grandchildren.

Conservation districts are the ones to initiate the action. We need to decide what needs to be done and set standards to protect or enhance the quality of our environment right in our districts. It will be different in every district, just as it is different in every state. In this environmental quality business, we must do a custom job—nothing ready-made and handed-down will fit. You wouldn't use another man's farm plan on your farm. But, just as we plan a farm, so plan your community, so plan your entire district. This will be a job in creative conservation—custom planning community by community, district by district, and state by state.

It is in this essential custom treatment of natural resources that districts with their local home representation, have the greatest

advantage. Natural resource decisions are local decisions.

Each community's needs are unique. The needs of your community will be unique. This is why you as local individuals will understand your own county's needs better than anyone else.

Today's conservation districts, as units of state government, and the officials of these districts, as experienced leaders, are better prepared than any other group to function as the environmental districts of the state, or as natural resource districts of counties.

I believe that soil and water conservation districts can do the job.

Ask yourself, what specifically can my district do to help insure the highest and best land use desired; locate new businesses and shopping centers; attract desirable industrial development; preserve and enhance natural beauty.

In the United States we have one billion, four hundred and thirty-eight million acres of privately owned land. Of this ninety-seven percent is included within the boundaries of soil and water conservation districts. The accumulated experience of thirty-five years in dealing with rural land-use problems has made districts realize the importance of soil surveys in planning the best possible land use in the transition from farm to subdivisions and other uses. Soil surveys and their interpretations are the foundation for all land use planning.

What worries me and you, too, I know, is that nationally, much of our prime agricultural land is being placed under concrete and asphalt for highways, shopping centers and airports, and subdivisions at the rate of one and two tenths million acres a year. It has been established that by 1980—ten years away—over 38 million acres of farm land will have been taken for non-agricultural use. Much of this will and has already been taken from our supply of irreplaceable, highly productive soils. These land-use decisions are irreversible. That is why what you are doing during this meeting is so vitally important to all of us. It is important how our number one agricultural land is going to be used.

In the latest Conservation Needs Inventory: of the 1 billion, 438 million acres of privately owned land in the U.S., only 44% or 632 million acres is suitable for cultivation. This includes class I, II, and III land.

Only 3% of our land or 43 million acres is prime class agricultural land that doesn't require the intensive conservation treatment that you must have on number II and III land. These are lands we must plan to have for agriculture—for food, for fiber, even for the spiritual refreshment of the countryside.

We have only 43 million class I acres—prime agricultural land. If urban expansion for highways, airports, and shopping centers, taking up 1.2 million acres each year, is taking up our class I land, we only have enough to last 36 more years.

Twelve percent of our land, class IV, is suitable for very limited cultivation with very intensive conservation land treatment.

The remaining 44% is not suited for any type of cultivation and should be left in its natural state—in grass cover or trees. Why not put our urban expansion on these lands?

When we talk of our wealth of privately owned lands in the U.S. less than ½ of these lands—632 million acres—are actually available for food and fibre production.

We need to take a long hard look at urban expansion. This growth needs to be planned. Base this planning on an inventory of the land and water available. Show this inventory on maps, color identified like a traffic light as to best specific use. Green for a suitable use, yellow for caution—there are moderate limitations, and red for severe limitations for specified uses. Identify specific areas for agriculture, sewage lagoons, solid waste disposal sites, industrial or urban expansion, or recreation areas. Work closely with all planning commissions or other units of government or citizens groups concerned with planning.

Our nation needs sediment control laws similar to what South Carolina, Virginia, Maryland, Iowa and Virgin Islands have passed where anyone who disturbs topsoil must have a plan for erosion control first approved by the local conservation district. Sediment is our no. 1 pollution of our streams and our reservoirs. It is expensive for tax payers to have to remove sediment. Prevention through sediment control laws is the answer.

Let's stop dumping our waste along roads and stream banks. It is said that each of us Americans produce an average of six pounds of solid waste per day—this amounts to the horrifying daily figure of 1,200,000,000 pounds to be disposed of somewhere—Let's at least provide sanitary land fills, located where they will not pollute our streams and underground aquifers.

There is a ray of hope. You here are richly endowed with natural and human resources. You are here working together for an improved environment. Through your cumulative efforts, your entire state will respond and this can be reflected throughout the nation. Your seriousness of concern about environmental management can reverse the trend toward environmental degradation. Your enthusiasm in planning will be contagious to everyone with whom you come in contact.

Let me close by borrowing from one of our soil stewardship themes: "Our resources are vast as the world, but they are not limitless. They represent the purity of nature, but they are being polluted. They are the gifts of God, for our use, but they are being misused."

"Natural resources are the foundations of our past, the realities of our present and the essentials of our future."

"These resources have been called renewable, but the decision is yours and mine."

SALUTE TO OSCAR BROWN, SEWARD, ALASKA

Mr. GRAVEL. Mr. President, on January 9, the congregation of the Lutheran Church in Seward, Alaska—as well as Alaskans everywhere—honored Oscar Brown with a "day." Mr. Brown is surely deserving of it.

I am told he came to Alaska in the ministry in 1930 to serve in the rural communities of the Seward Peninsula. He and his wife over this 40-year period established congregations, built churches, and ministered to the spiritual needs of native Alaskans from Ketchikan in the south to Nome in the north; from Naknek in the west to Fairbanks in the east.

I join all those who salute fine personal contributions such as this and belatedly extend my congratulations to Oscar Brown on "his day."

Mr. President, I ask unanimous consent that the formal remarks made on that occasion by the pastor of the Seward Lutheran Church be printed in the RECORD.

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

RESURRECTION LUTHERAN CHURCH,
Box 35, Seward, Alaska.

Oscar Brown first came to Alaska in 1930 to serve the Eskimoes. Having completed a course of work at LBI-Minneapolis, he felt a call to this ministry. The old Norwegian Lutheran Church, suffering with the financial limitations imposed by the Depression could not promise any assistance. So with a limited promise of some minimal support from a congregation in Minnesota, he set out for the Seward Peninsula.

This is a remarkable beginning for a man who has so given of his life to serve his Lord in Alaska. His first decade here he served the Eskimo communities of Little Diomede Island, Cape Prince of Wales, Nome and on occasion assisted our missionaries stationed at Teller.

In 1935 he married Ella Rolvaag, a classmate from LBI, who returned with him to be a continued helpmeet and assistant in ministering to their beloved Eskimoes.

With more churches moving into the Seward Peninsula, the Browns moved to other areas where the Protestant Church had no active ministry. The bustling fishermen's area of Bristol Bay had no organized ministry other than the Russian Orthodox. And so in 1941 the Browns moved to Naknek. In the many years there, they singlehandedly built two churches and organized congregation and Sunday Schools to serve the many and wide varieties of peoples in this area.

It was here in 1956 that Mrs. Brown contracted tuberculosis. From the many years of living in very primitive areas the effect left its mark. Entering the TB sanitorium at Seward, the Browns continued their ministry to the patients there. Two years later they were back at Naknek where Mrs. Brown suffered a stroke that has kept her bedridden since. The Browns presently live in Seward, Alaska.

But these are just details that can't possibly tell the story of one of the most remarkable couples that have ever served the church of Alaska. For most of their years and all of the time serving on the various mission areas the Browns had to support their own work. There was only a minimal assistance from other sources. Building their own cabins and churches, working at everything from coalminer to longshoreman, hotel clerk to railroad work crew, fisherman to janitor the Browns have given willingly and joyfully in the service of the Lord.

Over this long span of time, they have worked or assisted in nearly every major community in Alaska, working in the local congregations as they gained employment in the community to save funds to work among the Eskimoes. A list of the communities reads like the timetable for Alaska: Ketchikan, Juneau, Sitka, Seward, Anchorage, Healy, Fairbanks, Nome, Solomon, Naknek, King Salmon, besides the many smaller native communities. Also along the way he has accomplished the following:

Translated the first four books of the Bible into Eskimo;

Served as lay pastor in Seward on two lengthy occasions when there was a pastoral vacancy;

Written and publishing a booklet on the prophetic message of Scripture; and is

Presently collecting and editing some 80 Eskimo hymns.

We like to refer to him as "God Anchorman" in Alaska. And so he has been.

TRANSPORTATION STRIKES

Mr. ALLEN. Mr. President, the American Bar Association Journal for January 1972 contains an interesting and timely article entitled "An Answer to National Emergency Transportation Strikes," written by Hon. W. Glen Harlan.

In view of President Nixon's current proposal for the settlement of the west coast transportation controversy, and in

view of the fact that the Senate will soon be called upon to act on the proposal, I believe that all Senators will find the thoughtful and well researched article to be enlightening from the standpoint of some of the issues involved and constructive from the standpoint of objective analysis. 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:

AN ANSWER TO "NATIONAL EMERGENCY" TRANSPORTATION STRIKES

(By W. Glen Harlan)

President Nixon's new economic policy has captured most of the headlines recently. Yet there are many other initiatives under way aimed at re-establishing the American economy on a long-term course toward enduring good health. One essential effort lies in the direction of restoring some balance in the collective bargaining relationship between organized labor and management—in short, labor law reform in the public interest.

Strikes in the transportation industries, particularly, harm us all, ultimately. More and more, this is an acknowledged fact. In the present economic and social climate in this country, any strike in a major transportation industry can become truly a national emergency.

How do we prevent these emergencies from arising. One innovative approach was advocated recently on behalf of the Nixon Administration by Secretary of Labor James D. Hodgson. In a speech to the Section of Labor Relations Law of the American Bar Association in July, 1971, Mr. Hodgson described generally the administration's legislative proposal (S. 560) for settling "national emergency" labor disputes in the transportation industry. This is his explanation of "final offer selection", one of the "three options" available to the President under the bill:

"Here, after completing Taft-Hartley procedures, the President could select a course providing for the empaneling of a final offer selection board. Its task would be to determine by means of hearings which final offer, submitted by a party to the dispute, shall comprise the collective bargaining agreement. The President would direct each party to submit one or two final offers to the Secretary of Labor and each other, each offer amounting to a complete labor contract resolving all the issues in the dispute. After the offers are submitted there follows a mandatory five-day bargaining period during which the Secretary of Labor could engage in mediation activity and the parties could have a further go at settling the dispute themselves. If the dispute remains unresolved at the end of this period, the board would determine which final offer is the most reasonable. This offer, without alteration, would constitute the collective agreement between the parties."

Secretary Hodgson stated that this procedure "would have the effect, when chosen by the resident, of forcing the parties closer together" since "If either party's offer were too extreme, it would be likely to be rejected", and "thus approach carries built-in incentives in settlement of public-interest disputes".

Mr. Hodgson went on to explain why the administration had chosen "final offer selection" in preference to "compulsory arbitration":

"The threat of compulsory arbitration—even its availability as an option—normally widens rather than narrows differences in position. The general expectation is that an arbitrator will split the difference between the parties. With this expectation, the tendency is to hang on to extreme positions. Under "final offer selection," the tendency would be to narrow the difference and stimulate collective bargaining."

This is the essential thrust of the administration's position. What is its promise for reducing the chronic threat to the commerce of our country?

I admire the courage and statesmanship of the Nixon Administration in making this proposal in a highly controversial field. Previous administrations declined to approach the problem, and S. 560 is certainly a step in the right direction. On the other hand, there are some inherent imbalances in this effort.

After thirty years' experience in the field, I have become a firm advocate of arbitration as the best alternative to brute force as a means of settling labor disputes.[1] For this reason, I challenge preemptory rejection of "compulsory arbitration". I also wish to toss a few caveats in the direction of final offer selection (which is highly "innovative") and to comment on the "national emergency" criterion that must be met before any action could be taken under the administration's bill.

AN AXIOM THAT IS DUE FOR RE-EXAMINATION

The assertion is commonly made that compulsory arbitration is in some way inconsistent with "free collective bargaining". The assertion is always made flatly and without documentation other than, perhaps, the sweeping generalization that "compulsory arbitration has failed wherever it has been tried". It is hardly surprising, then, that many business, labor, governmental and academic leaders have come to regard it as axiomatic. As in the case of many axioms—such as the ancient ones which held that the earth was flat and that the sun revolved around the earth—this one is overdue for re-examination.

Let's explore the term "compulsory arbitration". We do not talk about "compulsory litigation", although in other areas of personal disputes society prohibits physical or other violence, providing instead for settlement by a neutral (the courts) when the parties are unable to reach an agreement by negotiations. Why, then, is "compulsory arbitration" used as a pejorative term to describe a legal system that would prohibit brute force as a means of settlement of labor disputes and would provide a neutral tribunal to which the parties (or either party) may go if the dispute is not settled by negotiations? Litigation is not "compulsory", if only because the parties are free to use any other peaceful means to settle their legal issues, or even leave them unsettled. But if either party takes the matter to court, the other must respond or settle or suffer a default judgment.

Arbitration should work the same way. If the parties do not settle by negotiation—mediatory efforts, the toss of a coin or other peaceful means—either party should be able to take the matter to arbitration. Just as we have optional litigation, a system that provides arbitration as the alternative to a negotiated settlement should be called "optional arbitrator" or simply "arbitration"—not "compulsory arbitration."

This is, of course, largely an exercise in semantics. I present it simply to show there is no valid reason for affixing the dirty adjective "compulsory" to the wholesome word "arbitration." Since everyone objects to "compulsion," this label assures that arbitration when so described will be disliked, and application of the label avoids the necessity of proving that arbitration is bad. In what follows, I use the term "arbitration" without the adjective "compulsory." It should be clearly understood, of course, that I am talking about arbitration as a substitute for economic force in settling labor disputes.

Footnotes at end of article.

ONLY ARBITRATION CAN SAVE COLLECTIVE BARGAINING

Is there any basis for the fear that arbitration would destroy collective bargaining? In my judgment there is not. Indeed, I strongly believe that collective bargaining can be saved only by using arbitration as the ultimate means of setting labor disputes that cannot be settled in direct negotiations.

Arbitration is the natural and logical extension of collective bargaining. Across the table the parties seek to persuade each other through the use of figures, comparisons, logic and reason. This is the essence of bargaining. If the parties are unable to persuade each other, the arbitrator becomes their surrogate to listen to the same evidence and arguments and to make the decision they should have made.

The use of economic force, on the other hand, is the very antithesis of reason and collective bargaining. When the only alternative to settlement by negotiation is an economic battle—a strike or a lockout—between the parties, neither party has a strong incentive to consider carefully the reasonable basis of the other party's position. Then the important matter to consider is the relative strength of the parties; "Can we force him to surrender by a long strike or lockout?"

The climate for negotiation created by our present system is the worst possible. The parties look to force, not reason, as the ultimate determinant, and this in turn impels them to beat the drums for support, make extravagant demands and claims and generally create a warlike atmosphere that makes a reasonable settlement doubly difficult and assures dissatisfaction with the outcome, however fair and reasonable it may turn out to be.

If this system were changed to one that looked to settlement by a neutral if the parties could not agree, then the parties would have every incentive to examine fully the reasonableness of their respective positions: "How will this position look to the unbiased neutral? Whatever we think of the opponent's argument, what are the chances that he can sell it to the neutral? What would be a reasonable compromise of this dispute?" This, I submit, is precisely the right climate for collective bargaining, and in the long run it will serve the best interests of labor, management and the public.

ARBITRATION WILL NOT POLARIZE POSITIONS

The suggestion that the ultimate availability of arbitration will cause polarization of the positions of the parties is contrary to everything we have learned under our legal system. The certainty that a neutral (the judge or jury) will decide all other civil disputes that are not settled directly has provided the strongest incentive for settlement by the parties—before suit, at the courthouse door, or even in the midst of a trial. There is no reason to believe that a similar system would not accomplish the same desirable objective for labor disputes.

Indeed, it already does accomplish that objective with respect to a myraid "labor grievances" that are routinely settled by arbitration pursuant to private contracts or by quasi-governmental agencies. Under the Railway Labor Act, all unsettled grievance disputes may be submitted by either party to an adjustment board created pursuant to the law. The decision by the adjustment board is final and binding on both parties. The Supreme Court has referred to this as "compulsory arbitration".[2] Although arbitration is available and certain, "over 90 per cent" of all disputes are settled by the parties before arbitration.[3] And it should be noted that this type of dispute, which formerly caused great friction and disruption on the railroads and airlines, has ceased to be a source of serious difficulty.

Let's look at some very specific examples. Pan American World Airways for years has had contracts with five unions, that provide for "arbitration" if the parties are unable to agree on the terms of a new contract. To date, there has been no arbitration under any of these contracts. All new contracts have resulted from bargaining across the table.[4] At the same time, Pan American has had considerable difficulty (including strikes) in its negotiations with unions that had no available arbitration solution. This experience furnishes strong support for the thesis that collective bargaining is greatly strengthened and aided by the knowledge that the dispute will be settled on the basis of reason by an arbitrator if the parties do not settle it in negotiations.

The experiences of Australia and New Zealand with respect to arbitration are frequently cited both for and against "compulsory arbitration". However, the most recent and thorough studies strongly support the proposition that arbitration works very well in those countries. I refer particularly to the excellent treatise, "A Better Way To Handle Strikes", by Samuel I. Rosenman, who describes himself as "one of the original and permanent New Dealers" who "had a little something to do, mostly anonymously, with the New Deal philosophy and legislation which enabled labor unions—nearly all of them—to become powerful enough today to bargain on terms of equality with management". It appeared in *Newsday* and *The Evening Star* (Washington), among other periodicals, in July, 1967, and in the *Congressional Record*.[5]

ARBITRATION STRENGTHENS COLLECTIVE BARGAINING

In New Zealand, which pioneered the system of arbitration for labor disputes, it is estimated that some 80 per cent of industrial disputes are settled by the parties themselves despite the availability of arbitration.[6]

So it is clear that the availability of arbitration does not impair collective bargaining but, rather, greatly strengthens it. We are committed to a system of law and order in all other areas of dispute. We have long since outlawed trial by battle and duel as a means of settling personal disputes—except in the area of labor. Yet this is the one area where noncombat order is most greatly needed. In physical combat, such as a duel, only the combatants are injured. But when management and labor square off to do battle, a large segment of the general public frequently is injured. This is true even when the business enterprise and the union are relatively small, for suppliers, customers, employees and the families of all of them are damaged in a chain reaction that often spreads throughout the nation to innocent bystander after innocent bystander.

Of course, if trial by battle were the only effective way of settling these disputes, the public might be forced to acquiesce in what appears to be a survival of barbarism. But the battle bears no relationship to the issue in dispute, it serves no useful purpose for either the parties or the public, and if justice prevails it is purely fortuitous, just as was true when the violent forms of trial that have been outlawed.

Arbitration, on the other hand, is a process of reason which will assure that the settlement will at least bear some resemblance to logic and justice, and it avoids all of the painful consequences of the economic battles that now result when disputes are not settled across the board.[7]

Some reader by now is probably saying: "But isn't the Nixon Administration's final offer selection the same as arbitration?" I think not, though it is a move in the right general direction. We have had no experience with final offer selection, and therefore no one can state with certainty what it will do. My guess is that it will tend to keep the parties apart rather than "force the parties closer together", as Secretary Hodgson suggests.

Under final offer selection, I think the logical strategy for each party would be to negotiate throughout as if his position were completely unshakable, irreconcilable and beyond debate. Having played that part convincingly up to the point of submitting the final offer, the party would then surprise his opponent by making an offer substantially more generous (to his opponent) than his previous negotiating position would have suggested. If the deception were completely successful, the surprised party would be on the end of the limb with a final offer representing his latest hard-line negotiating position, while the skillful thespian across the table would be sponsoring a relatively reasonable package which the final offer selection board would be most likely to accept.

"FINAL OFFER SELECTION" PROMOTES GAMESMANSHIP

Of course, the parties might be equally adept at deception, in which case the packages presented as final offers would be as mysterious as those packages children see under the Christmas tree. If so, the tendency to compromise would appear so late in the negotiations that there would be little chance of a settlement at the bargaining table. In any case, the final offer selection, in my judgment, will do far more to encourage gamesmanship in collective bargaining than to force "the parties closer together".

A system under which arbitration is available at the end of the road is far better to force "the parties closer together", since each party must keep in mind throughout how the neutral will react to each point of his final offer. Thus he must strive to be reasonable on all points. Of course, as indicated above, there is no incentive to withhold any concessions for the purpose of surprising the opposition.

But the greatest potential defect in final offer selection is its probable adverse impact on labor relations after the settlement. The package selected by the final offer selection board will be an imposed settlement that will represent a victory for one side and a defeat for the other. The adverse psychological impact of this result is obvious and has been demonstrated in the numerous instances of unfavorable reactions (including strikes) by governmental employees to imposed contract terms. The arbitration award does not bear the same stigma, as it results from the efforts of the parties in the arbitration proceedings that represent the logical extension of the collective bargaining negotiations.

A SPIRIT OF COMPROMISE IS ESSENTIAL

More important, the final offer selection affords no flexibility in settling complex labor disputes. Contract negotiations often include dozens of issues, some of which clearly should be decided for management, some for labor, and some should be compromised. To the extent these are not settled in direct negotiations, they should be subject to decision by the neutral in the same flexible way. To require him to decide all in favor of one party is no more sensible than to require a court to choose between the $10,000,000 sought in a damage suit and the zero figure contended for by the defendant. In fact, it is substantially less sensible, since the court in the damage suit need weigh only two issues—liability and amount of damages. In the typical labor contract negotiation there are many issues. The decisions as to each may and generally should be divided or compromised by the parties, and the neutral should be free to weigh the relative importance of the issues and the effect of his judgments on future relations between the parties. The spirit of compromise is a most essential ingredient of collective bargaining, and I cannot see how that element can properly be excluded from the final and most crucial part of the settlement process.

If we force the neutral to decide all outstanding issues either for or against one of the parties, I do not see how we can expect good labor relations during the term of the contract. We can even anticipate, at least in the more extreme cases when the parties are widely separated at the final offer stage, that a decision for management will lead to demonstrations, disruptions and violence initially, and to bitterness and to highly unsatisfactory relations throughout the contract term. This, of course, would make the next negotiation even more difficult.

Let me tell a story to illustrate the point. Several years ago I handled an arbitration for management in which, at the end, we had roughly the equivalent of final offer selection. During the arbitration proceedings the union became aware that the neutral would not accept the major premise of its case. It then made the mistake of withdrawing from the case and removing its partisan from the three-man arbitration panel. This left the neutral and the management arbitrator to decide the case and, without any guidance or advocacy from the union representative, the neutral selected the management proposal, somewhat modified to the advantage of the employees. Under final offer selection, of course, the neutral could not have made any modifications.

A WIN "TOO BIG" IS A LOSS FOR ALL

The result was disastrous. Impeachment of the award was attempted without success. The union and its members did not resort to disruptive tactics at the time, but morale was extremely low for the duration of the contract, renegotiation of the contract at its termination was very difficult, and on the earliest and slightest pretext the union struck the company. The bitterness arising from this series of events led to even greater difficulties for a period of ten years.

The moral is that you can win "too big", and this is a major danger in final offer selection. It may be suggested that there is no similar danger if the union wins "too big". I think there is just such a danger. Possibly it is true that management cannot retaliate as labor can when it loses. But the inflationary spiral this nation has experienced in the past few years is largely owing to "big wins" by unions—primarily as a result of strikes. The same results could occur under final offer selection, although possibly to a lesser degree. A bad gamble by management in the final offer coupled with a stubborn union position could produce the same type of inflationary and unreasonable settlement which we have seen often in recent years, either to settle a strike or to avoid one. This nation should not trust the gamesmanship of collective bargainers in making final offers to determine the future of our economy. Arbitration is the simple and direct answer.

THERE WILL BE NO MORE NATIONAL EMERGENCIES

This brings me to the third part of the administration's bill which concerns me—the "national emergency" criterion that must be met before any action is taken to settle any labor dispute. Under the bill nothing would be done unless the dispute imperiled the national health or safety. This means to me that the legislation would be largely a dead letter from the time of its enactment, since recent events strongly suggest that there may never be another such "national emergency".

In the summer of 1966 five major airlines were grounded for forty-three days by a strike of the International Association of Machinists. This resulted in the grounding of 6,450,000 passengers, loss of income to 100,000 nonstriking employees, tremendous losses to hotels, restaurant, shippers, travel agents, airport operators, etc., and finally an infla-

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Footnotes at end of article.

tionary settlement which cost the public many millions of dollars. It is a fact that the I.A.M. strike of 1966 was deliberately calculated to rupture President Lyndon Johnson's 3.2 per cent guideline for wages. Yet Congress and the administration concluded that the strike did not create a "national emergency" that would justify governmental action to terminate it. The I.A.M. and the five airlines had agreed to negotiate jointly in 1965–1966; otherwise the five airlines would not have been struck simultaneously. No joint negotiations have occurred since 1966.

Recently ten railroads were struck simultaneously, and all West Coast shipping was struck for many weeks. Yet Congress and the administration did not intervene to stop the strikes.[8] In past years, when all major railroads were struck at the same time or threatened with a strike, Congress or the President moved rapidly to prevent what was recognized universally as a national emergency. But it now appears that these national emergencies are unlikely to recur because the railroad unions either will insist on bargaining separately with individual railroads or will engage in "selective" strikes, even after joint bargaining, that will fall short of "national emergency" scope.[9] There appears to be no possibility of a nationwide strike in the airlines industry since the airline unions do not bargain jointly and the only union that is substantially industrywide insists on individual carrier bargaining.

Thus, it appears to me that any legislation that deals only with "national emergency" strikes in the transportation industry would have only extremely limited application, if any. Yet, there is no doubt in my mind that strikes and threatened strikes in transportation create very real national emergencies regardless of the scope of any one strike. The 1966 five-carrier airline strike was called for the avowed purpose of breaking the administration's "guidelines"—and it was conspicuously successful. Thereafter, all wage settlements in the nation called for greatly increased pay levels, and the increases have spiraled upward ever since. In the 1969 round of airline negotiations with the same union each successive individual airline settlement called for a higher wage scale than that established by the previous airline's negotiation. Similar efforts to outdo previous negotiators are apparent in all industries.

TRANSPORTATION INDUSTRY VULNERABLE TO STRIKES

Transportation is peculiarly vulnerable to strikes, since there is no opportunity to "stockpiles" the product of transportation service as manufacturers do, the operations cannot be automated as telephone and electric utility services are, and business is automatically and irretrievably lost to competitors when the transportation enterprise is shut down. Hence, transportation (and particularly the weakest transportation enterprise) is likely to continue to be the target for big wage settlements that, in turn, will set the pattern for other industries, as in 1966.

Past transportation strikes have created a national crisis in the form of inflation and imbalance of international trade, which recently caused the President to declare a national emergency.[10] This type of national emergency will continue to arise unless (1) there are strong price and wage controls for all time to come, or (2) an orderly and rational procedure is established for settlement of labor disputes without resort to strikes. In my judgment, the latter is by far the preferable course, and the only procedure that will assure the desired and necessary result is the availability of arbitration (or other neutral decision) with respect to all labor disputes, whether or not they can be immediately identified as involving a "national emergency" in terms of health or safety.

FOOTNOTES

[1] An approach that accepts "compulsory arbitration" as one of the "options" available for the final settlement of emergency transportation disputes is the report and recommendations of the American Bar Association Special Committee on National Strikes in the Transportation Industries, which was approved by the House of Delegates in August, 1970 (56 A.B.A.J. 986). Numerous other proposals have been made, and several bills directed to the problem have been introduced in Congress.

[2] *Brotherhood of Railroad Trainmen* v. *Chicago River & Indiana Railroad Company*, 353 U. S. 30 (1957).

[3] Statement of Stuart G. Tipton, President of the Air Transport Association, before the Transportation and Aeronautics Subcommittee of the House Interstate and Foreign Commerce Committee on H.R. 3596 and other bills, August, 1967.

[4] Statement of Everett M. Goulard, Vice President-Industrial Relations of Pan American World Airways, before the American Bar Association Special Committee on National Strikes in the Transportation Industries, May, 1967.

[5] —CONG. REC.—(1967). Holden, *Conciliation and Arbitration in Australia*, MONTHLY LABOR REVIEW, August, 1968, page 32. Brissenden, *The Settlement of Labor Disputes on Rights in Australia* (Monograph Series 13, Institute of Industrial Relations, University of California, 1966).

[6] Goulard, *supra* note 4, at 14. Statement of N. S. Woods, New Zealand Secretary of Labour, "The Practical Workings of the Industry Conciliation Arbitration System".

[7] Herlong, *Transportation Strikes: A Proposal for Corrective Legislation*, 36 FORD. L. REV. 175 (1967).

[8] In early October, 1971, the Nixon Administration took action under the Taft-Hartley Act with respect to West Coast shipping alone, but only after all shipping in the United States was struck. Further Taft-Hartley action was deferred for nearly two months.

[9] *Delaware & Hudson Railway Company* v. *United Transportation Union*,—F. 2d—(D. C. Cir. 1971).

[10] Proclamation No. 4074 and Executive Order No. 11,615, August 15, 1971.

McGOVERN ALTERNATIVE DEFENSE POSTURE

SUMMARY

Mr. McGOVERN. Mr. President, the program I am spelling out in this alternative posture will protect America against external threats. And it will help protect us against internal disintegration as well.

The $54.8 billion military budget I have recommended is, first, clearly a vast sum of money and, second, an amount that is more than ample to meet foreseeable threats to our security. In fact, it can accomplish that goal more effectively than present spending levels. It will give us Armed Forces built on muscle instead of fat; Armed Forces that are better equipped to defend our own country and our truly vital interests. It is a defense posture with which all Americans can feel both security and confidence that hard-earned tax dollars are not being wasted.

What I propose is that we spend all that is necessary for a prudent national defense, and no more.

I propose that we stop spending our limited resources:

To underwrite the appalling waste of money and manpower that has become a bad habit in our Military Establishment;

To buy and maintain weapons which are designed to fight the last war better, with almost no relevance to today's threat

To maintain extra military forces that can have no other purpose than to repeat our experience in Vietnam, a venture which nearly all of us now recognize as a monstrous national blunder

To finance more of Mr. Nixon's "poker game" theory of arms control, an approach that has already moved the arms race to a more deadly level, at the same time as it has postponed an agreement that could have been had years ago; and

Or to react to a world of old discredited myths, made up of blocs, puppets and dominoes, instead of the real world of today and the future, with multiple ideologies and interests.

Politicians are fond now of promising new priorities—new money for such urgent programs as education, housing, transportation, rural development, environmental protection, and poverty.

But those ambitions are no more than empty talk without a plan to find the resources. I do not think the American people will, or should have to accept such promises on blind trust.

Politicians who claim public confidence must translate rhetoric into specific programs for resolving conflicting claims to the tax dollar, so that we really can apply more funds to the problems that have been eating away at our economic, social and spiritual strength here at home.

GENERAL PLANNING ASSUMPTIONS

The beginning premise of this alternative national defense posture is that the United States should buy what we need to deter or counter foreseeable threats to American and allied security.

That guideline automatically limits some of the artificial standards which have had a profound influence on military spending in past years.

Our defense posture has been built upon conservative planning assumptions—on preparing for "greater than expected threats." The alternative posture accepts that premise in part. It starts by assuming that the major Communist powers, China and the Soviet Union, will remain actively hostile to U.S. interests, and that there is a real risk of confrontation if one or the other can expect military advantage as a result.

Hence the proposed budget retains more nuclear weapons than necessary for deterrence, as insurance and as a hedge against possible buildups on the other side. General purpose forces are maintained against dangers which are both slight and exceedingly remote, given the expected military balance and political outlook. Intensive research and development efforts are proposed, to maintain the clear U.S. lead in military technology.

But conservative planning can be pushed too far. As it aims for maximum safety, it can also fuel futile, costly and perilous arms competition. And it can

lead to the needless maintenance of active forces against threats which do not and likely never will exist.

Certainly we should be able to find the line between conservatism and paranoia. Conservatism in planning should be able to coexist with realism in understanding changed world conditions, and with caution in adding military forces that can needlessly heighten the dangers and raise the costs of national security. This alternative posture is designed to meet those standards. Shifts in aggregate military spending from year to year are often portrayed as a measure of national will—as evidence of our determination to resist communism—quite apart from the size of standing forces. The alternative budget rejects such mindless measurements. The Nation's security does not demand, and is not served, by contests which are based less on strategy and power than on a willingness to waste public revenues.

The size of the recommended budget for procurement of new weapons is almost always judged by comparisons with spending in prior years. But clearly that is no guide to a prudent defense posture. If the Defense Department spends $15 billion on new weapons in one year and $5 billion in the next, anyone should be able to see that it has not reduced defense outlays in the second year; it has added to them. Prior investments must be seen as a base upon which to build, not a target to be matched or surpassed.

Significant shares of existing and planned military forces are justified primarily as "bargaining chips" to be traded away in negotiations. The Safeguard ABM system and U.S. troops in Europe are important current examples. But both the American taxpayer and the prospects for arms limitation suffer, as both are suffering now, when negotiations become an excuse for buying more than we need. A desire to negotiate from strength should not compel arms outlays that will be inappropriate even if negotiations fail.

Military spending programs are usually justified by reference to the country's global responsibilities, so that a "new isolationist" attitude is ascribed to those who raise questions. This alternative budget rejects the notion that military might is the only method by which the United States can fulfill international responsibilities and serve the cause of freedom. And it incorporates some of the painful lessons of recent years—about the military damage done to helpless people in freedom's name; about the relative impotence of sophisticated weapons in forcing other countries and other people to act in ways we might prefer.

In sum, this alternative posture suggests that misleading and irrelevant planning assumptions should be discarded. Instead the Nation's military establishment should be constructed, first, by a careful analysis of the potential danger of U.S. security interests and, second, by retention of that portion of existing forces, and by construction of the new forces needed to deter and defend against threats for which it is reasonable to remain actively prepared.

The second major premise of this budget is that realistic ceilings on military spending can produce Armed Forces which are both leaner and tougher than those now in being.

Congressional investigators and Presidential commissions have documented astonishing waste and inefficiency in military programs. Further, defense planners have shown a remarkable attraction for strategies and systems which relate less to current and future conditions than to the world as it existed decades ago.

It is vain to hope that simple admonitions will correct these conditions. Sharp fiscal discipline is required if more efficient use of available resources is to be achieved. Such discipline can trim both physical and intellectual fat from the Pentagon, and bring much more productive capabilities to bear on strategies and systems which are directly relevant to a changing world.

The recommended force and spending levels of this alternative defense budget should be achieved by fiscal 1975, with proportional reductions beginning in fiscal 1973.

This phased approach allows, first, for an appropriate response to possible changes in the threat. The recommended force level is fully adequate to deal with dangers which can be foreseen, based on the best current estimates of adversary plans. Significant changes in those estimates as they are updated could result in adjustments in these recommendations.

Second, the process of phased reductions will allow advance preparations by military planners, to assure that obligations incurred in prior years do not exceed the 1975 recommended ceiling. A big share of actual spending each year is made in pursuit of authority granted in the year before. The two measurements should be equal by fiscal 1975.

Third, the recommended timetable will permit fulfillment of the Government's obligation to assist in the conversion of excess military resources into other public and private enterprise. A program to meet accumulated civilian needs, applying both savings from the military sector and general revenues, can occupy a large share of the facilities freed by this budget. Such a program can also guarantee alternative employment to all workers displaced from the defense sector, and reduce economic dependence on superfluous military spending.

BALANCE OF FORCES

Strategic forces are maintained for the purpose of protecting against—by deterring—nuclear attack against the United States. Components include land and sea based ballistic missiles, long range heavy bombers, a missile warning system designed to defend our land based missiles.

In mid-1971, the United States had some 4,600 offensive force loadings in strategic forces, not including more than 7,000 smaller nuclear weapons listed as "tactical even though at least a proportion could be delivered on targets in the Soviet Union or China. Offensive weapons are carried by three delivery systems—1,000 Minuteman and 54 Titan intercontinental ballistic missiles—ICBM's—in hardened silos in the United States; 520 heavy bombers—450 B–52's and 71 FB–111's—and 656 Polaris and Poseidon missiles—SLBM's—aboard 41 nuclear submarines.

The Soviet Union had about 2,000 offensive nuclear force loadings in mid-1971, or about 40 percent as many as the United States. This included 1,500 ICBM's, 175 to 195 aging bombers, and 400 submarine based missiles. The People's Republic of China is expected to have a small ICBM force in the late 1970's or early 1980's.

There is no reliable method of defending population against nuclear attack. The Soviet Union initiated and then halted construction of a small antiballistic missile system around Moscow in the 1960's. There is no question about the U.S. capability to penetrate it; in fact, the people it sought to protect are probably in greater danger today. The U.S. ABM now under construction, the Safeguard system, makes no pretense of being able to defend population. Instead it is justified as a device to protect U.S. land based missiles.

It follows that the overriding mission of U.S. nuclear weapons is to deter attack by hostile powers, by demonstrating the ability to absorb a first strike and then retaliate with enough force to inflict unacceptable damage in return. The only real defense to nuclear attack is to prevent it.

The number of deliverable bombs and warheads required for that purpose cannot be readily determined, but there is at least one commonsense limitation. It would take roughly 200 warheads to strike all of the Soviet Union's major centers of population and industry. Doubling the number would add only slightly to the damage inflicted. The same 200 warheads targeted on Chinese cities would virtually wipe out that country's industrial base, and doubling the number would not measurably raise the damage to either industry or population. So it is logical to conclude that the guaranteed capability to deliver 200 one-metagon equivalents on separate targets in both the Soviet Union and China accomplishes at or near the maximum the United States can expect from the strategy of deterrence.

There is, of course, no proposal that U.S. forces be reduced that far. But the existence of 4,600 force loadings now, and as many as 10,000 separately targetable warheads under the Minuteman III and Poseidon conversions in progress, suggests that the United States plainly keeps many multiples of the maximum practical deterrent even after discounting weapons that might fail or be lost to an initial attack.

THE TRIAD

While the nuclear submarines are by far the most secure elements of the deterrent, the United States has nonetheless maintained both the full complement of ICBM's and a sizable bomber force, each also capable of the assured destruction required for deterrence. The retention of three systems, or the "triad," has been justified by the thesis that the adversary is less likely to pursue efforts to degrade the submarine force—or will have less money to spend on them—if he must account for bombers and missiles as well.

The main difficulty with the "triad" theory is not so much the concept as the practice. The presence of three systems should lead to additional stability and more carefully planned responses to developments on the other side, because the deterrrent will continue to exist even though there may be doubt for a time over the ability of one or another element to survive and penetrate. But in practice, the managers of each system have tended to regard theirs as the only one available, and to act as if deterrence were bound to fail if their system is even temporarily degraded. This is the basis upon which major decisions have been made in recent years—MIRVing Minuteman and Poseidon in advance response to a Soviet ABM that did not develop; initiating deployment of the Safeguard ABM in response to a possible SS–9 threat to Minuteman even though there has been no question about the capability of both bombers and SLBM's to penetrate during the time period when the threat could occur.

This alarmist approach has tended to aggravate the negative values of the triad while downgrading the positive. Both the ABM and MIRV are ambiguous systems—while we may regard them as purely defensive programs, they can readily appear to the Soviets as attempts to undermine their deterrent and achieve a first strike capability. Because of the long leadtimes associated with these systems, the refusal to tolerate any possible degradation of one or another element several years hence requires that we lock in very early to a specific kind of response, to a threat which may or may not develop.

PROPOSED STRATEGIC POSTURE

When total U.S. nuclear forces are considered, instead of looking one at a time at component nuclear systems, there is in the foreseeable future no reason for alarm over the status of the U.S. deterrent, and no reason for panic over the potential degradation of one or another component of the force—bombers, ICBM's or SLBM's—since our ability to deter will remain so long as at least one component remains secure. Moreover, we have substantial overkill capacity in the case of each.

So long as we do what is necessary to maintain a credible deterrent, we gain little, while inviting a great deal of additional danger, by stressing such concepts as "nuclear superiority" or by following instincts to deploy defensive or counterforce weapons which are incapable of preventing disastrous damage should nuclear war occur.

Deterrence and arms stability must remain the preeminent objectives of U.S. nuclear strategy, with primary reliance placed on the most secure component, the Polaris/Poseidon fleet. In research and development efforts, the main priority should be on programs, such as extended range Poseidon, to assure that the submarine force will remain immune from attack and capable of inflicting unacceptable damage in a retaliatory strike.

At the same time there remain good reasons, both military and economic, for retention of existing ICBM forces, and a portion of bomber forces, as long as they can make a valid contribution to overall nuclear strength without requiring excessive new outlays. That contribution could be greatly reduced, but the cost of maintaining these forces is low enough to warrant retaining them while their value lasts. They should be kept in the force, but under conditions which allow the American people to reap the benefits, in both economy and stability, which should flow from the triad theory.

As long as it can complicate the defense and counterforce problem facing the adversary, we should regard the triad as allowing less, rather than requiring more, haste in adding new weapons which may or may not ultimately prove to be necessary.

On specific systems:

For the present, Minuteman is a potent force with respect to the Soviet Union, and it enhances the prelaunch survivability of the strategic bomber force. In addition it can be relied upon for an indefinite number of years as a China-oriented deterrent without modification. Since it is inexpensive to operate, Minuteman should be retained, although there is no need to keep the small force of Titan ICBM's.

B–52 G's and H's and FB–111's have a strong capability to penetrate existing Soviet defenses, and physical age is not a serious problem with respect to the later models. Considering their payload capability, a force of six B–52 squadrons and three to four squadrons of FB–111's would constitute targeting flexibility and payload fully adequate to maintain an effective bomber deterrent.

The Polaris/Poseidon force is by far the most reliable and most important element of the nuclear deterrent force, and it has developed added striking power through the Poseidon conversions completed thus far. The full fleet of 41 submarines should be retained, and conversions authorized through fiscal 1972 should be completed.

The minimal Soviet effort on strategic bombers indicates that they place little emphasis on that form of delivery; hence extensive air defenses are not justified by the threat. More significantly, even the most advanced and effective bomber defense imaginable would offer little in the way of protection, since with it the United States would still be vulnerable to attack by both ICBM's and SLBM's, threats against which it is admittedly impossible to defend. Hence it is prudent to reduce the Army's surface-to-air missile capability and the Air Force's interceptor force by slightly more than half, leaving essentially a surveillance capability and an interceptor force to deal with the very low risk of conventional air attack from a nonnuclear power.

Antisubmarine warfare programs conducted to date have not produced a capability to detect and destroy Soviet submarines similar to our own Polaris fleet. However major portions of ASW programs—including ASW aircraft, nuclear attack submarines, and surface ships—serve both conventional and strategic war roles. While the enormous striking force of Soviet submarines with nuclear weapons makes a low defense capability equal to no defense at all, defense against conventional submarine weapons is somewhat more practical. Modifications in ASW forces are discussed in the section on conventional forces.

The recommended force level by 1975 will include the following:

Type of force:	*Quantity*
Minuteman missiles	1,000
Titan II missiles	0
Polaris (submarines/missiles)	34/544
Poseidon (submarines/missiles)	7/112
Strategic bombers	190
Manned fighter interceptor squadrons	5
Army air defense batteries	8

This force would include roughly 3,500 force loadings; still many times more than required to inflict unacceptable damage on any potential attacker. The recommended structure requires a minimum of new procurement. The deployment of Minuteman III and MIRV warheads on Minuteman and other plans to upgrade Minuteman should be discontinued. The fixed-site ICBM concept is one of decreasing viability if the adversary is determined to build ICBM's large and accurate enough to destroy our missiles in their silos, and while they will expand the number of targets which can be hit by surviving missiles, MIRV's will not make Minuteman less vulnerable prior to launch. On the other hand, if there is no determination to degrade U.S. land-based missiles, the programed upgrading and MIRV deployment will be unnecessary. MIRV is not needed in order to penetrate existing Soviet defenses, and it could be deployed more rapidly than a national Soviet ABM system if such a system is contemplated.

Deployment of the Safeguard system should be halted, and further work on programs of this kind should be confined to research and development at least until much more promising technology is available. The capacity of the system to protect the Minuteman force is open to sharp question on technical grounds—it is both vulnerable and easily saturated—and it promises to be an economic albatross. The cost of providing this doubtful form of protection for Minuteman is at least three and possibly 10 times greater than the cost of the missiles themselves. In addition, ABM construction is bound to give the Soviet Union ambiguous signals about U.S. intentions, perhaps causing acceleration of their multiple warhead programs and adding to existing dangers.

Prototype development of the B–1 bomber should be halted, and further research and development and procurement decisions should be aimed at increasing the potence of existing bombers. The B–1's performance will not significantly affect the feasibility of gravity bombing, regardless of the environment in which it operates. Work on SRAM—short-range attack missile—and SCAD—subsonic cruise armed decoy—should proceed for incorporation into the B–52/FB–111 force, and further modifications of the B–52, including the proposal to fit new engines, should receive active consideration. Studies of a possible follow-on should concentrate on a bomber designed principally for a stand-off role, armed with a longer range follow-on to SRAM.

Primarily because it is unnecessary

given the current state of Soviet defenses, the conversion of Polaris to Poseidon should be halted after seven conversions. There is no compelling present reason to deploy MIRV as an ABM penetrator, particularly with some conversions already completed against the fledgling Soviet ABM, and if such a requirement does develop there will be ample time to convert the remainder of the force. If there is a threat to U.S. sea-based missiles, and none can be foreseen at present, it is likely to come from a growing capability to detect and coordinate an attack on the submarine fleet. The primary research and development effort should, therefore, be concentrated on that issue. The United States should get ready for a production option on longer range sea-based missiles, and should continue to examine the more costly ULMS alternative.

The United States has a great interest in a strong and thorough ASW research and development effort, both for conventional and nuclear war contingencies. In addition to enhancing our own capabilities, research can help measure what is technically feasible in the ASW field, thus pointing the way to countermeasures which could preserve the security of the U.S. SLBM force in the face of Soviet ASW programs. At the same time extreme caution should be practiced in further deployments, both because of the risks to stability and because slight incremental improvements in ASW capabilities are unlikely to justify the costs involved.

GENERAL PURPOSE FORCES

General purpose forces are those maintained to protect the United States and its allies and interests against conventional or nonnuclear threats. The primary elements are ground combat and support forces, tactical air, airlift and sealift, amphibious landing forces, antisubmarine warfare, and tactical nuclear weapons.

SPECIAL CONSIDERATIONS

While the numerical balance of forces does have a significant bearing on allied ability to deter or successfully conclude a conventional war, it is still misleading to evaluate posture on the basis of number alone.

For example, the United States does not and need not maintain active conventional forces for the full duration of any major conflict. Additional forces can be mobilized if war does occur; hence, the primary objectives of active forces in being are, first, to deter war by notifying the adversary that he will be denied a quick victory and, second, to prevent serious losses while rapid mobilization is underway.

Nor does the United States maintain active forces to meet all major contingencies simultaneously. Considering their bitter disputes over both ideology and territory, for example, it is exceedingly improbable that the United States would be required to take on both China and the Soviet Union at the same time. On the contrary, their rivalry detracts from the aggressive warmaking capacity of each because they must both keep substantial numbers of forces on their common border.

Force planning should also be influenced by the recognition that very little is required for the defense of the continental United States against conventional attack. Because its geographic characteristics are ideally suited for defense, it is safe to say that no country in the world is within reach of the numbers and kinds of forces which would be required to pose a serious conventional threat to the United States.

Therefore, the great majority of all U.S. conventional forces exist either for the protection of American interests in other parts of the world, or for the fulfillment of commitments to help preserve the security of other countries.

It follows that the capability of the United States to meet its convenional war objectives is only a part of total allied capability. When determining total capacity to deter war, or to conclude it successfully once begun, it is proper and necessary to factor in the military forces of other countries whose security is of sufficient concern to the United States to warrant regarding an attack against them as equivalent to an attack on the United States.

THE BALANCE OF FORCES

The United States maintains active conventional military forces for three broad geographical areas; the Western Hemisphere, Europe, and Asia. No forces are programed for Africa. However, the Middle East represents an important contingency.

First. Western Hemisphere: One land division and one carrier task force are currently allocated to a possible Latin American contingency.

Although there is continuing concern about a possible Soviet submarine base in Cuba, neither China nor the Soviet Union has military bases in the Western Hemisphere; hence, the earmarking of active U.S. forces to the region must be seen as a reaction to whatever indigenous threat exists. Neither of the two socialist countries in the region, Cuba and Chile, has sufficient military establishment to conduct successful overt military actions against its neighbors, nor is such action deemed likely.

Second. Europe: The majority of U.S. Active and Reserve Forces are allocated to the defense of Europe, fulfilling the commitment undertaken through U.S. membership in the North Atlantic Treaty Organization. The formal U.S. commitment to NATO involves about eight ground divisions, 12 land-based air wings, and two carrier task forces.

Current planning sets higher force levels for Europe, however, including nine active land divisions, eight Army and one Marine, with about four and one-third of those divisions stationed in Europe; four carrier task forces, two stationed in the Mediterranean at all times; sixteen tactical air wings based on land; plus up to six National Guard and Reserve divisions and an equal number of Reserve tactical air wings.

Active allied land forces assigned to NATO and present on the central front, encompassing West Germany, Denmark, and the Benelux countries, include approximately 794,000 men, with the largest numbers coming from West Germany—326,000, and the United States—200,000—respectively. Excluding the United States, regular Armed Forces in NATO total about 2.9 million men, plus another 3.8 million if trained Reserves are included.

The alliance also has approximately 2,100 deployed aircraft in combat-ready status, plus large numbers of sophisticated conventional land weapons such as tanks and artillery and antitank weapons.

A medium-range calculation of Warsaw Pact forces puts total active manpower on the central front, encompassing East Germany, Poland, and Czechoslovakia on the pact side, at about 685,000, including 285,000 Soviet troops. Exclusive of the Soviet Union, Warsaw Pact countries maintain about 970,000 active armed forces, plus another 1.9 million trained reserves. The Warsaw Pact has approximately 2,900 tactical aircraft deployed in Europe. While that is larger than the comparable NATO figure, it also accounts for a much larger proportion of total tactical aircraft of the countries involved. NATO forces could be augmented by aircraft stationed elsewhere to achieve an overall superiority.

But a more relevant comparison is one which considers the numbers and kinds of forces which would be available in the first few days, up to the first month.

Based on present deployments, the Warsaw Pact has 275,000 men in East Germany which would be available on the first day of fighting. NATO has 583,000 stationed in West Germany—a clear margin of superiority.

Within 15 days the pact could mobilize another 547,000 from troops stationed in Poland, Czechoslovakia, and Hungary, while NATO could add 198,000 more from the Benelux countries and from Italy. At this stage the pact would have a small numerical advantage.

By the 30th day, the pact could conceivably add another 585,000 troops from the European U.S.S.R., Bulgaria, and Romania, bringing the committed total to 1.4 million. NATO, meanwhile, could add another 604,000 from Britain, Canada, Italy, France, Greece, and Turkey, bringing the total to almost the same size as the pact force.

But this comparison assumes no deployments to Europe from approximately eight and two-thirds active divisions, or about 400,000 men, from the United States, nor does it assume the use of NATO member forces other than those explicitly earmarked to the alliance. The United States is acquiring the capacity, with a programed fleet of C–5A transport aircraft, to move as many as 560,000 troops and supplies each month, many of which could clearly arrive well before the first 30 days of fighting had been completed. And to the extent they are ready forces, it seems quite likely that other NATO members would speedily commit additional forces if an invasion threatening their territory did, in fact, occur. On the other side, however, the 30-day scenario would have employed all available Soviet combat manpower in Europe.

Under the most realistic planning assumption, therefore, NATO clearly has

more than enough forces to repel a pact attack.

Third. Asia: Aside from Japan, Taiwan, Australia, New Zealand, and possibly South Korea, Asia is seen as having only a marginal bearing on vital American interests. Two other factors, the nature of possible threats to the internal security of Asian nations and the limited scope of external conventional threats, should also have a bearing on U.S. force planning for Asia.

Active U.S. baseline forces for Asia, above and beyond the Vietnam buildup, have included six Army and two Marine divisions, two of the eight in Korea and the remainder deployed on island bases and in the United States; and seven carrier based and eight land based air wings.

Among allied forces, South Korea, with continuing assistance from the United States, has developed an extremely potent 570,000-man force. In Southeast Asia the combined forces of the South Vietnamese, Laotian, Cambodian, and Thai Governments outnumber by substantial margins those of North Vietnam and indigenous revolutionary organizations, but they nevertheless appear to be lacking an important elements of a successful defense effort. Elsewhere in Asia, the Chiang Kai-shek government on Taiwan maintains more than one-half million active forces, Japan has had approximately one-quarter million in recent years, India has roughly 900,000, Indonesia approximately 350,000, and Pakistan 275,000. In several cases—as in Japan, Taiwan, the Philippines, Indonesia, Australia, and New Zealand—geography is at least as great a deterrent to attack as military force.

Opposing forces in Northeast Asia include about 370,000 North Korean troops, significantly fewer than those in South Korea. In Southeast Asia the major Communist power—North Vietnam—has between one-quarter and one-half as many active armed forces as South Vietnam.

The primary source of U.S. concern in Asia has been the People's Republic of China, with armed forces numbering roughly 2.5 million. However, the degree of concern should be moderated by a number of factors. The training and orientation of China's armies have concentrated on defense, and the military in China is an integral part of the country's administrative machinery, made up as much of civil servants as of soldiers. Large proportions of the armed forces are massed along the common border with the Soviet Union and in provinces across from the island of Taiwan. Naval forces are primarily coastal ships without a capability for operations on open seas. The great majority of Chinese aircraft are older model Soviet fighter-interceptors. Because of inadequate transportation facilities, the People's Republic would face massive difficulties in mounting an expeditionary force of any size for any duration.

Thus there is little cause for worry about aggressive operations from China. The country's capacity for self-defense is formidable indeed, but Chinese leaders have not placed priority on offensive capabilities.

ALLIED AND OPPOSING FORCES AT SEA

While their maintenance must, of course, be generally related to specific land-war contingencies, U.S. naval forces operate in a theater of their own, relevant to any major conflict and to many minor ones. They have two primary purposes: first, the projection of force ashore, as in the case of Marine amphibious landings, carrier-based tactical airpower, and standoff shelling of land targets; and, second, control of the seas, including principally the protection of warships used for the first purpose and of commercial and supply shipping. Some elements, such as aircraft carriers, destroyers, and cruisers, have capabilities and missions related to both general purposes.

The U.S. Navy consists of some 700 ships. The bulk of general purpose naval forces, excluding Polaris/Poseidon submarines, is built around aircraft carriers, vessels which have no counterpart among Communist powers. In fiscal 1972 the operative carrier fleet included 12 attack carriers—CVA's—with 61 tactical air squadrons, plus two antisubmarine warfare carriers—CVS's—and one experimental dual purpose attack/ASW carrier.

The amphibious landing capacity currently maintained is sufficient to land one and one-third division-sized Marine amphibious forces—or four brigades—although plans have been laid to increase the landing capacity to one and two-thirds divisions.

Military sealift capacity is supplied by 98 troopships, cargoships, and tankers, with potential augmentation from commercial shipping. As compared to World War II a substantially larger proportion of lift capacity, for men and smaller supplies and equipment, is now supplied by air.

Surface and undersea combatant forces are assigned primarily to the protection and underway replenishment of carrier, amphibious landing, and sealift ships. On the surface, we program 227 missile cruisers, frigates, destroyers, and ocean escorts, plus a number of special purpose ships such as minesweepers, and numerous small craft. We have a total of 95 submarines, of which 55 will be nuclear powered. Four additional nuclear powered subs will become operational during the year.

The protection of nonmilitary shipping is assigned almost entirely to allied naval forces, with some help from U.S. reserve ships and amphibious assault escorts. U.S. allies in both the Atlantic and the Pacific have substantial naval capabilities, primarily in the category of escort ships in which they outnumber the United States. They also have a quantity of attack submarines.

The Soviet Union is the only potential U.S. adversary with significant naval forces. They presently include an estimated 215 major surface combat ships, 264 conventional submarines, and 87 nuclear subs, plus a number of minor combatants comparable to U.S. forces of the same kind, but with a heavier orientation toward short-range surface-to-surface missiles. None of the Soviet Union's Warsaw Pact allies has a significant naval capability. In combination they possess only eight major surface ships and eight conventional submarines. The People's Republic of China has a few submarines and many patrol craft, but no major surface ships.

CONCLUSIONS AND RECOMMENDATIONS

When considered in terms of the threats against which it is reasonable to prepare—and against which military might can be a relevant response—the U.S. defense posture is not only fully adequate but excessive. It includes an unquestioned capability to defend the United States against conventional attack, plus more active forces than are necessary, in combination with those of allied countries, to deter attack upon or resist aggression against areas elsewhere in the world where the United States has a combined defense commitment and vital security interest.

A prudent U.S. Military Establishment for the 1970's must account for conditions and perceptions which differ sharply from those which have inspired defense policy for the past two decades. The economic vitality of Europe should allow fulfillment of our priority commitments in that region with substantially reduced general purposes force levels. The growing separation of inclination and interest among Communist countries inevitably reduces the combinations of forces against which it is necessary to remain prepared, and, in fact, tends to reduce the forces each might be able to commit against the United States or our allies. Nuclear weapons, while they are maintained primarily to deter nuclear war, also play a role in preventing conventional conflict between major powers because of the grave risk of escalation to disastrous nuclear confrontation—a risk which is plain to both sides and which doubtless serves as a restraining influence on the actions of both. A number of diverse factors—an improved understanding of the limitations and orientation of China's military establishment, the comparative strength of Taiwan and South Korea, the economic vitality of Japan, the lessons of the Vietnam experience with respect to the limited utility of American military involvements in Asia—also suggest room for substantial reductions in Asia-oriented forces.

Along with threat-related adjustments, significant savings could be made through incorporation of a more efficient defense philosophy established to produce more combat capability than at present per dollar of investment. There is room for a broad range of operating efficiencies ranging from methods of procuring major weapons systems to manpower rotation policies. Costs could be reduced markedly by abandonment of attempts to retain tactics and systems which have become strategically obsolete. Unnecessary sophistication of weapons and duplication of missions among the four services account for many billions of dollars of needless military spending each year.

On specific general purpose forces:

Europe: The highest priority U.S. defense commitment is to Europe. In the

absence of mutual reductions on both sides, U.S. land forces available for service in that theater should not be reduced below the eight divisions and 14 air wings composing the apportioned share of the United States. However, that commitment can be fulfilled in the context of a reduction in forces stationed on European soil, without reducing the overall capability of the alliance to deter or defend against an attack from the Warsaw Pact, because of the capability for rapid redeployment in the case of attack or ominous enemy buildups, and because the alliance can marshal clear numerical superiority for the initial stages of any conflict. This course, while suggested by a realistic appraisal of the balance of forces in Europe, is also strongly supported by economic considerations.

Therefore, two and one-third of the four and one-third active U.S. divisions presently stationed in Europe should be returned to the United States, leaving two divisions in Europe. With appropriate withdrawals of command support forces, this redeployment should return roughly 170,000 men, leaving 130,000.

This shift requires that six U.S. land divisions be available for deployment to Europe, and thus not available for purposes other than another major contingency. The six divisions based in the United States should include one Marine and five Army divisions, augmented by a substantial proportion of reserve forces. Since the prospect of an amphibious landing requirement in Europe must be seen as extremely remote, and probably unfeasible should the condition arise, the Marine division need not have an amphibious capability. These recommendations would leave NATO with some 430,000 troops in Germany and ready on the first day of fighting—a clear margin of superiority. By the 30th day, through deployment from the United States and other allies, NATO could have 1.5 million men involved, compared to about 1.4 million for the pact—assuming that the Soviet Union could motivate forces from Poland, Czechoslovakia, and Hungary for an adventure in Western Europe. Thus, it would leave the pact with no opportunity to achieve the 2-to-1 margin of superiority generally required to gain a conventional war advantage.

Current overall NATO air superiority also allows a cut in tactical air forces effectively allocated to Europe. Instead of the present estimated 22, the United States should maintain 16 air wings ready for action in Europe—four carrier based—including one in the Mediterranean—one double Marine wing, and 11 Air Force wings. Two carriers would be on station at all times.

Asia: The first priority with respect to Asian contingencies should be the speedy end of U.S. involvement in the Indochina conflict. All land and air forces, including ground troops in Thailand, should be withdrawn as quickly as that can be accomplished consistently with their safety, upon the single condition that U.S. prisoners of war be released.

Considering prevailing military balances and political conditions in Asia, there is no immediate threat of aggressive military action requiring or justifying the retention of U.S. land forces in the theater. The remaining division in South Korea should also be returned to the United States, since that country has achieved unmistakable military superiority over the North.

United States interests and commitments with respect to Japan and Taiwan will not be threatened in the foreseeable future by limited Chinese conventional capabilities, and Australia and New Zealand are protected not only by natural barriers to attack but also by their own considerable defense capabilities. Therefore, there is no present need to maintain active or reserve land divisions in the United States with an exclusive high priority allocation toward Asia. Any foreseeable threat can be countered by the maintenance of one carrier-based tactical air wing on Pacific assignment and seven land-based wings, for a total of eight wings. Asia-oriented air wings based in the United States would also be available for minor contingencies elsewhere.

Western Hemisphere: There is a slight risk of military action in Latin America which might call for the involvement of U.S. forces, justifying some preparation in light of the special relationship dictated by the proximity of the region to the United States. The present allocation of one land division should be maintained, but it is not necessary to assign a carrier task force because of the virtual assurance that land bases will be available, at much lower cost, in the event that air forces are required.

Strategic reserve: At least two active land-based divisions should remain available as a strategic reserve, for defense of the continental United States against unforeseen contingencies. Considering the probable warning that would have to precede any conventional attack on this country, these divisions could easily be augmented by activation of reserve units, as well as by active theater forces based in the United States.

Naval forces: The land and air force structure outlined above contemplates six carrier-based tactical air wings, thus requiring retention of six modern attack carriers. The other major vehicle for projection of sea-based force ashore would be the single Marine expeditionary force, or capacity for amphibious landing of one Marine division. Since the ASW role can be performed at less cost and with greater effectiveness by land-based aircraft, the new posture should include no antisubmarine carriers.

The first major naval requirement is for escorts and for underway replenishment ships to accompany the surface fleet. The base force for surface shipping begins at 38 ASW escorts and 45 AAW/ASW escorts, plus the carriers, replenishment ships, and amphibious landing craft.

However, additional destroyers and frigates should be programed for fire support—bombardment of land targets from sea positions—for escort of sealift and commercial shipping—now assigned primarily to reserve ships and allied naval forces, and to make up a portion of the lost show of force capacity incurred by retiring carriers, as well as to serve as insurance backup to those specifically assigned above. A total of 130 escorts would be sufficient to meet these objectives.

The retirement of ASW carriers leaves a need to make up some loss in aggregate protection of surface ships against enemy submarines, and also against surface ships with long-range missiles. This need can best be fulfilled by nuclear-powered submarines with improved weapons systems and speed and silence characteristics. The United States should build toward a total of 84 nuclear attack submarines.

Other naval requirements include a slightly larger sealift capacity than is presently in being, since the design of modern commercial shipping makes it less readily transferable to military purposes.

Summary: The force structure outlined above would conform to the following totals and rough allocations:

Type of force	Europe	Asia and Western Hemisphere	Strategic Reserves	Total
c tive Army divisions [2]	7	1	2	10
Active Marine divisions [3]		1		2
Reserve land divisions [4]			2	9
Navy air wings		2		6
Air Force tactical wings		7		18
Airlift (squadrons) [5]	1	4		18
Marine tactical wings	1	1		2
Naval forces: [6]				
Attack carriers [7]	4	2		6
Nuclear attack submarines	42	42		84
Escort ships	80	50		130
Amphibious assault ships		56		56
Replenishment ships, [8] cargoships, and troopships	50	30		80

[1] Contingencies in Asia and the Western Hemisphere are sufficiently remote to allow allocation of land forces stationed in the United States to both. If they were to coincide, U.S. based forces oriented toward Europe could be diverted, consistent with the 1½ war planning assumption.

[2] Active Army divisions allocated to Europe include 2 based in Europe and 5 based in the United States.

[3] The Marine division oriented toward Asia and the Western Hemisphere would have an amphibious landing capability; the other would not.

[4] Reserves would be maintained primarily for augmentation of Europe-oriented forces, but would be available for any major contingency.

[5] Airlift squadrons include 4 squadrons of C–5's and 14 squadrons of C–141's and other aircraft. The C–5's should all be allocated toward Europe.

[6] The allocation of naval forces is only a rough calculation, flowing primarily from the apportionment of carriers and amphibious landing forces between Europe and Asia.

[7] All 6 carriers will have been constructed since 1960, and will thus require less time in port than the existing larger and, on the average, older force, 3 carriers will thus be on station at all times.

[8] Reflects fewer replenishment ships than at present, accounting for reductions in carrier task forces, and an increase in sealift capacity.

MODERNIZATION

In the wake of scandalous problems with weapons procurement in recent years, it is clear that rigorous new discipline must be applied to the acquisition of new weapons systems and military equipment and supplies of all kinds. Several overriding general rules should be observed.

First, more careful scrutiny of military research and development programs is an absolute necessity, to assure that

research which cannot be expected to lead to viable military systems is stopped or held at low levels before it has used up funds far in excess of any potential worth.

Second, modernization and upgrading of existing forces must be constantly re-examined to assure that the strategies for which replacement systems are designed remain viable in the light of advancing technology among potential adversaries.

Third, unnecessary sophistication of weapons systems and the incorporation of doubtful technology must be avoided.

Fourth, military procurement agencies must understand that cost is an object. While combat effectiveness must obviously play a preeminent role in the acquisition of equipment which is directly related to combat, a large share of total military procurement involves goods and services which have only indirect relevance, or no relevance at all, to battlefield conditions. Such items should be procured at the lowest possible cost.

Fifth, every effort should be made to resist vast outlays for major new weapons systems which promise only slight improvements in military proficiency. The maintenance of a substantial research and development program assures that deployed weapons will always fall short of what is within the realm of scientific possibility. Procurement should be postponed until there is both a significant margin of improvement and a demonstrable need for incorporation of the improvement into the active force structure.

Sixth, military force planners should be aware that more effective weapons systems allow fulfillment of the same mission with fewer weapons—that within the context of any given threat new weapons can replace old, less effective models on less than a one-for-one basis.

I ask unanimous consent that four summary tables be printed in the RECORD.

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

SUMMARY TABLES

Military personnel:	
Army	648,000
Navy	471,000
Marine Corps	140,000
Air Force	476,000
Subtotal, active duty	1,735,000
Reserves	600,000
National Guard	250,000
Total	2,585,000
Civilian personnel	761,000
Strategic forces:	
Minuteman Missiles	1,000
Polaris (submarines/missiles)	34/544
Poseidon (submarines/missiles)	7/112
Strategic Bombers (B–52's and FB–111's)	200
Manned Fighter-Interceptor Squadrons	5
Air Defense Firing Batteries	8
General purposes forces:	
Land Forces	
Army divisions	10
Marine divisions	2
Tactical Air Forces:	
Air Force Wings	18
Navy Attack Wings	6
Marine Corps Double Wings	2
Naval Forces:	
Attack Carriers	6
Nuclear Attack Submarines	69
Escort Ships	130
Amphibious Assault Ships	56
Troopships, Cargoships, Replenishment Ships	80
Airlift Forces:	
Aircraft Squadrons	
C–5A	4
C–141 and other	14

(2) *Proposed strategic program costs—1975*

Strategic Forces:	
Minuteman	$0.2
Polaris/Poseidon	2.9
B–52/FB–111	0.7
SRAM/SCAD	0.1
Bomber Defense	0.8
Surveillance	0.7
Safeguard	.0
Subtotal, strategic forces	5.4
Intelligence and communications	3.2
Research and development	2.5
Supply and maintenance	1.0
Training, medical and other personnel activities	1.4
Administration	.6
Total, strategic forces	14.1
Operating outlays	$7.6
Investment outlays	6.5
	14.1

(3) *Proposed general purpose forces program costs—1975*

General purpose forces	$17.9
Intelligence and communications	2.3
Airlift and sealift	1.5
Guard and reserve	3.2
Research and development	3.0
Central supply and maintenance	4.1
Training, medical and other personnel activities	6.1
Administration	1.2
Support to other nations	.5
Military assistance	.9
Total general purpose forces	40.7
Operating outlays	26.5
Investment outlays	14.2
Total	40.7

(4) *Total program costs—1975*
(*billions of 1975 dollars*)

Military personnel	$18.6
Military retired pay	5.1
Civilian payroll	10.2
Subtotal, pay	33.9
Equipment, supplies, and services	20.9
Total	54.8

RETIREMENT OF COL. KATHERINE E. MANCHESTER

Mrs. SMITH. Mr. President, last month Col. Katherine E. Manchester retired after 31 years of outstanding service to the Army Medical Department. She is an outstanding example of the great role that women can play in life. I wish to accord my personal salute to her.

I ask unanimous consent that a biography of Colonel Manchester be printed in the RECORD.

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

BIOGRAPHY

Colonel Katharine E. Manchester, AMSC, was born in Jacksonville, Illinois on 15 October 1916.

Colonel Manchester graduated from the University of Illinois in 1938, and completed her dietetic internship at the University of Michigan Hospital the next year.

After entering the Army Medical Service in 1940, she served as staff dietitian first at Walter Reed General Hospital and later at the U.S. Army Hospital, Fort Leonard Wood, Missouri.

Her first assignment in the Army Surgeon General's Office came in 1943, when she was named assistant to the Chief, Dietetics Consultants Division. She was awarded the Army Commendation Medal for her outstanding performance during this assignment.

In 1948, she was selected to attend Cornell University for advanced study in the field of Institution and Personnel Management. She received a Master of Science degree in 1949.

She was then assigned to conduct management research in food service organization and operation at Valley Forge General Hospital, Phoenixville, Pennsylvania, and in the Medical Plans and Operations Division of the Army Surgeon General's Office.

During this assignment Colonel Manchester was responsible for developing procedures now used in food service operations in all fixed Army Medical Treatment Facilities. Her studies of centralized tray service contributed to the establishment of this procedure in Army Hospitals.

From 1952 to 1955, she served overseas in Germany as Chief, Food Service Division at the 130th Station Hospital with additional duty as Food Service Consultant to the Chief Surgeon, Headquarters, U.S. Army, Europe.

She was then assigned as Chief of the Food Service Division and Director of the Dietetic Internship Program at Brooke General Hospital, Fort Sam Houston, Texas. From July 1960 to July 1964, Colonel Manchester was Chief, Dietitian Section, AMSC, and Assistant Chief, AMSC, in the Office of the Surgeon General, Department of the Army, Washington, D.C.

Highly regarded by her civilian and military colleagues, the Colonel has always been active in dietetic associations. In recognition of her outstanding contribution to military dietetics and an indication of the high regard she has earned in her military career, Colonel Manchester was the first dietitian of the Army Medical Corps selected by the Army Promotion Board for the grade of temporary full colonel and the first Regular Army member of the Army Medical Specialist Corps to be promoted to the rank of permanent Colonel. Colonel Manchester has been awarded the Army Commendation Medal with two oak leaf clusters for meritorious service during her career as dietitian in the Army Medical Service.

In May 1968 she was recipient of the Silver Plate Award as Food Service Operator of the Year in the hospital and nursing division presented by the Institutional Foodservice Manufacturers Association in recognition of outstanding service and dedication to the Food Service Industry and those who serve it.

Colonel Manchester, also, received the 15th annual McLester Award for notable achievement in the field of nutrition and dietetics, presented by the Association of Military Surgeons, in honor of the memory of James Somerville McLester, M.D., LL.D, Colonel, M.C., U.S.A.R. The award was presented at the 75th annual convention of the Association of Military Surgeons, in Washington, D.C. on October 22, 1968.

This award was established in 1954 to honor the memory of Colonel James Somerville McLester of the United States Army Reserve Medival Corps. A scientist as well as surgeon, Colonel McLester served as a consultant to the Surgeon of the American Expeditionary Forces in World War I and was a pioneer in the field of metabolic medicine and clinical nutrition. The Work performed by Dr. McLester and his successors generated great interest in clinical nutrition, providing new insight and better understanding of human metabolism and the role of nutrition in preventive medicine and in therapy.

In July 1969 Colonel Manchester was awarded the coveted "A" Prefix for professional accomplishment in the Army Medical Department. To be eligible, one must make significant contributions through research, professional articles or books, and through continued demonstrations in performance in highly specialized fields of endeavor.

In December 1970 Colonel Manchester was appointed to the Department of the Army Subsistence Operations Review Board, which was established at the direction of General Westmoreland, the Army Chief of Staff, based on recommendations of the Deputy Chief of Staff for Logistics, LTG Joseph M. Heiser, Jr. Major General John D. McLaughlin, Commanding General of the Quartermaster Center and Fort Lee and Commandant of the Quartermaster School was appointed President of the Subsistence Operation's Review Board. Colonel Katharine E. Manchester was the Army Surgeon General's representative on the Board. The Board performed research on the feeding of Army Troops, visited installations and units world wide, and conducted conferences and seminars between December 1970 and June 1971. The Chief of Staff charged the Board with the development of a program for "action" to improve Army Food Service Operations World Wide. On 15 December 1971, she was presented with the Quartermaster Medallion in recognition of her service with this Board, and was made an Honorary Faculty Member of the Quartermaster School.

Colonel Manchester has been closely associated with the Army Dietetic Internship Programs since 1943. In 1969 the Walter Reed Graduate Dietetic Internship Program coordinated between Walter Reed and the University of Maryland was established which lead to the Master of Science Degree from the University. On 1 July Colonel Manchester was appointed as a visiting Assistant Professor on the faculty at the University of Maryland.

On October 7, 1971, Colonel Manchester was installed as President of the American Dietetic Association for 1971–1972. She was the first military dietitian to be elected to this office.

Colonel Manchester was honored on 17 December 1971 during her retirement ceremony at Walter Reed Army Medical Center. BG W. H. Meroney, M.C., Walter Reed General Hospital Commanding Officer presented Colonel Manchester with the Distinguished Service Medal, the highest non-combat military award possible, in recognition of her 31 years of outstanding service to the Army Medical Department. She was also presented with the Army Medical Service Medallion, the first woman to be so honored; and with the Walter Reed Army Medical Center Medallion, in recognition of her many contributions to the welfare and nutritional care of patients and assigned staff.

Colonel Manchester officially retired from the United States Army 31 December 1971.

Colonel Manchester lives with her father, Mr. Thomas D. Manchester at 8621 Camden Street, Alexandria, Virginia 22308.

HOUSE GRAIN RESERVE BILL AND HUMPHREY RESOLUTION

Mr. MONDALE. Mr. President, the Committee on Agriculture and Forestry, presided over by the distinguished senior Senator from Georgia (Mr. TALMADGE), is holding hearings today on the House-passed strategic grain reserve bill, H.R. 1163 and Senator HUMPHREY's resolution, Senate Joint Resolution 172, which would require the administration to adopt more effective production adjustment programs in 1972, which I cosponsored along with other Senators. I testified this morning before that committee in favor of the two bills. A statement submitted by Senator HUMPHREY for today's hearings strongly also urges immediate action by the Senate toward enactment of these measures which are so important economically to our Nation's wheat and feed grain producers.

I invite particular attention to Senator HUMPHREY's point about Secretary Butz' opposition to loan rate increases for these farm commodities which only equal the 12 to 13 percent devaluation of the dollar which has occurred in the last 6 months. If the Secretary wishes to establish any credibility among farmers, he should support at least that much of an increase in loan rates.

Higher prices will not cut into the size of export sales of farm commodities. In fact, since devaluation our grain prices have exerted downward pressure on world prices. Devaluation has cut the wheat price by $0.15 a bushel in world trade. Japan, for example, is now able to purchase as much wheat for 225 yen as it could for 265 yen 2 months ago.

At the recent annual convention of the National Association of Wheat Growers, guest speakers representing the European Economic Community, Canada and Australia, urged the United States to stop depressing world prices. These distinguished spokesmen expressed concern over U.S. moves toward an export policy which uses low prices to gain new markets.

The other remarks to which I would like to call attention in Senator HUMPHREY's statement, are his comments about the price of bread increasing while the price of wheat has gone down, and while the price of livestock has gone up as feed grain prices have dropped.

Mr. President, I ask unanimous consent that my prepared statement to the Agriculture Committee, as well as Senator HUMPHREY's statement, be printed in the RECORD.

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

TESTIMONY OF SENATOR WALTER F. MONDALE TO THE SENATE COMMITTEE ON AGRICULTURE AND FORESTRY IN SUPPORT OF H.R. 1163 AND S.J. RES. 172

Mr. Chairman, I am most grateful for the opportunity to testify before this Committee on behalf of H.R. 1163, and S.J. Res. 172. H.R. 1163 is a bill to increase the price support loans on wheat and feed grains by 25% and to establish a strategic reserve for wheat and feed grains. Senate Joint Resolution 172 also calls for a 25% loan increase for these crops. It also would establish a base acreage program for the 1972 feed grain crop and an additional voluntary acreage diversion for the 1972 wheat program.

I understand that the Department of Agriculture is now taking steps to implement the additional voluntary acreage diversion for the 1972 wheat program.

Mr. Chairman, I feel that here today, the heart of the issue concerning these measures is the 25% loan increase. This is what we need to pass now in the Senate. Every time I go home and talk to people in the farm country they tell me that truly, they are in the midest of a depression. They need an economic boost and they certainly have it coming.

The disaster in our farming areas is hidden. These people don't carry signs and they don't march. They suffer in silence. Many of them tighten their belts year after year, and some way, several make it. But each year many more are lost.

The social and economic costs of losing these people from our rural areas is high. It is difficult to show it statistically, but it is evident that, for about every five or six farmers that leave rural America, we lose one independent businessman.

What happens to these people? Of course they don't move directly to the slums of our cities. But every time a rural resident does move to the city to find work, jobs which could be given to city people are displaced. So, the rural to urban exodus is quite costly.

It is disastrous to continue allowing the stagnation and death of our fine rural communities while at the same time large cities are growing increasingly crowded and unmanageable.

These are long-run concerns and I think we need bold and very comprehensive measures aimed at stopping and reversing the exodus from rural America. I am hopeful that during this session of Congress we will enact some of the major rural development measures which have been introduced. Today is not the time to discuss these, however.

Rural development has been gaining increasing mention in speeches and news reports. But if you ask a real farmer about it he'll tell you that the biggest move toward rural development right now would be action to improve farm income.

The productive performance of independent family farmers needs no defense. As the President pointed out in his words to Congress last week, over the last 20 years the productivity of farmers has risen 3½ times as fast as that of non-farm industry. But during these years, farm prices have risen little, if at all. Increases in farm income have only been due to the ability of farmers to increase their productivity and narrow their margins. But now it is about time to start giving them increased prices which will increase their income.

Increased farm income helps the entire society and economy of our nation. Each year farmers use the natural resources and their own labor and management skills to create new wealth. Their products abundantly supply food and fiber needs of our nation. Exports provide a substantial boost to our balance of payments. Every dollar of farm income returned to farmers turns over several times in the economy to generate more income and more jobs in other industries.

These are just a few of the reasons why prompt enactment of these measures, the heart of which is the increase price support, is so important.

Enactment of the 25% loan increase for wheat and feed grains would mean added farm income of roughly $1.5 billion on the 1971 crops. This figure resulted from multiplying the total production by the eligible proportion and the result by the estimated price increase per bushel for wheat, corn, grain sorghum and barley, respectively. The bill also provides for 1972, so additional increases in income could be expected for the 1972 crop as well.

We are not asking for a handout for farmers; only a fair return. I have seen farmers' bookkeeping figures on the costs of producing corn in the State of Minnesota. These figures from topnotch farmers total from 90¢ to $1 per bushel in an excellent production year. Any unpredictable problems, such as wet conditions which delayed harvesting in several parts of the state, will add costs. The average price for corn in Minnesota during 1970 was $1.18 per bushel. During 1971, it was 98¢. Therefore, it is evident that things aren't getting better out there.

The reason for the low prices is clear. The Agriculture Department misjudged last winter. They overestimated the possibility of corn blight and to give the American people insurance against a food shortage, encouraged planting too much corn. The trouble with

that type of insurance is that the farmer ends up paying the premium and the middleman gets the benefit.

I think it is time we give the farmer a break. It isn't his fault there is an increased inventory of corn. The farmer did a commendable job, and the weather was right and this resulted in a bumper crop. But he is getting paid less for this bumper crop than he received for the blight-depressed crop of 1970.

Although I have placed major emphasis on the price support loan increase, I also want to stress the importance of the strategic reserve aspect of this legislation. Mr. Chairman, I have supported the concept of a strategic reserve of storable commodities for some time. I believe that a reserve, totally insulated from the market for emergency use, would protect our markets. This is always important. It has never been so important to feed grain and wheat producers as it is at the present time. With the presence of last year's big crop, establishment of the reserve now could have two-fold benefits. It would remove sizeable inventories from the market and at the same time, establish a much-needed reserve.

We have strategic reserves of other items important to our welfare and security of our nation. Why not a reserve of food?

Mr. Chairman, it is unfortunate that we didn't pass this legislation early last fall. Many farmers who had bills to pay at harvest time, had to sell their wheat or feed grains at a loss. But the urgency of this legislation is not lessening now. The combined value of the 1971 wheat and feed grain crops and government payments is almost $1 billion less than it was in 1970 when the blight-depressed corn crop was harvested. I'm convinced that an increased price support and establishment of the reserve now would bring about needed boosts in farm income.

Corporate food processors will probably oppose this legislation saying that it will place increased pressure on their input costs. I ask that we be fair to farmers. While wheat prices have dropped during the last year, the retail prices of bread have continued to rise. Still, the farmer's portion of the price of a loaf of bread is less than 10%.

Mr. Chairman, I'd like to reply to one of the administration's early objections to this legislation, as I see it. The Administration has pointed out that the result would be increased production at a time when we must hold production down.

That objection was anticipated when similar bills were introduced in the Senate early last fall. The administration's current production programs have proven they can't manage supply and give farmers a fair return. The Farmers' Income Improvement Act of 1971, S.J. Res. 172, was introduced to correct these inadequacies.

This resolution directs the Secretary of Agriculture to announce a more effective wheat acreage adjustment program and it directs a shift to a base acreage diversion program for feed grains in 1972.

Although the Agriculture Department's recent announcement of an additional voluntary set-aside program for wheat in 1972 is a commendable move toward meeting the objectives of Senate Joint Resolution 172, I am concerned that there is still a need for adequate measures to hold production in check.

The action by the department also further points out the inadequacy of the set-aside approach. We now have to pay out additional money to move production levels back to the point we had attained under the 1965-69 supply management program.

The Administration doesn't need this legislation we are discussing today. It has statutory authority to increase loan rates on wheat and feed grains and to make other needed adjustments in these programs administratively.

However, even though the Secretary of Agriculture promised, before his confirmation, that he would take prompt action to improve farm prices, little has been done.

Soon after the Secretary took office, he announced that the Department of Agriculture would begin buying corn in the open market. My first concern was that such an action, without proper safeguards, might bring short-term increases in prices but would result in the buildup of burdening inventories which would overhang the market.

As you know, Mr. Chairman, when he announced the purchase, the Secretary did not say how much would be purchased or how the Department would handle the inventory.

But, so far, my concerns about the buying program have been unnecessary. Purchases have been so small, they have no effect. Corn prices have only made a normal after-harvest rise. But they are still 20¢ a bushel below those of a year ago.

During the first four weeks of the USDA buying activity, only 7.7 million bushels of corn were purchased. That is like trying to unload a grain elevator with a teaspoon. We have at least 25 counties in the State of Minnesota which each produce more than 7.7 million bushels annually. Five of those counties produce double that amount.

Therefore, Mr. Chairman, I am convinced that Congress must take action requiring the Administration to implement a more substantial program.

Another objection the Administration has expressed is that increased prices will dull our competitive edge in export markets. The Department of Agriculture has been using exports as an argument in several aspects of the farm situation. I know that the export market is important to farmers. But higher prices due to this loan increase we're asking for will not cut into the size of export sales of farm commodities. In fact, since devaluation of the dollar, our grain prices have been exerting downward pressure on world prices. Devaluation has cut the wheat prices by 15¢ a bushel in world trade. Japan, for example, is now able to purchase as much wheat for 225 yen as it could for 265 yen two months ago.

At the recent annual convention of the National Association of Wheat Growers, guest speakers representing the European Common Market, Canada and Australia, urged the United States to stop depressing World prices. These distinguished spokesmen expressed concern that U.S. moves toward an export policy which uses low prices to gain new markets may inspire cut throat competition.

Mr. Chairman, we should not allow the American farmer to be forced into a position of subsidizing that type of cut throat competition. I urge immediate passage of H.R. 1163, and S.J. Res. 172.

STATEMENT BY SENATOR HUBERT H. HUMPHREY SUBMITTED TO THE SENATE COMMITTEE ON AGRICULTURE AND FORESTRY IN SUPPORT OF H.R. 1163 AND S.J. RES. 172

Mr. Chairman, on November 10, 1971, I appeared before Senator Everett Jordan's Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, of which I am a Member, in support of my own "Strategic Storable Agricultural Commodities Act of 1971," S. 2729 and S.J. Res. 172, my bill to require the Administration to adopt more effective production programs for wheat and feed grains in 1972. (A copy of that testimony is attached.)

The House subsequently enacted H.R. 1163 by a narrow margin of votes. And, on December 15, 1971, our Senate Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices voted to favorably report H.R. 1163 to the Full Senate Committee on Agriculture and Forestry. I strongly supported that action and I was joined in that support by both Democrat and Republican Members of the Subcommittee.

Today's hearings, with a Full Committee vote promised on H.R. 1163 and S.J. Res. 172 on Wednesday of this week, are in keeping with your promise to move promptly on these bills this Session—in that the Full Committee was unable to consider these bills in the closing days before adjournment last year.

Mr. Chairman, I want to restate my strong support for H.R. 1163 even though much valuable time has been lost since I first introduced S. 2729 and S.J. Res. 172.

At that time it was apparent that as a result of the inadequacy of the Administration's "set-aside" program for 1971, the Administration's desire to rebuild depleted feed grain stocks, and favorable weather, farmers had planted too many acres to both wheat and feed grains. They were harvesting record large crops—crops which were too large for available market outlets, and more feed grains than were needed to rebuild stocks to normal levels. Prices to farmers consequently were severely depressed.

Farmers had been asked by the Administration to increase their plantings of feed grains because of the danger of a second year of severe losses from corn blight. They were assured that if the blight did not strike again as it had in 1970, the extra feed grains would be needed to replenish carryover stocks. But, the Administration forced farmers to assume all of the risks of low prices which go with record harvests. It kept price supports at the level established for surpluses, $1.05 a bushel for corn and $1.25 a bushel for wheat.

Farmers were asked to produce enough to assure stable supplies at highly favorable prices for processors and consumers, but when they began harvesting record crops, corn prices were allowed to drop a third and more.

This, to say the very least, is a shabby way to treat producers who responded actively to the Administration's request.

It is against a background of Administration actions of "too little and too late" that I continue to urge the passage of H.R. 1163 at the earliest possible moment.

I will not take the time to recount fully the income losses to producers as a result of the ineffective "set aside" program and the record crops they have harvested.

The combined value of the 1971 wheat and feed grain crops and government payments are almost 1 billion less than in 1970 when the short corn crop was harvested.

It is true that too much of the 1971 crops already have been sold by hard-up producers. But, the 1971 wheat and feed grains placed under CCC price support loans are setting new records as producers, hard up for cash, have tried to put off the sale of their crops at low surplus prices.

Also, everyday I get reports of producers who have been holding their 1971 crops in the hope that Congress would act to restore market prices to a reasonable level.

Yes, it is unfortunate that H.R. 1163 was not approved by the Congress in October.

But if it is approved at this late date it will "keep the faith" with many, many producers who have placed their 1971 crops under price support loans, or have been holding their crop in expectation that their government eventually would be fair with them. It is the only legislative action that the Congress can take at this late date, because of parliamentary problems.

Now I want to respond to the Administration's objections to this bill.

Secretary Butz, in a letter to Chairman Talmadge, on January 18, 1972 said, "High export subsidies would be required to maintain exports and this would be in conflict with trade policies of the United States."

Mr. Chairman, since the 1971–72 price support levels were announced, the United States dollar has been revalued in terms of

world currencies. A dollar is now worth 12 or 13 percent *less* in foreign currencies than it was 6 months ago.

In my view a Secretary of Agriculture who really is concerned about the economic welfare of family farms would be knocking on the White House door with a proposal for raising price supports by at least the amount of the dollar devaluation, rather than digging in his heels to maintain the status quo after the ground rules have been changed.

Our Canadian and Australian friends are complaining that U.S. sales policies are a key factor in depressing world wheat prices.

I am convinced that if we would join other nations in placing a floor under world wheat prices in the international wheat agreement we could be selling our high quality wheats for more dollars than in recent weeks.

I also would call your attention to the fact that the seasonal average price of corn last year was $1.32 a bushel before the dollar was devalued 12 to 13 percent.

A price support level of $1.31 a bushel for corn for the 1971 and 1972 crops, with the dollar devalued, is comparable to a price support level of about $1.16 previous to December 1971. This is substantially less than the world price of corn last year.

Secretary Butz also said "The big increase in grain prices as a result of the provisions of this bill would have a significant impact on the livestock-poultry sector, reducing production and increasing prices to unprecedented levels."

Mr. Chairman, the Statistical Reporting Service reported that in November and December feed grain prices were 10 percent lower than in 1967 and livestock prices were 20 percent higher than they were in 1967.

Let's be fair with grain producers. Feed grains in November and December were 8 percent lower, yet retail bakery prices were fully 15 percent higher than in 1967.

Let's not blame farmers for continually rising retail food prices. Twenty years ago farmers received $2.00 a bushel for wheat and their wives paid 15 cents for a loaf of bread. In the past 3 months, farmers received $1.32 a bushel for wheat and their wives paid over 25 cents for bread.

Twenty years ago farmers received $1.50 a bushel for corn and paid 17 or 18 cents for a box of corn flakes. In the past 3 months farmers received $1.00 a bushel for their corn yet their wives had to pay 33 to 35 cents a box for corn flakes.

Let's not fall into the "cheap food" sink hole. Farmers can be paid a fair price for their products without—to use Secretary Butz' words, "increasing prices to unprecedented levels."

Secretary Butz in his letter to Chairman Talmadge objecting to H.R. 1163 said. "The result would be a substantial increase in production just at a time when we really need to hold it down."

It was in anticipation of this objection that I introduced S.J. Res. 172. This resolution directs the Secretary of Agriculture to announce a more effective wheat acreage adjustment program and shift to a base acreage diversion program for feed grains in 1972.

In commenting on the additional voluntary set-aside program for wheat in 1972, which goes far toward meeting the objectives of S.J. Res. 172 as far as wheat is concerned, I questioned its adequacy to achieve fully the goal of holding production in check.

I said, "The failure of the set-aside approach should now be obvious to both the Administration and the Congress.

"We now have to pay an enormous additional sum of money to get back to the production level we attained under the 1965–69 supply management program we gave up for the set-aside approach."

The Administration has the statutory authority to increase loan rates on wheat and feed grains and to make the other needed adjustments in these programs administratively. Additional legislation is not required in order for them to act.

However, despite all their talk about farm prices being too low, Secretary Butz and the Administration have refused to take the actions needed to provide our nation's farmers with more effective programs to accomplish that goal.

Therefore, I am convinced that even at this late date, Congress must take the initiative and *require* the Administration to take the actions needed.

Prompt enactment of H.R. 1163 to bring immediate improvement in grain producers' economic position and passage of my S.J. Res. 172 to require the Administration to adopt more effective production programs for 1972 are essential if we are to keep these producers from economic ruin this year.

Therefore, Mr. Chairman, I urge immediate passage of these measures.

TRIBUTE TO MISS KATE EDENFIELD

Mr. THURMOND. Mr. President, we live in a world of change. This is, on balance, a good thing because change can bring improvement and growth. While change is not synonomous with improvement, it is evident that our country has grown to heights unique in the history of the world.

It is refreshing sometimes to look back through the changing years to days when life are simpler. We do this, not from a nostalgia that longs for a return to that life, but from the knowledge that we gain stability by maintaining our ties with years gone by. The past has much to teach us, and only when we are willing to build upon the lessons of the past are we able to build toward a better future.

An editorial published in the Aiken, S.C., Standard of November 2, 1971, honors a family which serves as a link between the cherished past and a productive present. The editorial, entitled "Miss Kate Edenfield, Dedicated North Augustan," pays tribute to a wonderful lady and her family. In so doing, it traces the growth and development of North Augusta, S.C., from its earlier days to the present, and it calls attention to the vital contribution the Edenfield family made to that progress.

This is not just a South Carolina story, nor even a Southern story. It is an American story, one that I am pleased to share with the Senate.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

MISS KATE EDENFIELD, DEDICATED NORTH AUGUSTAN

(By C. W. Kilbey)

The Edenfield family that arrived in North Augusta in 1907 is still well represented there. Some of the best-known members of that family remaining are, perhaps, Ralph E. Edenfield, who is the town's postmaster, Julia Kate Edenfield, well known as "Miss Kate," and J. Ryerson Edenfield. He was the father of Dr. J. R. Edenfield Jr., who practiced medicine in Aiken until his death.

Mr. and Mrs. Edenfield and their 10 children had originally lived on a farm near Allendale and later farmed near Williston.

Mr. Edenfield bought and operated a grocery and general store on the corner of Lincoln and Telfair Streets in Augusta for a time. But decision was made to buy a store in North Augusta owned by P. L. Nurnberger, the deal was closed, and the Edenfields took over the business in October 1907 and moved into the big 2-story house built onto the store building itself. (Incidentally, that structure and one other building are the only two original structures left of old North Augusta on the west side of Georgia Avenue between Buena Vista and Kackson Avenues.)

In those days, North Augusta was primarily a tourist town catering to winter visitors. It had been incorporated in 1906, and Miss Kate remembers the very fine homes to be found in the little community—some of which are still standing. There was also the big Hampton Terrace Hotel, and she well remembers the hotel's carriages with their beautiful horses, uniformed black coachmen, and happy visitors living at the hotel as they drove down unpaved Georgia Avenue. There wasn't much to see—three grocery and general merchandise stores, a few other small shops, and some churches.

Recreational facilities were scarce in North Augusta in those days. The young folk would take long leisurely walks in companionable groups on pleasant Sunday afternoons. Their destination was usually the rock quarry, not too far a walk from the town's center.

Miss Kate says that the trolley car used to pass within a block of their home, and it was a frequent occurrence for her to go with others for a ride on the trolley car to Graniteville. Lunch baskets were always taken along, and the high spot of the trip would be a picnic lunch enjoyed under the shade of big trees found in the Graniteville park.

The Hampton Terrace Hotel had its own special trolley car. A run would be made from North Augusta to the then-busy railroad station in Augusta to meet the trains bringing patrons from the north. The front section of the trolley was equipped with seats; the back section was seatless and used instead for the many pieces of baggage brought by the visitors. It was a convenient arrangement for all.

Much of the area now occupied by the city hall, the shopping plaza, and adjacent ground was at that time a much-used 18-hole golf links. Golf clubs were as standard a part of the winter visitor's luggage as was his razor.

The Edenfield store was doing a satisfactory business in those days. An addition to its stock of goods was school books, which were sold to students at the nearby school. They originally operated a horsedrawn delivery wagon, but this was later replaced by a truck.

The Edenfield home had 5 bedrooms on the second floor plus 3 or 4 huge rooms on the first floor. That space was often needed, for 21 members of the family and friends joined together for at least one Christmas celebration that Miss Kate remembers.

One of Miss Kate's treasures is a so-called "brass clock" made in 1849. Since clock repairmen were in short supply in those days, the brass works of the clock could be taken out by the owner, washed, oiled, and replaced with a minimum of effort. The clock strikes the hour and still keeps perfect time.

Miss Kate started early as an ardent worker in the nearby Baptist Church. When she grew up, she taught Sunday school classes for many years and was also quite active in other aspects of church and community affairs. Her dedication has not gone unnoticed. For instance, on December 11, 1967, she was presented with a replica of an open golden book bearing the seal of the National Exchange Club. One page of the open book has engraved on it, "Exchange Club Book of Golden Deeds." The opposite page bears the legend: "Presented by the Exchange Club of North Augusta to Julia Kate Edenfield in recognition of her service to others and to the community."

The First Baptist Church of North Augusta, of which Miss Kate has been a member for 64 years more or less, has also been well aware

of her great contribution of time and energy over the years.

In October 1957, that church had a "Miss Kate Edenfield Day" in recognition of her having been serving it for 50 years.

In 1970, the church's bulletin had an entry in it calling attention to the fact that she had then been working for the church's best interests for 63 years, that she was still active in the children's division of the Sunday school and the church's training program, that she was a true representative of the "life beautiful," and that the entire membership was proud to claim her for their own.

North Augusta has seen many changes since 1907. The former Edenfield store is now a place where poodles are clipped and trimmed. The town's population has greatly increased, and its enlarged business district and modern shipping center are important additions to the town's life. But Miss Kate has remained firm in her philosophy and her faith, bright of mind and serene in her outlook on the world.

SECRETARY BUTZ OPPOSES WHEAT AND FEED GRAIN LOAN RATES

Mr. HUMPHREY. Mr. President, the Secretary of Agriculture, Dr. Earl Butz, testified this morning before the Committee on Agriculture and Forestry in opposition to H.R. 1163, the House-passed grain reserve bill, which contains a mandatory increase of 25 percent in 1971 and 1972 loan rates for wheat and feed grains. He also expressed his opposition to any adjustments being made in the 1972 feed grains program similar to what my Senate Joint Resolution 172 would require, namely, a return to voluntary base-acreage program.

Mr. President, Secretary Butz is opposed even to loan rate increases that would equal the 12 to 13 percent devaluation of the dollar that has occurred. I was truly shocked that a Secretary of Agriculture would publicly state that even such a minimum adjustment would be bad. U.S. grains are selling close to 13 percent less in European and other overseas markets today as a result of the devaluation. This, of course, is driving world prices for these grains down to new record lows. In taking such a hard-line position against any increases or adjustments in loan levels, farmers have every right to now question the credibility of any further statements that may be made by Secretary Butz about wanting to increase farm prices or incomes.

It was also brought out in today's committee hearings that USDA has sold 7 million bushels more corn than it purchased since starting their corn buying program. No wonder USDA purchases of corn have had no effect on the market.

The Secretary also was very liberal in use of figures this morning. On several occasions he used figures that were found later in the hearing to be grossly inaccurate or at best to be mere guesses. He said that the Government costs under H.R. 1163 would greatly be increased, yet he ignored that the adjustments called for in my Senate Joint Resolution 172 regarding the 1972 programs, would hold any added costs to a minimum while substantially increasing the value of the crops.

Although the administration has had the authority right along to increase loan rates and to return to a more effective supply-management-type program in 1972, they have refused to take any initiatives. Now they try to berate H.R. 1163 because the lateness of its possible enactment might provide some benefits to the grain trade in addition to farmers. It is also interesting to note on this point that the Secretary admitted that his present corn buying program had the same weakness. Of course, the way to avoid or minimize the benefits that might go to the trade is to promptly enact H.R. 1163 and Senate Joint Resolution 172. Further delays will minimize benefits for farmers and increase those for the trade. Most farmers are still holding onto their grain, awaiting action by the Senate. But, they cannot hold on for much longer. That is why we must pass these bills immediately.

Mr. President, Secretary Butz tried hard to pick apart other provisions of H.R. 1163 in the hopes of discrediting it. However, practically all of his criticisms were proven to be completely invalid.

Congressman NEAL SMITH of Iowa also appeared before the committee today and he did an excellent job of destroying every one of Secretary Butz' arguments against enactment of this legislation. Senator MONDALE and Congressman BERGLAND from my State of Minnesota also made excellent statements in support of H.R. 1163 and Senate Joint Resolution 172.

Mr. President, so that Senators can better understand the true dimensions of this debate, I ask unanimous consent that my statement and those presented by Representatives SMITH and BERGLAND and Senator MONDALE be printed in the RECORD.

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

JANUARY 24, 1972.

STATEMENT BY SENATOR HUBERT H. HUMPHREY

Mr. Chairman, on November 10, 1971, I appeared before Senator Everett Jordan's Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, of which I am a Member, in support of my own "Strategic Storable Agricultural Commodities Act of 1971," S. 2729 and S.J. Res. 172, my bill to require the Administration to adopt more effective production programs for wheat and feed grains in 1972. (A copy of that testimony is attached.)

The House subsequently enacted H.R. 1163 by a narrow margin of votes. And, on December 15, 1971, our Senate Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices voted to favorably report H.R. 1163 to the Full Senate Committee on Agriculture and Forestry. I strongly supported that action and I was joined in that support by both Democrat and Republican Members of the Subcommittee.

Today's hearings, with a Full Committee vote promised on H.R. 1163 and S.J. Res. 172 on Wednesday of this week, are in keeping with your promise to move promptly on these bills this Session—in that the Full Committee was unable to consider these bills in the closing days before adjournment last year.

Mr. Chairman, I want to restate my strong support for H.R. 1163 even though much valuable time has been lost since I first introduced S. 2729 and S.J. Res. 172.

At that time it was apparent that as a result of the inadequacy of the Administration's "set-aside" program for 1971, the Administration's desire to rebuild depleted feed grain stocks, and favorable weather, farmers had planted too many acres to both wheat and feed grains. They were harvesting record large crops—crops which were too large for available market outlets, and more feed grains than were needed to rebuild stocks to normal levels. Prices to farmers consequently were severely depressed.

Farmers had been asked by the Administration to increase their plantings of feed grains because of the danger of a second year of severe losses from corn blight. They were assured that if the blight did not strike again as it had in 1970, the extra feed grains would be needed to replenish carryover stocks. But, the Administration forced farmers to assume all of the risks of low prices which go with record harvests. It kept price supports at the level established for surpluses, $1.05 a bushel for corn and $1.25 a bushel for wheat.

Farmers were asked to produce enough to assure stable supplies at highly favorable prices for processors and consumers, but when they began harvesting record crops, corn prices were allowed to drop a third and more.

This, to say the very least, is a shabby way to treat producers who responded actively to the Administration's request.

It is against a background of Administration actions of "too little and too late" that I continue to urge the passage of H.R. 1163 at the earliest possible moment.

I will not take the time to recount fully the income losses to producers as a result of the ineffective "set aside" program and the record crops they have harvested.

The combined value of the 1971 wheat and feed grain crops and government payments are almost 1 billion less than in 1970 when the short corn crop was harvested.

It is true that too much of the 1971 crops already have been sold by hard-up producers. But, the 1971 wheat and feed grains placed under CCC price support loans are setting new records as producers, hard up for cash, have tried to put off the sale of their crops at low surplus prices.

Also, everyday I get reports of producers who have been holding their 1971 crops in the hope that Congress would act to restore market prices to a reasonable level.

Yes, it is unfortunate that H.R. 1163 was not approved by the Congress in October.

But if it is approved at this late date it will "keep the faith" with many, many producers who have placed their 1971 crops under price support loans, or have been holding their crops in expectation that their government eventually would be fair with them. It is the only legislative action that the Congress can take at this late date, because of parliamentary problems.

Now I want to respond to the Administration's objections to this bill.

Secretary Butz, in a letter to Chairman Talmadge, on January 18, 1972 said, "High export subsidies would be required to maintain exports and this would be in conflict with trade policies of the United States."

Mr. Chairman, since the 1971–72 price support levels were announced, the United States dollar has been revalued in terms of world currencies. A dollar is now worth 12 or 13 percent *less* in foreign currencies than it was 6 months ago.

In my view a Secretary of Agriculture who really is concerned about the economic welfare of family farms would be knocking on the White House door with a proposal for raising price supports by at least the amount of the dollar devaluation, rather than digging in his heels to maintain the status quo after the ground rules have been changed.

Our Canadian and Australian friends are complaining that U.S. sales policies are a key factor in depressing world wheat prices.

I am convinced that if we would join other nations in placing a floor under world wheat prices in the international wheat agreement

we could be selling our high quality wheats for more dollars than in recent weeks.

I also would call your attention to the fact that the seasonal average price of corn last year was $1.32 a bushel before the dollar was devalued 12 to 13 percent.

A price support level of $1.31 a bushel for corn for the 1971 and 1972 crops, with the dollar devalued, is comparable to a price support level of about $1.16 previous to December 1971. This is substantially less than the world price of corn last year.

Secretary Butz also said "The big increase in grain prices as a result of the provisions of this bill would have a significant impact on the livestock-poultry sector, reducing production and increasing prices to unprecedented levels."

Mr. Chairman, the Statistical Reporting Service reported that in November and December feed grain prices were 10 percent lower than in 1967 and livestock prices were 20 percent higher than they were in 1967.

Let's be fair with grain producers. Feed grains in November and December were 8 percent lower, yet retail bakery prices were fully 15 percent higher than in 1967.

Let's not blame farmers for continually rising retail food prices. Twenty years ago farmers received $2.00 a bushel for wheat and their wives paid 15 cents for a loaf of bread. In the past 3 months, farmers received $1.32 a bushel for wheat and their wives paid over 25 cents for bread.

Twenty-years ago farmers received $1.50 a bushel for corn and paid 17 or 18 cents for a box of corn flakes. In the past 3 months farmers received $1.00 a bushel for their corn yet their wives had to pay 33 to 35 cents a box for corn flakes.

Lets not fall into the "cheap food" sink hole. Farmers can be paid a fair price for their products without—to use Secretary Butz' words, "increasing prices to unprecedented levels."

Secretary Butz in his letter to Chairman Talmadge objecting to H.R. 1163 said, "The result would be a substantial increase in production just at a time when we really need to hold it down."

It was anticipation of this objection that I introduced S.J. Res. 172. This resolution directs the Secretary of Agriculture to announce a more effective wheat acreage adjustment program and shift to a base acreage diversion program for feed grains in 1972.

In commenting on the additional voluntary set-aside program for wheat in 1972, which goes far toward meeting the objectives of S.J. Res. 172 as far as wheat is concerned, I questioned its adequacy to achieve fully the goal of holding production in check.

I said, "The failure of the set-aside approach should now be obvious to both the Administration and the Congress.

"We now have to pay an enormous additional sum of money to get back to the production level we attained under the 1965–69 supply management program we gave up for the set-aside approach."

The Administration has the statutory authority to increase loan rates on wheat and feed grains and to make the other needed adjustments in these programs administratively. Additional legislation is not required in order for them to act.

However, despite all their talk about farm prices being too low, Secretary Butz and the Administration have refused to take the actions needed to provide our nation's farmers with more effective programs to accomplish that goal.

Therefore, I am convinced that even at this late date, Congress must take the initiative and *require* the Administration to take the actions needed.

Prompt enactment of H.R. 1163 to bring immediate improvement in grain producers economic position and passage of my S.J. Res. 172 to require the Administration to adopt more effective production programs for 1972 are essential if we are to keep these producers from economic ruin this year.

Therefore, Mr. Chairman, I urge immediate passage of these measures.

STATEMENT BY CONGRESSMAN NEAL SMITH

Mr. Chairman and Members of the Committee. I appreciate the opportunity to appear before your Committee in support of H.R. 1163 as it passed in the House of Representatives. I want to present some statistical information on prices which I believe thoroughly refutes the Department's view as to what has happened the past 4 months and what is required to provide some meaningful relief for the grain producers of this country. I also want to reply on a point by point basis to their latest negative report on H.R. 1163 which was issued last Tuesday and directed to Senator Talmadge, the Chairman of this Committee. This represents the fourth change in the excuses they are using to oppose this bill. First I would like to deal with their statement on a point by point basis.

Statement by the Department: "A 25 percent increase in present loan rates would result in a loan level of $1.31 for corn and $1.56 for wheat. Should the loan rates be raised to these levels, the strategic reserve concept would be nullified since the maximum price would be set at $1.17 per bushel for corn and $1.37 per bushel for wheat."

Answer: The $1.17 maximum price which can be paid under the bill can be paid in October or during the first part of the marketing year. To receive the $1.31 loan level, the producer would be required to keep the corn until next August and pay for storage and other costs totalling at least 11 cents. Therefore, the $1.17 price at the beginning of the marketing year (October 1) is approximately equal to the $1.31 loan price gained at the end of the marketing year. It was very misleading for the Department to try to indicate that farmers would receive all of the $1.31 now. Most tenant farmers do not have storage facilities and must pay storage costs at an elevator. The vast majority of producers who own farms do not have enough storage for all the grain produced this year. Those who do have an investment in storage facilities have shrinkage, insurance, interest and other cost totalling about the same as commercial storage costs.

Secretary Butz made a public statement in December to the effect that farmers are receiving payment for storage on this 1971 corn crop but that is totally incorrect and I assumed that since the inaccuracy of those statements were called to their attention, they would not try to mislead this Committee with some kind of erroneous figures which include storage in one instance and do not in the other.

The goal of the reserve provisions of H.R. 1163 is not to accumulate corn regardless of price, but to accumulate it only at times when the price is low and the surplus is great. If for any reason, the price were to rise to above $1.17 on the farm, that would be a better situation than we now have and happily we could then delay further acquisitions until next fall or when the price becomes worse. This is the kind of nullification of the necessity to buy grain which we seek and in no case is an argument against having standby authority to buy for a reserve.

Statement by the Department: "Increasing loan rates, with the resulting increases in season average prices, would further increase carryovers since utilization declines with higher prices."

Answer: This statement proves that the Department wants to see a huge fluctuation in livestock and poultry supplies to correspond to the change in grain supplies. When prices of grain are low anyway, it is the increase in marketable supply rather than an even lower price which causes the increased utilization. So it is the big increase in marketable supplies which causes both the lower prices and increased utilization. The marketable supply of grain which cannot find a home elsewhere will be fed to livestock and poultry and utilization would temporarily increase with a resulting glut in those markets. This is the reason a grain reserve would also help to stabilize meat supplies and prevent alternating surpluses and shortages of meat and poultry products.

The feed grain portion of the livestock dollar is so small that an increase of 10 cents or 15 cents per bushel from the drastically low prices of today would not cause hogs or cattle to be sold at lighter weights than normal. The same number of cattle and hogs would be sold and the Department recently released hog estimates showing that. However, if no home can be found for excessive supplies of grain, livestock will be kept to heavier weights adding fat. Thus, the increase in utilization would be the result of converting grain into fats rather than additional normal weight animals and lean meat. In the U.S., we already have so much fat on beef that it is used to mix excessive quantities into processed meats and brokers also import huge amounts of excessively lean meat to mix with it. So the kind of increase in utilization which will occur with these drastically low prices which result from such a high marketable supply of grain, will wreck the price paid to the farmer for livestock and poultry products but it would not provide a product needed by consumers and will do them little good price wise. This is not the kind of utilization increase our government should seek and is a reason for rather than against H.R. 1163.

Statement by the Department: *"Unrealistically* high loan rates would make it impossible for the voluntary feed grain and wheat programs to cope effectively with the U.S. farmer's production problem. The success of a voluntary program rests on the dollar return farmers can get from the program as against what they expect to get from the market. With overly-high market price guarantees, many more farmers will grow feed grains outside the program, shifting the burden of production adjustment to the remaining participants."

Answer: Their statement indicates they think that the equivalent of a $1.17 per bushel for corn at harvest time is "unrealistically high". Last year corn was 19 cents per bushel higher than that $1.17; and since it is now clear that the goal of the Department is to keep corn prices below the $1.17 level, then I say their goal is for an unrealistically low price. It is surely unrealistic to expect producers to pay their expenses and have any return from a lower price than that. Corn is now about $1.05 in central Iowa.

While there are arguments against a loan rate being considerably above what the open market can return (which is not the case under the prices in the bill), the argument they use against a higher loan rate is not valid. Producers are not eligible for the loans unless they stay in the program and set-aside acreage. When farmers can actually receive an "unrealistically" higher price by marketing through the Government than they can through the open market, that encourages them to stay in the supply adjustment program so that they can be eligible to receive the higher price. They then figure they can receive a larger net income from the reduced acreage raised. It is not the goal of the bill to have prices above what the open market can bear but if it did it would have the opposite result to the one they allege.

SUMMARY OF THEIR OPPOSITION AS STATED IN THE REPORT

All of the reasons they use for opposing the increase in average prices which would result from passage of this bill would also

apply to any increase in prices resulting from their current C.C.C. purchases. Therefore, it is obvious they do not intend to buy enough grain under C.C.C. purchases to increase the price of corn to $1.17 and the price of wheat to $1.37. They admit passage of this bill would provide those minimum prices and they oppose reaching that level. So the real difference of opinion is whether grain should be left at its present price, or, if it should be raised moderately to the minimum price of $1.17 for corn and $1.37 for wheat.

WHAT HAS HAPPENED AND WHAT IS NEEDED

I was amazed to see a statement in the President's message last week which is as follows: "A surprisingly large harvest drove corn prices down last year, *but they have risen sharply since last November.*" This corresponds with erroneous statements that the Department has been making. They have been comparing cash prices at local elevators in October with cash prices in late January. Even in years of normal production, there is a difference in October and January prices which reflect the cost of carrying the grain for those 4 months. In years of big surpluses like this year, handlers also extract higher margins because their services enjoy a buyer's market and they can take advantage of distress selling. That has in some years temporarily reduced prices as much as an additional 9 cents.

The Department's interchange of October and January prices gives a false picture of the situation and of what kind of action is needed. To give an accurate comparison of prices, one should look at the closing corn futures prices for December, March, May and possibly July. For any who can find storage one way or another, these prices determine their effective cash price at an earlier date because they can hedge on the futures market as long as the difference equals the cost of holding the grain until that time.

I have submitted to Members of the Committee a day by day closing corn futures price beginning October 1st and running through last Friday. A study of that compilation indicates that corn right now is only 3 cents above the price of October 1st. There were 2 periods when the price increased a few additional cents per bushel. One of those periods was a few days at the beginning of December when Senators on this Committee drew from the prospective Secretary Butz promises that if confirmed he would take sufficient action to increase the price of corn and grain. Almost everyone interpreted that to mean that they would buy large quantities of grain and hold it. In a 3 day period corn went up 4 cents per bushel. The other period when prices increased included the three marketing days following passage of H.R. 1163 by the House of Representatives. Prices increased an additional 3 cents. I think this proves that the only effective remedy is through removal of large quantities of grain from the market and insulating it against re-entry until needed.

Immediately following Christmas, Secretary Butz started making numerous public statements and in that and other ways has indicated that in spite of his previous promises to the Members of the Committee, he is opposed to any effective action to increase grain prices. They purchased only 10 million bushels of corn in a six week period. Pessimism has invaded the grain market again. As a result the price, as of today, is only 3 cents above the price the first day of October.

The Department as an alternative to reducing marketable supply through purchases has tried various public relations gimmicks but they have had little or no effect. They dramatized the announcement of the sale of grain to Russia. They dramatized the announcement of a feed grains program for next year and obviously over-estimated its effectiveness. Also, various statements have attempted to blame dock strikes for all the problems but the grain trade cannot be fooled that easily because it knows that the surplus is so great that a reduction of 10 million bushels in exports of corn in October and November, or a sale of 40 million bushels of corn to Russia, or a set-aside program projecting a possible modest reduction in production is by comparison to the 950 million bushels surplus of insufficient magnitude to make any appreciable difference on the market. The statistical documents I have presented to the Committee prove this to be the case because I have inserted in the list of prices the events which occurred and you will notice that the only events that had any significant effect on the market were those related to promises or actions that gave hope that significant amounts of grain would be removed and insulated from the market. If this bill does not pass and that hope is eliminated, the part of the gain which now resides in the market as a result of this hope will also disappear. It is now crystal clear that the Department of Agriculture will not do enough to increase prices to the moderate level of $1.17 for corn and $1.37 for wheat and there will be no such increase unless this bill passes. In fact, defeat of this bill could very well cause prices to drop the 5 cents they gained in early December. If farmers are forced to adapt to existing prices or die, indeed more will die.

I thank the Committee for this opportunity to appear and strongly urge passage of H.R. 1163 at the earliest possible time.

CLOSING CORN FUTURES PRICES, CHICAGO [1]—(TO NEAREST CENT)

Date	Change (nearest option)	December	March	May	July
(The Atlantic and Gulf Port Longshoremens contract expired and dock strikes began.)					
Oct. 1		1.13	1.18	1.21	1.23
Oct. 4		1.13	1.17	1.20	1.23
Oct. 5		1.13	1.18	1.21	1.23
(H.R. 1163 voted on favorably by House Committee.)					
Oct. 6	+2	1.15	1.19	1.22	1.24
Oct. 7	−1	1.14	1.19	1.22	1.24
Oct. 8		1.14	1.19	1.22	1.24
Oct. 11	+1	1.15	1.20	1.22	1.25
Oct. 12		1.15	1.19	1.22	1.24
(USDA crop report estimates bigger corn crop.)					
Oct. 13	−1	1.14	1.18	1.22	1.24
Oct. 14		1.14	1.19	1.22	1.25
Oct. 15	+2	1.16	1.21	1.24	1.26
Oct. 18		1.16	1.21	1.25	1.27
Oct. 19		1.16	1.21	1.24	1.26
Oct. 20	+2	1.18	1.23	1.26	1.28
Oct. 21	+1	1.19	1.24	1.27	1.29
Oct. 22	−1	1.18	1.23	1.26	1.28
Oct. 25	−1	1.17	1.22	1.25	1.27
Oct. 26	−1	1.16	1.21	1.24	1.26
Oct. 27		1.16	1.21	1.24	1.26
Oct. 28		1.16	1.21	1.24	1.26
Oct. 29		1.16	1.21	1.24	1.26
Nov. 1	−1	1.15	1.20	1.23	1.25
Nov. 2	−1	1.14	1.19	1.22	1.24
Nov. 3	+1	1.15	1.19	1.22	1.24
Nov. 4		1.15	1.19	1.22	1.24
Nov. 5	+1	1.16	1.20	1.23	1.25
(Grain sale to Russia announced.)					
Nov. 8		1.16	1.20	1.23	1.25
Nov. 9		1.16	1.19	1.22	1.24
Nov. 10	−1	1.15	1.19	1.22	1.24
Nov. 11		1.15	1.19	1.22	1.25
(USDA Crop Report shows another increase in corn estimate.)					
Nov. 12		1.15	1.20	1.23	1.25
Nov. 15	−1	1.14	1.19	1.22	1.25
Nov. 16		1.14	1.19	1.22	1.24
Nov. 17	+1	1.15	1.19	1.22	1.25
Nov. 18		1.15	1.19	1.22	1.24
Nov. 19		1.15	1.19	1.22	1.25
Nov. 22		1.15	1.19	1.22	1.25
Nov. 23		1.15	1.20	1.23	1.26
(80-day cooling-off period for dock-strikers ordered.)					
Nov. 25	+1	1.16	1.21	1.24	1.26
Nov. 26		1.16	1.21	1.24	2.16
(H.R. 1163 formally reported from the committee and widespread reports appeared on National News as to its provisions.)					
Nov. 29	−1	1.15	1.20	1.23	1.25
Nov. 30	−1	1.14	1.19	1.23	1.25
(Senators draw promises from Prospective Secretary Butz to take effective action to increase corn prices.)					
Dec. 1	+1	1.15	1.20	1.23	1.26
Dec. 2	+1	1.16	1.21	1.24	1.26
Dec. 3	+2	1.18	1.23	1.26	1.28
(After market closed, Secretary Butz announced he will buy corn—also stated he won't guarantee any certain amount will be purchased.)					
Dec. 6		1.18	1.23	1.26	1.28
Dec. 7	−1	1.17	1.22	1.25	1.27
Dec. 8	−1	1.16	1.22	1.25	1.27
(H.R. 1163 passed the House at approximately 1:00 A.M.)					
Dec. 9	+2	1.18	1.24	1.27	1.29
Dec. 10		1.18	1.24	1.27	1.29
Dec. 13	+1	1.19	1.25	1.28	1.30
Dec. 14	−1	1.18	1.23	1.27	1.29
Dec. 15	+1	1.19	1.24	1.27	1.29
Dec. 16	−1	1.18	1.23	1.26	1.29
Dec. 17	+1	1.19	1.24	1.27	1.29
Dec. 20		1.19	1.23	1.26	1.29
Dec. 21			1.22	1.26	1.28
Dec. 22			1.22	1.25	1.28
Dec. 23			1.22	1.26	1.28
Dec. 27			1.22	1.25	1.28
Dec. 28			1.22	1.26	1.28
Dec. 29	+1		1.23	1.26	1.28
Dec. 30			1.23	1.26	1.29
Jan. 3, 1972			1.22	1.26	1.28
Jan. 4			1.22	1.25	1.28
Jan. 5			1.22	1.26	1.28
Jan. 6	+1		1.23	1.26	1.28
Jan. 7	−1		1.22	1.26	1.28
Jan. 10			1.22	1.25	1.28
Jan. 11			1.22	1.25	1.27
Jan. 12	−2		1.20	1.23	1.26
Jan. 13			1.20	1.24	1.26
Jan. 14	+1		1.21	1.24	1.26
Jan. 17	+1		1.22	1.25	1.27
Jan. 18	−1		1.21	1.24	1.27
Jan. 19			1.21	1.25	1.27
Jan. 20			1.21	1.24	1.27
Jan. 21			1.21	1.24	1.27

[1] The Chicago prices quoted herein are always above the average farm prices used as a basis in H.R. 1163. For example, from central Iowa, transportation to Chicago costs about 17 cents and the effective backed-off price for that grain going to Chicago would be about 20 cents less than the Chicago price.

STATEMENT BY HON. BOB BERGLAND

Mr. Chairman and Members of this Committee, I am grateful to you for giving me this chance to appear in support of H.R. 1163. My two House colleagues, Congressman Smith and Congressman Melcher, who preceded me at this hearing, have made an excellent case in support of this legislation. My purpose today is to urge prompt passage of the House bill *as written without change.*

I actively supported this bill in the House. When I was lobbying for this bill among my city colleagues in the House, I found many of them surprised to learn that grain farmers, having produced the biggest crops on record, were being put through the economic ringer. Congressmen, who represent our urban areas, had noticed widely-publicized pictures of corn being piled in some farm town streets and wheat bulging in the granaries. They assumed such abundance meant prosperity. The fact is the farmer is being penalized for this year's *big* crop. This year's big crop will bring less gross income to farmers than the 1970 crop that was stricken by drought and disease.

This bill, H.R. 1163, would guarantee a fair return to farmers. At times when our country is blessed with good weather and producing good crops, the farmer would be protected against an unfavorable market. In those years when bad weather, disease or pests should destroy or diminish our normal crop production, the nation would be assured of a steady food supply.

Mr. Chairman and Members of this Committee, I know that everyone among us would like to see some changes in our House-passed bill, but I am asking you to act favorably on H.R. 1163 *without change.* Just before midnight on December 8, 1971, this measure passed the House with 182 yeas, 170 nays, and 79 not voting. If this Committee in its wisdom were to change H.R. 1163 in any way, it would be sent to conference with the House to reconcile the differences.

Mr. Chairman, this bill passed the House with a 12 vote margin. As one who worked on this matter for three months, I am not sure we can again muster enough votes in the House to accept the report of the conferees. A conference would also delay final action and every day's delay is costly to our grain farmers and to our economy.

There are—in my judgment—a number of imperfections in the set-aside legislation under which we are now operating. One of the Members of this Committee, a Senator whom I regard as the greatest champion of the family farmer ever to rise out of my State of Minnesota, our own Senator Hubert Humphrey, has proposed several significant changes in his S.J. Res. 172.

I propose that any amendments to the set-aside program—such as S.J. Res. 172—be considered separately. Senator Humphrey concurs in this judgment.

I can assure you that those of us who pressed H.R. 1163 through the House will lend our support to any needed changes in the form of a separate bill or resolution.

Thank you very much for giving me this chance to appear at this hearing in support of what I consider to be the most important farm bill to be considered by this 92nd Congress.

TESTIMONY OF SENATOR WALTER F. MONDALE

Mr. Chairman, I am most grateful for the opportunity to testify before this Committee on behalf of H.R. 1163, and S.J. Res. 172. H.R. 1163 is a bill to increase the price support loans on wheat and feed grains by 25% and to establish a strategic reserve for wheat and feed grains. Senate Joint Resolution 172 also calls for a 25% loan increase for these crops. It also would establish a base acreage program for the 1972 feed grain crop and an additional voluntary acreage diversion for the 1972 wheat program.

I understand that the Department of Agriculture is now taking steps to implement the additional voluntary acreage diversion for the 1972 wheat program.

Mr. Chairman, I feel that here today, the heart of the issue concerning these measures is the 25% loan increase. This is what we need to pass now in the Senate. Every time I go home and talk to people in the farm country they tell me that truly, they are in the midst of a depression. They need an economic boost and they certainly have it coming.

The disaster in our farming areas is hidden. These people don't carry signs and they don't march. They suffer in silence. Many of them tighten their belts year after year, and some way, several make it. But each year many more are lost.

The social and economic costs of losing these people from our rural areas is high. It is difficult to show it statistically, but it is evident that, for about every five or six farmers that leave rural America, we lose one independent businessman.

What happens to these people? Of course they don't move directly to the slums of our cities. But every time a rural resident does move to the city to find work, jobs which could be given to city people are displaced. So, the rural to urban exodus is quite costly.

It is disastrous to continue allowing the stagnation and death of our fine rural communities while at the same time large cities are growing increasingly crowded and unmanageable.

These are long-run concerns and I think we need bold and very comprehensive measures aimed at stopping and reversing the exodus from rural America. I am hopeful that during this session of Congress we will enact some of the major rural development measures which have been introduced. Today is not the time to discuss these, however.

Rural development has been gaining increasing mention in speeches and news reports. But if you ask a real farmer about it he'll tell you that the biggest move toward rural development right now would be action to improve farm income.

The productive performance of independent family farmers needs no defense. As the President pointed out in his words to Congress last week, over the last 20 years the productivity of farmers has risen 3½ times as fast as that of non-farm industry. But during these years, farm prices have risen little, if at all. Increases in farm income have only been due to the ability of farmers to increase their productivity and narrow their margins. But now it is about time to start giving them increased prices which will increase their income.

Increased farm income helps the entire society and economy of our nation. Each year farmers use the natural resources and their own labor and management skills to create new wealth. Their products abundantly supply food and fiber needs of our nation. Exports provide a substantial boost to our balance of payments. Every dollar of farm income returned to farmers turns over several times in the economy to generate more income and more jobs in other industries.

These are just a few of the reasons why prompt enactment of these measures, the heart of which is the increased price support, is so important.

Enactment of the 25% loan increase for wheat and feed grains would mean added farm income of roughly $1.5 billion on the 1971 crops. This figure resulted from multiplying the total production by the eligible proportion and the result by the estimated price increase per bushel for wheat, corn, grain sorghum and barley, respectively. The bill also provides for 1972, so additional increases in income could be expected for the 1972 crop as well.

We are not asking for a handout for farmers; only a fair return. I have seen farmers' bookkeeping figures on the costs of producing corn in the State of Minnesota. These figures from topnotch farmers total from 90¢ to $1 per bushel in an excellent production year. Any unpredictable problems, such as wet conditions which delayed harvesting in several parts of the state, will add costs. The average price for corn in Minnesota during 1970 was $1.18 per bushel. During 1971, it was 98¢. Therefore it is evident that things aren't getting better out there.

The reason for the low prices is clear. The Agriculture Department misjudged last winter. They overestimated the possibility of corn blight and to give the American people insurance against food shortage, encouraged planting too much corn. The trouble with that type of insurance is that the farmer ends up paying the premium and the middleman gets the benefit.

I think it is time we give the farmers a break. It isn't his fault there is an increased inventory on corn. The farmer did a commendable job, and the weather was right and this resulted in a bumper crop. But he is getting paid less for this bumper crop than he received for the blight-depressed crop of 1970.

Although I have placed major emphasis on the price support loan increase, I also want to stress the importance of the strategic reserve aspect of this legislation. Mr. Chairman, I have supported the concept of a strategic reserve of storable commodities for some time. I believe that a reserve, totally insulated from the market for emergency use, would protect our markets. This is always important. It has never been so important to feed grain and wheat producers as it is at the present time. With the presence of last year's big crop, establishment of the reserve now could have two-fold benefits. It would remove sizable inventories from the market and at the same time, establish a much-needed reserve.

We have strategic reserves of other items important to our welfare and security of our nation. Why not a reserve of food?

Mr. Chairman, it is unfortunate that we didn't pass this legislation early last fall. Many farmers who had bills to pay at harvest time, had to sell their wheat or feed grains at loss. But the urgency of this legislation is not lessening now. The combined value of the 1971 wheat and feed grain crops and government payments is almost $1 billion less than it was in 1970 when the blight-depressed corn crop was harvested. I'm convinced that an increased price support and establishment of the reserve now would bring about needed boosts in farm income

Corporate food processors will probably oppose this legislation saying that it will place increased pressure on their input costs. I ask that we be fair to farmers. While wheat prices have dropped during the last year, the retail prices of bread have continued to rise. Still, the farmer's portion of the price of a loaf of bread is less than 10%.

Mr. Chairman, I'd like to reply to one of the administration's early objections to this legislation, as I see it. The Administration has pointed out that the result would be increased production at a time when we must hold production down.

That objection was anticipated when similar bills were introduced in the Senate early last fall. The administration's current production programs have proven they can't manage supply and give farmers a fair return. The Farmers' Income Improvement Act of 1971, S.J. Res. 172, was introduced to correct these inadequacies.

This resolution directs the Secretary of Agriculture to announce a more effective wheat acreage adjustment program for feed grains in 1972.

Although the Agriculture Department's recent announcement of an additional voluntary set-aside program for wheat in 1972 is a commendable move toward meeting the objectives of Senate Joint Resolution 172,

I am concerned that there is still a need for adequate measures to hold production in check.

The action by the department also further points out the inadequacy of the set-aside approach. We now have to pay out additional money to move production levels back to the point we had attained under the 1965–69 supply management program.

The Administration doesn't need this legislation we are discussing today. It has statutory authority to increase loan rates on wheat and feed grains and to make other needed adjustments in these programs administratively.

However, even though the Secretary of Agriculture promised, before his confirmation, that he would take prompt action to improve farm prices, little has been done.

Soon after the Secretary took office, he announced that the Department of Agriculture would begin buying corn in the open market. My first concern was that such an action, without proper safeguards, might bring short-term increases in price but would result in the buildup of burdening inventories which would overhang the market.

As you know, Mr. Chairman, when he announced the purchase, the Secretary did not say how much would be purchased or how the Department would handle the inventory.

But, so far, my concerns about the buying program have been unnecessary. Purchases have been so small, they have no effect. Corn prices have only made a normal after-harvest rise. But they are still 20¢ a bushel below those of a year ago.

During the first four weeks of the USDA buying activity, only 7.7 million bushels of corn were purchased. That is like trying to unload a grain elevator with a teaspoon. We have at least 25 counties in the State of Minnesota which each produce more than 7.7 million bushels annually. Five of those counties produce double that amount.

Therefore, Mr. Chairman, I am convinced that Congress must take action requiring the Administration to implement a more substantial program.

Another objection the Administration has expressed is that increased prices will dull our competitive edge in export markets. The Department of Agriculture has been using exports as an argument in several aspects of the farm situation. I know that the export market is important to farmers. But higher prices due to this loan increase we're asking for will not cut into the size of export sales of farm commodities. In fact, since devaluation of the dollar, our grain prices have been exerting downward pressure on world prices. Devaluation has cut the wheat prices by 15¢ a bushel in world trade. Japan, for example, is now able to purchase as much wheat for 225 yen as it could for 265 yen two months ago.

At the recent annual convention of the National Association of Wheat Growers, guest speakers representing the European Common Market, Canada and Australia, urged the United States to stop depressing world prices. These distinguished spokesmen expressed concern that U.S. moves toward an export policy which uses low prices to gain new markets may inspire cut throat competition.

Mr. Chairman, we should not allow the American farmer to be forced into a position of subsidizing that type of cut throat competition. I urge immediate passage of H.R. 1163, and S.J. Res. 172.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The time for the transaction of morning business has expired.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The PRESIDENT pro tempore. The Chair now lays before the Senate, under previous order, S. 2515, the unfinished business, with the amendment by the Senator from Colorado (Mr. DOMINICK) pending.

The clerk will read the bill by title.

The legislative clerk read as follows: A bill (S. 2515) to further promote equal employment opportunities for American workers.

The Senate resumed the consideration of the bill.

The PRESIDENT pro tempore. Under the previous order, 90 minutes remain under this amendment. Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time may be equally charged against both sides.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDENT pro tempore. The Senator may proceed.

Mr. DOMINICK. Mr. President, since the adoption last Thursday of the independent General Counsel amendment, there has been substantial speculation and discussion about its effect on my amendment. Some people interpret the vote on the independent General Counsel as a unanimous statement of approval for the amendment created machinery. I believe that the unanimous vote indicates instead a universal dissatisfaction with the cease and desist enforcement procedure. It represents a recognition that almost anything, however slight, can improve upon a poor system. The distinguished Senator from North Carolina (Mr. ERVIN) described the amendment best when he characterized its contribution toward an equitable enforcement procedure as being similar to starting off on the lengthy trip to heaven by stopping off at the first saloon on the way. I personally voted for the amendment because it does represent a first step, albeit into the saloon, toward impartial court enforcement of unlawful employment practices.

It is a step into the saloon, though, as it misleads many people into believing that an independent General Counsel actually will cure the defects and inequities of cease and desist enforcement. I submit that it will do no such thing. Its chief accomplishment will be to provide salve for the conscience of cease-and-desist proponents and throw a rather skimpy bone to respondents whose due process rights will continue to be violated.

An independent General Counsel is not the panacea for cease and desist enforcement because it does not even address itself to crucial problems inherent in the mechanism which frustrate employment grievance resolution.

Perhaps the most crucial defect the cease-and-desist mechanism promises is administrative snarls and unconscionable backlog delays. I say "promises" because use of a weaker verb would be misleading. What else can you expect from a system faced with an expanded jurisdiction of approximately 21 million potential aggrieved, substantial new "pattern and practice" and Federal contract compliance responsibilities, more complex and time consuming proceedings, only one available tribunal to issue cease and desist orders, and a staff lacking approximately 100 trained trial examiners, when the present commission backlog is over 32,000 cases and approximately 20 months on just investigation and conciliation cases? Contrast this with an existing Federal district court system of 93 courts and 398 judges with established reputations for fairness, discretion, and impartiality and a present median backlog, according to the most recent figures available, of 10 months from issue to trial.

Additionally, utilization of the courts as initial adjudicators of title VII actions will substantially increase the likelihood of voluntary settlements and thereby reduce the number of cases presented to the courts.

The imminence of court action, coupled with the threat of adverse publicity and immediately enforceable orders will serve as a powerful inducement to voluntary settlements.

A further factor that must be considered when determining the expediency of the two procedures is the effectiveness of the enforcement order. The independent General Counsel does not address itself to the defects in the cease and desist procedure which requires a two-step enforcement. The district court makes decisions and renders appropriate orders immediately enforceable by contempt citations issued by a person knowledgeable of the facts—the judge who heard the case and entered the order. On the other hand, a reluctant respondent who disregards a Commission-entered cease-and-desist order cannot be compelled to comply with the order by the Commission. Instead, the Commission must petition an appropriate U.S. Court of Appeals, file the Commission hearing record, and then prove that their findings are supported by substantial evidence in the record before a judge not familiar with the case enforces an order that he originally had no part in entering. Now the reluctant respondent is subject to contempt proceedings if he disobeys the court of appeals dictates. If the Commission wants to avoid showing that the findings are supported by substantial evidence in the record, they can wait for 60 days after the issuance of the order, at which time their findings are recognized by the Court as being conclusive.

This, in and of itself, puts enormous power in the hands of the Commission.

The ineffectiveness of the two-step cease and desist enforcement procedure

and its concomitant delay is best put into perspective when one realizes that with a similar enforcement procedure under the National Labor Relations Board, more than 60 percent of the enforcement orders in fiscal year 1967 had to go to the court of appeals. Arnold Ordman, past General Counsel of the NLRB, told the Separation of Powers Subcommittee on March 29, 1968, that the number of Board decisions proceeding to the courts of appeals were increasing from the 54.3 percent in fiscal year 1973. Contrast these figures with the 1969 annual report of the Director of the Administrative Office of the U.S. Courts which indicates that only 7 percent of all U.S. district court decisions were appealed. However expeditious and effective cease and desist orders may be, if almost two-thirds of the disputes must ultimately be taken to the court of appeals, it seems obvious that they are not getting the quick resolution of the dispute that is considered to be necessary by the people who are supporting this bill.

Also these figures present the most convincing testimony possible concerning the public's confidence in decisions rendered by politically appointed boards. The public generally and the respondents specifically realize that these quasi-judicial decisions are quite often politically inspired and as such will not stand up to the nonpartisan judgment of the courts of appeals. On the other hand, public confidence in Federal court judges utilizing stare decisis is such that approximately only one out of 15 of their decisions is appealed.

If the Senate is truly interested in an effective, expeditious grievance resolution procedure we should place our trust in our Federal court system. Although cease and desist promises much, a shiny new administrative procedure designed to redress grievances is no better than its performance, and if it requires 2 to 3 years to achieve justice, its potential is nothing but a frustrating promise of what might have been.

Our Federal court system provides an established forum of known performance. Let us not gamble with the rights of both respondents and aggrieved on a most suspect administrative procedure when we can rely on our court system.

Another cease-and-desist defect which the independent General Counsel fails to remedy is that of increasing concentration of Executive power. As I mentioned last Friday, legislative concessions of power—in this case a clearly judicial function—to the executive branch threatens concepts of separation of power and checks and balances which our Founding Fathers thought imperative to our tripartite system of government. It seems incongruous to me for my colleagues to continually complain about the excessive abuses of power exercised by the steadily growing ranks of executive agencies on 1 day, and then the next day place substantial quasi-judicial powers in just such an executive agency.

The PRESIDENT pro tempore. The Senator's 10 minutes have expired.

Mr. DOMINICK. I yield myself 5 additional minutes.

Not only does the independent General Counsel fail to remedy other cease defects, it fails to effectively accomplish its one avowed purpose—the separation of the prosecutory and adjudicatory functions, so as to accomplish a medium of impartiality. Consider the following facts, and then decide for yourself whether the General Counsel actually is an independent and separate body.

First, the amendment is not clear whether the General Counsel's office would be placed in the Commission offices, but it is assumed that it would be. Also, the amendment is silent as to who would pay the salaries of the Counsel, but once again, I assume that the Commission would. Although the amendment's silence on the above two topics is confusing, some of the things it does say are even more confusing. Language in the newly added section 705(b) expressly indicates that no employer or agent of the commission may engage in both the prosecution and adjudication of the same case—clearly an attempt to separate the two functions. Yet, the same section, 705(b) gives the chairman concurrance power in the appointing of regional attorneys. Other language in the bill gives the General Counsel concurrence powers over the appointment of regional directors. I fail to see how a General Counsel can be independent from a Commission which has final say on whether or not he is to be hired. Conversely, I fail to see how regional directors can be impartial in hearing cases prosecuted by a General Counsel's office which ultimately hired him. With this overlapping hiring power it is impossible to have an impartial adjudication.

Whereas the independent General Counsel amendment attempts and fails to separate the adjudicatory function from the prosecutory function, it does not even attempt to separate the adjudicatory function from the investigatory function. Presumably, a respondent's due process rights are not violated if an officer or employee of the Commission files an unlawful employment practice charge, serves notice of the charge on the respondent, investigates the charge, determines that reasonable cause for the filing exists, attempts to conciliate the charge, and, that proving unsuccessful, recommends that the General Counsel file a complaint so the Commission can hear the case and make findings of fact and enter a cease-and-desist order thereon.

It is absurd to claim that the adjudicatory institution can be substantially and directly involved in the investigatory process right up through recommending the filing of the complaint and still be able to reach an impartial decision. The distinguished Senator from North Carolina (Mr. ERVIN) last Friday cited Justice Jackson's opinion in Wong Yang Sung against McGrath as requiring the separation of investigatory and adjudicatory functions to achieve a "genuinely impartial hearing conducted with critical detachment." The fact that field staff members did the actual investigatory work while different officials within the same organization conducted the hearings was not sufficient in Justice Jackson's mind to provide a "guarantee of insulation and independence of the presiding official." Justice Jackson went on to recommend that judges be confined "entirely to the duties customary for a judge."

Mr. President, I too, believe that judges be confined entirely to the duties customary for a judge; and, as we know, the forum where this is most expertly practiced is in the Federal district courts. I fail to see why so many of my colleagues continue to avoid the unavoidable logic of Federal court enforcement. It offers an existing network of forums staffed by competent, experienced judges known for their impartiality, yet famous for their protection of individual civil rights. Yet, many of my respected colleagues continue to advocate the establishment of a vast new and untested administrative apparatus which is contrary to our constitutional separation of powers concept, jeopardizes the aggrieved employee's rights with a potential administrative nightmare of unconscionable backlogs and ineffective enforcement orders and the respondent's due process rights with a star chamber proceeding. The importance of equal employment opportunity makes it inappropriate to desert our proven and respected Federal court system at this point. I urge my colleagues to support this amendment.

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

Mr. DOMINICK. I yield myself 1 additional minute.

Mr. President, I believe that this amendment is of great significance. The issue we are really coming down to is whether we are going to follow what almost every person investigating the agencies has said: Let us separate the enforcement procedures from the investigatory procedures so that we can utilize the expertise of the commissions in investigations and rulemaking while utilizing the expertise of the court systems in determining whether enforcement should or should not be properly carried out.

This is a fundamental concept of extraordinary importance. I am glad we are entering this year with this principle before the Senate for decision. If we can decide it right, in behalf of the court system, then I think we are on a good start for a productive year for Congress, in the legislative field.

I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. WILLIAMS. I yield 5 minutes to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I rise to oppose the amendment offered by the Senator from Colorado to eliminate the cease and desist powers included within the pending EEOC legislation.

I think the case for providing the Commission with cease and desist powers is overwhelming. The Commission has clearly found that more effective and more timely relief is required by those who have been discriminated against. Turning this problem over to the already crowded court system is not the answer.

The chief issue here is not a dry procedural one. It is a question of whether

we believe that human rights are important enough to be accorded the same remedy which is found very widely in other administrative organizations within the Federal Government and in most State and local governments. The question is whether we are of the opinion that human rights, as against commercial rights or labor rights, are of such a low priority that we should continue according the Equal Employment Opportunity Commission a second-cousin status, thereby consigning it to a largely advisory and conciliatory role. With such a role, the agency cannot fully and effectively support what I regard to be the fundamental objective of equality in employment opportunity.

Why is there so much concern about putting an effective remedy in the hands of an administrative agency? It has been charged that this amounts to making the same agency both judge and jury. Of course, the charge is insupportable. This is not a new administrative remedy. It is really widely accepted remedy which is thought to be absolutely indispensable to an effective administrative structure in government. We find it running throughout the Federal administrative apparatus—the National Labor Relations Board, the Atomic Energy Commission, the Transportation Board, the FCC, the FPC, the Securities and Exchange Commission. Even the Subversive Activities Control Board has this power. The Departments of Agriculture, HEW, Justice, Transportation, Defense, and the Interior, the ICC, the Treasury Department, and the Department of Labor have routinely been armed in their administrative agencies with this indispensable power called cease-and-desist authority. Throughout the States, we find the existence of this remedy. It is well established in constitutional law. It is well established as a fair and proper way to proceed administratively.

There is no longer any dispute about that by the law schools and the legal scholars of this country. Indeed, it is such an indispensable tool to an effective administrative agency that today when you find an administrative agency without cease and desist powers, you are pretty sure that it was intended to be an ineffective and unresponsive agency.

Thus, what we are asking to do is not something new or something revolutionary. It is something long overdue, something elementary, and something which is very sensible. Under the present system, the EEOC tends to be largely an agency limited to conciliation. Many times, its hearings can only be called a dress rehearsal; because if the employer disagrees with the finding of the specialists and the Commission, itself, he can make them start all over again—what the lawyers call de novo—as though nothing had ever occurred in the agency. Thus, the whole administrative procedure often is not given the serious consideration it should have; because if an employer really wishes to discriminate, why should he take it seriously? He simply goes through the ritual. In fact, he uses it as an additional way to delay the time when he must comply with the law of the land.

The PRESIDENT pro tempore. The 5 minutes of the Senator have expired.

Mr. MONDALE. I ask for 2 additional minutes.

If a party does not agree with the order issued by the EEOC under the bill, it will have full access to the courts. It can appeal the order and the Commission, itself, has to go to court to secure compliance with an order which was disregarded.

The hearing procedures under the proposed legislation provide ample protection for all parties. The Administrative Procedure Act will apply. Fully qualified hearing examiners are required. Rules of evidence will be applicable. Conciliation will be used to avoid cease and desist orders wherever practicable. Sufficient notice of actions will be required. There is an appeal to the courts, but the appeal to the courts is on the basis of whether the Commission, first of all, agreed on an order on the basis of, and supported by, a preponderance of the evidence. In other words, the Commission cannot go off without a record of the evidence which proves strongly that the defendant was guilty of discrimination in employment practices.

Mr. ERVIN. If the Senator will yield there, I know that he does not want to make an erroneous statement——

Mr. MONDALE. I certainly do not and I am glad to yield to the Senator from North Carolina.

Mr. ERVIN. This bill provides that it does not require a preponderance of evidence. It requires merely substantial evidence.

The courts hold that substantial evidence is less than a preponderance of evidence.

Mr. MONDALE. Let me say to the Senator from North Carolina that I welcome his correction. The Senator from North Carolina is correct at this moment. I think that the distinction is not one of substance. Substantial evidence requires essentially the same burden of proof.

Mr. ERVIN. It is quite different. The courts say that the——

The PRESIDING OFFICER (Mr. CHILES). The time of the Senator from Minnesota has expired.

Mr. MONDALE. I will say to the Senator from North Carolina, in terms of the burden of proof as now found in the pending bill, that he is correct.

Will the Senator from New Jersey yield me 2 more minutes?

Mr. WILLIAMS. I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. MONDALE. The same point obtains. It is a distinction without significance, in my opinion. It is valid if provable before a court under the present bill, that the plaintiff and the commission did not have adequate evidence to sustain its findings. Moreover, there is a valid appeal to the courts that the commission dealt with it in an arbitrary or capricious way and that it was not fair treatment of all of the parties.

Mr. DOMINICK. If the Senator will yield there, is it not also true that the commission can get an enforcement order without proving that the findings are supported by substantial evidence after 60 days as such findings are deemed conclusive?

Mr. MONDALE. That is only true if there is no appeal. A party has 60 days to determine if he has a grievance. Surely, that is sufficient time. And there must be substantial evidence that the defendant was guilty of the discrimination and if that has not been proved then the courts can strike down the findings. Also if the commission deals in a procedural way which is unconstitutional, or deals unconstitutionally in any other way, through a valid challenge of the order, the court can reverse the actions of the commission.

Once again, these grounds for appeal are well accepted——

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

Mr. WILLIAMS. If the Senator will yield, we can have enough time now for this colloquy to proceed and to be concluded. I ask unanimous consent, Mr. President, that we have such time as we may need to conclude this colloquy.

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

Mr. MONDALE. Mr. President, these procedures and the scope of the challenge of appeal involve one of the most well established and accepted principles of administrative law. This is a minimal, well established and traditional remedy that is being asked here today.

The only thing surprising is why it has taken so long to do this.

Mr. WILLIAMS. I am very grateful that the Senator has made that point and so clearly. There is nothing novel about procedure in the bill that deals with enforcement through cease and desist. In so many agencies of the Government this is the method that supports enforcement. In the States it is also honored, time-honored, and a general practice in many areas.

I want to ask the Senator from Minnesota with regard to this whole area of equal employment in the State of Minnesota, through his long period of public service in that State, where he served as attorney general, it is my understanding that that State has an equal employment commission and that it is armed with exactly what we propose to do here; namely, an effective and fair enforcement through cease and desist.

Mr. MONDALE. The Senator is correct. As a matter of fact, I served nearly 5 years as attorney general in my State of Minnesota. It is fair to say that any administrative tribunal which did not have cease-and-desist powers almost invariably came to the State legislature and said this:

> If you do not give us these powers, we are a second cousin as an administrative tribunal. We cannot do our job.

Time and again, the State legislature has responded to that and granted such powers.

The remarkable thing is that, under the present system at the Federal level, if we have a commercial dispute surrounding, say, securities, then we get the

full range of administrative remedies. If we have a labor dispute—a labor-management dispute on either side—cease-and-desist powers are to be found. If we have a dispute with the Department of Transportation before one of the tribunals, there are cease-and-desist powers. We are dealing with basic, fundamental human rights: The right to a job, the right to challenge the denial of employment on grounds of color. And the only right we have now is that if we do not use the traditional court system, we must be content to come before a commission which does not have the power to do much more than conciliate.

Mr. WILLIAMS. I thank the Senator.

Mr. MONDALE. I am glad to yield.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, this is a long-standing quarrel. The arguments which have been made on both sides reflect the situation accurately. I shall not endeavor to add to what has already been said. But there are a few new points which I think are critically important. Let us remember that many Federal agencies have the cease-and-desist power and that this is the new and the more modern rather than the less modern and older method of enforcement. It was invented for a purpose. That is why we paired the Administrative Procedures Act in order to regularize it, and to deal with the division of functions, which is the main argument made against the cease-and-desist authority, not only on this motion but also on other motions which have been made like it. We also adopted an independent general counsel amendment on this bill in reflection of that concern.

I pushed that before the committee and am very glad it was passed here on the floor of the Senate.

There is a long list of agencies which have cease-and-desist authority and they are worth reading off because it indicates the new concept and the trend throughout the Government.

In addition to the National Labor Relations Board, the list includes the Atomic Energy Commission, the National Transportation Board, the Federal Communications Commission, the Federal Power Commission, the Securities and Exchange Commission, the Subversive Activities Control Board, the Department of Agriculture, the Department of Health, Education, and Welfare, the Department of Justice, the Department of Transportation, the Department of Defense, the Department of the Interior, the Interstate Commerce Commission, the Treasury Department, and the Department of Labor.

Then to show that this is the way the administration is going, we have 32 of the 50 States which have cease-and-desist authority in their States on fair employment practice commissions.

I have had a rather vivid experience with this matter in the State of New York where we passed the bill which was called the Ives-Quinn bill 26 years ago. The principal architect of that bill was Senator Irving Ives who was my senior here when I first came to the Senate, and he sat in this body for many years.

At that time, there were the most dire predictions as to harassment and the thousands of suits and the tremendous load which American business would have to take which it could not possibly defend itself against. In 26 years, this was found to be invalid—the cease-and-desist authority has worked and worked effectively, and the backlog of work has been kept within reason. The court review has been more than adequate in terms of the ultimate practices to which the litigant is entitled.

The difference between cease and desist and a court suit which is instituted is a vast gulf. With a cease-and-desist order, the possibility of conciliation becomes very great, and it is precisely those agencies which have cease-and-desist power which have had the greatest success in respect to conciliation. Without that backup power, there is a backlog which is what is happening. The backlog in the EEOC is bound to continue to rise and rise and rise, because there is no way of having anything definitive except over a long, dragged out period of litigation, which then goes into another department of Government and does not give the crisp opinion which would bring the case to a conclusion in the agency, as the cease and desist power would do.

The statement is made that there is an average of 10 months' delay because of the case backlog in our Federal courts.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement prepared by the Senator from New Jersey (Mr. WILLIAMS) on this matter. It shows the time interval in months, the median time interval in months.

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

U.S. DISTRICT COURT BACKLOG

Prepared by the Subcommittee on Labor of the Committee on Labor and Public Welfare, Harrison A. Williams, Jr., chairman.

Based on Annual Report of the Director of the Administrative Office of the United States Courts, 1970. Reprinted at pp. 508–513 Hearings on S. 2515.

Time interval from filing to disposition of tried civil cases (fiscal year 1970).

CIRCUIT AND DISTRICT

[*Time interval in months—median*]

Total All Districts, 17	
District of Columbia	21
First Circuit, 17	
Maine	—
Massachusetts	19
New Hampshire	14
Rhode Island	18
Puerto Rico	21
Second Circuit, 26	
Connecticut	27
New York:	
Northern	20
Eastern	20
Southern	35
Western	19
Vermont	13
Third Circuit, 35	
Delaware	—
New Jersey	29
Pennsylvania:	
Eastern	41
Middle	23
Western	36
Virgin Islands	10
Fourth Circuit, 14	
Maryland	20
North Carolina:	
Eastern	20
Middle	—
Western	13
South Carolina	12
Virginia:	
Eastern	12
Western	9
West Virginia:	
Northern	—
Southern	31
Fifth Circuit, 13	
Alabama:	
Northern	9
Middle	6
Southern	20
Florida:	
Northern	10
Middle	18
Southern	14
Georgia:	
Northern	17
Middle	5
Southern	17
Louisiana:	
Eastern	27
Western	22
Mississippi:	
Northern	13
Southern	9
Texas:	
Northern	12
Eastern	13
Southern	17
Western	8
Canal Zone	9
Sixth Circuit, 16	
Kentucky:	
Eastern	23
Western	15
Michigan:	
Eastern	28
Western	18
Ohio:	
Northern	24
Southern	23
Tennessee:	
Eastern	7
Middle	—
Western	15
Seventh Circuit, 16	
Illinois:	
Northern	20
Eastern	16
Southern	18
Indiana:	
Northern	19
Southern	12
Wisconsin:	
Eastern	22
Western	—
Eighth Circuit, 13	
Arkansas:	
Eastern	12
Western	11
Iowa:	
Northern	—
Southern	15
Minnesota	11
Missouri:	
Eastern	10
Western	17
Nebraska	24
North Dakota	—
South Dakota	12
Ninth Circuit, 16	
Alaska	—
Arizona	21
California:	
Northern	28
Eastern	—
Central	14
Southern	—
Hawaii	—
Idaho	—
Montana	14
Nevada	31

Oregon	13
Washington:	
Eastern	12
Western	14
Guam	—
Tenth Circuit, 12	
Colorado	13
Kansas	24
New Mexico	11
Oklahoma:	
Northern	10
Eastern	10
Western	10
Utah	13
Wyoming	—

Mr. JAVITS. Mr. President, the important point is that when we look at the big industrial States, that is where we have the big delay. Massachusetts has a delay of 19 months. Rhode Island has a delay of 18 months. New York has a delay of 20 months. Indeed, in the southern district of New York, there is a delay of 35 months—almost 3 years.

Similarly, as we go down the list, we see that it is in the big circuits where the major problems occur. We see in the northern circuit of Illinois, which I believe includes Chicago, that there is a delay of 20 months.

So, we can see that the average of 10 months picks up the small States where there are no major industrial problems. Of course, where we have the big industrial problems, then we have a tremendous court delay.

No one less than Chief Justice Burger in a recent address pointed this out and he said in his speech to the American Bar Association in July 1970:

> From time to time Congress adds more judges, but the total judicial organization never quite keeps up with the caseload. Two recent statutes alone added thousands of cases relating to commitment of narcotic addicts and the mentally ill. These additions came when civil rights cases, the voting cases and prisoner petitions were expanding by the thousands.

So he himself sees this situation and that the desire here in a highly sensitive area, which deeply involves problems of the greatest tension in our country, to equip the agency with a remedy which would be the best and most useful in its field.

If we do that and if it has complete range, up to and including a finding, then it is in the best position to conciliate and settle cases. Otherwise it can be shrugged aside as the EEOC is now being shrugged aside, and indeed in the most impatient way. We should give the EEOC this power because it is being shrugged off. The Chairman of that authority so testified.

We have the Administrative Procedures Act which controls administrative hearings leading up to cease-and-desist orders now. That power is possessed by a whole range of agencies, the names of which I have already read into the RECORD. The courts are overloaded. All this amendment would do would be to overload them more.

In an area of job opportunities for the minorities, we ought to have the most complete action and complete remedy for an agency which has the greatest expertise and the most authority with the most delicate understanding.

This is the modern way to deal with the problem. That is why many agencies have gone in that direction. We would be taking a retrograde step which would be damaging to ourselves and to our country if were to agree to this.

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

Mr. JAVITS. I yield.

Mr. WILLIAMS. Mr. President, I think it should be pointed out that the Senator from New York, as is also true of the Senator from Minnesota, has devoted a great deal of his public life to work and dedication to the matter of inequality. We are talking here about equal employment opportunity. Again, the Senator from New York has a background of law enforcent in his State. He was attorney general of the State of New York. So, he does not come to this debate without a background of work as attorney general in this area.

It is my understanding that New York has this method of enforcement as to human rights legislation, together with equal employment opportunity and has a cease and desist enforcement procedure.

Mr. JAVITS. The Senator is exactly correct. I was attorney general of my State. I did have general authority over court proceedings which rose from the actions of our local commission on fair employment. I pointed out in my speech that for years we have had this authority under a bill called the Ives-Quinn bill.

That procedure has worked superbly well. We are merely recognizing the modern concept of administration in giving this urgently needed power. We will have infinitely more cases consolidated and a crispness in the decisions which will buttress the enforcement of the law.

After all, we are here because we want the law to be enforced. The law has been passed. It is the law. And if it is the law, we want the law enforced. And the most effective way to enforce that type of law is through cease and desist authority. So, all we are doing is bringing the United States abreast of the best practice.

What we would do if we were to agree to the pending amendment would be a very distinct step backward, which I hope we do not take, especially in such days when the grievances of the minorities are very much in danger as far as our Nation is concerned.

Mr. WILLIAMS. Mr. President, I do not believe that enough attention has been given today to this matter in the debate. Perhaps we can do it now. The Equal Employment Opportunity Commission is now unarmed other than being able to attempt to conciliate through persuasion and agreement where there is now discrimination. There can be little incentive to agreement because there is no enforcement authority behind that conciliatory practice.

Mr. JAVITS. Exactly. This can be shrugged off by any employer who can say, "You can go into court. It will be a long time, and we will then see about it."

The fact that the workload has pyramided because it is weak and emasculated is now being used as a means of cutting down its workload because it can deal with cases with finality.

If we really want to enforce the law and want the Commission to do it, we have to give them this authority.

I was here when this deal was made which resulted in the Commission having so little authority.

It was the price of buying support for the Civil Rights Act of 1964. It is as simple as that. There was no other reason for it, no other reason in logic or in law. We have paid that price for 7 years and it is time, in my judgment, with such a sensitive matter before us, to stop paying it. We should have done it 7 years ago. We made our deal and we stuck to it. Now the moment in history has come to take a step forward not backward. That is why we should agree to the bill as is and reject the amendment.

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

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I yield 10 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. I thank the Senator from Colorado for yielding to me at this time. I wish to commend the Senator on this amendment which would give some measure of due process to the procedure in resolving alleged unlawful employment practices or alleged discrimination practices.

At the outset, however, I would like to suggest that this bill does not create one single job in private industry or private business. It might create several hundred bureaucratic jobs; it might put hundreds of people on the Federal payroll; but it does not create one single job in private business or private employment.

All of us favor the right of every person to seek and to obtain employment without discrimination where employment is available. But it must be kept in mind that for every person who obtains employment by use of the procedure provided for in this act, someone else loses his job. No jobs are created by the act, except the hundreds of people placed on the Federal payroll.

One of the prime tenets of Anglo-Saxon jurisprudence is that a man is presumed to be innocent until proven guilty. While the bill before us does not presume to go so far as to repeal this concept, it certainly subverts it. It arrogantly undermines and brushes aside the guaranteed and fundamental principles of due process and invokes a panoply of repressive procedures as alien to justice as the rack and the thumbscrew.

Under the bill, the Equal Employment Opportunity Commission would be given a "judicial" function, permitting it to order respondents to "cease and desist" from alleged unlawful employment practices with such orders subject to limited review in a U.S. court of appeals.

What is government by cease and desist? Government by cease and desist is government according to the personal convictions, inclinations, predilections and precipitant notions of government bureaucrats rather than government by

certain and uniform laws applying alike to all men and institutions in like situations. That is something we want to avoid by requiring the EEOC not to be prosecutor, judge, and jury, but to substitute the Federal district courts for the judicial aspects of the Commission as provided for by the bill. The Dominick amendment would accomplish this result.

One of the real difficulties in connections with the type of authority being sought here is the attitude of the Commission and its staff. The Commissioners and the staff of the Equal Employment Commission are appointed because of a particular philosophical bent—it is expected, however, that they are to be objective and impartial advocates of equal employment opportunity and to conciliate charges found to be supported by the facts adduced in their investigations.

The Commission, however, has not been and is not now the impartial agency it was supposed to be and as charged to be by law. Instead, the Commission has been a rabid advocate of its own preconceived ideas of fair employment opportunity and has been spending much of its time assembling arguments in behalf of its obsession with obtaining from Congress the power to issue coercive orders. The Commission has degenerated into performing a private pressure job for cease-and-desist authority.

The mingling of the functions of conciliation and compulsion in this one agency would be tragic. The EEOC conciliator, in such instances, cannot, in any light, be viewed as a friendly counselor, but only as an incipient prosecutor. In other words, when he also possesses the power not only of prosecuting, but also of rendering an enforceable judgment, his persuasion takes on the immediate character of coercion.

Yet, this ambitious bill would lodge in an unelected Federal agency the unfettered authority to act as investigator, prosecutor, judge and jury—all racked up in one power-laden bill. S. 2515 does this by granting the Commission the power to investigate complaints; granting the Commission the power to prosecute complaints, not withstanding adoption of the Taft-Schweiker amendment last week; and granting the Commission the power to pass judgment on complaints and to fashion a remedy enforceable by a cease-and-desist order.

One would have to be blind indeed not to see that this particular aspect of the bill overbalances the scales of justice against defendants in ways that do absolute violence to the best of Anglo-American judicial traditions.

It is true that appellate review of orders by the Commission is provided, but let me point out, Mr. President, that the court entertaining the review would be limited by the record of the hearing examiner as reviewed by the Commission and would be required to affirm the Commission upon a finding of some evidence supporting the Commission's decision.

And what would the record of the Commission consist of? Let us not forget that many of these charges of discriminatory employment practices will be made by persons who are motivated by revenge, cruelty, persecution, and perfidy. This is especially true inasmuch as S. 2515 removes the requirement that charges must be made under oath. In addition, the bill permits the Commission to deprive the accused of the customary and time-honored rules of evidence and procedure. Hearsay evidence with its inflammatory effect can easily be the entire basis of a finding by the Commission. What all of this boils down to is that this bill seeks the enormous power of "cease and desist," and yet provides no safeguards against a possible arbitrary determination by the Commission. The Commission can, therefore, proceed to issue a complaint and institute a proceeding which could lead to the exercise of enforcement powers based on a tenuous claim of discrimination and the courts would be powerless to touch it. In other words, the bill makes an out and out mockery of our dedication to due process of law.

This is not government by law. It is government by the Equal Employment Opportunity Commission, for better or worse.

I believe the Dominick amendment would cure one of the main evils of the bill. It would not cure the evil that the bill still would apply to the States, counties, and cities; it would not cure the evil that it would be applicable to educational institutions and religious schools; it would not cure the evil that it reduces the required number of employees from 25 to 8 and makes it applicable to a small business—not big business by any manner or means, but small business—with government taxes, redtape, reports, investigations, and injuries, making it almost impossible for small businesses to stay in business, and to add this inquisitorial power to this Commission would certainly force many small businesses to the wall.

It has been stated that if this power is placed in the hands of the Federal district courts there will be a big logjam there. Let me point out that there are 398 Federal district judges in the country; there is only one EEOC lodged right here in Washington. I would be more inclined to feel there would be less of a logjam if the work is split up among 398 Federal judges than placed before one Commission here in Washington.

Mr. ERVIN. Mr. President, will the Senator yield for some questions on this point?

Mr. ALLEN. Yes; I shall be glad to yield, if I may be extended additional time.

Mr. DOMINICK. I yield 2 minutes to the Senator.

Mr. ERVIN. I will ask the Senator from Alabama if it is not true that each district judge can sit by himself and make a decision by himself.

Mr. ALLEN. Yes; under the amendment of the Senator from Colorado.

Mr. ERVIN. Under this bill, there would be five members of the Commission, which, under certain circumstances, could be expanded to nine.

Mr. ALLEN. Yes, sir.

Mr. ERVIN. The bill provides that it takes three to constitute a quorum. So every time there was a case for decision, three members would have to be sitting on it.

Mr. ALLEN. Yes, sir.

Mr. ERVIN. So there would be more congestion before the Commission than there would be before district judges.

Mr. ALLEN. Of course, that would be so, since they would be split up 398 ways under the Dominick amendment, rather than under the bill as it is before the Senate.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that every litigant, in any kind of action or proceeding, is entitled to a fair trial.

Mr. ALLEN. Certainly, sir.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that the right to a fair trial entitles a litigant to have his cause determined by an unbiased jury and an impartial judge, in an atmosphere of judicial calm?

Mr. ALLEN. That is correct. That is a part of the Anglo-Saxon concept of jurisprudence.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that under our system of law, if a man had preferred a charge against a litigant on which the litigant is going to be tried, he would be ineligible to sit on the jury and find the facts in that case?

Mr. ALLEN. Oh, yes.

Mr. ERVIN. And if a judge had preferred a charge against the litigant, charging him with illegal action, that judge would be incompetent to sit on the trial and determine that man's guilt or innocence?

Mr. ALLEN. Yes.

Mr. ERVIN. But under this bill——

Mr. ALLEN. Without the Dominick amendment.

Mr. ERVIN. Yes. Under this bill in its present form, members of the Commission and those they control, their agents, can prefer charges on which a person can be tried. Can they not?

Mr. ALLEN. Yes.

The PRESIDING OFFICER. The Senator's 2 additional minutes have expired.

Mr. DOMINICK. I yield 1 minute to the Senator.

Mr. ERVIN. And after they do that, they can file the charge with the general counsel.

Mr. ALLEN. Yes.

Mr. ERVIN. And his regional counsel, can be appointed only with the consent of the Commission.

Mr. ALLEN. Yes.

Mr. ERVIN. They file the charge with the general counsel, and then the counsel brings the charge made by the agency before the agency for trial. Is that correct?

Mr. ALLEN. Yes.

Mr. ERVIN. Does the Senator think there is likely to be much justice under those circumstances?

Mr. ALLEN. Very little.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that under any fair system of justice, a man or agency which has expressed an opinion adverse to a

litigant has no business judging the cause of that defendant?

Mr. ALLEN. I certainly agree with the Senator from North Carolina.

The PRESIDING OFFICER. The Senator's additional 1 minute has expired.

Mr. DOMINICK. Mr. President, will the Chair let me know how much time I have left?

The PRESIDING OFFICER. The Senator from Colorado has 12 minutes remaining.

Mr. DOMINICK. I yield 1 more minute to the Senator from Alabama.

Mr. ERVIN. I want to ask the Senator from Alabama if he does not agree with the Senator from North Carolina that the very concept embodied in this bill represents a prostitution of the judicial process.

Mr. ALLEN. Yes, I do.

Mr. ERVIN. In other words, it creates conditions under which justice cannot really be had.

Mr. ALLEN. That is right, in any form whatsoever, except by the adoption of the amendment pending before the Senate.

Mr. DOMINICK. Mr. President, I yield 7 minutes to the Senator from South Carolina (Mr. THURMOND.)

Mr. THURMOND. Mr. President, of all the amendments which have been suggested for amending the proposals to strengthen the role of the Equal Employment Opportunity Commission, this amendment offered by the junior Senator from Colorado is undoubtedly the most important. The issue is whether we shall give a single agency of the U.S. Government the power to make regulations, conduct investigations, issue cease-and-desist orders concerning alleged practices, and also have the power to enforce these orders. Under the terms of S. 2515, the EEOC would become not only the legislator but also the prosecutor, judge, and jury. In simple fairness, this procedure cannot be tolerated in the American system. Our philosophy of government has always believed that such roles should be separated. No man should be trusted to be a judge when his own interests will be affected by the outcome of the litigation.

Before we give the EEOC more power, we ought to examine its capabilities and past performance. Simply on a statistical basis, it is obvious that the Commission has been very ineffective in fulfilling its role of assisting all Americans to achieve equal employment opportunity.

For example, in the calendar year 1971, the EEOC received a total of 33,214 complaints. Of that number, the Commission completed only 7,321 invesigations. The EEOC attempted conciliation in only 2,438 cases and was successful in the conciliation process in only 1,412 cases.

In addition, we must consider the staggering backlog of cases which the Commission has rolled up by December 31, 1971. That backlog amounted to 31,000 cases, or almost as many complaints as had been received during the year.

Why has the EEOC been such a failure? I think for that answer we must look within the EEOC itself. The Commission staff has achieved a notorious reputation for antagonistic attitudes toward the employers charged in the complaints it has received. Its aggressive attitude has served to set back the course of better human relations. In fact, the record I have just cited, of so very few attempts at conciliation, shows that the EEOC staff does not appear to be interested in conciliation. There are documented cases of outright harassment and the use of hearings in an attempt to establish a general pattern of discrimination when actually only one complaint has been filed. Further, the EEOC has made outrageous demands concerning company records—demands that have been turned down by the Federal courts.

In short, the EEOC is not ready to handle a procedure such as cease and desist. In its 6 years of existence, it has had four chairmen. It has been plagued with a rapid turnover in personnel. To illustrate, two of the most important staff positions, the General Counsel and the executive director, have been vacant for several months.

In view of its present record, how can we seriously consider broadening its powers? However, without regard to this history, we have before us a proposal which broadens its power unnecessarily in several aspects. But principally, the addition of the power of the cease-and-desist order would bring a flood of new complaints, many of which would be intended for pure harassment. It is generally agreed that the backlog of 31,000 cases could conceivably double by the end of a year because of these new powers. From the foregoing remarks I do not mean to leave the impression that I do not believe in equal employment opportunity for all Americans. I strongly believe that every American should have the opportunity to get a job and advance in his field according to his capabilities. If there are cases where individuals are being denied equal employment opportunity or advancement in their jobs, it is quite obvious they can get relief in an honest case by going directly to our judicial system. They can go to their local district court instead of going to Washington and they can be satisfied there will be no unnecessary delay in obtaining relief. Senator DOMINICK's amendment will preserve the due process rights of an injured party without taking away the investigatory and processing powers of the EEOC. For these reasons the amendment by Senator DOMINICK is most critical to the future of this Nation and to the equal employment opportunities of injured minorities.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself such time as I may require.

I ask unanimous consent to have printed in the RECORD at this point a memorandum of procedural due process in administrative proceedings, which is longer than the time remaining to me would permit me to read.

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

PROCEDURAL DUE PROCESS IN ADMINISTRATIVE PROCEEDINGS

INTRODUCTION

In the Equal Employment Opportunities Act of 1971 (S. 2515), EEOC is given administrative cease-and-desist enforcement procedures to provide it with powers similar to those currently held by other Federal regulatory agencies. Opponents to the hearing type of enforcement approach argue that placing administrative enforcement procedures in the EEOC would deny parties due process of law, would degrade the quality of justice available in the proceedings, and would place too much power in one agency.

It is submitted that the above-stated objections are totally groundless and do not take into account either the procedural safeguards specifically provided by Congress in the Administrative Procedure Act (hereinafter APA), the quality of administrative hearings, or the quality of judicial review available to all administrative determinations.

PROCEDURAL DUE PROCESS

The administrative hearing procedure clearly guarantees procedural due process to all parties. While the importance of due process has been specifically stressed by the courts,[1] the courts have also noted that the concept of due process is not a rigid or inflexible standard. It has been well-recognized that the same requirements applicable to due process in the courts do not necessarily apply to all other judicial or quasi-judicial proceedings.[2]

Although the term due process cannot be precisely defined to conform to all circumstances where it may be found, its general elements can be recognized and protected. Professor Davis has defined administrative due process as follows: [3]

"The true principle is that a party who has a sufficient interest or right at stake in a determination of governmental action should be entitled to an opportunity to know and to meet, with the weapons of rebuttal evidence, cross-examination, and argument, unfavorable evidence of adjudicative facts . . ."

The above principles, the basis for administrative due process, have been applied by the courts in assessing adjudication of rights by governmental agencies.[4] The realization of these principles is generally contained in the administrative hearing.

The basic requirement for administrative hearings is to satisfy the requirements of due process for parties whose rights are affected by agency actions. This principle was established by the Supreme Court in two early cases.[5] The essential rule laid down in these and other early cases is that where the agency determination is one involving "adjudicative facts" as opposed to "legislative facts",[6] an opportunity for hearing must be accorded to guarantee due process. The enactment of the APA reinforced the requirements for due process afforded by the hearing process. Sections 4, 5, and 6 of the APA, 5 U.S.C. §§ 1004, 1005, and 1006 specifically require that agency determinations which affect the substantive rights of the parties be held on the record after opportunity for an agency hearing.

The courts, while allowing a certain degree of flexibility in the type of hearings and the degree of judicial process to be accorded in each particular case, have been explicit in stating that where administrative actions affecting private rights are involved, such actions may not be taken without due process of law, "and due process generally requires a hearing."[7] The courts have, however, indicated that the type of hearing and the extent of adjudication required in each particular case may be decided by the agency as particular circumstances may require. For example, the courts have held that it is not necessary, in order to satisfy the constitutional guarantees of due process, to have oral argument on every question of law which may arise during an administrative hearing.[8]

This need for agency flexibility, within the basic context of the APA safeguards for due process, has been affirmed.

Footnotes at end of article.

Many of the determinations made by administrative agencies are in very complicated and highly specialized area which do not lend themselves to traditional concepts of adjudication:

"Administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties." [9]

It should not be assumed, however, that the existence, and in fact necessity for agencies to fashion specific rules of procedure in any way degrades the due process guarantees articulated by the courts in the cases discussed above, or that it in any way serves to weaken the various guarantees provided by the APA.

ADEQUATE NOTICE OF HEARING

Section 4 of the APA, 5 U.S.C. § 1004, provides that prompt and timely notice of issues be given to opposing parties. Under the provisions of S. 2515, this same requirement would be applicable to EEOC procedures under the administrative enforcement approach. Moreover, S. 2515 specifically requires that respondents be notified of charges within 10 days of receipt by the Commission.

At the termination of unsuccessful conciliatory efforts, S. 2515 stipulates that a complaint, joined with notice of a hearing, shall be issued by the Commission and served upon the respondent. In compliance with the APA, such notice would convey the time, place, and nature of the hearing to be held; and the matters of law and fact asserted.

FAIR AND FULL HEARING

Opportunity for a fair and full hearing would also be guaranteed by EEOC procedures under S. 2515. Section 5 of the APA guarantees the right of parties to be present at the time and place of hearings. Due regard shall be had for the convenience and necessity of the parties or their representatives.

Section 706(g) of S. 2515 provides broad opportunity for a respondent to amend and re-amend his answer at any point in the proceedings, with leave of the hearing examiner. The EEOC would also be required to abide by those provisions of § 4 of the APA which provide that the presiding officer (at hearings) shall give all interested parties opportunity for the submission and consideration of facts, arguments, and offers of settlement or proposals of adjustment when time, the nature of the proceeding, and the public interest permit.

Further, the applicability of § 5(d) to Commission proceedings would guarantee a party's privilege to present his case by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

Of major significance is the provision of the APA which assures a fair and impartial hearing by providing, *inter alia*, that a Commission employee or agent engaged in the performance of investigative or prosecuting functions in a case, may not, in that or a factually related case, participate or advise in the Commission's decision, except as a witness or counsel in public proceedings. Section 706(f) of S. 2515 patterned after this provision of the APA, would insure this protection.

SEPARATION AND IMPARTIALITY OF EXAMINERS

In light of the above provisions of the APA, and on the basis of the discussion in the preceding sections, it seems unlikely that there could be any valid criticism regarding procedural due process under administrative procedure. However, opponents of S. 2515 have also level charges against the EEOC on the grounds that it would be unable to fairly administer its hearing because of its inherent bias. In this regard, critics have also attacked the fact-finding provisions of Title VII, and the similar provisions of S. 2515 requiring an initial finding of "reasonable cause" to initiate the conciliation process, as denying parties due process by determining their guilt without a hearing.

This type of criticism misconstrues the nature of a finding of "reasonable cause" and ignores the specific provisions of the APA with regards to insuring the impartiality of hearing examiners.[10]

In the first instance, the purpose of the preliminary determination as to "reasonable cause" is to discover whether a complaint has a minimum of substance upon which to have further investigations or other action. It is, in effect, quite similar to the magistral finding prior to issuance of a search warrant, or to a grand jury finding of "probable cause" before bringing an indictment. In neither case, as it also true in the Title VII determination of "reasonable cause", is the guilt or innocence of the accused decided, either in fact or in law.

Criticism based on this issue confuses the distinction between two separate levels of evidence: the one to show need for further examination, and the other to prove a violation. The Supreme Court has clearly emphasized this difference:

". . . There is a large difference between the two things to be proven (guilt and probable cause) as well as between the tribunals which determine them, and therefore a difference in the *quanta* and modes of proof required to establish them." [11]

It is also important to note in this respect that an administrative hearing is, in effect, a trial *de novo*, where the parties are required to establish their case before an impartial examiner.

The full relationship of the hearing examiner and the agency has been discussed fully in a separate memorandum "Hearing Examiners and the Enforcement of Federal Regulations" and will not be examined again here. A quick summary of the applicable provisions of the APA will show, however, that numerous provisions have been made to insure the impartiality of examiners in deciding each case.

The APA provides that: hearing examiners are to be assigned to cases in rotation; they are prohibited from engaging in any other agency activities; and their compensation, qualifications, and retention of status are controlled by the Civil Service Commission and not the agency where they are employed.[12]

In light of the procedural guarantees discussed supra, and considering the requirements attached to the office of the hearing examiner, it is unsupportable to maintain that the administrative process does not provide parties with due process or otherwise prejudices their rights. In fact, it may be true that ". . . administrative regulations set a higher standard of procedural due process than that required by the Constitution or a statute." [13]

SEPARATED GENERAL COUNSEL

In addition to the procedural safeguards outlined above, the provisions of S. 2515 contain a further guarantee of insuring fair operation of the administrative hearing process. Pursuant to an amendment adopted by the Senate on January 20, 1972 (Amendment No. 797), the EEOC would have a General Counsel separated from the other operations of the Commission. In this manner, similar to the system adopted for the National Labor Relations Board (NLRB) pursuant to the Congress' 1947 action in overhauling the Wagner Act,[14] the prosecuting and judicial functions of the Commission will be entirely separated.

Under the terms of the amendment, the Commission will have a General Counsel, appointed by the President (with the consent of the Senate) for a term of four years. It shall be the responsibility of the General Counsel to issue complaints where he feels a violation has occurred which has not been resolved through the conciliation process, to prosecute any such complaints before the Commission, and to conduct all litigation to which the Commission may be a party pursuant to §§ 706 and 707 of the Act.

While the provisions of the APA already establish comprehensive due process safeguards in the hearing process itself, with the adoption of the above amendment, the pre-complaint decision procedures (investigation, finding of "cause" or "no-cause", and the conciliation procedures), and the decision-making function of the Commission (issuance of Commission orders pursuant to hearings) have now been separated by law. In this manner, any potential areas of conflict of iterest, or merging of investigatory, prosecutorial, and decision-making functions is eliminated. With the above amendment, the hearing procedure as outlined above assumes even further characteristics of a trial *de novo*, with all the appurtentant safeguards.

SCOPE OF JUDICIAL REVIEW

Although the foregoing sections amply demonstrate that parties are guaranteed due process in administrative enforcement procedures, it should also be noted that there is an additional safeguard available to insure proper agency proceedings—i.e. court review of agency decisions. The courts have, from the very beginning of the administrative enforcement process, reviewed such matters on appeal to insure the proper administration of justice. In exercising such review, the courts have always closely examined agency procedures to insure protection for parties who appear before administrative agencies. Early decisions, before adoption of the APA, reviewed agency actions on the basis of "substantial evidence"—i.e. an examination of the record to determine whether there is substantial evidence to support agency findings.[15]

With the adoption of the APA in 1946, the "substantial evidence rule" was formalized as part of that act.[16] The Supreme Court reaffirmed use of the test in 1951: [17]

"The Board's findings are entitled to respect; but they must nonetheless be set aside when the record before the Court of Appeals clearly precludes the Board's decision from being justified by a fair estimate of the worth of the testimony of witnesses or its informed judgment on matters within its special competence, or both."

Not only do the courts look at the "substantial evidence" as presented in evaluating agency actions, but the APA also provides that in doing so, the courts also are to examine the "whole record" upon review.[18] Courts have liberally applied the principles of review to examine all aspects of an agency's determination and have not hesitated to set aside an agency ruling.[19]

CONCLUSION

The basic premise upon which the entire federal administrative hearing is structured is to provide complainants with an opportunity to present their grievances before those federal agencies best qualified to resolve them. The administrative hearing process substitutes the quasi-judicial administrative hearing for a judicial hearing in those specific areas where the expertise and experience required to properly adjudicate such complex issues is better suited to an expert body. In this manner, those agencies which have the responsibility for administering each specific area of Federal concern would also be able to resolve disputes arising in these areas, thereby freeing the Federal courts from the need to maintain expertise in all these complex areas.

The Administrative Procedure Act, adopted

Footnotes at end of article.

in 1946, formalized and codified the experience of the early Federal administrative adjudicatory experiences. It enacted those judicial decisions which had set out the procedures and guarantees afforded to all citizens whose rights were affected by Federal action. The cornerstone of these procedures was the guarantee of due process—to afford all parties the opportunity for a fair and full hearing under the law. This proposition was deemed so basic to the entire administrative process that the major provisions of the APA are directed to this aim. Any attack upon the due process and fairness of the administrative enforcement process cannot, therefore, be deemed as well-founded in either fact or law.

FOOTNOTES

[1] see e.g. statement by Justice Douglas in *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123, 71 S. Ct. 624 (1951): "Notice and opportunity to be heard are fundamental to due process of law. . . . It is not without significance that most of the provisions of the Bill of Rights are procedural. It is procedure that spells much of the difference between rule by law and rule by whim or caprice."

[2] see e.g. *L. B. Wilson, Inc.* v. *FCC*, 170 F.2d 802 (D.C. App. 1948) where the court stated: ". . . due process is not necessarily *judicial process*." (emphasis added).

[3] 1 Davis, *Treatise on Administrative Law* 412; see judicial affirmation of these principles in *Bacon* v. *Holyman*, 264 F. Supp. 120 (N.D. Ill. 1967).

[4] see *E. B. Muller and Co.* v. *FTC*, 142 F.2d 511 (6th Cir. 1944); *Jeffries* v. *Olesen*, 121 F. Supp. 463 (S.D. Calif. 1954).

[5] *Londoner* v. *Denver*, 210 U.S. 373, 28 S. Ct. 708 (1908); *Bi-Metallic Inv. Co.* v. *State Board of Equalization*, 239 U.S. 441, 36 S. Ct. 141 (1915).

[6] Adjudicative facts are generally understood to be facts requiring a judicial determination, i.e. facts about the parties, their activities, business, and properties. Legislative facts do not usually concern the immediate parties but are general facts which help the tribunal decide questions of law and policy and apply discretion. See generally chapter 7 in 1 Davis, *Administrative Law Treatise* (1958 ed.) Cf. *U.S.* v. *Gonzales*, 384 U.S. 407, 75 S.Ct. 409 (1955).

[7] *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123, 71 S.Ct. 624 (1951); Cf. *U.S.* v. *Gonzales*, 348 U.S. 407, 75 S.Ct. 409 (1955); *Magnolia Petroleum Co.* v. *Carter Oil*, 218 F.2d 1 (10th Cir. 1954), cert. denied 349 U.S. 916, 75 S.Ct. 605 (1955); *U.S.* v. *McCrillis*, 200 F.2d 884 (1st. Cir. 1952).

[8] *FCC* v. *WJR*, 337 U.S. 265, 69 S.Ct. 1097 (1949); Cf. *Gart* v. *Cole*, 263 F.2d 244 (2nd Cir. 1959).

[9] *Cella* v. *U.S.*, 208 F.2d 783 (7th Cir. 1953), cert. denied 347 U.S. 1016 (1954); Cf. *Lambrose* v. *Young*, 145 F. 2d 34 (U.S. App. D.C. 1944).

[10] Section 6(a) of the APPA, 5 U.S.C. § 1006, provides in part:

"The functions of all presiding officers and of officers participating in decisions . . . shall be conducted in an impartial manner."

[11] *Draper* v. *U.S.*, 358 U.S. 307, 312, 79 S.Ct. 329, 332 (1958).

[12] Section 11 of the APA, 5 U.S.C. § 1010; See also *Ramspeck* v. *Federal Trial Examiners Conference*, 345 U.S. 128, 73 S.Ct. 570 (1953).

[13] *Jeffries* v. *Olesen*, 121 F.Supp. 463 (S.D. Calif. 1954).

[14] For a discussion of the reasons for the separated General Counsel in the NLRB, see Klaus, "The Taft-Hartley Experiment in Separation of NLRB Functions," 2 Ind. Lab. Rel. Rev. 371 (1958).

[15] *ICC* v. *Union Pacific R. Co.*, 222 U.S. 541, 32 S.Ct. 108 (1912); *ICC* v. *Louisville & N.R.R.*, 227 U.S. 88, 33 S.Ct. 185 (1913); *NLRB* v. *Columbian Enamling & Stamping Co.*, 306 U.S. 292, 59 S.Ct. 501 (1939).

[16] § 9(e) of the APA, 5 U.S.C. § 1009(e), provides in part: ". . . the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency decision. It shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . (5) unsupported by substantial evidence . . ."

[17] *Universal Camera Corp.* v. *NLRB*, 340 U.S. 474, 71 S.Ct. 456 (1951).

[18] 5. U.S.C. § 1009(e). Explaining the meaning of the term "whole record", the Senate committees report indicates: "The requirement of review upon 'the whole record' means that courts may not look only to the case presented by one party, since other evidence may weaken or even indisputably destroy that case." Sen. Doc. No. 248, 79th Cong., 2d Sess., 214, 280 (1946).

[19] See e.g., *Farmers Co-operative* v. *NLRB*, 208 F.2d 296 (8th Cir. 1953); *United Church of Christ* v. *FCC*, F.2d (U.S. App. D.C. 1969).

Mr. WILLIAMS. I also ask unanimous consent to have printed in the RECORD a letter to me from the EEOC dated January 21, 1972, which gives us an up-to-date estimate of the potential number of contested cases.

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, D.C., January 21, 1972.

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

DEAR MR. CHAIRMAN: Pursuant to the Committee's request on the effect that direct court enforcement would have in terms of anticipated initial case loads to be submitted to the Federal District Courts, the following projections represent our view on this issue.

The Equal Employment Opportunity Commission presently has a backlog of about 32,000 cases. Of these, we anticipate that close to half will go no further than the investigatory stage. Of the remaining cases, in which we expect a finding of cause to result, if direct court enforcement is granted, a substantial portion will be adjusted or will result in a pretrial settlement.

However, because of the large number of charges involved, we anticipate between 2,000 to 3,000 contested cases which will have to be filed with the Federal District Courts during the next year, if court enforcement rather than cease-and-desist is adopted. This would represent an increase between 30 to 50 percent in the case loads before these courts. Additionally, our projections for the current year show an anticipated 32,000 charges to be filed with the Commission. Of this number, the same breakdown as outlined above would apply, resulting in another 2,000 to 3,000 cases on the heels of those cases already filed pursuant to our backlog.

I hope this information will prove helpful to you. If I can be of any further assistance, please do not hesitate to call on me.

Sincerly,

STEPHEN C. BLAKESLEE, Jr.,
Director, Congressional Affairs.

Mr. WILLIAMS. I ask unanimous consent to have printed in the RECORD excerpts from the annual report of the Director of the Administrative Office of the United States Courts for 1970.

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

[Excerpts from the Reports of the Proceedings of the Judicial Conference of the United States, held at Washington, D.C., March 16–17, 1970, and October 29–30, 1970]

ANNUAL REPORT OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, 1970

§ 331. JUDICIAL CONFERENCE OF THE UNITED STATES

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years.

If the chief judge of any circuit or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit. If the chief judge of the Court of Claims or the chief judge of the Court of Customs and Patent Appeals is unable to attend, the Chief Justice may summon an associate judge of such court. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

The conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedures now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

About one-third of the United States civil case filings increase of an entire decade has occurred in the last year.

The 87,321 civil actions filed in the United States district courts in 1970 was over 28,000 cases more than the number filed during 1960, and 10,128 above the number filed in fiscal year 1969. (The largest previous 1 year's increase—of 5,744 cases—was in 1969 over 1968.)

Civil terminations in fiscal year 1970 were 7,000 fewer than filings, but up 10 percent over 1969 terminations. The 30 percent increase in terminations, 1970 over 1960, was substantially less than the 47 percent increase in filings. The present pending civil caseload is now the largest on record—93,207 cases. This is 8 percent more than a year ago, and 52 percent more than at the close of fiscal year 1960.

TABLE 12.—CIVIL CASES FILED, TERMINATED, AND PENDING IN THE UNITED STATES DISTRICT COURTS, FISCAL YEARS 1960 THROUGH 1970

Fiscal year	Filed	Terminated	Pending June 30
1960	59,284	61,829	61,251
1961	58,293	55,416	64,128
1962	61,836	57,996	67,968
1963	63,630	62,379	69,219
1964	66,930	63,954	72,195
1965	67,678	65,478	74,395
1966	70,906	66,184	79,117
1967	70,961	70,172	79,906
1968	71,449	68,873	82,482
1969	77,193	73,354	86,321
1970	87,321	80,435	93,207
Percent increase:			
1970 over 1960	47.3	30.1	52.2
1970 over 1969	13.1	9.7	8.0

In only two circuits did the district courts register less than a 10 percent increase in filings in 1970 compared to 1969. The District of Columbia showed an increase of less than 1 percent and the Third Circuit 7 percent. The greatest increase in civil filings—24 percent—occurred in district courts in the Eighth Circuit.

Compared to 1969, civil filings in 1970 showed a drop in both the Second Circuit (2 percent), and in the District of Columbia (33 percent). For these 10 years the Fourth and Fifth Circuits experienced almost a 100 percent increase and the Third Circuit a 75 percent increase. The comparisons appear below:

TABLE 13.—CIVIL CASES COMMENCED IN THE UNITED STATES DISTRICT COURTS DURING THE FISCAL YEARS 1960, 1968, 1969, AND 1970, BY CIRCUIT

Circuit	Civil cases commenced (fiscal year)				Percent change	
	1960	1968	1969	1970	1970 over 1960	1970 over 1969
Total	59,284	71,449	77,193	87,321	47.3	13.1
District of Columbia	6,990	4,529	4,627	4,654	−33.4	0.6
1st	1,937	2,387	2,825	3,160	63.1	11.9
2d	9,845	8,208	8,688	9,652	−2.0	11.1
3d	5,043	7,638	8,243	8,824	75.0	7.0
4th	3,673	5,921	6,482	7,292	98.5	12.5
5th	9,475	14,890	16,697	19,536	106.2	17.0
6th	4,803	6,598	7,163	8,080	68.2	12.9
7th	4,196	4,942	5,526	6,173	47.1	11.7
8th	3,539	3,929	4,000	4,963	40.2	24.1
9th	6,964	8,997	9,389	10,882	56.3	15.9
10th	2,819	3,410	3,553	4,105	45.6	15.5

Types of Civil Cases

A continued rise in actions under special Federal statutes explains a good part of our overall growth in filings. For example, there were 3,985 civil rights cases in 1970 compared to 2,453 the previous year, an increase of 63 percent. Similarly, many more cases were filed under the civil commitment provisions of Title III of the Narcotic Addict Rehabilitation Act of 1966 (P.L. 89-793, November 8, 1966). There were 3,268 N.A.R.A. commitments in 1970; only 2,011 in 1969. Suits under the Securities, Commodities and Exchange Act increased from 796 in 1969, to 1,211 in 1970—a 52 percent hike. More prisoner petitions, both State and Federal, were filed than ever before. State prisoner petitions accounted for 11,812 suits; Federal prisoner petitions for 4,185. This represented, respectively, an increase of 27 and 16 percentage points above the previous year's prisoner filings of 9,612 State and 3,612 Federal.

TABLE 14.—CIVIL CASES COMMENCED IN THE UNITED STATES DISTRICT COURTS, DURING THE FISCAL YEARS 1961, 1968, 1969, AND 1970, BY NATURE OF SUIT

Nature of suit	Cases filed (fiscal year)				Percentage change	
	1961	1968	1969	1970	1970 over 1961	1970 over 1969
Total	58,293	71,449	77,193	87,321	50.0	13.1
Contract actions	16,340	14,474	14,951	17,157	5.0	14.8
Insurance	1,586	2,172	2,381	2,522	59.0	5.9
Marine	2,412	2,850	2,838	3,496	44.9	23.2
Miller Act	1,333	915	735	916	−31.3	24.6
Negotiable instruments	4,070	2,388	2,567	2,971	−27.0	15.7
Other	6,939	6,149	6,430	7,252	4.5	12.8
Real property actions	3,326	3,969	3,377	3,284	−1.3	−12.1
Mortgage foreclosure	1,326	1,946	1,664	1,349	1.7	−18.9
Land condemnation	997	920	1,020	880	−11.7	−13.7
Other	1,003	1,103	1,053	1,055	5.2	0.2
Tort actions	21,205	23,909	24,713	25,320	19.4	2.5
Employers' Liability Act	1,114	1,074	1,233	1,272	14.2	3.2
Marine	4,889	6,717	7,111	7,257	48.4	2.1
Motor vehicle	9,083	9,679	9,504	9,363	3.1	−1.5
Other personal injury	4,574	4,989	5,369	5,592	22.3	4.2
Property damage	1,545	1,450	1,496	1,836	18.8	22.7
Actions under statutes	13,427	26,635	31,232	39,348	193.1	26.0
Antitrust	420	707	783	929	121.2	18.6
Civil rights	296	1,636	2,453	3,985	1,246.3	62.5
Deportation	316	163	129	144	−54.4	11.6
Forfeiture and penalty suits	2,360	2,029	1,200	1,459	−38.2	21.6
Labor laws	2,484	3,518	3,721	3,999	61.0	7.5
Narcotic Addict Rehabilitation Act		387	2,011	3,268	[1] 744.4	62.5
Patent, copyright and trademark	1,585	1,829	1,865	2,150	35.6	15.3
Prisoner petitions:						
Federal	1,589	2,851	3,612	4,185	163.4	15.9
State	1,020	8,301	9,312	11,812	1,058.0	26.8
Securities, commodities and exchange	267	689	796	1,211	353.6	52.1
Social Security laws	537	1,188	1,572	1,735	223.1	10.4
Tax suits	1,507	1,670	1,452	1,509	0.1	3.9
Other	1,046	1,667	2,326	2,962	183.2	27.3
Other actions	3,995	2,462	2,560	2,212	−44.6	−13.6
Domestic relations (local (local jurisdiction)	393	648	700	758	92.9	8.3
Insanity (local jurisdiction)	2,541	820	816	536	−78.9	−34.3
Other	1,061	994	1,044	918	−13.5	−12.1

[1] Percent change since fiscal year 1968 when Title III, N.A.R.A. took effect.

The accompanying chart [not printed in the RECORD] shows the proportionate distribution of the major classes of civil suits.

In addition to the above noted 1-year increase in other civil categories, contract actions increased overall by 15 percent with marine contract and Miller Act suits sharing most of this. Personal injury suits climbed only slightly, by 3 percent. Property damage suits were up 23 percent. A small but noteworthy decline occurred in motor vehicle injury suits.

Real property actions continued to show a decline with Government mortgage foreclosures decreasing by 19 percent and land condemnations by 14 percent.

In Table 14 above, civil case filings by nature of suit are shown for fiscal years 1961, 1968, 1969, and 1970, together with percent change comparisons for 1970 over fiscal years 1969 and 1961. The overall number of filings in 1970 has increased by half over 1961. In nature of action categories the most notable increases have occurred in civil rights; prisoner petitions; antitrust; securities, commodities and exchange; reviews of decisions of the Social Security Administration; and insurance contracts.

Today, actions under the Federal statutes accounts for 45 percent of all civil suits in Federal district courts, compared to 23 percent in 1961. Civil rights, N.A.R.A. cases, and prisoner petitions—both State and Federal, account for 27 percent; prisoner petitions alone now make up 18 percent. Back in 1961 civil rights and prisoner cases combined were only 5 percent of all Federal civil filings. The striking increase in prisoner petitions can be seen in a later chart and table.

Civil Cases Terminated and Pending

The number of districts which terminated more cases than were filed dropped to 13 this year compared to 32 in 1969, 33 in 1968, and 48 in 1967. Most notable among such districts was the Eastern District of Pennsylvania which terminated 4,725 cases, 1,194 more than the 3,531 filed during the fiscal year. Through several administrative changes in this court including the adoption of the

individual calendar for each judge, the pending caseload dropped from 7,135 on June 30, 1969, to 5,941 on June 30, 1970, a 17-percent decrease.

The Eastern District of New York recorded 1,955 terminations, greater by 217 cases than the 1,738 findings. This district began the fiscal year with 1,744 pending cases and ended with 1,527, a drop of 12 percent.

The number of districts in which filings exceeded terminations by more than 200 cases grew from three in 1969, to 11 in 1970. This means that civil case backlog grew somewhat larger in these 11 districts, specifically increasing by 586 cases in the Southern District of New York; by 363 cases in Massachusetts; by 359 cases in the Northern District of California; 316 in Puerto Rico; 298 in Eastern District of Virginia; 247 in the Northern District of Illinois; 263 in the District of Columbia; 266 in the Southern District of Texas; 253 in New Jersey; 215 in the Middle District of Florida; and 206 in Maryland. These 11 districts accounted for 49 percent of the 6,886 increase in civil cases pending on June 30, 1970, over total cases pending a year earlier.

TABLE 15.—CIVIL CASES COMMENCED AND TERMINATED IN THE UNITED STATES DISTRICT COURTS, FISCAL YEARS 1969 AND 1970

District and fiscal year	Pending July 1	Commenced	Terminated	Pending June 30	Percent change over July 1
Total:					
1969	82,482	77,193	73,354	86,321	4.7
1970	86,321	87,321	80,435	93,207	8.0
D.C. Circuit:					
1969	3,993	4,627	4,304	4,316	8.1
1970	4,316	4,654	4,391	4,579	6.1
First Circuit:					
1969	2,682	2,825	2,524	2,983	11.2
1970	2,983	3,160	2,458	3,685	23.5
Maine:					
1969	104	159	158	105	1.0
1970	105	198	161	142	35.2
Massachusetts:					
1969	1,371	1,429	1,261	1,539	12.3
1970	1,539	1,617	1,254	1,902	23.6
New Hampshire:					
1969	159	123	128	154	−3.1
1970	154	148	153	149	−3.2
Rhode Island:					
1969	291	164	215	240	−17.5
1970	240	219	228	231	−3.8
Puerto Rico:					
1969	757	950	762	945	24.8
1970	945	978	662	1,261	33.4
Second Circuit:					
1969	15,112	8,688	7,996	15,804	4.6
1970	15,804	9,652	9,096	16,360	3.5
Connecticut:					
1969	685	532	467	750	9.5
1970	750	720	607	863	15.1
New York, Northern:					
1969	540	447	421	566	4.8
1970	566	479	511	534	−5.7

TABLE C5.—UNITED STATES DISTRICT COURTS. TIME INTERVAL FROM FILING TO DISPOSITION OF CIVIL CASES TERMINATED DURING THE FISCAL YEAR ENDED JUNE 30, 1970, BY DISTRICT AND METHOD OF DISPOSITION

[Excludes land condemnation cases, habeas corpus cases, deportation reviews and motions to vacate sentence. Intervals shown are for the median time and for the range of the middle 80 percent of the cases]

Circuit and district	Total cases				No court action				Court action											
									Before pretrial				During or after pretrial				Trial			
		Time interval in months[1]				Time interval in months[1]				Time interval in months[1]				Time interval in months[1]				Time interval in months[1]		
	Number of cases	10 percent less than	Median	10 percent more than	Number of cases	10 percent less than	Median	10 percent more than	Number of cases	10 percent less than	Median	10 percent more than	Number of cases	10 percent less than	Median	10 percent more than	Number of cases	10 percent less than	Median	10 percent more than
Total all districts	64,571	1	10	35	30,567	1	8	31	15,802	1	5	26	10,902	7	18	42	7,300	5	17	44
District of Columbia	3,797	1	9	30	1,639	1	7	26	1,220	1	2	19	583	12	21	41	355	7	21	42
1st circuit	2,242	1	10	29	1,261	1	9	25	557	1	7	24	175	6	17	38	249	8	17	38
Maine	140	1	6	17	55	1	3	11	13				48	4	8	18	24			
Massachusetts	1,136	2	11	27	727	3	11	25	267	1	7	23	24				118	9	19	37
New Hampshire	139	1	12	24	42	1	7	22	32	1	8	26	30	5	13	23	35	6	14	25
Rhode Island	205	2	15	106	139	2	16	107	29	1	5	12					37	10	18	55
Puerto Rico	622	1	5	28	298	1	2	13	216	1	9	29	73	9	20	39	35	9	21	39
2d circuit	7,715	2	18	44	4,852	2	15	36	1,133	1	12	44	925	14	34	57	805	7	26	57
Connecticut	464	1	11	43	131	1	12	32	207	1	3	27	73	17	32	52	53	1	27	47
New York:																				
Northern	333	2	21	59	219	2	23	59	38	1	13	40	21				55	5	20	64
Eastern	1,536	1	12	32	1,098	1	12	31	186	2	11	20	77	7	21	41	175	6	20	42
Southern	4,813	3	22	47	3,123	3	17	36	586	2	21	50	709	17	36	59	395	15	35	61
Western	258	1	14	39	121	1	8	32	62	1	12	42	45	10	21	47	30	1	19	68
Vermont	311	5	11	19	160	5	10	17	54	2	10	20					97	7	13	21
3d circuit	7,955	2	21	51	4,181	2	18	54	1,767	1	7	37	1,255	17	36	50	752	10	35	59
Delaware	179	2	13	48	80	2	10	40	70	1	15	54	12				17			
New Jersey	1,219	1	13	34	506	1	7	18	274	1	6	21	327	16	26	41	112	14	39	46
Pennsylvania:																				
Eastern	4,130	3	32	61	2,636	4	28	62	628	1	17	46	488	33	43	59	378	20	41	71
Middle	464	1	16	34	186	1	7	26	63	1	9	19	163	11	24	38	52	11	23	35
Western	1,221	1	13	39	542	1	8	26	261	1	5	22	263	13	35	42	155	6	36	44
Virgin Islands	742	1	6	31	231	2	12	52	471	1	4	19	2				38	1	10	38
4th circuit	4,531	1	8	25	2,145	1	7	20	1,101	1	4	20	736	6	14	33	549	6	14	40
Maryland	993	1	11	31	582	1	9	25	200	1	4	24	131	15	22	47	80	1	20	46
North Carolina:																				
Eastern	234	1	7	25	107	1	5	12	49	1	3	20	41	4	11	25	37	10	20	31
Middle	156	1	6	20	51	1	3	18	43	1	3	17	42	6	15	30	20			
Western	248	1	5	25	73	1	3	13	82	1	1	12	58	6	13	29	35	5	13	30
South Carolina	899	2	9	19	503	2	8	18	230	3	8	20	55	8	12	23	111	6	12	20
Virginia:																				
Eastern	1,176	1	8	19	509	1	7	15	248	1	1	16	254	7	11	20	165	6	12	31
Western	299	1	6	18	149	1	7	14	84	1	2	15	34	1	10	26	32	5	9	32
West Virginia:																				
Northern	137	2	16	48	65	1	10	38	28	2	5	26	32	10	29	58	12			
Southern	389	2	10	42	106	1	7	23	137	2	6	23	89	5	16	37	57	7	31	98
5th circuit	15,032	1	8	26	5,845	1	5	19	4,288	1	5	22	2,926	6	14	34	1,973	4	13	37

Footnotes at end of table.

TABLE C5.—UNITED STATES DISTRICT COURTS. TIME INTERVAL FROM FILING TO DISPOSITION OF CIVIL CASES TERMINATED DURING THE FISCAL YEAR ENDED JUNE 30, 1970, BY DISTRICT AND METHOD OF DISPOSITION

[Excludes land condemnation cases, habeas corpus cases, deportation reviews and motions to vacate sentence. Intervals shown are for the median time and for the range of the middle 80 percent of the cases]

Circuit and district	Total cases				No court action				Court action											
									Before pretrial				During or after pretrial				Trial			
		Time interval in months[1]				Time interval in months[1]				Time interval in months[1]				Time interval in months[1]				Time interval in months[1]		
	Number of cases	10 percent less than	Median	10 percent more than	Number of cases	10 percent less than	Median	10 percent more than	Number of cases	10 percent less than	Median	10 percent more than	Number of cases	10 percent less than	Median	10 percent more than	Number of cases	10 percent less than	Median	10 percent more than
Alabama:																				
Northern	707	2	8	17	81	1	3	10	254	1	6	16	124	6	11	23	284	5	9	17
Middle	224	1	5	10	57	1	3	7	57	1	3	6	65	3	5	13	45	3	6	12
Southern	409	2	11	29	180	1	6	18	71	1	9	33	109	11	16	31	49	6	20	37
Florida:																				
Northern	154	1	6	18	51	1	4	11	54	1	6	15	23				26	2	10	44
Middle	1,231	1	6	23	720	1	4	20	353	1	6	18	39	9	17	41	119	6	18	34
Southern	1,341	1	7	18	336	1	3	10	581	1	5	15	275	6	13	22	149	7	14	26
Georgia:																				
Northern	686	1	10	26	247	1	7	17	209	1	7	20	99	13	20	34	131	3	17	36
Middle	236	2	5	16	95	2	5	15	44	1	5	18	38	3	8	17	59	2	5	14
Southern	280	1	11	29	155	1	9	30	80	1	10	24					45	6	17	29
Louisiana:																				
Eastern	3,629	2	10	35	1,220	1	5	20	1,108	1	7	29	1,022	7	17	43	279	8	27	64
Western	877	1	9	39	459	1	4	30	175	2	9	43	135	12	21	41	108	2	22	37
Mississippi:																				
Northern	309	2	10	31	148	1	6	19	38	1	3	26	35	6	16	46	88	5	13	39
Southern	481	1	6	17	289	1	5	14	77	1	6	19	44	4	9	19	71	3	9	18
Texas:																				
Northern	1,062	1	7	19	393	1	4	14	221	1	3	15	300	4	9	21	148	4	12	31
Eastern	625	2	10	23	231	1	6	17	117	1	7	20	188	6	13	25	89	7	13	26
Southern	1,544	1	10	28	684	1	7	22	284	1	3	31	414	7	14	28	162	5	17	46
Western	914	1	3	14	385	1	4	14	427	1	1	8	14				88	3	8	26
Canal Zone	323	1	3	13	114	1	7	16	138	1	1	7	2				69	2	9	14
6th circuit	5,835	1	8	30	1,935	1	6	23	2,101	1	3	20	1,214	7	20	39	585	4	16	43
Kentucky:																				
Eastern	357	1	11	45	139	1	12	33	181	1	9	48	4				33	1	23	60
Western	399	1	6	19	131	1	4	15	133	1	2	9	104	6	12	24	31	2	15	53
Michigan:																				
Eastern	1,780	1	4	33	395	1	6	19	841	1	2	8	462	10	23	45	82	7	28	57
Western	320	1	12	27	127	1	5	14	31	1	9	25	109	9	18	29	53	6	18	30
Ohio:																				
Northern	1,220	1	12	32	420	1	6	24	367	1	6	23	330	12	25	38	103	3	24	38
Southern	668	1	9	35	310	1	7	26	261	1	6	29	49	15	23	43	48	6	23	56
Tennessee:																				
Eastern	578	1	6	13	161	1	4	10	149	1	5	14	148	5	8	13	120	4	7	15
Middle	159	1	11	43	87	1	12	43	49	1	6	35					23			
Western	354	1	9	24	165	1	6	20	89	1	7	24	8				92	6	15	25
7th circuit	4,450	1	8	25	1,905	1	5	16	924	1	4	20	1,190	5	14	30	431	6	19	41
Illinois:																				
Northern	2,071	1	7	24	804	1	4	13	478	1	3	17	587	5	11	25	202	6	20	45
Eastern	258	2	10	26	100	1	6	19	47	2	6	24	79	7	14	28	32	8	16	24
Southern	281	1	9	27	159	1	7	23	30	1	6	14	60	7	14	30	32	1	18	39
Indiana:																				
Northern	545	1	13	28	229	1	7	20	103	1	9	23	160	11	20	34	53	10	19	31
Southern	721	2	7	24	371	1	5	15	117	1	6	20	162	5	12	31	71	4	12	36
Wisconsin:																				
Eastern	403	1	8	30	174	1	4	13	93	1	5	21	104	6	18	36	32	10	22	48
Western	171	1	6	21	68	1	6	8	56	1	3	10	38	8	16	26	9			
8th circuit	3,314	1	8	25	1,667	1	6	20	704	1	6	23	455	5	13	32	438	5	13	30
Arkansas:																				
Eastern	310	1	7	18	174	1	6	16	56	1	4	13	22				58	5	12	21
Western	239	2	7	20	94	1	6	15	50	1	5	17	55	4	11	26	40	4	11	24
Iowa:																				
Northern	144	2	7	23	63	1	4	10	34	2	8	18	27	5	11	27	20			
Southern	203	2	11	27	83	1	4	17	27	1	6	15	47	10	19	33	46	2	15	28
Minnesota	855	2	8	22	349	1	6	20	186	1	4	23	207	5	11	22	113	4	11	22
Missouri:																				
Eastern	489	1	6	17	283	1	5	12	121	1	5	17	6				79	3	10	22
Western	537	1	7	33	299	1	5	23	127	1	5	17	72	8	19	50	39	7	17	38
Nebraska	302	2	15	33	178	2	13	29	75	2	13	29	1				48	9	24	46
North Dakota	112	1	8	32	61	1	4	23	17				18				16			
South Dakota	123	1	9	31	83	1	6	19	11								29	3	12	31
9th circuit	7,084	1	9	30	4,088	1	7	25	1,469	1	6	29	833	8	16	38	694	4	16	44
Alaska	239	1	11	31	134	1	10	30	64	1	5	25	25	9	25	37	16			
Arizona	635	1	7	34	251	1	7	28	277	1	5	24	50	7	18	50	57	5	21	53
California:																				
Northern	1,622	2	14	38	1,051	2	11	30	342	1	14	42	125	19	31	53	140	3	28	61
Eastern	347	2	9	38	244	2	8	35	67	2	9	34	19				17			
Central	1,709	1	7	25	1,188	1	6	21	182	1	8	41	157	8	15	34	182	1	14	38
Southern	144	1	7	29	113	1	8	29	26	1	4	14	4				1			
Hawaii	144	1	13	34	99	1	10	28	26	1	13	23	4				15			
Idaho	190	2	9	23	109	1	5	19	44	3	10	23	14				23			
Montana	207	2	9	26	73	1	5	19	42	1	7	19	66	6	13	29	26	5	14	27
Nevada	199	1	10	40	85	1	7	21	58	1	2	17	28	12	12	42	28	5	31	54
Oregon	682	1	8	16	281	1	4	11	86	1	2	6	204	7	11	18	111	6	13	24
Washington:																				
Eastern	181	2	7	18	89	2	6	12	44	1	5	12	20				28	6	12	25
Western	679	1	10	22	300	1	8	20	200	1	4	18	102	7	13	31	77	8	14	21
Guam	106	1	5	14	71	1	4	12	11				15				9			
10th circuit	2,616	1	7	23	1,049	1	4	17	538	1	4	19	610	5	12	26	419	5	12	32
Colorado	516	1	8	23	162	1	4	15	134	1	5	19	131	6	14	25	89	4	13	28
Kansas	523	2	12	33	256	2	9	24	118	1	8	33	74	13	20	34	75	7	24	40
New Mexico	334	1	7	19	114	1	4	11	90	1	3	13	67	6	12	21	63	5	11	30
Oklahoma:																				
Northern	261	1	6	23	124	1	4	16	33	1	2	13	75	4	10	27	29	5	10	30
Eastern	123	1	7	13	40	1	4	9	23				22				38	3	10	15
Western	496	1	5	15	180	1	3	7	88	1	4	8	162	4	8	18	66	5	10	28
Utah	248	1	8	21	123	1	5	13	27	1	3	6	61	8	13	24	37	8	13	29
Wyoming	115	1	5	14	50	1	4	8	25	1	4	11	18				22			

[1] Time interval computed only where there are 25 or more cases.

REPORT OF THE DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, JULY 1 THROUGH DECEMBER 31, 1970

FIGURE J

CIVIL CASES COMMENCED DURING THE FIRST HALF OF THE FISCAL YEARS 1967 THROUGH 1971

Nature of suit	Civil cases commenced— 1968	1969	1970	1971	Percentage change 1971 over 1970
Total	34,162	36,705	42,361	46,654	10.1
Contract actions	7,233	7,259	8,139	9,346	14.8
Real property actions	1,971	1,706	1,511	1,781	17.9
Tort actions:					
Marine personal injury	3,177	3,394	3,699	3,628	−1.9
Employer's Liability Act	508	594	595	669	12.4
Motor vehicle, personal injury	4,752	4,794	4,730	4,591	−2.9
Other personal injury	2,420	2,678	2,787	3,018	8.3
Personal property damage	707	699	892	1,035	16.0
Statutory actions:					
Antitrust	315	381	465	895	92.5
Civil rights	654	1,056	1,731	2,669	54.2
Prisoner petitions:					
Federal	1,503	1,628	2,107	2,065	−2.0
State	3,672	4,125	5,788	5,854	1.1
Forfeiture and penalty	1,059	623	714	883	23.7
Labor suits	1,611	1,840	1,891	2,178	15.2
Copyright, patent, trademark	922	915	1,013	1,052	3.8
Tax suits	841	701	753	700	−7.0
Narcotic Addict Rehabilitation Act	36	823	1,565	1,382	−11.7
Other statutory actions	1,678	2,123	2,804	3,848	37.2
Other actions[1]	1,103	1,366	1,177	1,060	−10.0

[1] Mostly local jurisdiction cases.

TABLE C5a.—U.S. DISTRICT COURTS—TIME INTERVAL FROM FILING TO DISPOSITION OF CIVIL CASES TERMINATED DURING FISCAL YEAR ENDED JUNE 30, 1970 BY NATURE OF SUIT AND METHOD OF DISPOSITION (EXCLUDES LAND CONDEMNATION CASES, HABEAS CORPUS CASES, DEPORTATION REVIEWS AND MOTIONS TO VACATE SENTENCE). INTERVALS SHOWN ARE FOR THE MEDIAN TIME AND FOR THE RANGE OF THE MIDDLE 80 PERCENT OF THE CASES.

Nature of suit	Total cases: Number of cases	Time intervals in months[1]: 10 percent less than—	Median	10 percent more than—	No court action: Number of cases	Time intervals in months[1]: 10 percent less than—	Median	10 percent more than—
Total cases	64,571	1	10	35	30,567	1	8	31
U.S. cases	18,753	1	5	25	9,128	1	4	22
Contract actions:								
Negotiable instruments	2,300	1	3	15	1,881	1	3	13
Recovery of overpayments and enforcement of judgements	270	1	4	30	234	1	3	27
Other contracts	1,314	1	7	31	739	1	5	29
Real property	1,309	1	4	17	836	1	4	13
Tort actions:								
Marine, personal injury	568	4	14	30	320	3	11	28
Motor vehicle, personal injury	800	2	11	35	429	2	8	20
Other personal injury	596	2	17	52	252	2	13	55
Other torts	420	2	11	37	265	1	8	34
Actions under statutes:								
Antitrust	54	1	19	72	23			
Civil rights[1]	300	1	4	17	108	1	2	12
Liquor forfeitures	111	2	6	22	56	2	5	25
Other forfeiture and penalty suits	1,227	1	3	20	926	1	3	15
Narcotic Addict Rehabilitation Act	3,165	1	1	4	159	1	1	4
Fair Labor Standards Act[1]	1,671	1	5	16	1,312	1	4	12
Other labor litigation	302	1	5	21	167	1	5	26
Social Security Laws	1,384	3	9	21	198	3	8	13
Tax suits	1,504	4	17	46	630	3	14	33
All other U.S. actions	1,458	1	5	22	593	1	3	23

Nature of suit	Court action: Before pretrial: Number of cases	Time intervals in months: 10 percent less than—	Median	10 percent more than—	During or after pretrial: Number of cases	Time intervals in months[1]: 10 percent less than—	Median	10 percent more than—	Trial: Number of cases	Time intervals in months[1]: 10 percent less than—	Median	10 percent more than—
Total cases	15,802	1	5	26	10,902	7	18	48	7,300	5	17	44
U.S. cases	7,033	1	3	17	1,886	6	16	42	1,238	3	16	47
Contract actions:												
Negotiable instruments	325	2	4	17	76	5	14	38	18			
Recovery of overpayments and enforcement of judgments	26	1	14	29	7				3			
Other contracts	407	1	7	25	99	5	15	37	69	8	17	42
Real property	365	2	5	14	48	6	17	48	60	6	17	41
Tort actions:												
Marine, personal injury	65	5	17	39	126	9	15	33	57	8	17	36
Motor vehicle, personal injury	131	2	7	28	117	8	18	40	120	8	20	43
Other personal injury	124	2	6	33	113	8	24	57	107	11	27	58
Other torts	64	2	9	29	54	7	16	48	37	8	21	57
Actions under statutes:												
Antitrust	13				7				11			
Civil rights[1]	133	1	4	14	11				48	1	8	23
Liquor forfeitures	25	1	6	18	8				22			
Other forfeiture and penalty suits	163	1	4	20	67	3	12	38	71	2	8	29
Narcotic Addict Rehabilitation Act	3,000	1	1	4					6			
Fair Labor Standards Act[1]	141	1	6	19	144	5	10	23	74	3	13	25
Other labor litigation	69	1	5	16	14				52	1	4	26
Social Security Laws	1,117	3	9	21	53	5	10	23	16			
Tax suits	222	3	14	44	367	9	19	46	285	6	22	73
All other U.S. actions	640	1	6	20	45	4	17	54	180	1	8	22

[1] United States is plaintiff.

TABLE C5a.—U.S. DISTRICT COURTS TIME INTERVAL FROM FILING TO DISPOSITION OF CIVIL CASES TERMINATED DURING FISCAL YEAR ENDED JUNE 30, 1970 BY NATURE OF SUIT AND METHOD OF DISPOSITION (EXCLUDES LAND CONDEMNATION CASES, HABEAS CORPUS CASES, DEPORTATION REVIEWS AND MOTIONS TO VACATE SENTENCE). INTERVALS SHOWN ARE FOR THE MEDIAN TIME AND FOR THE RANGE OF THE MIDDLE 80 PERCENT OF THE CASES.—Continued

Nature of suit	Total cases				No court action			
		Time intervals in months[1]				Time intervals in months[1]		
	Number of cases	10 percent less than—	Median	10 percent more than—	Number of cases	10 percent less than—	Median	10 percent more than—
Federal question	20,030	2	12	38	10,446	1	9	34
Contract actions:								
Marine	3,104	1	15	42	2,063	1	13	39
Miller Act	831	2	9	34	550	2	7	31
Other contracts	98	2	12	31	45	2	12	30
Real property	231	1	5	28	174	1	4	19
Tort actions:								
Employers' Liability Act	1,204	5	17	37	411	3	14	33
Marine, personal injury	5,284	3	14	39	2,797	2	11	34
Other torts	766	4	19	50	335	2	14	37
Actions under statutes:								
Bankruptcy trustee suits	347	4	14	40	196	3	13	3
Antitrust	567	2	18	49	228	2	15	3
Civil rights[2]	2,327	1	5	23	787	1	4	19
Fair Labor Standards Act[2]	425	3	10	32	235	2	9	31
Other labor litigation	1,336	1	7	39	704	1	5	33
Copyright	602	2	7	32	429	1	5	28
Patent	893	2	14	50	483	2	9	33
Trademark	416	1	7	30	265	1	5	26
All other Federal question	1,599	2	10	37	744	1	7	30
Diversity of citizenship	21,633	3	12	38	9,317	2	10	33
Contract actions:								
Insurance	2,021	3	11	32	725	2	7	27
Negotiable instruments	374	1	8	30	204	1	5	23
Other contracts	4,343	2	12	39	1,932	1	8	32
Real property	557	2	7	30	287	2	6	20
Tort actions:								
Marine, personal injury	1,685	5	19	47	1,009	4	15	41
Motor vehicle, personal injury	8,010	3	12	35	3,411	3	10	31
Other personal injury	4,148	3	14	39	1,545	2	11	35
Other torts	478	2	10	34	194	1	8	32
All other diversity	17				10			
Local jurisdiction	4,155	1	8	30	1,676	1	7	27
Contract actions	602	2	10	33	332	1	8	27
Real property	301	1	11	39	164	1	8	28
Tort actions:								
Motor vehicle, personal injury	998	6	16	30	437	3	11	25
Other personal injury	443	4	17	42	169	3	11	32
Other torts	51	2	14	31	25	1	11	28
Domestic relations	641	1	4	13	137	1	8	17
Substitute trustee	28	1	2	25	21			
All other local	1,091	1	1	13	391	1	1	19

Nature of Suit	Court action											
	Before pretrial				During or after pretrial				Trial			
		Time intervals in months[1]				Time intervals in months[1]				Time intervals in months[1]		
	Number of cases	10 percent less than—	Median	10 percent more than—	Number of cases	10 percent less than—	Median	10 percent more than—	Number of cases	10 percent less than—	Median	10 percent more than—
Federal question	3,816	1	7	35	3,640	7	19	43	2,128	3	19	49
Contract actions:												
Marine	433	2	11	39	442	7	20	47	166	9	22	59
Miller Act	104	3	8	32	107	7	20	46	70	6	17	36
Other contracts	25	1	10	30	17				11			
Real property	19				27	9	21	49	11			
Tort Actions:												
Employers' Liability Act	113	1	8	33	458	7	21	39	222	7	20	40
Marine, personal injury	629	2	12	37	1,424	8	18	41	434	10	25	48
Other torts	118	2	16	43	208	9	21	51	105	10	31	76
Actions under statutes:												
Bankruptcy trustee suits	55	3	12	35	68	7	16	43	28	6	20	43
Antitrust	187	1	12	46	83	7	25	66	69	9	29	61
Civil rights[2]	882	1	3	18	189	4	12	33	469	1	7	20
Fair Labor Standards Act[2]	39	2	6	25	91	6	12	34	60	6	19	35
Other labor litigation	386	1	6	30	115	6	17	42	131	1	17	61
Copyright	106	2	9	36	45	6	11	49	22			
Patent	177	2	16	49	117	7	25	60	116	13	38	73
Trademark	71	2	7	30	48	4	13	38	32	2	16	47
All other Federal question	472	1	8	35	201	6	18	57	182	4	16	39
Diversity of citizenship	3,482	2	9	33	5,324	6	17	42	3,510	6	17	42
Contract actions:												
Insurance	460	2	9	26	446	6	14	35	390	6	15	38
Negotiable instruments	73	2	10	30	55	5	15	42	42	5	17	32
Other contracts	984	2	9	35	809	7	19	46	618	8	21	47
Real property	104	1	7	22	89	5	19	37	77	3	18	38
Tort actions:												
Marine, personal injury	136	4	26	45	411	9	26	51	129	9	30	52
Motor vehicles, personal injury	920	2	9	31	2,291	6	16	39	1,388	6	14	37
Other personal injury	695	2	9	39	1,131	7	19	41	777	6	18	44
Other torts	105	1	6	29	92	5	13	36	87	5	19	38
All other diversity	5								2			

Footnote at end of table.

Nature of Suit	Court action: Before pretrial — Number of cases	Time intervals in months [1]: 10 percent less than—	Median	10 percent more than—	During or after pretrial — Number of cases	Time intervals in months [1]: 10 percent less than—	Median	10 percent more than—	Trial — Number of cases	Time intervals in months [1]: 10 percent less than—	Median	10 percent more than—
Local jurisdiction	1,471	1	2	18	582	12	20	40	426	5	17	39
Contract actions	135	1	6	24	71	8	25	46	64	6	21	39
Real property	64	1	7	27	41	15	27	58	32	3	19	41
Tort actions:												
Motor vehicle, personal injury	86	7	16	27	337	12	19	21	138	10	19	34
Other personal injury	71	3	11	31	119	11	28	45	84	10	28	55
Other torts	12				9				5			
Domestic relations	427	1	2	9					77	5	9	14
Substitute trustee	4				1				2			
All other local	672	1	1	11	4				24			

[1] Time interval computed only where there are 25 or more cases.

[2] United States is plaintiff.

NATIONAL LABOR RELATIONS BOARD,
OFFICE OF THE GENERAL COUNSEL,
Washington, D.C., September 24, 1971.

Mr. DONALD ELISBURG,
Senate Labor Subcommittee, New Senate Office Building, Washington, D.C.

DEAR MR. ELISBURG: In accordance with our telephone conversation this A.M., I am enclosing time elapsed data that you requested.

Please note that Table 2 sets out the latest data that we have readily available in the area of court processing time.

We are presently incorporating court time-elapsed data into our automatic data processing system for reporting on a monthly basis. Thus, in the near future, we will be able to supply this material on a current basis.

If I may be of further assistance, please feel free to contact me (Code 128, ext. 5072).

Sincerely,

MILFORD C. CLEVELAND,
Statistical Assistant.

TABLE 1.—UNFAIR LABOR PRACTICE CASES PROCESSED BEFORE THE NLRB MEDIAN DAYS ELAPSED BY MAJOR STAGES (FISCAL YEARS 1970 TO 1971 AND JULY 1971)

	Fiscal years 1970	1971	July 1971
Filing to complaint	57	59	51
Complaint to close of hearing	58	62	71
Close of hearing to trial examiner decision	84	80	71
Trial examiner decision to contested board decision	124	141	140
Filing to board decision (based on actual contested decisions issued during period(s))	348	370	380

Source: National Labor Relations Board, Division of Administration, Office of Statistical Reports and Evaluation.

TABLE 2.—UNFAIR LABOR PRACTICE CASES PROCESSED BEFORE THE U.S. CIRCUIT COURTS OF APPEALS, MEDIAN DAYS ELAPSED FROM BOARD DECISION TO COURT OPINION (1ST HALF OF FISCAL YEARS 1969 AND 1970)

	1st half of fiscal years: 1969 (July to December 1968)	1970 (July to December 1969)
On petitions for enforcement [1]	592	628
On petitions for review [2] of board orders	454	421

[1] Board petitions U.S. Court of Appeals for a court decision enforcing the order of the board.

[2] Parts aggrieved by a final order of the board petitions a U.S. Court of Appeals to review such order.

Source: National Labor Relations Board, Division of Administration, Office of Statistical Reports and Evaluation.

TABLE 3.—REPRESENTATION PETITIONS MEDIAN DAYS ELAPSED BY MAJOR STAGES (FISCAL YEARS 1970 TO 1971 AND JULY 1971)

	Fiscal years 1970	1971	July 1971
Filing to notice of hearing	9	10	10
Notice to close of hearing	14	14	13
Close of hearing to board decision	139	152	150
Close of hearing to regional director's	20	23	12
Filing to board decision	228	239	245
Filing to regional director's decision	48	50	47

Source: National Labor Relations Board, Division of Administration, Office of Statistical Reports and Evaluation.

Mr. WILLIAMS. It has been mentioned, I think, by 2 of the Senators who spoke in opposition to the amendment offered by the Senator from Colorado, that there is great concern in the Federal judiciary, expressed from the pinnacle by the Chief Justice of the United States, Justice Burger, speaking as the Senator from New York pointed out.

I think it should be emphasized again that the crushing problem of the new caseload that is coming to the Federal district courts was emphasized by the Chief Justice in a speech before the American Bar Association, I believe in July of 1970, and that the situation has not improved, as the matter inserted in the RECORD will show.

Justice Burger at that time stated:

From time to time Congress adds more judges, but the total judicial organization never quite keeps up with the caseload. Two recent statutes alone added thousands of cases relating to commitment of narcotic addicts and the mentally ill. These additions came when civil rights cases, the voting cases, and prisoner petitions were expanding by the thousands.

That situation, if the amendment of the Senator from Colorado were adopted and became law, would be further aggravated. That should not be the only reason for a definitive decision on this question; I recognize that. If due process and fairness of judicial equity demanded, of course, we would have to pay that price, and the President would realize it and would have to appoint more judges to take care of the caseload.

But our entire history, particularly, I would say, of the last 30 years—the Senator from New York will correct me if I misstate—three decades of experience with this matter of enforcement by an administrative agency, with the Administrative Procedure Act as part of the whole process, have shown that it preserves all of the demands and mandates in this country of fairness in reaching a decision.

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

Mr. WILLIAMS. I yield.

Mr. ERVIN. The Senator is aware that the Supreme Court of the United States has held that Congress is without constitutional power to give final jurisdiction to an administrative or quasi-judicial body and deny the right of review in Federal courts, is he not?

Mr. WILLIAMS. Well, of course, and that is provided clearly in the legislation before the Senate.

Mr. ERVIN. So this measure recognizes that there can be a review in the Federal courts even under the bill as introduced by the distinguished Senator from New Jersey.

Mr. WILLIAMS. Well, certainly. It is abundantly clear that all the procedures demanded by the Constitution are a part of this legislation.

Mr. ERVIN. This bill would extend the jurisdiction of the Commission to the hiring practices of every businessman who employs as many as eight employees, would it not?

Mr. WILLIAMS. That is correct.

Mr. ERVIN. And that would bring millions of additional people under the coverage of the bill, would it not?

Mr. WILLIAMS. Yes.

Mr. ERVIN. Not only that, but this bill would extend the coverage of the act to all employees of all the States and local subdivisions of States, would it not?

Mr. WILLIAMS. Yes. And I wonder, if we are going to have an advocacy in support of the amendment here, whether the Senator would request some time.

Mr. ERVIN. I have no time. If the Senator will yield me some time, I would be glad to have it.

Mr. WILLIAMS. Well, if it is in support of the amendment, the Senator can seek the generosity of the Senator from Colorado. What is the Senator's wish?

Mr. ERVIN. I wanted to ask the Sen-

ator if this bill does not extend the coverage of this act——

Mr. WILLIAMS. Fortunately, yes.

Mr. ERVIN (continuing). To millions of additional employees of private industry, and at least 10 million employees of States and local subdivisions of States.

Mr. WILLIAMS. I say gratefully, yes.

Mr. ERVIN. It also enables the political hands of Caesar to be laid upon the sacred things of God. And each one of these cases where any of these things occur is subject to be reviewed in the Federal courts, is it not?

Mr. WILLIAMS. I would say that equality of rights has nothing to do with Caesar, and maybe had more to do with God.

Mr. ERVIN. I would say you do not get equality of rights by robbing the majority of their rights, and that is what this bill will do to the majority of the people of this country. But apart from that——

Mr. WILLIAMS. I do not think anyone has a right to discriminate against a person because of religion, race, sex, or national origin.

Mr. ERVIN. I do not think Congress has a right to authorize Caesar to lay his political hands upon the affairs of God, and that is exactly what this bill does.

Mr. WILLIAMS. I interpret God's mandate to man differently than the Senator from North Carolina.

Mr. ERVIN. But apart from that question, every one of the cases that arises affecting any one of the millions of additional employees of private industry which are brought under the bill and the more than 10 million State and local employees would be subject to be reviewed by the Federal courts under the bill in its unamended form, would they not?

Mr. WILLIAMS. The appeals procedure is here, and the court of appeals is written in clearly as the court of review.

Mr. ERVIN. So this will increase rather than diminish the cases in the Federal courts, regardless of whether the amendment of the distinguished Senator from Colorado is adopted or rejected, will it not?

Mr. WILLIAMS. The Senator, of course, knows that Chief Justice Burger was referring to the case load in district trial courts.

Mr. ERVIN. Which goes to show that when a man gets to be a Federal judge, he is just like every other man who gets a Federal job: The first thing he wants to do is have his duties lightened, and the next thing he wants is to have his salary increased. This shows that Federal judges are as human as other people.

Mr. WILLIAMS. I am not going to argue that. When we look at the caseload of the district courts, which has been included in the RECORD at the request of the Senator from New York, I am not proud of the fact that from the inception of a case in the State of New Jersey to its conclusion, the time has now reached 29 months. I am not proud of that. Justice delayed, it has been said by wiser authorities than this Senator, is justice denied. Twenty-nine months is a long, long time in the district courts of the State of New Jersey.

I will state that in the State of North Carolina, in the eastern district, 20 months is the time from the filing of an action to a decision in the case, and that is too long.

But be that as it may, with time running, I have no further requests but to say, without yielding back the few minutes that I might have, Mr. President, that it is suggested here, in support of this amendment, by some of the debaters, that we are introducing a monstrous and unfair procedure in this area of equal employment opportunity. This is so far from what is being done by the legislation. A time honored procedure for enforcement, with all the protections for due process and fairness included, is exactly what we have done, a method that is being used in all the other administrative agencies of importance, that is being used in 34 of the 38 States that have human rights commissions and have a guarantee that there will be equal employment opportunity.

So it is far from anything new. What this proposes is that the Federal protections, constitutional protections, of equal opportunity be given the same enforcement procedures in the administrative agencies that exist in all the economic agencies of the Federal Government, that exist in most of the States that have human rights commissions or divisions or sections.

Mr. DOMINICK. I yield myself 3 minutes.

Mr. President, I want to make some brief points. I have listened very carefully to the proponents of the system as is presently contained in the bill—namely, the cease and desist authority. So far as I can see, they say that a court enforcement system would take longer and that cease and desist has been used in other cases, and therefore we ought to use it for equal employment.

I do not think either one of these is a very compelling argument, because we have testimony—which I have already referred to—that indicates that there is now a backlog of more than 20 months in the EEOC, just on compliance and mediation cases. If you expand their jurisdictional control by 21 million people, expand the procedural complexities by giving them cease and desist authority and say they are going to need 100 attorneys or more—about which we have testimony—and they are going to do it all within their one agency, you obviously are not going to have 20 months' delay but more than 3 years' delay.

In addition, facts I presented indicate that cease and desist procedures stimulate circuit court of appeals procedure, so you have just as much a burden, if not more in the circuit courts, as you would if they originated cases in the district courts as my amendment does. I think that argument is not supported by the facts.

The second point is that in the discussion of this bill in committee, we considered what should be done about State and local employees, and we gave them a right to proceed through the Attorney General into the court system and not be subject to cease and desist orders. We gave the Federal employees the right to go through their agency and then go either to the Civil Service Commission Board of Appeals and Reviews or to the court. But in the case of private employees, this bill says that they cannot use the court system; they cannot be like the other people covered under this bill. They will have to redress their grievances through the cease and desist machinery without ever getting to the district court.

I do not have to make any apologies to the Senator from New Jersey or the Senator from New York on my civil rights record. I think it has been fairly strong. I do not recall that I have ever voted against a civil rights bill in my life, and I say that in my public life, and I say that with considerable pride.

I also started out by saying that I think we do need equal employment enforcement procedure. But it seems to me that the way to do it is not the way we are doing it here, by overburdening an agency which already cannot keep up with its load, but by doing something to put into force what almost every commission has ever said when it investigated the executive agencies: Separate their functions.

This amendment, if adopted, will separate at least the adjudicatory functions and put them into the court system. By so doing we would also remedy the discrimination that S. 2515 language would impose on private employees.

The PRESIDING OFFICER (Mr. SPONG). The time of the Senator has expired.

Mr. DOMINICK. I yield myself 1 additional minute.

The Senator from Minnesota mentioned the fact that S. 2515 allows the respondent a fair appeal of his case in the court of appeals. Mr. President, this is not entirely true as if an employer has a case brought against him and an order issued against him, under the present bill, and because of one reason or another he does not get around to appealing the Commission's order within 60 days, the findings of the Commission are final, and the courts are not permitted even to determine whether or not there was substantial evidence of any kind to support such findings, much less a preponderance of the evidence. So they become final after 60 days, and neither the employer nor the employee has any right to challenge this.

I do not think that is proper judicial procedure. I have strong doubts as to its constitutionality.

The next point I want to make is that we are adding 21 million people. Let us give the chance to separate these functions and have enforcement procedures where they belong.

I reserve the remainder of my time.

Mr. JAVITS. Mr. President, will the Senator yield me 1 minute?

Mr. WILLIAMS. I yield the Senator from New York 1 minute.

Mr. JAVITS. Mr. President, the Senator said something about these cease and desist orders being unfair because in 60 days they become final. What the Senator did not say is that any respondent, by just filing a petition for review with the Circuit Court of Appeals, makes them not become final. He has a perfect right to test out the order which has been issued against him. Certain presumptions come from the substantial evidence rule,

but there is no finality by which the respondent is foreclosed. He has an absolute right to appeal to the Circuit Court of Appeals, which has a very broad jurisdiction, as described in the bill before the Senate, to review. Indeed, the appeal can go either way.

If the agency wants to have the power to seek contempt in the event of a violation, it, too, can move in the Circuit Court of Appeals for a court order. But it is the very reason why we seek the cease and desist authority, and we say it has some teeth in it. At least, it gives finality within the agency. The respondent, himself, then has to take it to court, but there is no inhibition in that. He can do so, and in many cases does do so, and the order is then reviewed. So I do not see that this adds anything but efficiency.

I repeat what I said before. You cannot argue at one and the same time that there is a tremendous backlog of work and yet not give an opportunity for that work to be terminated by giving the necessary power through which it can be terminated, and that is the cease and desist authority.

Mr. WILLIAMS. Mr. President we are about to vote on this issue. We are exactly where we were on September 30, 1970. The same bill, the same issue, was before the Senate at that time. There was a record vote of 41 to 27 rejecting the well-intentioned motive of our good friend, the Senator from Colorado, who, I will say in closing, has in fact been most constructive and productive in the development of the measure before the Senate. We disagree without any disagreement between us.

Mr. DOMINICK. Mr. President, do I have any more time?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. DOMINICK. I will use it to summarize:

We are adding a large number of people under the jurisdiction of the EEOC, which already has a big backlog. We are also adding substantial untried powers which are perhaps even unprecedented.

We are additionally treating private employees and private employers differently than we treat Federal, State, and local employees—we should give them a right to redress their grievances in the Federal district court.

My amendment would provide more effective enforcement, do it more rapidly, and preserve the difference in separation of powers which is so imperative to our whole system of justice, our whole system of Government. Unless we do approve the amendment, we are once again adding to the Star Chamber kind of operations which have been criticized in so many cases within the agencies themselves and by commissions which have looked at the agencies to determine whether they are proper.

Thus, Mr. President, I urge support of my amendment.

EEOC CEASE-AND-DESIST POWERS ARE ESSENTIAL

Mr. HUMPHREY. Mr. President, the present substitute amendment to S. 2515, the Equal Opportunities Enforcement Act—amendment No. 611, submitted by the Senator from Colorado (Mr. DOMINICK)—to vest employment nondiscrimination enforcement powers in the courts, goes to the heart of the issue of what constitutes effective protection of an employee's civil rights. I am convinced that the process of court litigation would fail to achieve this goal, and I urge the Senate to defeat this amendment.

The cease and desist enforcement powers granted to the Equal Employment Opportunity Commission under the pending bill constitute an essential mechanism for assuring that the rights enunciated in title VII of the Civil Rights Act of 1964 will, in fact, and after an unconscionable delay of over 7 years, be guaranteed.

Enforcement through cease and desist administrative proceedings has been given to almost all other Federal regulatory agencies—most recently, to the Occupational Safety and Health Review Commission, under the law enacted by the last Congress—Public Law 91-596—to protect the right of some 57 million American workers to working conditions that are free of health and safety hazards. Moreover, this type of enforcement authority is the same as that adopted by 34 of the 38 States which have equal employment opportunity laws.

I fail to see the logic that the enforcement of a worker's most basic rights requires any less vigorous approach by the Federal Government. The increasingly overcrowded caseloads of our Federal courts are a well-known fact. Over 16,000 trials were completed in U.S. district courts in 1970—60 percent more than in 1962—but there was a total of 127,240 civil and criminal cases on the dockets that same year, with an expectation, that many will not be reached for several years.

Let me state the case in its stark reality: The delay of justice is the denial of justice. Respect for law is directly related to the enforcement of law.

This is the heart of the matter. Speed and efficiency are essential to the administration of justice affecting the most basic need of every American—man or woman, black or white—the right to an equal opportunity to obtain or advance in a job, without regard to race, color, religion, sex, or national origin.

It is my firm judgment that the balance of evidence presented to the Senate clearly weighs in favor of administrative enforcement of this right, as over against court enforcement, to assure that it is effectively protected. It has been clearly established the extensive administrative expertise is required in the resolution of complex problems of employment discrimination under title VII proceedings. The courts have acknowledged the EEOC's specialized qualifications in addressing these problems, and EEOC opinions have been given great weight in subsequent judicial interpretations and decisions.

Moreover, there is sufficient evidence that the administrative approach encourages early settlement of claims and provides the latitude that is frequently so vital in resolving complaints, thereby further alleviating the courts and providing quick relief for aggrieved individuals. For example, of the 33,581 cases received by the National Labor Relations Board in fiscal 1970, 92.4 percent were disposed of without the need for a formal hearing, with only 420 of the 2,217 cases heard by hearing examiners having to be filed for review or enforcement in the courts of appeals, and only about half of these being set for oral argument.

Third, we need this unified approach, through the EEOC, to problems of employment discrimination, wherein decisions would be rendered by one agency rather than several hundred district court judges. Only in this way can we achieve clear patterns in legal interpretations and remedial approaches that are essential to the effective protection of title VII rights.

The administrative process provided for under S. 2515—a process of EEOC efforts initially to achieve voluntary compliance, followed by hearings under the provisions of the Administrative Practices Act, with the incorporation of existing law relating to the provision of preliminary relief, and a subsequent EEOC decision and possible issuance of cease and desist orders, and with either party accorded the right of appeal to the appropriate U.S. court of appeals—is a process that will guarantee to all parties fair and impartial adjudication of their claims.

I urge the Senate to reach a firm decision that administrative enforcement is preferable to court enforcement of equal employment opportunity rights. I regard the EEOC cease and desist enforcement powers as essential to guaranteeing justice to aggrieved individuals—the women, the blacks, American Indians, Chicanos, and members of other minority groups who continue to wait for the fulfillment of the rights that are basic to making a reality of the promise of America.

Mr. TALMADGE. Mr. President, when the Congress passed title VII of the Civil Rights Act of 1964, it created the Equal Employment Opportunity Commission to help those people who believe they have been subjected to unfair employment practices because of their race, color, religion, sex, or national origin. As prescribed by that law, the functions of the EEOC are limited to investigating, mediating, and conciliating alleged instances of discriminatory employment practices. However, title VII did not provide the Commission with a mechanism to enforce its findings and redress legitimate grievances.

Therefore, the question which the Senate must answer today is which form the expansion of the jurisdiction and functions of the EEOC should take: Should the Commission be empowered to take its discrimination cases into the Federal district courts, or should it be permitted to issue cease and desist orders unilaterally?

Mr. President, I am convinced that the district court approach is far superior to the administrative approach. Court enforcement is speedier and provides greater protection for both plaintiff and defendant than does administrative enforcement. It separates the functions of

those who prosecute and those who judge. It assures due process of law.

Obviously, the enforcement machinery should be geared toward promptly redressing legitimate grievances and promptly dismissing frivolous complaints. Unlike a district court decision in favor of the Commission's findings, which would be immediately enforceable, enforcement of a cease and desist order issued by the EEOC would require resort to the appropriate Federal court of appeals. It would certainly appear that the enforcement approach involving only one procedural step is superior to that involving two.

Equally important as the number of procedures involved are the records of our district courts and the EEOC, and their respective abilities to handle their present workloads.

Mr. President, since the Commission came into existence in 1965, over 50,000 cases have been presented to it. As of June 30, 1971, the Commission had a backlog of 32,000 cases and required from 18 to 24 months to dispose of a complaint. On the other hand, the backlog of nonjury trials in the United States district courts was relatively small, requiring about 10 months for disposition of a case.

But, Mr. President, the matter which concerns me most greatly is the threat which granting the EEOC authority to issue cease and desist orders would pose to the elemental concepts of fairness and due process which are fundamental to our system of justice. Under a cease and desist proceeding, the EEOC would investigate the charge, issue the complaint, prosecute the case, adjudicate the merits, and seek enforcement of its decision. The Commission would perform the roles of both prosecutor and judge, and the entire process would take on the atmosphre of a kangaroo court.

Predictably, proponents of administrative enforcement argue that this approach has become the rule over the last 25 years, that various Federal agencies, the Securities and Exchange Commission, the Federal Trade Commission, the Interstate Commerce Commission, and the National Labor Relations Board, have been granted such authority. However, they fail to point out that with the exception of the NLRB, the agencies which have been given cease and desist powers are essentially regulatory agencies. Moreover, it is interesting to note that with regard to the National Labor Relations Board, Congressional hearings have been held on proposals to expedite the NLRB's cumbersome processes which are very similar to those being advocated for the EEOC.

Mr. President, I submit that the proposal to grant the Commission the authority to issue cease and desist orders without proving its case in a court of law goes to ridiculous lengths. It would seek to uphold the rights of one party by subverting the rights of the other. It would seek to redress the grievances of one party by creating grievances for the other. It would place a tremendous additional burden on a Federal agency whose past record clearly demonstrates that it is unable to handle its present workload. It purports to expedite justice by removing it from the courtroom and placing it in an administrative quagmire and by adding procedural steps instead of reducing them.

Therefore, Mr. President, I cannot support the provision in S. 2515 granting the EEOC the authority to issue cease and desist orders. Instead, I shall vote for the amendment of the Senator from Colorado to authorize the Commission to sue directly in the Federal district courts to enforce its findings, and I urge my colleagues to do likewise.

Mr. CHILES. Mr. President, I am supporting the Dominick amendment because I believe it is obvious to everyone that the Equal Employment Opportunity Commission needs some "teeth" in it—it needs some enforcement power. The question then becomes, "Do we give EEOC the power to investigate, prosecute, act as trial judge and review in cases of alleged violation of title VII?" Do we jeopardize our longstanding belief in separation of powers among the three branches of our Government by placing judicial power in the hands of the Executive? Or do we empower EEOC to sue in district courts when their efforts at conciliation fail and thus preserve fair trial and due process, preserve our doctrine of separation of powers, and make an effort to shelter the regulatory process from the political potential within the EEOC? I think we must do the latter.

All are agreed, I believe, that the time is right for the Congress to establish some type of enforcement power giving strength to the purposes of the law establishing the Equal Employment Opportunity Commission. There are many good reasons, however, to empower the EEOC to sue in district courts rather than empower the Commission itself to issue complaint, conduct hearings, and issue cease and desist orders. I think the most important reason is the fact that the EEOC has the role of civil rights advocacy. Because an advocate by nature represents one side of the law it is no longer able to be an impartial arbiter of the law. It cannot be asked to apply the law without prejudice.

Another reason for empowering the EEOC to sue in district courts is the fact that the Commission has a backlog of cases for 18 to 24 months. It would probably take several years to set up proper adjudication procedures and develop staff expertise within the EEOC. The use of the existing court system would mean not only more immediate action but would bring EEOC skill and Federal court freedom from political pressure together in a single effort. It would also be consistent with the current trend in Government—as evidenced by the FTC, ICC, and SEC cases—of keeping the judicial power in the courts. Executive agencies and commissions ought to have the investigatory power and the power to charge violations of the law. But the decision as to whether the law has indeed been violated, ought rightfully to come from the courts.

There is a job here that needs doing. Congress established the EEOC to investigate complaints of discrimination in employment and to try through procedures of conciliation to resolve the grievance. But some enforcement procedure is necessary—some effective protection of both the employer's and the employee's rights through a speedy resolution of the dispute. I believe the most effective method to assure final remedy and speedy settlement of the dispute would be to allow the EEOC to continue its investigations and hearings—to continue its efforts to seek voluntary compliance with the Civil Rights Act, but also to provide EEOC attorneys with the power to sue in Federal district courts in cases where there is reasonable cause to believe a violation of title VII has occurred and where EEOC's attempts at conciliation have failed.

Mr. SPONG. Mr. President, no form of discrimination is more pernicious to American values than denying an individual a chance to make the most of his or her abilities and to be judged on merit. Freedom of opportunity is what this country is all about and it must be made a reality for all Americans, regardless of race, sex, religion, or national origin.

Clearly, we have not done enough in the past to end discrimination in employment. The time has come to put enforcement powers behind the promises that have been made. The issue remains, however, what is the best way to achieve our goal.

There can be no question that willful or knowing discrimination in employment is wrong and I believe it should be dealt with in the most expeditious way.

But the fact is a significant part of the problem today is not the simple, willful act of some employer but rather the effect of long-established practices or systems in which there may be no intent to discriminate or even knowledge that such is the effect. The committee report is very clear on that point:

> In 1964, employment discrimination tended to be reviewed 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. Experience has shown this view to be false.
>
> Employment discrimination as viewed today is a far more complex and pervasive phenomenon. Experts familiar with the subject now generally describe the problem in terms of "systems" and "effects" rather than simply intentional wrongs, and the literature on the subject is replete with discussions of, for example, the mechanics of seniority and lines of progression, perpetuation of the present effect of pre-act discriminatory practices through various institutional devices, and testing and validation requirements.[1] In short, the problem is one whose resolution in many instances requires not only expert assistance, but also the technical perception that the problem exists in the first instance, and that the system complained of is unlawful. This kind of expertise normally is not found in either the personnel or legal arms of corporations, and the result in terms of conciliations is often an impasse, with the respondent unwilling or unable to understand the problem in the same way that the Commission perceives it.

I am not suggesting that because it may have been unintentional or un-

Footnotes at end of table.

knowing, an act of job discrimination should be tolerated. I am saying such cases ought to be treated differently than other acts of discrimination.

The problem here is not one of simply assigning blame and requiring remedy but of defining what constitutes a violation of law in the first place and of constructing a solution which takes account of all the circumstances. I believe that kind of question should be submitted to the full processes of a court of law.

Mr. President, the purpose of the bill before us is to go beyond mere conciliation in achieving equal job opportunities, but we must not make the mistake of moving to the opposite pole of confrontation. In the end, the success of our efforts will not depend on the degree of authority we bestow on some Federal agency but on our ability to create a climate of cooperation and understanding in dealing with this complex problem. I do not believe we further that goal by denying full due process to a defendant who may not recognize his culpability in the case and may not even perceive that a wrong has been done.

In my opinion, there is a basis for distinguishing in the law between acts in which there is an element of knowing or willfulness and those which are the unintended and unperceived results of an employment system. The first may properly be the object of cease and desist powers, but the latter in my judgment is not. Unfortunately, the bill before us makes no such distinction.

While I believe in legislation to improve enforcement of equal job opportunities, I will vote for the amendment offered by the Senator from Colorado as an improvement in the bill before us.

Mr. HART. Mr. President, I ask unanimous consent to have printed in the RECORD the views of the National Council of Jewish Women, in opposition to the Dominick amendment. Senators and others concerned with the EEOC extensions will, I am sure, be interested in the position of this informed group, as conveyed to me today by Mrs. Earl Marvin, national president.

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

The National Council of Jewish Women opposes the amendment introduced by Senator Dominick, for this amendment will deny the Equal Employment Opportunity Commission the necessary authority to enforce the provisions of Title VII of the Civil Rights Act. We believe that the EEOC should be given the authority to issue cease and desist court enforceable orders so that equal employment opportunities for all may, at long last, become a reality rather than a statement of principle. It has been demonstrated over the years that persuasion and conciliation are not adequate to combat discrimination. More vigorous means are needed to achieve results. It has also been shown that the judicial approach through our Federal District courts, whether initiated by EEOC, or by the individual complainant is a lengthy and burdensome one.

Minority groups in our population have struggled for more than a century to achieve the right to work, so basic to human dignity. The EEOC must be granted now the long overdue cease and desist powers to carry out its responsibilities in protecting the right to work of all Americans.

Mr. BROCK. Mr. President, this Nation was founded on the philosophy of due process of law. A man accused must be given the right to go before a jury of his peers and plead his case—and be judged by his neighbors, right or wrong.

Today we are debating legislation that threatens to undermine this very philosophy.

The Equal Employment Opportunity Commission bill actually allows this regulatory commission to put agents into the field who have the authority to go into a small business and say "Mr., I don't like what you are doing, it is discrimination, you are guilty, you are fined and don't bother to plead innocent because there is no appeal, my decision is final."

If we allow this legislation to pass with this authority, we will be creating a commission that will send bureaucrats, who have been elected by no one, out to serve as policeman, judge, jury, and prosecutor, all rolled into one.

No judge or jury, just a bureaucrat with the power to judge and destroy.

This uncontrollable regulatory authority, in the EEOC bill is a violation of every tenant of America. There is simply no excuse for Congress to delegate this kind of raw power to this agency.

The Federal Government does not have the right to say to Americans, under any circumstances, that "you are guilty until proven innocent—and you have no appeal."

Mr. President, I urge my colleagues to support the Dominick amendment, which removes this regulatory power from the bureaucracy and puts it where it should be, with the courts.

The PRESIDING OFFICER (Mr. SPONG). All time on the amendment has now expired.

The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SAXBE (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Ohio (Mr. TAFT). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), the Senator from Illinois (Mr. STEVENSON), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) is absent on official business.

The Senator from Kentucky (Mr. COOPER) is necessarily absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is absent because of illness in his family.

The Senator from New Hampshire (Mr. COTTON), the Senators from Kansas (Mr. DOLE and Mr. PEARSON), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The pair of the Senator from Ohio (Mr. TAFT) has been previously announced.

On this vote, the Senator from Kentucky (Mr. COOPER) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Illinois would vote "nay."

On this vote, the Senator from Kansas (Mr. DOLE) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Kansas would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 41, nays 43, as follows:

[No. 4 Leg.]

YEAS—41

Allen	Dominick	Jordan, Idaho
Allott	Eastland	Long
Baker	Ellender	McClellan
Bellmon	Ervin	Miller
Bennett	Fannin	Roth
Bentsen	Fulbright	Smith
Bible	Gambrell	Spong
Brock	Goldwater	Stennis
Byrd, Va.	Griffin	Talmadge
Byrd, W. Va.	Gurney	Thurmond
Cannon	Hansen	Tower
Chiles	Hollings	Weicker
Cook	Hruska	Young
Curtis	Jordan, N.C.	

NAYS—43

Aiken	Hughes	Packwood
Anderson	Humphrey	Pastore
Bayh	Inouye	Pell
Beall	Jackson	Proxmire
Boggs	Javits	Randolph
Brooke	Kennedy	Ribicoff
Burdick	Mansfield	Schweiker
Case	Mathias	Scott
Church	McGee	Stafford
Cranston	McGovern	Stevens
Eagleton	Metcalf	Symington
Fong	Mondale	Tunney
Gravel	Montoya	Williams
Harris	Muskie	
Hart	Nelson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Saxbe, for.

NOT VOTING—15

Buckley	Hatfield	Pearson
Cooper	Magnuson	Percy
Cotton	McIntyre	Sparkman
Dole	Moss	Stevenson
Hartke	Mundt	Taft

So Mr. DOMINICK's amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, is the Senator qualified?

The PRESIDING OFFICER. Did the Senator from North Carolina vote with the prevailing side?

Mr. ERVIN. I did not.

The PRESIDING OFFICER. The Senator is not qualified to make the motion.

The question is on agreeing to the committee amendment in the nature of a substitute as amended.

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

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

THE BUDGET MESSAGE OF THE PRESIDENT, 1973

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate a message from the President of the United States transmitting the budget message, 1973, which, with the accompanying document, was referred to the Committee on Appropriations.

The text of the message is printed in the House proceedings of the CONGRESSIONAL RECORD of today, at pages 762–770.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CHILES) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

AMENDMENT NO. 809

Mr. ALLEN. Mr. President, I call up amendment No. 809, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 33, line 24, strike out the word "religious".

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

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

Mr. ALLEN. Mr. President, I have called up amendment No. 809, which merely strikes one word out of the bill as presently before the Senate. But it does a whole lot more than knock out a word. It changes the meaning of the bill in a very important particular.

One of the most horrendous provisions of S. 2515 is section 3, which removes the existing exemption for employees of educational institutions as presently contained in section 702 of the Civil Rights Act of 1964. This over-zealous proposal attempts, first, to subvert academic freedom and, second, violates the prohibition contained in the first amendment which guarantees the free exercise of religion.

Mr. President, under the present law, is exempted from the provisions of the EEOC Act not only educational institutions of all kinds but also religious corporations, associations, or societies with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, or society of its religious activities. Then it goes on in the section which is deleted from the law by the present bill, this clause, and it removes this exemption: "or to an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution."

So it removes from the exemption, from the operation of the EEOC Act, all educational institutions of any sort with respect to their educational activities; then as to societies or corporations or associations with respect to the employment of individuals of a particular religion to preform work connected with the carrying on by such corporation, association, or society of its religious activities.

So that the only exemption that is given to religious societies or associations or corporations is with respect to the employment of individuals to perform work connected with their religious activities.

In other words, Mr. President, in the case of an educational institution sponsored by a church group, the provisions of the bill now before the Senate would protect that religious association or college or school or society in the employment of people of its own religion in carrying on the religious activities of that association or corporation or school. If it were a college supported by the Catholic Church or the Baptist Church or the Episcopal Church, the bill as submitted would protect it only as to the employment of someone for enabling it to carry on its religious activity. So that in a church-supported school, if the Baptist supported school wanted to employ a Baptist to teach theology or if a Catholic-supported school wanted to employ a Catholic to teach theology, it would be protected.

But as to all its other activities, there would be no protection. Under the provisions of the bill, there would be nothing to prevent an atheist being forced upon a religious school to teach some subject other than theology. A religious school would not like to have an atheist or people of a different faith teaching other subjects and confining its right to be selective in the choice of its faculty only to those phases of the work carrying out its religious activities.

The present law goes on from that, though, and says that every educational institution shall be exempt from EEOC in the carrying on of its educational work, but the present bill removes that exemption. Religious schools are protected under the present law as educational institutions, so that they are exempt. But if the bill as submitted is passed and becomes law, religious schools would be exempt from the provisions of the EEOC Act only insofar as the work pertains to the carrying on of religious activities. The educational activity would not be exempt.

All this amendment would do would be to knock out the word "religious" where it appears in the bill before "activities."

The bill reads as follows:

This title shall not apply to any employer with respect to the employment of aliens outside any State—

This is in the present law and in the bill itself.

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.

The amendment would knock out the word "religious," leaving in the exemption in the carrying out of its activities. Exemption from the act would be provided by the amendment as to religious schools, as to religious societies, as to religious corporations or associations, and as to all educational institutions.

Mr. President, the charge is frequently made with respect to academic freedom that the Government is moving in, the Government is taking over, the Government is regulating the thought in an institution; academic freedom is in peril. Many colleges have had their accreditation as an approved institution withdrawn because of political interference, because of political dictation, because of the State taking over the activities and controlling the activities of an educational institution. The bill as presented to the Senate at this time, as it comes from the committee, knocks out the exemption for educational institutions, and many of our schools throughout the country are going to be caught up in charges of political control, political manipulation, political domination. Academic freedom which is so revered by liberal thought in this country, might very well be a thing of the past if this bill passes without this amendment and we would have the Equal Employment Opportunity Commission taking over the employment and promotion practices of colleges and schools throughout the country including church-supported schools. So that I believe the effort by the sponsors of the bill and the effort by the committee substitute to take educational institutions out from under the exemption provided by the present law is going just a little bit too far in this power grab—and that is what it is—on the part of the EEOC, not only to take over the employment and promotion policies of every State, county, and city in the country—and that is provided by the bill—but it will also take over the employment and promotion policies of every

employer in this country employing as many as eight employees.

What chance does little business have?

We have a special Subcommittee on Small Business that is seeking ways and means to help small business, because we all know that the big corporations in this country get most of the defense work and most Government contracts. But with all the paperwork and Government regulations and all the redtape imposed on small business, it is a wonder that any of them can survive. Now, to put this additional burden on small business is going to crowd many small businesses to the wall.

Another thing, Mr. President, that impresses me about this whole concept of the bill is that it purports to provide an equal opportunity, an equal right, and an equal freedom for every person to obtain employment without discrimination. We are all in favor of that concept. I am sure there is not a Member of the Senate that does not want to see every person gainfully employed, every person receiving fair treatment in his application for employment, and every person going just as far in life as his abilities, ambitions, and efforts will take him.

One would think, from hearing the debate in this body, that there are hundreds of thousands, even millions of jobs out there which are being denied to certain of our citizens.

This bill does not create one single job unless it is that of a government bureaucrat, and that is the only job that is created, is a government job. It does not create a single job in private business or private enterprise. It just provides the means to harass business, industry, and labor unions.

When the bill seeks out and draws under its so-called protection, active control, and domination, every school in the county, every college in the country, every church-supported school in the country, that is going a little bit too far.

The amendment by the distinguished senior Senator from North Carolina (Mr. ERVIN) and myself would preserve this exemption and would leave the present law exactly as it is. It would say to the people who want so greatly to expand the field of operations of the EEOC, "Do not touch the colleges. Do not try to take over the method by which the colleges and schools throughout the country are educating the young people of the country."

I would say, Mr. President, that the EEOC is some 18 to 24 months, I believe it is, behind in its backlog of cases. It anticipates, under the present law 32,000 new filings that will come in fiscal year 1972—that is, the year beginning July 1 of last year—and 45,000 cases in fiscal year 1973. They are going to take under their purview some 8 to 10 million State and local, county and city employees, city agencies, county agencies, and so forth. They will start having, I assume, quasi-court proceedings providing due process for the respondents and they will take a whole lot more time than this method they have now of a little "popsicle" investigation, complaint, and decision.

If they are going to provide for due process under the EEOC, how in the world are they going to take over all of these other fields? If they take over every school, that would include every private school, every public school, every educational institution, and the bill will turn that activity over to the EEOC.

Mr. ERVIN. Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. This bill, for the first time, undertakes to make each of the 50 States and all of their political subdivisions subject to the EEOC, does it not?

Mr. ALLEN. That is correct.

Mr. ERVIN. It does this, in effect, by making them employers. They are included in the definition of the term that the bill applies to employers.

Mr. ALLEN. Yes, sir.

Mr. ERVIN. I invite the Senator's attention to section 701 of the Civil Rights Act of 1964 which is part of title VII, the Equal Employment Opportunity title. This section says this, in subsection (f):

> The term "employee" means an individual employed by the employer.

When States or their political subdivisions are made employers, as they are by this bill, it means that every person employed by a State or by a political subdivision of a State is an employee subject to the provisions of this act and that the EEOC has jurisdiction to supervise all employment practices of all States and all political subdivisions of all States; does it not?

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Does the Senator from Alabama agree with the Senator from North Carolina that Chief Justice Salmon P. Chase stated the purpose of the constitution of the United States in a nutshell when he declared in the case of Texas versus White:

> The Constitution in all of its provisions looks to an indestructible union composed of indestructible States.

Mr. ALLEN. I believe that is a correct statement.

Mr. ERVIN. Can the Senator from Alabama reconcile that analysis of the Constitution of the United States with a bill which says that a Federal agency which is politically appointed shall have jurisdiction over the hiring practices of every State and every political subdivision of every State in the Union?

Mr. ALLEN. Appointed at the Federal level?

Mr. ERVIN. That is correct.

Mr. ALLEN. I would certainly feel that is not consistent with Chief Justice Chase's statement.

Mr. ERVIN. To come down to a question of definition, I do not know whether under the terms of this act. This is correct, but perhaps the Senator from New Jersey can enlighten us on this point. The Governor of North Carolina is employed by the State of North Carolina. Does that mean that the EEOC has jurisdiction to compel the people of North Carolina to elect or employ a Governor who happens to be a member of a minority race or a member of a religious minority or a person who has a national origin different from the majority of the people of North Carolina?

Mr. ALLEN. I would certainly resist any such construction being placed upon any provision of the bill.

Mr. ERVIN. This legislation has no provision, does it, which would except from the application of this act the elected officials of the State who are undoubtedly employed by the State?

Mr. ALLEN. I have read the bill through and I do not see any exception.

Mr. ERVIN. The bill is broad enough, and it would be if amended, when the State is made an employer, to cover any individuals employed by a State or by a political subdivision of a State. It would cover all of the appointed positions in the State government.

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. North Carolina, for example, has superior judges who, on the recommendation of the clerk of the superior court, appoint justices of the peace, and the justices of the peace exercise part of the judicial power of the State. So, we would have an agency here in the city of Washington which would have the jurisdiction to say that a superior court judge in the State of North Carolina and the clerk of the superior court of North Carolina, if they prefer to appoint a person that belongs to the same race as the justice of the peace instead of a person belonging to another race or if they prefer to appoint a person justice of the peace who has a religion similar to theirs in preference to a man who does not have a religion similar to theirs or any religion whatever, would violate the act.

Mr. ALLEN. It looks as if under a strict interpretation of the bill that would be true. It would be subject to such interpretation being placed upon it. The language is susceptible to that construction.

Mr. ERVIN. Mr. President, in the dictionary the word "discriminate" means to make a clear distinction, to distinguish, to differentiate. Every time a State employee is chosen by a State official acting for the State, where there are a number of applicants for the position, he necessarily distinguishes or differentiates or makes a distinction between the one he appoints and the ones he refuses to appoint.

Mr. ALLEN. It would seem too, the Senator is correct.

Mr. ERVIN. And so if he preferred to appoint and did appoint a person of a particular race, a particular religion, or a particular sex in preference to another person of another religion or another race or the other sex, he would violate this act.

Mr. ALLEN. It would seem to be a strong argument.

Mr. ERVIN. Is there any doubt in the mind of the Senator from Alabama that the word "discriminate" means that that the appointing State official discriminates when he prefers one man over another man or a woman?

Mr. ALLEN. If the preference is wrongful.

Mr. ERVIN. I am assuming that both people have the same qualifications.

Mr. ALLEN. That is correct.

Mr. ERVIN. Not only that, but I am not exaggerating when I say that this bill authorizes the Federal Government to lay the political hands of Caesar upon the things that belong to God.

Mr. ALLEN. The Senator is correct.

Mr. ERVIN. Our amendment would strike out the word "religious" and remove religious institutions in all respects from subjugation to the EEOC.

Mr. ALLEN. The Senator is correct, and that would not be a departure from the present law. It leaves the present law as it is. It would not allow an extension of control by EEOC over educational or religious institutions.

Mr. ERVIN. We have a college in North Carolina known as Davidson College that is affiliated with the Southern Presbyterian Church. Davidson College is supported by the fees of its students and by the voluntary contributions of people interested in its activities. It is not supported in any respect by the Federal Government. I happen to have had the honor to serve as a member of the board of trustees of that institution for 10 years.

This college was founded and is controlled by people who believe in giving a Christian education to the students of the institution—as I recall it had at the time I was a member of the board of trustees, and perhaps still has, a regulation which says that any person who is chosen to be a full professor at the institution shall be a member of an Evangelical Christian Church, does the Senator from Alabama think that there is anything immoral or ought to be anything illegal in people who support a college devoted to giving a Christian education taking steps to assure that the youth who attend it should be instructed on any subject, whether religious or nonreligious, by teachers who are members of a Christian church?

Mr. ALLEN. It seems to the junior Senator from Alabama to be a very prudent and logical requirement.

Mr. ERVIN. Mr. President, I ask the Senator from Alabama whether, under the provisions of this bill, it would not be made illegal for a college which seeks to provide a Christian education at the hands of a Christian faculty in all subjects to employ in preference to an atheist, or a Mohammedan, or an agnostic, a professor to teach chemistry or educanomics or sociology who happened to be a member of the Christian church.

Mr. ALLEN. Under this bill, I will say to the distinguished Senator, that would be a discriminatory practice and the college could be hailed before the EEOC and ordered to cease and desist from that practice and if it did not comply with that order, it would be subject to penalty.

Mr. ERVIN. I will ask the Senator if under the provisions of the bill the commission could not only say "Cease and desist from employing a Christian professor rather than a Mohammedan, agnostic, or atheist," but the commission could go further and say, "You have to appoint this other applicant who is a Mohammedan, agnostic, or atheist to fill this vacant position to teach chemistry or economics or sociology and in addition you will have to pay his salary, from the time he applied for the post.

Mr. ALLEN. Under the bill, that would be possible; but with our amendment, it would not be allowed.

Mr. WILLIAMS. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I am delighted to yield.

Mr. WILLIAMS. May I have the hypothesis here? What is the hypothesis of the Senator from North Carolina? Is this an institution of education that promotes the education of religion?

Mr. ERVIN. It is an institution of learning which is affiliated with the Southern Presbyterian Church, and which conducts a college devoted to give a Christian education at the hands of Christian teachers in respect to all subjects.

Mr. WILLIAMS. Is the institution owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society?

Mr. ERVIN. I would say that it is a denomination which is affiliated with the Southern Presbyterian Church and supported by fees of the students and voluntary gifts of people who believe in giving the kind of education this institution gives.

Mr. WILLIAMS. In the hypothesis was it stated that this amendment would prevent that institution from employing people of a particular religion?

Mr. ERVIN. Oh, yes.

Mr. WILLIAMS. That is contrary to what this amendment does.

Mr. ERVIN. I ask that the Senator read the paragraph at the bottom of page 33, the amendment to section 702 of the Civil Rights Act of 1964. It states:

> 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.

That leaves that institution under the jurisdiction of the EEOC with respect to everybody who does anything except teach religion. Since the institution teaches chemistry and other nonreligious courses the EEOC has jurisdiction to deny it the right to prefer, and carry out such preference, to employ a man to teach chemistry who happens to be a member of the Christian church; and can compel the institution instead of doing that, to employ an applicant for the position who happens to be a Mohammedan, an agnostic, or an atheist. That is what the Senator from Alabama and I are seeking to prevent by the amendment.

Mr. ALLEN. All we are seeking to do, I say to the Senator from New Jersey, is knock out the limitation on the exemption, to knock out the confining of the exemption to those having to do with carrying on its religious activities. If you knock out "religious" and leave it wide open and accept the amendment, we would have no further debate on the matter.

Mr. WILLIAMS. I would suggest to the distinguished Senator from Alabama and the distinguished Senator from North Carolina that in the hypothesis stated the present law would protect that institution in its desire to hire an individual of its institutional religious persuasion. This is contained in section 703(e)(2) of the law, and that is not disturbed by the bill that is before us, to which the amendment is offered.

Mr. ERVIN. I disagree with the Senator. The language of the bill exempts the institutions covered only "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."

Chemistry or economics or sociology is not a religious activity.

Mr. WILLIAMS. I think that is the situation where—I was going to say we are both right, but that is not exactly correct because I think the Senator from North Carolina is only reading part of what we are dealing with here.

Would the Senator turn to section 703. The amendment is offered to section 702. I was directing the attention of Senators to section 703 and paragraph (e)(2).

Mr. ERVIN. The exemptions in subsection (e)(2) of section 702 of title VII of the Civil Rights Act of 1964 are inconsistent with the provision to which the amendment is directed and would be nullified by such provision, which would be subsequent in point of time.

The exemption subsection (e)(1) of section 703, of title VII of the Civil Rights Act of 1964 does not apply because religion is not a bona fide qualification of teaching chemistry, or economics, or sociology, or any similar subject.

Mr. WILLIAMS. Would the Senator read on to subsection (2)? Let us read it all together.

Mr. ERVIN. I say to the Senator from New Jersey that every provision of this bill which is enacted into law will nullify to the extent of its provisions any provision on the same subject in the original act. And here this exemption on page 33 modifies the other and says that the only time they can hire a person of a particular religion is to help them in carrying out their religious activities—not educational activities, as contradistinguished from religious.

Mr. WILLIAMS. Would the Senator help the Senate by reading section 703(e)(2) in the present law, and if the Senator will not, will the Senator yield and let me read it?

Mr. ALLEN. Yes.

Mr. WILLIAMS. All right. Section 703(e) and within the paragraph numbered (2) reads:

> It shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

That is the end of the quotation of (2), and I read it all because I did ask the Senator what hypothesis we were working with, and I used the language of that

section. The hypothesis, the Senator from North Carolina says, is exactly what is contained here, which says they can hire a person of a particular religion.

Mr. ERVIN. That is what Congress said in 1964. But it is inconsistent with what lines 20 through 24 of the bill say.

Mr. WILLIAMS. That is the law at the present time.

Mr. ERVIN. But that law will be modified by this bill. The bill says this title—the whole title VII—

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—

This is what I invite the Senator's attention to—

by such corporation, association, educational institution, or society of its religious activities.

Everything outside of religious activity is changed by this provision of the bill.

Mr. ALLEN. If it is already in the present law, I wonder why the distinguished Senator from New Jersey is objecting to restating it again.

Mr. WILLIAMS. Because we are including education, and the bill before us restates section 702. It is a complete restatement, and the only addition in it is the words "educational institution."

Mr. ALLEN. The Senator drops out the last clause, though.

Mr. WILLIAMS. Yes, and that deals with educational institutions. It does not have anything to do with the religious part of it. The section 702 language, as it appears on page 33, is identical language with present law with the exception of the addition of the two words, twice, "educational institution." But I understood the Senator from Alabama was not dealing with that. With his amendment he was dealing with the religious part of it.

Mr. ALLEN. No; and if the Senator followed my remarks, I stated the bill as approved by the committee and as now being considered by the Senate would cover every single school in the country. I did not confine it to religious schools.

Mr. WILLIAMS. What does the Senator's amendment say? I thought it struck just one word.

Mr. ALLEN. That is what it does.

Mr. WILLIAMS. That does not deal with educational institution?

Mr. ALLEN. As the Senator said, I have added "educational institution" in two places in the amendment, so it does cover that.

Mr. WILLIAMS. As I read the Senator's amendment, it does only one thing—strike out "religious."

Mr. ALLEN. Yes, but we have accepted what the Senator has done by adding "educational institution" in two places in the exemption. So, therefore, it is to continue the exemption that is now allowed for educational institutions; and in addition for religious institutions that are not educational institutions insofar as the work has to do with carrying on religious activity. So the amendment knocks out the one word, "religious," and would protect religious corporations, associations, educational institutions, or societies in work having to do with their activities. That is all it does.

Mr. WILLIAMS. The Senator is dealing only with religious educational associations——

Mr. ALLEN. No; I did not say that.

Mr. WILLIAMS. I do not see how the Senator's amendment reaches the other educational——

Mr. ALLEN. If it does not reach them, why does the Senator not agree to accept the amendment? If he is willing to concede the religious institution point and it does not reach the other institutions, why is he concerned?

Mr. WILLIAMS. I am not concerned. I wondered what the Senator was trying to do. I thought he was striking the word "religious" on page 33, line 24.

Mr. ALLEN. That is what the amendment does, but it also includes the exemption that is made of granting exemptions to educational institutions in the first half of the exemption rather than in the last half, which the committee dropped. If the Senator does not object, then, to exempting the religious institutions, he would agree to accept the amendment.

Mr. WILLIAMS. I cannot at this time accept the amendment. The reason for this legislation including the word "religious" is that we feel that this Congress should not in any way breach the constitutional demands that we do nothing to disturb religion.

Mr. ALLEN. Does the Senator concede that the committee is trying to gain control of employment and promotion practices of all educational institutions other than religious institutions?

Mr. WILLIAMS. As far as employment is concerned, which it determines for the covered reasons, the answer is "yes."

Mr. ALLEN. In other words, the committee is trying to add to the coverage all educational institutions. Is that right?

Mr. WILLIAMS. Exactly, yes.

Mr. ALLEN. Does the Senator from New Jersey desire to engage in any further colloquy on the amendment?

Mr. WILLIAMS. No. I just wanted to point out that, on the hypothesis of the situation presented by the Senator from North Carolina, the present law permits the kind of educational institution he was talking about to hire a person of a religious faith if it wanted to, and we are not changing that law.

Mr. ERVIN. Mr. President, if the Senator will yield, I would say I would agree with the Senator from New Jersey in respect to educational institutions only if the Senator from New Jersey would strike out lines 20 through 24 on the bottom of page 33. Otherwise the Senator from North Carolina will insist that all the emphasis at his command that these lines, 20 through 24 on page 33, change the prior law and provide for exemption only for those who are directly engaged in carrying on religious activities.

That is the inescapable conclusion of the Senator from North Carolina.

Mr. WILLIAMS. Mr. President, I shall have to consider this matter. If there is further discussion, I would suggest that the Senator from Alabama proceed while I consider the Senator's suggestion.

Mr. ERVIN. I would suggest that we have a quorum call, without the Senator from Alabama losing his right to the floor.

Mr. JAVITS. Mr. President, I would be compelled to object to that. I am perfectly willing to have a quorum call, but I do not want to lock the floor up. So I object, if that request is made.

Mr. ALLEN. Mr. President, in addition, if this section of the bill is passed—that is, section 702 as it appears in the bill—it invites a further expansion and continuation of the practice of harassing local school officials and interfering with local school systems that have been running rampant since the adoption of title VI of the 1964 Civil Rights Act. Enactment of section 3 of S. 2515 could destroy academic freedom, as suggested earlier in my remarks. Objective criticism, independent judgment, the search for truth unhampered by transient political interests—all of which are vital to academic freedom—could be altered and reshaped by the EEOC.

Mr. President, in view of the fact that there is another matter that needs to come before the Senate at this time, I withdraw the amendment and will reoffer it at a later time.

CALL OF THE ROLL

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

Mr. SAXBE. Mr. President, I move that the vote by which the amendment——

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

The PRESIDING OFFICER (Mr. BEALL). The Senator from New York suggests the absence of a quorum. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

Mr. JAVITS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SAXBE. Mr. President, I wish to propound a parliamentary inquiry.

The PRESIDING OFFICER. Debate is not in order. A parliamentary inquiry is not in order during a rollcall.

Mr. SAXBE. Did I have a motion on the floor?

The PRESIDING OFFICER. Debate is not in order. There is a quorum call in progress. The clerk will continue the rollcall.

The rollcall was continued.

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

Mr. JAVITS. I object.

The PRESIDING OFFICER. Objection is heard.

The rollcall was resumed and concluded, and the following Senators answered to their names:

[No. 5 LEG.]

Allen	Ervin	McClellan
Beall	Griffin	Nelson
Byrd, W. Va.	Hart	Packwood
Curtis	Javits	Saxbe
Dominick	Mansfield	Williams

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken	Ellender	Muskie
Allott	Fannin	Pastore
Anderson	Fong	Pell
Baker	Gambrell	Proxmire
Bayh	Goldwater	Ribicoff
Bellmon	Gurney	Roth
Bennett	Hansen	Schweiker
Bentsen	Hollings	Scott
Boggs	Hruska	Smith
Brooke	Inouye	Spong
Burdick	Jordan, N.C.	Stafford
Byrd, Va.	Jordan, Idaho	Stennis
Cannon	Kennedy	Stevens
Case	Long	Symington
Chiles	Mathias	Talmadge
Church	McGee	Thurmond
Cook	McGovern	Tower
Cotton	Metcalf	Tunney
Cranston	Miller	Weicker
Eagleton	Mondale	Young
Eastland	Montoya	

The PRESIDING OFFICER. A quorum is present.

(Several Senators addressed the Chair.)

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. SAXBE. Mr. President, I move that the vote by which the Dominick amendment was rejected be reconsidered, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, is the Senator qualified in view of the fact that he voted?

The PRESIDING OFFICER. The Senator is qualified. He did not vote.

Mr. JAVITS. May we understand why he is qualified?

The PRESIDING OFFICER. Because he did not vote.

Mr. JAVITS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, is time limited on this motion, and if so, by what authority?

The PRESIDING OFFICER. The time is limited to 20 minutes under the unanimous-consent agreement.

Mr. JAVITS. Mr. President, who controls the time under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator from Ohio (Mr. SAXBE) and the Senator from New Jersey (Mr. WILLIAMS) control the time. Who yields time?

Mr. SAXBE. Mr. President, I yield back my 10 minutes.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD of West Virginia. Mr. President, will the Chair ask Senators to return to their seats?

The PRESIDING OFFICER. Senators will please return to their seats. The Senator from Ohio has yielded back his time. The Senator from New Jersey has 10 minutes.

Mr. WILLIAMS. Mr. President, I first yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, this is legitimate. A Senator can move to reconsider, of course. It is well known that in this present season, Members go and Members come, especially as quite a few Members are running for the office of President. Therefore, these little games are played, and I do not use that word in any invidious sense, because a moving party has an absolute right to move at any time he can get the floor and there is no other business. Nevertheless, it is a fact that the most opportune time can be chosen for a vote on an amendment as close as the Dominick amendment.

It is a great tradition, and a noble tradition, that on an important vote, we do our utmost to accommodate each other to get the maximum assurance that all Senators will have an opportunity to vote. I know that I express perhaps a vain hope, but I do rise to suggest that if we want to do this thing as it should be done—and as I say, the moving party has every right to do this—a time should be fixed for voting which would enable those who had left, under the assumption that this matter had been decided, to return.

Because of the fact that the moving Senator has yielded back his time, I am not much encouraged on that score. Nonetheless, in order to pose the issue, I ask unanimous consent that the vote on the motion to reconsider take place at 11 o'clock tomorrow.

Mr. DOMINICK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, I think it is essential to make that point clear to the Senate so that if an effort is made on our part to do our utmost to give an opportunity to Senators, who have already voted after a mature consideration of this very important amendment, to vote on the motion. This request should be recognized as being only the desire to treat fairly those who, as I say, assumed that for the time being the matter was disposed of, and they undertook other business which they considered to be important at this time.

Mr. WILLIAMS. Mr. President, my intention is to move to table the motion to reconsider. Certainly within the procedures, the motion offered is available to Senators. As manager of the bill I had no information that this motion would be offered. I speculated with Senators who had engagements elsewhere that this matter would not be raised today on a motion to reconsider. It has been. Of course, it is allowed under the rule. It is with personal regret, of course, that this motion has been made, because some of the Members who wanted to go all the way on this issue are not able to be present.

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

Mr. WILLIAMS. I yield.

Mr. ALLEN. Mr. President, as to the time for making this motion, was it not within the power of the proponents of the measure to move to reconsider the vote by which the Dominick amendment was rejected immediately after the rejection, so that the proponents of the bill could have controlled the time for voting on this motion to reconsider, had they so desired?

Mr. WILLIAMS. Any member on the prevailing side could have so moved.

Mr. ALLEN. Then did the proponents not take a calculated risk in not making that motion at that time?

Mr. WILLIAMS. We took a risk; the Senator is correct.

Mr. President, if no one else wants to speak at this time in opposition to the motion to reconsider, at this time I yield back the remainder of my time and move to table the motion to reconsider.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider the vote by which the Dominick amendment was rejected. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. MOSS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Illinois (Mr. STEVENSON), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. SCOTT. I announce that the Senator from New York (Mr. BUCKLEY) is absent on official business.

The Senator from Kentucky (Mr. COOPER) is necessarily absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is absent because of illness in his family.

The Senator from Tennessee (Mr. BROCK), the Senators from Kansas (Mr. DOLE and Mr. PEARSON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), and

the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Illinois (Mr. PERCY) would each vote "yea."

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from Kansas (Mr. DOLE). If present and voting, the Senator from Ohio would vote "yea" and the Senator from Kansas would vote "nay."

The result was announced—yeas 37, nays 39, as follows:

[No. 6 Leg.]

YEAS—37

Aiken	Inouye	Pastore
Anderson	Javits	Pell
Bayh	Kennedy	Proxmire
Beall	Mansfield	Ribicoff
Boggs	Mathias	Schweiker
Brooke	McGee	Scott
Burdick	McGovern	Stafford
Byrd, W. Va.	Metcalf	Stevens
Case	Mondale	Symington
Cranston	Montoya	Tunney
Eagleton	Muskie	Williams
Fong	Nelson	
Hart	Packwood	

NAYS—39

Allen	Dominick	Long
Allott	Eastland	McClellan
Baker	Ellender	Miller
Bellmon	Ervin	Roth
Bennett	Fannin	Saxbe
Bentsen	Gambrell	Smith
Byrd, Va.	Goldwater	Spong
Cannon	Gurney	Stennis
Chiles	Hansen	Talmadge
Church	Hollings	Thurmond
Cook	Hruska	Tower
Cotton	Jordan, N.C.	Weicker
Curtis	Jordan, Idaho	Young

NOT VOTING—24

Bible	Harris	Moss
Brock	Hartke	Mundt
Buckley	Hatfield	Pearson
Cooper	Hughes	Percy
Dole	Humphrey	Randolph
Fulbright	Jackson	Sparkman
Gravel	Magnuson	Stevenson
Griffin	McIntyre	Taft

So Mr. WILLIAMS' motion to lay on the table the motion to reconsider was rejected.

Mr. CHURCH subsequently said: Mr. President, the January 24, 1972, CONGRESSIONAL RECORD, at page 951, indicates that I voted "nay" on the Williams motion to table the motion to reconsider the Dominick amendment.

Mr. President, I voted "yea" on the motion to table, and I ask that the permanent RECORD and Journal be changed accordingly.

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

The PRESIDING OFFICER. The question now recurs on the motion to reconsider the vote by which the amendment of the Senator from Colorado (Mr. DOMINICK) was defeated.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. Moss), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Illinois (Mr. STEVENSON) would each vote "nay."

Mr. SCOTT. I announce that the Senator from New York (Mr. BUCKLEY) is absent on official business.

The Senator from Kentucky (Mr. COOPER) is necessarily absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is absent because of illness in his family.

The Senator from Tennessee (Mr. BROCK), the Senators from Kansas (Mr. DOLE and Mr. PEARSON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

On this vote, the Senator from Kansas (Mr. DOLE) is paired with the Senator from Ohio (Mr. TAFT). If present and voting, the Senator from Kansas would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 40, nays 39, as follows:

[No. 7 Leg.]

YEAS—40

Allen	Eastland	McClellan
Allott	Ellender	Miller
Baker	Ervin	Roth
Bellmon	Fannin	Saxbe
Bennett	Fulbright	Smith
Bentsen	Gambrell	Spong
Bible	Goldwater	Stennis
Byrd, Va.	Gurney	Talmadge
Cannon	Hansen	Thurmond
Chiles	Hollings	Tower
Cook	Hruska	Weicker
Cotton	Jordan, N.C.	Young
Curtis	Jordan, Idaho	
Dominick	Long	

NAYS—39

Aiken	Harris	Nelson
Anderson	Hart	Packwood
Bayh	Inouye	Pastore
Beall	Javits	Pell
Boggs	Kennedy	Proxmire
Brooke	Mansfield	Ribicoff
Burdick	Mathias	Schweiker
Byrd, W. Va.	McGee	Scott
Case	McGovern	Stafford
Church	Metcalf	Stevens
Cranston	Mondale	Symington
Eagleton	Montoya	Tunney
Fong	Muskie	Williams

NOT VOTING—21

Brock	Hatfield	Mundt
Buckley	Hughes	Pearson
Cooper	Humphrey	Percy
Dole	Jackson	Randolph
Gravel	Magnuson	Sparkman
Griffin	McIntyre	Stevenson
Hartke	Moss	Taft

So the motion to reconsider the vote by which the Dominick amendment was rejected was agreed to.

Mr. JAVITS. Mr. President, I submit an amendment to the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 13 and 14, strike out the words "or in the Courts of Appeals."

The PRESIDING OFFICER. Debate on the amendment is limited to 30 minutes. The Senator from New York may proceed.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

Mr. DOMINICK. Mr. President, a point of inquiry, if the Senator from New York does not mind. I am just trying to find out if this is an amendment to my amendment, or an amendment to the bill.

Mr. JAVITS. It is an amendment to the Senator's amendment.

Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state his parliamentary inquiry.

Mr. JAVITS. In view of the fact that the amendment of the Senator from Colorado strikes that part of the bill which is found between page 38, line 7, and page 50, line 7, are amendments in order to the part of the bill which is proposed to be stricken by the amendment of the Senator from Colorado?

The PRESIDING OFFICER. In answer to the Senator's inquiry, such amendments are in order.

Mr. JAVITS. So that the Senator from New York would be privileged to amend such parts of the bill as are stricken.

The PRESIDING OFFICER. The Senator from New York can amend those parts of the bill that are proposed to be stricken by the amendment of the Senator from Colorado.

Mr. JAVITS. And the same time limitations would apply. Is that correct?

The PRESIDING OFFICER. Thirty minutes would apply.

Mr. JAVITS. Mr. President, this amendment is directed only to the amendment by the Senator from Colorado, and it would propose to qualify the attorneys for the Commission to conduct litigations in the courts of appeals as well as the district courts.

Mr. President, while we have enough Senators in the Chamber, I ask for the yeas and nays.

The yeas and the nays were ordered.

Mr. JAVITS. Mr. President, this amendment would propose to allow the attorneys for the Commission to appear in the courts of appeals of the United States in respect of the scheme of enforcement which the amendment seeks to put into effect, rather than the Attorney General, and would limit the Attorney General's authority to the Supreme Court of the United States. It is my understanding that the authority of the commission in that case would pretty well go along with the authority given to the National Labor Relations Board, which is probably a fair model of this kind of cease and desist order enforcement or court enforcement which succeeds it, and

would give the agency itself greater control over the litigations to which, in the final analysis, this amendment would confine it.

I might say, also, that I am advised that the Department of Labor, in the Fair Labor Standards Act, presents a direct analogy to this situation.

Mr. President, it is well known that I favor the cease and desist procedure which is contained in the basic measure before the Senate and which this amendment seeks to overturn, and which has now been reconsidered.

If we are going to go into the court proceedings, it strikes me that one thing is very interesting. The argument was made that the agency—to wit, the Equal Employment Opportunity Commission—would have to hire a hundred lawyers, or some such number, if it sought to do everything it is required to do under our bill. With the enormous amount of litigation which is going to descend upon the Federal courts of the United States, every word which is uttered about the backlog of the agency immediately proliferates the burden upon the courts; because if the recourse of the agency is going to be to the courts, then one must expect that if it is going to have any teeth so that it can bring about conciliation and compromise in respect of the many complaints which might be brought in to the Commission, it would have to engage in an enormous number of litigations.

Talk about vexation. That has been the main argument made on this whole proposition. The vexation and the expense which respondents will go to in the thousands of cases which the Commission has will be absolutely unbelievable if this tremendous burden of literally thousands of cases is thrown upon the courts. As we argued earlier, the idea of getting conciliation because there is a stop sign, a terminal point, at the end of the road, so far as this particular commission's activities are concerned, will not be present, thereby, in my judgment, making the job more difficult for the Commission and more difficult for the respondents. Proceedings before the Commission in one place and under rules of procedure which even accommodate appearances in person will hardly be as costly as proceedings in the courts. Yet, this is the only recourse the Commission would have under the amendment.

So far as the practice of the various commissions is concerned, there is a very good reason why the cease and desist authority has been granted to so many of these commissions, and that reason is precisely why we who feel as we do are resisting this particular amendment so strongly. These commissions, after all, are, in a sense, tribunals for administrative purposes, designed to do a particular job with a particular kind of expertise and with the great desirability of trying to curtail the difficulties surrounding that job by proceedings which are, as it were, inhouse. This does not mean any lack of protection so far as concerns equal opportunity to be heard and to have witnesses, and so forth—the due process which is required in these cases; but it does mean a far greater informality of procedure and a far less expensive procedure than is provided for by the courts.

I might point out, too, that under an amendment which I sponsored, we have the provision for the appointment of four additional commissions, in the discretion of the President, should the burden of work which is involved require it; and that also goes to facilitating and making it possible for the Commission to do its work within the cease and desist context.

So, in my judgment, if we are going to go the court route—the Senate has not decided that yet, but it will, with respect to the amendment which is now again before the Senate—that court route should at least be within the control of lawyers, at least until it gets to the Supreme Court, where there are problems of basic policy on the part of the Solicitor General for all the courts of the United States, and certainly in the appellate courts it should continue to be within the control of the Commission's own lawyers, so that some unity of approach, some coordination of their efforts, in respect of all these cases may be effected.

The interesting thing about those who argue against the cease and desist power is that I really believe it is going to be to their very serious detriment. I believe that by giving a power to the Commission with no alternative whatever to institute suits, they are going to make it much stiffer and much more expensive for themselves, with less certainty—and the businessman is always looking for certainty—in the way of decision, because of the great diversity of the views of judges, the very different constructions of the law which are received in various courts, with no settlement of the law in a final way until it actually is in the U.S. Supreme Court for final determination.

I cannot see how the path to efficiency, administrative decisiveness, or any of the other aspects of this matter will be easier if the recourse is to litigation instead of to the likelihood—because that has been the record of all these agencies—that the overwhelming majority of cases will be settled, compromised, conciliated, or agreed upon by cease and desist orders entered, as is very frequently the case. For example, we have the NLRB which has shown an extraordinary basis for that, all of which is designed to bring the procedure within manageable bounds in time and in due course. I hope very much, therefore, that the Senate—I shall have quite a few of these amendments which will go both to this amendment and to parts of the bill which is sought to be stricken itself—will look favorably on this amendment and at least——

The PRESIDING OFFICER (Mr. BEALL). The time of the Senator from New York has expired.

Mr. JAVITS. How much time has expired?

The PRESIDING OFFICER. Ten minutes.

Mr. JAVITS. Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President——

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. WILLIAMS. Mr. President, am I recognized?

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

Mr. DOMINICK. Mr. President, will the Senator from New Jersey yield the floor to me? I should like to find out what happens when presumably Senators are trying to amend my amendment and I do not even have any time, as it is under the control either of the manager of the bill or the Senator from New York.

The PRESIDING OFFICER. The agreement entered into provided for time to be under the control of the manager of the bill and the mover of the amendment.

Mr. DOMINICK. I would then ask the manager of the bill and the mover of the amendment if they would allocate to me some time—a couple of minutes periodically is all I need.

Mr. WILLIAMS. Let me say to the distinguished Senator from Colorado that I fully intend to offer and suggest that some of the time that I control be used by the Senator from Colorado if he so desires. I happen to be in a position where I do support the amendment offered by the Senator from New York, so that, if anyone opposed should have the time under the unanimous-consent request, it is not provided for, is it?

The PRESIDING OFFICER. The Senator is correct. Time has not been provided for under the unanimous-consent agreement.

Mr. WILLIAMS. I would be happy to yield time to the Senator from Colorado, with the understanding that the time granted is not yielded back.

Mr. DOMINICK. I would suggest that a far more equitable way would be to allow the Senator from Colorado, as the mover of the amendment which is under discussion and which is being amended, to take time in opposition to any amendments that may be offered to it, and that there would be a unanimous-consent request to supplant the other one.

Mr. WILLIAMS. Perhaps that could be worked out with another one, say, striking the time limitation on amendments.

Mr. DOMINICK. I would not agree to that.

Mr. JAVITS. If the Senator will yield, I think that the Senator makes a proper condition. I thoroughly agree that the Senator from Colorado (Mr. DOMINICK) should have time and should not have the privilege of yielding it back, which seems to me to be eminently fair.

I am sure that the manager of the bill would gladly assign to the Senator who wishes to defend the amendment—to wit, the Senator from Colorado (Mr. DOMINICK)—and anyone he might suggest, half the time, as a pragmatic thing. That would be better and fairer to us, considering the circumstances.

Mr. WILLIAMS. That was to be the offer on this amendment. Until we might work out other settlements, I would offer that to the Senator from Colorado; that is, my time on this amendment, with the understanding that it be used in debate and not yielded back.

Mr. DOMINICK. Will the Senator yield me 5 minutes for the purpose of making some parliamentary inquiries and asking a question or two of the Senator from New Jersey and the Senator from New York?

Mr. WILLIAMS. Certainly.

Mr. DOMINICK. A parliamentary inquiry first, if I may, then.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. How much time is there on amendments to the amendment No. 611 now pending?

The PRESIDING OFFICER. Thirty minutes for each amendment.

Mr. DOMINICK. Fifteen minutes per side?

The PRESIDING OFFICER. Per side.

Mr. DOMINICK. If there is only one side, then only 15 minutes; is that correct?

The PRESIDING OFFICER. The time is divided 15 minutes to the mover of the amendment and 15 minutes to the manager of the bill, the Senator from New Jersey, (Mr. WILLIAMS), without a proviso as to which side of the question they may be.

Mr. DOMINICK. So that on future unanimous-consent requests we make, then, we had better make a provision in there that someone is entitled to speak against an amendment, instead of just the 30 minutes. Is that in order as a parliamentary inquiry?

The PRESIDING OFFICER. The Chair would have to draw a conclusion from that, which it is not competent to draw.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Colorado yield, without losing his right to the floor?

Mr. DOMINICK. I am happy to yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, in fairness to Senators who may wish to oppose an amendment in the second degree, that after the pending amendment is disposed of, time on any additional amendments in the second degree be equally divided between the mover of such and the manager of the bill, except when the manager of the bill favors such an amendment, in which case the time in opposition to any amendment in the second degree would be under the control of the minority leader or his designee.

Mr. JAVITS. Reserving the right to object, Mr. President, I should like to be frank with the Senator from West Virginia. I do not think it is fair to us, with the circumstances which have developed where every legitimate advantage has been taken of the rules, for us to waive the rules. This unanimous-consent agreement confined us to 20 minutes on the motion to reconsider. We had to abide by the rules and time was promptly yielded back on the side of the mover. What the Senator is asking us to do, if we agree, is to bobtail every 30-minute debate into a 15-minute debate.

There is no question about the fact that the Senator from New Jersey (Mr. WILLIAMS) will allow half the time to the opponents of whatever amendments I, or he, or any other Senator might make. If that time is granted under unanimous consent, it can be yielded back. That is something we do not want. So that I would ask the Senator, in all fairness, whether he could not amend the request to provide for that, by providing that the time may not be yielded back except by unanimous-consent request.

Mr. BYRD of West Virginia. Mr. President, I so amend my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. DOMINICK. Mr. President, reserving the right to object—just a minute—if we have the right to be in opposition to the amendment, I think we would have the right, then, to do whatever we wanted with that time, yield it up or yield it back. I do not see that we should be penalized if we wanted to yield it back. Then the other side gets an extra 15 minutes.

I have cooperated here before. The Senator from New York, in one of the other debates before we adjourned or recessed, I remember that I took about 20 minutes and he took about an hour and 20 minutes, because that was the amount of time he requested.

Similarly, I remember that the Senator from Wisconsin did the same thing in reverse, giving us an hour and he took only 15 minutes; so that this has been worked out before, where we have an amendment being offered to which someone may be in objection. I would think that the share of the time should be allocated to the person suggesting the amendment and he should be able to do whatever he wants to do with that time.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. DOMINICK. Mr. President, as modified, I would have to object, because at this point it does not do me any good.

Mr. BYRD of West Virginia. Mr. President, in the interest of fairness to those who oppose an amendment in the second degree, I repeat my unanimous consent request——

Mr. JAVITS. Mr. President, reserving the right to object, I have a suggestion. I would suggest that we let this particular amendment stand and let the Senator from New Jersey (Mr. WILLIAMS) allow 15 minutes to the Senator from Colorado (Mr. DOMINICK) without the right of yielding back the time, and then, if he will be kind enough to reconsider, asking unanimous consent——

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the 5 minutes which have just been consumed in discussing this point not be charged against either side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD of West Virginia. It was my thought that I had exempted the pending amendment from my request. If I did not, I would like to do that.

Mr. JAVITS. May I ask the Senator——

Mr. BYRD of West Virginia. Mr. President, I withhold that.

Mr. DOMINICK. Mr. President, will the Senator from New Jersey then yield me 5 minutes?

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. The Senator has 5 minutes under the previous——

Mr. DOMINICK. I rise to ask the Senator from New Jersey and/or the Senator from New York—probably both—whether they anticipate having a large number of amendments to this, so that it will be improbable that we will get to a vote on my amendment tonight.

Mr. WILLIAMS. As I indicated informally to the Senator from Colorado, I had withheld some of the amendments I had, as I wanted to get to a final decision on the amendment; but now that it is reconsidered, I have several that I now have an opportunity to bring up and I feel that I will be bringing up. So that it is unlikely that we will come to a final vote on the Senator's amendment this evening.

Mr. DOMINICK. Mr. President, I ask the Senator from New York if he has a number of other amendments.

Mr. JAVITS. I have quite a few amendments, both to the amendment and to the part which is sought to be stricken. I feel that it is important to bring them up.

Mr. DOMINICK. In light of the Senator's statement then on a previous occasion that it is always nice to let people know ahead of time when we are to vote, am I correct in anticipating that we will not vote before 11 o'clock tomorrow morning on the merits of amendment No. 611?

Mr. JAVITS. I cannot control that at all. The Senator controlling that is on the aisle. I have a good many other amendments, and I believe that the Senator from New Jersey also does.

Mr. DOMINICK. Mr. President, how much of my 5 minutes do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 3 minutes remaining.

Mr. DOMINICK. Mr. President, I will not be very long. This is a very simple amendment. What the Senator from New York is saying is that the Attorney General and the Justice Department should not be entitled to appear on behalf of the Commission in the course of an appeal.

It strikes me that this is going pretty far when we put a provision in legislation that the Department of Justice is not entitled to appear on behalf of the Commission on an appeal. For that reason, I am opposed to it.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator cannot suggest the absence of a quorum under the precedents if the Senator has only a little time remaining, except by unanimous consent, until he yields the time back.

Mr. JAVITS. Mr. President, how much time remains?

The PRESIDING OFFICER. Twelve minutes remain.

Mr. BYRD of West Virginia. Mr. President, I ask that committee staff people be cleared from the well.

Mr. JAVITS. Mr. President, how much of the 12 minutes do I have?

The PRESIDING OFFICER. The Sen-

ator from New York has 5 minutes, and 7 minutes remain to the Senator from New Jersey.

The Senators could yield back their time and then suggest the absence of a quorum.

Mr. JAVITS. I understand that. I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. All time has expired. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

VICE PRESIDENTIAL APPOINTMENTS

The PRESIDING OFFICER (Mr. BEALL). The Chair, on behalf of the Vice President, appoints the following Senators to participate in the United Nations Committee on the Peaceful Uses of the Seabed and the Ocean Floor Beyond the Limits of National Jurisdiction to be held in New York, N.Y., February 23–March 31, 1972: the Senator from Rhode Island (Mr. PELL) and the Senator from New Jersey (Mr. CASE).

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

The PRESIDING OFFICER. On this question there is no time for debate. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. WEICKER (after having voted in the negative). Mr. President, on this vote, I have a pair with the junior Senator from Ohio (Mr. TAFT). If he were present and voting, he would vote "yea." I have already voted "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Utah (Mr. MOSS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from Illinois (Mr. STEVENSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Iowa (Mr. HUGHES), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. SCOTT. I announce that the Senator from New York (Mr. BUCKLEY) is absent on official business.

The Senator from Kentucky (Mr. COOPER) is necessarily absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. TAFT) is absent because of illness in his family.

The Senator from Tennessee (Mr. BROCK), the Senators from Kansas (Mr. DOLE and Mr. PEARSON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. PERCY), would vote "yea."

The pair of the Senator from Ohio (Mr. TAFT) has been previously announced.

On this vote the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Kansas (Mr. DOLE). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Kansas would vote "nay."

The result was announced—yeas 40, nays 37, as follows:

[No. 8 Leg.]

YEAS—40

Aiken	Inouye	Pastore
Bayh	Javits	Pell
Boggs	Kennedy	Proxmire
Brooke	Mansfield	Ribicoff
Burdick	Mathias	Saxbe
Case	McGee	Schweiker
Church	McGovern	Scott
Cook	Metcalf	Stafford
Cranston	Miller	Stevens
Eagleton	Mondale	Symington
Fong	Montoya	Tunney
Fulbright	Muskie	Williams
Harris	Nelson	
Hart	Packwood	

NAYS—37

Allen	Cotton	Jordan, Idaho
Allott	Curtis	Long
Anderson	Dominick	McClellan
Baker	Eastland	Roth
Beall	Ellender	Smith
Bellmon	Ervin	Spong
Bennett	Fannin	Stennis
Bentsen	Gambrell	Talmadge
Bible	Gurney	Thurmond
Byrd, Va.	Hansen	Tower
Byrd, W. Va.	Hollings	Young
Cannon	Hruska	
Chiles	Jordan, N.C.	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Weicker, against.

NOT VOTING—22

Brock	Hatfield	Pearson
Buckley	Hughes	Percy
Cooper	Humphrey	Randolph
Dole	Jackson	Sparkman
Goldwater	Magnuson	Stevenson
Gravel	McIntyre	Taft
Griffin	Moss	
Hartke	Mundt	

So Mr. JAVITS' amendment to Mr. DOMINICK's amendment (No. 611) was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I offer an amendment to the Dominick amendment.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment to the Dominick amendment as follows: "On page 5, strike out line 24."

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, this is an amendment to the amendment. It would strike that part of the amendment of the Senator from Colorado which relates to pages 65, lines 23 and 24, of the bill.

If Senators will refer to that particular section, they will find that page 65, lines 23 and 24, applies the provisions of another section of the Equal Employment Opportunities Act, to wit, 706 (q) through (w), to civil actions brought by Federal Government employees under the equal employment opportunity protections of the law. The Senator from Colorado (Mr. DOMINICK) proposes to strike that out. Sections 706(q) through 706(w) will no longer apply if the amendment should pass unamended.

If you refer to those provisions, insofar as they are applicable, you find that the main point is that where the complainant is suing in court, you have arrived at the stage of the proceeding where he has that remedy, and in such circumstances as the court may deem just, the court may appoint an attorney for the complainant and authorize the commencement of the action without the payment of fees, costs, or security.

Mr. President, that is a very important right for the individual, just as it is a very important right for a Government employee, for the individuals involved are not, in the main, high salaried, in that those who would be likely to sue in these equal employment opportunity cases are fairly modest people.

So I see no reason, Mr. President, why in the one case, to wit, that of the normal complainant who is not a Government employee with a remedy in court, that complainant shall be the beneficiary of a court-appointed lawyer, and not have to pay these costs or securities, and why this provision should be stricken out when it comes to a Federal Government employee who has to sue and is also a person, because that is the generality of the cases, of modest means.

So the motion which I make is to strike out the provision of the Dominick amendment which would withdraw that opportunity from a Government employee. I do not see how we can very well make that distinction.

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

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, again, this amendment goes to the effort to phase the Dominick amendment—and we will be doing that, I think, for a little while—to whatever the Senate may wish to do in respect of exercising its will, but to fashion it so that at least when it is presented to the Senate finally, as it now will be, it will be a fair and balanced proposition. If the complainant is going

to have nothing but a remedy in court, at least let us lock that up in the best way we can, and that is the point of this amendment, as it was of the preceding amendment.

Mr. President, one other thing which I think is important in this regard: We have now learned through hard experience the critical mass which is involved in the choice of a lawyer. It is interesting to me that one of the things we have learned about the poor is that they value dignity even over and above money and what one would think superficially would alleviate their immediate distress. We have found—this goes for Senator DOMINICK and myself, both of us are rather senior on the Committee on Labor and Public Welfare, as well as Senator WILLIAMS and others—that one of the most important aspects of our antipoverty program is the legal services program.

It is true that Members have various complaints about it, and we are trying to deal with those, but essentially the idea that a poor man can have a lawyer, too, is an extremely attractive proposition to him, and this amendment which I have offered is offered very much in that same spirit, that as we are going to what we can to get legal service for the complainant who is not a Government employee, let us at least do our utmost to lay on with an even hand as far as the complainant who is a Government employee is concerned.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JAVITS. Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, would the Senator from Colorado like to have some of the time that I have allotted to me?

Mr. DOMINICK. I shall in a moment, but not just right away.

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

Mr. WILLIAMS. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, it is evident that we are not going to make much more progress this evening on the pending legislation, the EEOC measure. There have been some indications that some Members wanted the vote put off on the pending amendment until Wednesday. Frankly, I think that to do so would be a disservice to the Senate, and very likely a disservice to the very important legislation under consideration.

I would call to the attention of the Senate that we have been on the present legislation almost a week. The end is not in sight. The President sent up another very important piece of legislation which was introduced by request by the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from Oregon (Mr. PACKWOOD). It is my understanding that hearings may get underway on the legislation—involving the west coast dock situation—around the middle of the week, and if legislation is reported out. it will receive expeditious consideration.

Then we have a higher education bill, which is going to take some time because of the busing question inherent therein. Very likely we will have the foreign aid appropriation bill, which will also be contentious. Then around the middle of next month, hopefully, though not at the rate we are going, we will have an equal rights for women amendment, and in the meantime we will have 4 or 5 days off for the Lincoln recess.

Then we have the voter registration bill to consider and H.R. 1—welfare reform and social security—both likewise contentious. We have a farm bill, the Smith-Melcher bill, on which the Agriculture Committee held hearings this morning. I am assuming that it may be reported out later this week. It likewise is a contentious piece of legislation.

Then we have war powers legislation on the calendar, another foreign aid authorization, and very likely a minimum wage bill and other items.

Every Member has received, or should have received, an outline as to what the recess schedule will be for this year. Every Member is aware of the fact that in early July there will be a Democratic Convention, and that that will take several weeks, because of the fact that the Fourth of July period comes in between.

In the latter part of August, there will be a Republican Convention, and that will take at least 10 days for the consideration of the matters which will come before that meeting.

Insofar as the attendance of the Senate is concerned, it leaves much to be desired. Last week, after a month off, we had an average of 55 or 56 Senators in attendance. Today we had a high of 85, which now is down to a high of 74 to 76 or 77; and I assume that as time goes on, that number may decrease.

We have a job to do, no matter what our outside interests may be. The pending issue is a very important question, because it deals with people and their rights; I think it is one of the most important questions which will come before the Senate this year and it will be treated as such.

However, I would express the hope to my colleagues that they would think this matter through and do what they could in behalf of the welfare of the Senate and its consideration of the legislation before it. Earlier I was fearful of amendments to be offered on that side of the aisle. Now I am up against the fact that we have amendments offered from this and that side of the aisle, and it looks like the weapons in the hands of Senators are being used, and not discriminately but indiscriminately, and therefore the reason for these few brief remarks.

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

Mr. MANSFIELD. I ask for 2 additional minutes.

Mr. WILLIAMS. I yield 2 additional minutes to the Senator.

Mr. MANSFIELD. Every proposal I have mentioned today is going to take days and days. There is no easy item of legislation to be considered in the next several months. Furthermore, we have appropriation bills to consider and other pieces of legislation which I have not even mentioned at this time.

So I would hope, Mr. President, that it would be possible to achieve a degree of cooperation between those who are opposed to and those who are in favor of the bill, those who want to offer amendments, to the extent that it might be possible not to waste the time of the Senate, as we are today, but to arrive at a solution which would perhaps call for a vote at a time certain tomorrow afternoon on the pending business. Everyone knows what it is; it is the Dominick amendment.

A great deal of maneuvering has been going on on both sides, and that maneuvering is all legal; but it does not help the Senate to be stymied this early in the session with this type of schedule confronting us.

Therefore, without consulting anyone, I ask unanimous consent that the vote on the Dominick amendment occur at 3 o'clock tomorrow afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object—and I should like to consult Senator WILLIAMS on this subject—how does the Senator from Montana expect to give us an opportunity to deal with the amendments to the Dominick amendment? A number of things in the Dominick amendment really deserve correction—for all we know, it may be adopted—and therefore it has concentrated our attention upon it.

Frankly, I do not believe that the amendment I am now proposing is by any means frivolous. It is a serious matter and really affects the rights which will remain in the individual when, as, and if this amendment is dealt with.

Personally, I am thoroughly sympathetic to the Senator, and I wish to cooperate with him. He knows me very well in that respect. I should like to coincide with his view. Will he give us an idea as to how we can deal with these amendments to the Dominick amendment within the time bracket he has mentioned?

Mr. MANSFIELD. I would suggest that no further amendments be offered this afternoon. I would suggest that we return, if possible, to the vote on the Dominick amendment immediately after the conclusion of the morning business tomorrow and that the time be equally divided between the distinguished chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS), and the distinguished sponsor of the amendment, the Senator from Colorado (Mr. DOMINICK).

Mr. JAVITS. Mr. President, I still ask the question. We do not want to shut off amendments to the Dominick amendment. How will we accommodate those amendments?

Mr. MANSFIELD. I would state that it is my understanding that the purpose of those who are in favor of the Dominick amendment is to achieve another vote on that amendment, in the hope that this time it will carry. It is my understanding, also, that those who are opposed to the Dominick amendment are offering amendments at this time not for the purpose so much of strengthening that amendment but for the purpose—at least in part—of delaying long enough so that

the troops can be gathered here in force to vote on the amendment itself.

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

Mr. JAVITS. I yield the Senator 3 minutes of my time.

Mr. President, as we come to examine the amendment carefully, we do find a good many things in it that need to be changed. I would suggest for consideration the possibility that we might have the opportunity to amend the Dominick amendment through tomorrow and vote the first thing on Wednesday. Would that possibly be agreeable to the majority leader?

Mr. MANSFIELD. Mr. President, I would hope that the distinguished Senator would reassess his position and recognize, as I am sure he must, the difficulties which confront us in the Senate this year. As a matter of fact, in all my years in the Senate—and this is my 20th year—I have never seen such an arduous schedule in outline confronting this body at this time. On top of that, we have the two conventions. Unless something is done to bring order out of the difficult situation which confronts us and all Senators work together, on both sides of the aisle, frankly, I think we are going to be in a hell of a mess.

Mr. JAVITS. Mr. President, I respectfully suggest to the majority leader that we have a brief quorum call so that I can confer with Senator WILLIAMS. I ask unanimous consent that the time consumed in the quorum call be charged to my time and that of Senator WILLIAMS.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

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

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

Mr. JAVITS. I yield myself 1 minute to yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 1 minute.

Mr. DOMINICK. I thank the Senator from New York.

Mr. President, I want to say for the record that this particular amendment language was included, as the specific provisions of the bill deal only with Federal employees for whom we had a different procedure. They go through their own agencies and then they have the right as a Federal employee to go to the civil service board or to go through the Federal court system. The amendment to strike the language was included because the language to be struck was thought to be inappropriate to the specialized grievance procedures adopted in committee for Federal employees. A closer reading of sec. 706(g) through (w) does indicate that language for providing attorney's fees and waiving court costs are applicable.

Therefore, I have no objection to the Senator's amendment, and if he would want to withdraw his yea and nay request, that would be fine with me, and we can accept the amendment.

Mr. JAVITS. Mr. President, just so that I am aware of the situation, I hope that any other Senator who does not agree with that procedure will let me know because I want to request that the majority leader ask unanimous consent to vacate the order for the yeas and nays.

Mr. MANSFIELD. I ask unanimous consent that the order for the yeas and nays be vacated.

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

Mr. WILLIAMS. I yield back my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

PROGRAM FOR THE REMAINDER OF THE 92D SESSION

Mr. MANSFIELD. Mr. President, for the information of the Senate, the schedule confronting the Senate early in this session and for some months ahead, and not necessarily in this order, is as follows:

First. The pending legislation, which is the Equal Opportunity Act.

Second. Strike legislation having to do with the west coast strike pursuant to the President's request.

Third. Higher education.

Fourth. Foreign aid appropriation.

Fifth. Equal rights for women.

Sixth. H.R. 1.

Seventh. Voter registration.

Eighth. H.R. 1163, the Smith-Melcher farm bill.

Ninth. War powers legislation—now on the calendar, reported unanimously by the Committee on Foreign Relations.

Tenth. The Minimum Wage Act.

Eleventh. A new foreign aid authorization measure.

Mr. President, in between, Senators will have 3 or 4 days off on Lincoln's birthday. Then we will have a few days off over Memorial Day. There is a brief Easter recess. Then we have the Democratic Convention with about 17 days off because of the Fourth of July coming in there. Then we have the Republican Convention in late August.

Then we have an election in November. Someone will be elected President at that time.

I would hope that the Senate would be aware of this schedule which does not just confront only the majority and minority leaders. It confronts all of us.

Remember the kind of attendance we had last week. After a month's rest, there were 55 to 56 Senators on the average here. Today we hit a high of 85 Senators. Now it is down to about 76 or 77. I do not know where it will be in the next weeks, but it is my intention to do all I can, in conjunction with the distinguished minority leader, to try to push this legislation.

But, Mr. President, let me tell you straight out, that we cannot do it alone. If Senators do not cooperate, then the Senate will look pretty bad and the Members of this body will be responsible for it.

Mr. ELLENDER. Mr. President, let me state to the Senate that I am going "all out" to try to get every regular appropriation bill—14—enacted before June 30. I think that is possible, if only we will work together. If any bill that needs authorization is not before the Senate by June 30, that appropriation will be considered in a subsequent supplemental bill.

Mr. MANSFIELD. Mr. President, I am very glad the Senator from Louisiana brought up the fact that we have 14 appropriation bills to consider before the Democratic Convention the first part of this coming July.

That only emphasizes the tremendous schedule—the difficult legislation—which faces the Senate this year. Insofar as it is possible, it calls for the attendance in this Chamber of all Senators, at all times, this year.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515) a bill to further promote equal employment opportunities for American workers.

The PRESIDING OFFICER (Mr. HARRIS). The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, there will be no further votes tonight.

The PRESIDING OFFICER (Mr. HARRIS). The Chair would make inquiry of the distinguished majority leader. The Parliamentarian has informed the Chair that there was a unanimous-consent request. Has that been withdrawn?

Mr. MANSFIELD. Whatever it was, I ask unanimous consent that it be withdrawn.

The PRESIDING OFFICER. Without objection it is so ordered. The request was to vote at 3 p.m.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. (HARRIS). The Chair, on behalf of the Vice President, appoints the Senator from Rhode Island (Mr. PELL) as an alternate to the United Nations Conference on the Human Environment to be held in Stockholm, Sweden, June 6–16, 1972.

ORDER FOR ADJOURNMENT TO 11 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 a.m. tomorrow.

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

(Subsequently, this order was changed to provide for the Senate to convene at 12 o'clock noon tomorrow.)

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, as I understand it, no debate is in order at this time by virtue of the fact that on the amendment of the Senator from Colorado (Mr. DOMINICK) now pending, all time has expired. I ask unanimous consent that the distinguished Senator from Louisiana (Mr. ELLENDER) may speak out of order.

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

THE 1973 BUDGET

Mr. ELLENDER. Mr. President, the budget for fiscal year 1973 was transmitted to the Congress by the President today. The budget indicates total outlays of $246.3 billion, with estimated receipts at $220.8 billion, for a total deficit in fiscal year 1973 of $25.5 billion. This is the figure that will be used by the press and other news media.

I believe these figures are misleading. They are incorrect, because they include large surpluses in the trust funds which are used to offset the actual deficit in the administrative budget, which deals solely with federally owned funds and Federal expenditures. This misleading accounting practice, which was first adopted in fiscal year 1969 by the previous administration, is the so-called unified budget, and it is based on the false assumption that the surpluses accumulated in the various trust funds, amounting to $10.7 billion in fiscal year 1973, can be counted as revenue and used, as I have previously stated, to offset deficits in the administrative budget. It actually serves the purpose of deceiving the American people as to the true cost of Government.

The trust funds—such as social security, railroad retirement, unemployment taxes, and other—do not belong to the Federal Government. These funds represent collections from the employers and employees. The Federal Government acts solely as a trustee, and yet these funds are used to offset overspending by the Federal Government.

The true deficit for fiscal year 1973, the new fiscal year, is $36.2 billion. This is the administrative budget that will be considered by the Congress, and when the administration requests an increase in the limit on the public debt, the figure of $36.2 billion will be used and not the alleged $25.5 billion hereinabove indicated.

The budget receipts for the new fiscal year 1973 are based upon a gross national product of $1,145 billion, which would be a $98 billion increase over the previous year, the largest increase in any single year in the history of our Nation.

It is my fervent hope that this increase will be realized, that we will have a full employment budget surplus, and I further hope it can be done through a true growth in the economy rather than by increased inflation. However, I am not optimistic based upon the forecasts made a year ago. You will recall that in February a year ago the President's budget was based upon a gross national product of $1,065 billion. When we held our hearings last year, I informed the administration that I was not optimistic about that figure. It has now been revised downward to $1,047 billion, and the amount of the deficit for fiscal year 1972, the current fiscal year, is staggering.

Mr. President, I have before me a tabulation which shows the proposals in the budget—both unified and Federal funds since fiscal year 1969, the first year of the unified budget. It reads as follows:

UNIFIED BUDGET, SURPLUSES/DEFICITS—FISCAL YEARS 1969-73

[Totals may not add due to rounding; in billions of dollars]

	Net	Administrative budget or Federal funds	Trust funds
Proposed:			
1969	−8.0	−11.6	+3.6
1970	+3.4	−6.9	+10.3
1971	+1.3	−7.3	+8.7
1972	−11.6	−23.1	+11.5
1973	−25.5	−36.2	+10.7
Actual:			
1969	+3.2	−5.5	+8.7
1970	−2.8	−13.1	+10.3
1971	−23.0	−29.9	+6.9
1972	[1] −38.8	[1] −44.7	[1] +6.0

[1] As stated in the fiscal year 1973 budget.

This table shows that a year ago, the President indicated that for fiscal year 1972 there would be a deficit in the Federal funds budget of $23.1 billion. Last February and on many occasions, I said that I thought this figure was low, and that a more realistic figure would be over $30 billion. A few months ago, I said it would be $40 billion. The administration now estimates that the Federal funds deficit for fiscal year 1972 will total $44.7 billion. This is the largest deficit in the history of our Nation except for the three World War II years of 1943, 1944, and 1945.

Mr. President, I predict that by June 30, 1973, we might be faced with a Federal funds budget deficit of at least $45 billion instead of $36.2 billion, which is the budget estimate for fiscal year 1973. The admitted deficit figures during the 3 years of the Nixon administration plus what the deficit will be for the coming fiscal year totals $123.9 billion over the 4 years that Mr. Nixon will have presided as President.

I ask unanimous consent that there be printed in the RECORD at this point page 19 of the special analyses of the budget, which gives the Federal funds—administrative budget—receipts and outlays for 3 fiscal years and I also request unanimous consent to have printed in the RECORD page 24 of the special analyses which shows for 3 fiscal years the receipts and outlays in all of the trust funds.

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

FEDERAL FUNDS

The Federal funds are those which the Government administers as owner (as distinguished from those administered in a trustee or fiduciary capacity). There are four subgroups of Federal funds—the general fund, special funds, public enterprise funds, and intragovernmental revolving and management funds.

TRUST FUNDS

The trust funds are administered in a fiduciary capacity by the Government. They include one subgroup, *trust revolving* funds, which, like the public enterprise funds, carry on a businesslike cycle of operations and are normally stated on a net basis (outlays less receipts).

Cash operations.—Trust fund receipts are estimated at $83 billion in 1973, with outlays planned at $73 billion, as shown in table B–6. The transactions of the Federal old-age and survivors and disability insurance funds are far larger than any other trust funds.

TABLE B–2. FEDERAL FUND RECEIPTS AND OUTLAYS

[In millions of dollars]

Description	1971 actual	1972 estimate	1973 estimate
RECEIPTS BY SOURCE			
Individual income taxes	86,230	86,500	93,900
Corporation income taxes	26,785	30,100	35,700
Excise taxes	10,510	9,175	9,735
Estate and gift taxes	3,735	5,200	4,300
Customs duties	2,591	3,210	2,850
Miscellaneous receipts	3,934	3,603	4,132
Total receipts Federal funds	133,785	137,788	150,617
OUTLAYS BY AGENCY			
Legislative Branch	382	476	503
The Judiciary	141	170	189
Executive Office of the President	47	63	71
Funds appropriated to the President:			
Foreign assistance	2,787	3,097	3,064
Economic opportunity	1,485	1,051	830
Other	176	436	387
Agriculture	8,554	11,609	11,003
Commerce	1,194	1,289	1,416
Defense—Military [1]	74,551	74,996	75,897
Defense—Civil	1,367	1,642	1,811
Health, Education, and Welfare	21,329	26,069	26,445
Housing and Urban Development	2,890	3,462	4,214
Interior	269	1,031	−1,179
Justice	916	1,230	1,476
Labor	1,791	3,753	3,585
State	449	526	558
Transportation	2,896	2,594	2,541
Treasury	21,087	24,225	27,839
Atomic Energy Commission	2,275	2,358	2,422
Environmental Protection Agency	701	1,287	1,541
General Services Administration	500	510	110
National Aeronautics and Space Administration	3,381	3,180	3,191
Postal Service	2,183	1,943	1,409
Veterans Administration	9,492	10,737	11,631
Other independent agencies	2,807	4,236	4,556
Allowances for:			
Pay raises (excluding Department of Defense)		250	775
Contingencies		300	500
Total outlays Federal funds	163,651	182,519	186,784

TABLE B-6.—OUTLAYS AND RECEIPTS OF TRUST FUNDS

[In millions of dollars]

Description	Outlays			Receipts		
	1971 actual	1972 estimate	1973 estimate	1971 actual	1972 estimate	1973 estimate
Funds to which receipts are appropriated:						
Federal old-age and survivors and disability insurance trust funds	$35,874	40,055	45,514	38,892	41,593	46,242
Health insurance trust funds	7,875	8,974	10,436	8,534	10,627	15,347
Unemployment trust fund	6,132	7,316	6,127	4,321	5,614	5,786
Railroad employees retirement funds	1,919	2,113	2,098	1,880	2,035	2,181
Federal employees retirement funds	3,259	3,659	4,168	5,851	6,516	7,271
Airport and airway trust funds	287	1,377	596	1,184	1,569	756
Highway trust funds	4,689	4,782	5,027	5,729	5,557	6,052
Foreign military sales trust fund	970	1,200	1,500	966	1,350	1,650
Veterans life insurance funds	743	861	575	784	820	831
Other trust funds (nonrevolving)	294	323	325	351	308	283
Trust revolving funds (table B-7)	−382	−618	−663			
Subtotal	61,659	70,041	75,704	68,492	75,989	86,399
Interfund transactions	−640	−744	−815	−640	−744	−814
Proprietary receipts from the public	−1,659	−2,083	−2,371	−1,659	−2,083	−2,371
Total	59,361	67,215	72,519	66,193	73,163	83,214

This group of funds reflects an excess of receipts of $6 to $11 billion each year, as follows (in millions of dollars):

	1971 actual	1972 estimate	1973 estimate
Total receipts, trust funds	66,193	73,163	83,214
Total outlays, trust funds	59,361	67,215	72,519
Excess of receipts, trust funds	[1] 6,833	5,948	10,695

[1] Excludes $100,000,000 of collections on the redemption of securities issued by the Federal National Mortgage Association which were owned by trust funds at the time the association became privately owned in 1969.

Mr. ELLENDER. Mr. President, the administration, in the fiscal year 1973 full employment budget, estimates that there will be a surplus of $.7 billion. The current fiscal year 1972, on a full employment budget basis, is estimated to have a deficit of $8.1 billion. I again express the hope that the administration's estimate this year is better than it was last year and that we will actually have a full employment budget surplus in fiscal year 1973. The budget submitted a year ago indicated that there would be a full employment budget surplus of $.1 billion and now it turns out to be a deficit of $8.1 billion.

Based upon the projections for fiscal year 1973 in the President's budget, it is estimated that the total debt subject to the debt limitation at the end of fiscal year 1973 will amount to $481.9 billion. This does not include some $11 billion of debt which is not subject to limitation.

The interest on the public debt is estimated for fiscal year 1973 at $22.9 billion. This represents an increase of $1.3 billion over the current fiscal year.

The figures which we have been discussing, Mr. President, consist of actual disbursements from the Treasury to liquidate obligations of the Federal Government, together with disbursements from the Treasury under the loan accounts.

I would like, for a moment, to refer to the budget authority requested for fiscal year 1973, which is the authority the administration has requested to obligate the Government during the new year and which are the real figures we will be considering in the various appropriation bills.

The total budget authority requested for fiscal year 1973 is $270.9 billion, which is an increase of $21.1 billion in excess of the estimates of budget authority for the current fiscal year 1972. Approximately $185.3 billion of this sum requires the current action of the Congress mostly, as I say, in the appropriation bills. I desire to assure the Senate that these requests will receive the most careful scrutiny of the Committee on Appropriations and its various subcommittees.

Of the total projected outlays of $246.3 billion for fiscal year 1973, $76.5 billion—approximately 31 percent of the total—is for the budget of the Department of Defense, including military assistance. This represents an increase of $.7 billion over Department of Defense outlays for fiscal year 1972 which are now estimated at $75.8 billion.

The budget for fiscal year 1973 includes requests for new budget authority—appropriations—for the Department of Defense totaling $83.4 billion, which is approximately 31 percent of the total budget authority of $270.9 billion requested in the President's budget. This request of $83.4 billion is an increase of $6.3 billion over the budget authority for fiscal year 1972 totaling $77.1 billion, which includes approximately $2.9 billion for proposed supplementals. It is significant to note that the fiscal year 1973 requests include $4.1 billion for anticipated pay increases for military, civilian, and retired military personnel, which is about 65 percent of the increase requested. As chairman of the Department of Defense Subcommittee, I plan to discuss the Department of Defense budget in some detail tomorrow.

Mr. President, I wish to announce further, as I stated a few days ago, that the committee will hold hearings on the overall budget for fiscal year 1973 beginning February 1. The full committee sessions will precede the regular subcommittee studies on undeveloped segments of the budget. The first witnesses will be Government witnesses. That will last for about 2 days. Then we will have 2 days of hearings for individuals who desire to be heard and who might be able to give us some good testimony as to priorities other than those mentioned by the President. We believe these hearings might develop some interesting alternatives to the administration recommendations.

Mr. President, it seems to me that Congress should have that kind of guidance and I am very hopeful that those who appear before us will be able to show us the way so that less money can be spent and that the money that is spent will be spent to better advantage.

S. 907—EXTENSION OF TIME FOR CONSIDERATION BY COMMITTEE ON PUBLIC WORKS

Mr. BYRD of West Virginia. Mr. President, S. 907, a bill to consent to the interstate environment compact, was reported to the Senate from the Committee on the Judiciary on December 11, 1971, and was referred to the Committee on Public Works for 45 days for their consideration and action.

Because of the intervention of the adjournment of the first session of the 92d Congress, the Committee on Public Works has not had an opportunity to complete its consideration of S. 907.

I, therefore, on behalf of the Senator from West Virginia (Mr. RANDOLPH), ask that the referral be extended for an additional 30 days.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RESUMPTION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there now be a resumption of the period for the transaction of routine morning business with statements limited therein to 3 minutes.

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

ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR BYRD OF VIRGINIA TOMORROW

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

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

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMPTION THEREAFTER OF THE UNFINISHED BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, following the remarks of the distinguished senior Senator from Virginia (Mr. BYRD) tomorrow, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which period the Chair lay before the Senate the unfinished business.

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. HARRIS). Without objection, it is so ordered.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

The Senate continued with the consideration of the bill (S. 2515), a bill to further promote equal employment opportunities for American workers.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on any amendment in the second degree, which is offered to the pending amendment of the Senator from Colorado (Mr. DOMINICK), be limited to 1 hour, to be equally divided between the mover of such amendment and the manager of the bill, except in instances, if there be such, when the manager of the bill is in favor of the amendment in the second degree, in which instance the control of the time in opposition to the amendment in the second degree be under the control of the minority leader or his designee.

The PRESIDING OFFICER. 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, as the matter now stands, time on any motion, appeal, or point of order, with the exception of nondebatable motions, is limited to 20 minutes; is that not correct?

The PRESIDING OFFICER. The Senator is correct, the Chair is so informed.

Mr. BYRD of West Virginia. Is it not also correct, Mr. President, that such time under the agreement of last week is under the control of the mover of such motion or appeal or point of order and the manager of the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD of West Virginia. Mr. President, I think it might only be fair that the same parallel construction be given to the agreement with respect to motions, appeals, or points of order, as in the case of amendments in the second degree.

Therefore, I ask unanimous consent that such time on any motion, appeal, or point of order, with the exception of nondebatable motions, be under the control of the mover of such and the manager of the bill, except when the manager of the bill is in favor of such, in which instance the time in opposition would be under the control of the minority leader or his designee.

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

Mr. BYRD of West Virginia. Without any change in the time, the time being 20 minutes on any such motion, appeal, or point of order.

The PRESIDING OFFICER. That is the understanding of the Chair.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask that morning business again be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, for the record, what is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK).

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the Senate will convene tomorrow at 12 o'clock noon. After the two leaders have been recognized, the senior Senator from Virginia (Mr. BYRD), will be recognized for not to exceed 15 minutes, following which there will be a period for transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business.

The pending question will be on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK). Amendments in the second degree will continue to be in order and will undoubtedly be offered, with a time limitation on each such amendment of 1 hour. Senators should be alerted, therefore, to the strong likelihood of rollcall votes tomorrow afternoon.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6:08 p.m.) the Senate adjourned until tomorrow, Tuesday, January 25, 1972, at 12 meridian.

NOMINATIONS

Executive nominations received by the Senate, January 24, 1972:

ACTION

Charles W. Ervin, of California, to be an Associate Director of Action, to which office he was appointed during the last recess of the Senate.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Harold C. Crotty, of Michigan, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1972, vice Charles A. Perlik, Jr., resigned.

NATIONAL LABOR RELATIONS BOARD

John A. Penello, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1976, vice Gerald A. Brown, term expired.

U.S. PATENT OFFICE

Robert Gottschalk, of New Jersey, to be Commissioner of Patents, to which office he was appointed during the last recess of the Senate.

COMMISSION ON CIVIL RIGHTS

John A. Buggs, of Maryland, to be Staff Director for the Commission on Civil Rights, vice Howard A. Glickstein, resigned.

SUBVERSIVE ACTIVITIES CONTROL BOARD

Otto F. Otepka, of Maryland, to be a member of the Subversive Activities Control Board for the term expiring August 9, 1975; (reappointment).

DEPARTMENT OF JUSTICE

William D. Keller, of California, to be U.S. attorney for the central district of California for the term of 4 years vice Robert L. Meyer, resigned, to which office he was appointed during the last recess of the Senate.

DISTRICT OF COLUMBIA GOVERNMENT

Tedson J. Meyers, of the District of Columbia, to be a member of the District of Columbia Council for the remainder of the term expiring February 1, 1974, to which office he was appointed during the last recess of the Senate.

ACTION

Kevin O'Donnell, of Maryland, to be an Associate Director of Action, to which office he was appointed during the last recess of the Senate.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

William Rinehart Pearce, of Minnesota, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador, to which office he was appointed during the last recess of the Senate.

FEDERAL RESERVE SYSTEM

John Eugene Sheehan, of Kentucky, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1968, to which office he was appointed during the last recess of the Senate.

FEDERAL COMMUNICATIONS COMMISSION

Richard E. Wiley, of Illinois, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1970, to which office he was appointed during the last recess of the Senate.

CIVIL AERONAUTICS BOARD

Whitney Gillilland, of Iowa, to be a member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1977; (reappointment).

DIPLOMATIC AND FOREIGN SERVICE

Matthew J. Loeran, Jr., of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

Robert Anderson, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Dahomey.

Anthony D. Marshall, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

Robert Strauzz-Rupé, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

DEPARTMENT OF JUSTICE

Harold Hill Titus, Jr., of Washington, D.C., to be U.S. attorney for the District of Columbia for the term of four years vice Thomas A. Flannery, resigned.

EXTENSIONS OF REMARKS

A RESOLUTION COMMENDING FRANCIS E. KELLY

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 24, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to bring to the attention of the Members of Congress recent action taken by the Massachusetts House of Representatives and the Massachusetts State Senate on the adoption of resolutions commending Francis E. Kelly for his promotion of the Massachusetts State Lottery. Also included is a release from the law offices of Francis E. Kelly, 11 Beacon Street, Boston, Mass. The revenue derived from this source is sorely needed and I expect it will be put to good use by the Commonwealth of Massachusetts.

The material follows:

RESOLUTIONS COMMENDING FRANCIS E. KELLY FOR HIS PROMOTION OF THE MASSACHUSETTS STATE LOTTERY

Whereas, Francis E. Kelly proposed the first Massachusetts State Sweepstakes Bill in 1942 as well as a National Sweepstakes Bill in Washington; and

Whereas, Attorney Kelly has persistently filed Sweepstakes legislation through the years and through his efforts the Lottery question was placed on the 1958 State Ballot where it was approved overwhelmingly so that he can be truly called "the Champion of the Lottery"; and

Whereas, Mr. Kelly, a former member of the Boston City Council, was the youngest man elected to the office of Lieutenant Governor in 1936 and later was Attorney General of the Commonwealth from 1949 to 1952; and

Whereas, He also was an early sponsor of legislation to lower the voting age to 18 and to provide a bonus for World War II Veterans; therefore be it

Resolved, That the Massachusetts House of Representatives hereby extends its sincere commendations to the Honorable Francis E. Kelly for his untiring efforts in promoting a Massachusetts State Lottery; and be it further

Resolved, That a copy of these resolutions be forwarded by the Secretary of the Commonwealth to the Honorable Francis E. Kelly.

RESOLUTIONS COMMENDING THE HONORABLE FRANCIS E. KELLY FOR ORIGINATING AND ENCOURAGING THE LEGALIZATION OF A MASSACHUSETTS STATE LOTTERY

Whereas, Francis E. Kelly proposed the first Massachusetts state sweepstakes lottery bill and a United States sweepstakes bill in Washington, D.C., in nineteen hundred and forty-two; and

Whereas, Attorney Kelly has persistently filed sweepstakes lottery legislation for many years and by his efforts and perseverance the lottery question was placed on the Massachusetts state ballot in nineteen hundred and fifty-eight, whereupon it was overwhelmingly approved; and

Whereas, Attorney Kelly has served as Massachusetts' youngest lieutenant governor, youngest Boston city councilor, attorney general of the commonwealth, and has served efficiently as the state-appointed Fall River finance commissioner to conduct the affairs of that city when it was in financial difficulty; and

Whereas, said Francis E. Kelly has had a career of interest in public questions and pioneered legislation to assist the needy, the elderly, and as Attorney General used that office to modernize child welfare laws and adoption procedures; and

Whereas, Francis E. Kelly originated the first state bonus of three hundred dollars for Massachusetts veterans of World War II; public open meetings of the governor and council, eighteen-year-old voting, and successfully abolished the June pre-primary conventions for seventeen years; now therefore be it

Resolved, That the Massachusetts Senate hereby extends its sincere commendations to the Honorable Francis E. Kelly for his long, untiring efforts of twenty-nine years, advocating a Massachusetts state lottery as a voluntary means of raising millions of dollars of necessary revenue for the cities and towns of the commonwealth; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the Senate to the Honorable Francis E. Kelly.

TWO SELF-EXPLANATORY RESOLUTIONS PASSED WITHOUT DISSENT BY THE MASSACHUSETTS HOUSE OF REPRESENTATIVES AND THE MASSACHUSETTS SENATE

On receipt of the two Resolutions from the State House, Kelly said today, "I am deeply grateful to the members of the House of Representatives and the Massachusetts Senate for their two resolutions of praise by both of these Honorable Bodies of 280 members.

"One regret I have is that the present Mass. Lottery Law does not contain the fool-proof provision that our Committee has always contained in its Lottery Bill, namely: 'A compulsory jail sentence to anyone who interferes with the legal or honest conduct of our corruption-proof bill for a Mass. Lottery'."

Kelly added, "For 29 years our responsible, civic-minded and non-partisan Committee has offered a reward of '$10,000.00 to ANYONE who could show the public any existing Mass. law which contains more safeguards and protection from corruption than the provisions contained in our corruption-proof Mass. Sweepstakes Committee Lottery Bill'. To date—no takers of the $10,000.00".

PRESIDENT NIXON'S OPPORTUNITIES

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Monday, January 24, 1972

Mr. THURMOND. Mr. President, the esteemed columnist, David Lawrence, has published in the Augusta Chronicle of January 13, 1972, an article entitled "Nixon's Opportunities."

Mr. Lawrence points out that the President has an unprecedented opportunity to shape world peace. President Nixon did not inherit this chance; rather, he worked long and hard to bring such a moment to fruition.

Mr. Lawrence also points out that the President is faced with great challenges and risks as well as opportunities during this crucial period.

Mr. President, I hope the Nation will respond to the President's trip as Mr. Lawrence has done. President Nixon certainly needs and deserves the full support of the Nation during these important visits to Red China and the Soviet Union. I ask unanimous consent that the article be printed in the Extensions of Remarks.

There being no objection, the article