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Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, SECOND SESSION

SENATE—*Tuesday, April 11, 1972*

The Senate met at 12 o'clock meridian and was called to order by Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

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

O God, our Father, we thank Thee for life and work, and strength with which to do it. We thank Thee, too, for comrades of earth's pilgrimage with whom we have lived and labored, by whom life has been enriched, and the Nation's welfare enhanced. We remember in gratitude Thy servant, James Francis Byrnes, who has "kept the faith, finished his course, and now rests from his labors." May we undertake our tasks in the spirit of selfless service and unrestrained devotion which was his. May something of his gentle ways, his cultural depth, his human sensitivity, and his patriotic pride be implanted in us and expressed in our daily lives until for us the shadows lengthen, the evening comes, the busy world is hushed, the fever of life is over, and our work is done. Then in Thy mercy grant us a safe lodging, a holy rest, and peace at the last, through Jesus Christ our Lord. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 11, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. STEVENSON) 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.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, April 10, 1972, be dispensed with.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 697, 704, 705, 706, 707, and 711.

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

MANDATORY INSPECTION OF RABBITS SLAUGHTERED FOR HUMAN FOOD

The Senate proceeded to consider the bill (S. 1943) to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes, which had been reported from the Committee on Agriculture and Forestry with an amendment on page 3, line 11, after the word "to", strike out "January" and insert "July"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as provided in section 2 of this Act, all the penalties, terms, and other provisions in the Poultry Products Inspection Act (71 Stat. 441; 21 U.S.C. 451–470) are hereby made applicable (1) to domestic rabbits, the carcasses of such rabbits, and parts and products thereof, and to the establishments in which domestic rabbits are slaughtered or in which the carcasses, or parts or products thereof, are processed, (2) to all persons who slaughter domestic rabbits or prepare or handle the carcasses of such rabbits or parts or products thereof, and (3) to all other persons who perform any act relating to domestic rabbits or the carcasses of such rabbits or parts or products thereof, and who would be subject to such provisions if such acts related to poultry or the carcasses of poultry, or parts or products thereof; and such provisions shall apply in the same manner and to the same extent as such provisions apply with respect to poultry and the carcasses of poultry, and parts and products thereof, and to persons who perform acts relating to poultry, the carcasses of poultry, or parts or products thereof.

SEC. 2. (a) The provisions in paragraph (a)(4) of section 9, paragraph (a)(2) of section 15, and section 29 of the Poultry Products Inspection Act shall not apply with respect to domestic rabbits or the carcasses of such rabbits, or parts or products thereof. The two-year period specified in paragraph (c)(1) of section 5 of such Act and the periods contemplated by paragraph (c)(4) of such section shall commence upon the date of enactment hereof, with respect to domestic rabbits and the carcasses of such rabbits, and parts and products thereof; and in applying the volume provisions in paragraphs (c)(3) and (c)(4) of section 15 of such Act, the volume restrictions applicable to turkeys shall apply to rabbits.

(b) For purposes of this Act—

(1) wherever the term "poultry" is used in the Poultry Products Inspection Act, such term shall be deemed to refer to domestic rabbits;

(2) wherever the term "poultry products" is used in the Poultry Products Inspection Act, such term shall be deemed to refer to rabbit product; and

(3) the reference to domesticated bird in section 4(e) of the Poultry Products Inspection Act shall be deemed to refer to domestic rabbit.

SEC. 3. This Act shall become effective upon enactment, except that no person shall be subject to the provisions of this Act prior to July 1, 1972, unless such person after enactment of this Act applies for and receives inspection for the processing for commerce (as defined in the Poultry Products Inspection Act) of domestic rabbits or the carcasses of such rabbits, or parts or products thereof, in accordance with the provisions of this Act and pursuant to regulations promulgated by the Secretary of Agriculture under this Act. Any person who voluntarily applies for and receives such inspection after enactment hereof shall be subject, on and after the date he commences to receive such inspection, to all of the provisions (including penalties) of the Poultry Products Inspection Act as applied hereby in relation to domestic rabbits, the carcasses of such rabbits, and parts and products thereof.

SEC. 4. The provisions hereof shall not in any way affect the application of the Poultry Products Inspection Act in relation to poultry, poultry carcasses, and parts and products thereof.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–728), explaining the purposes of the measure.

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

This bill would make rabbit meat inspection mandatory, at Federal cost, by extending the provisions of the Poultry Products Inspection Act to rabbits and rabbit products.

The committee amendment would extend the time when any person would involuntarily become subject to the provisions of the

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bill to July 1, 1972, since the date set out in the bill, January 1, 1972, is now past. Any person who desired to apply for and receive inspection before that date could do so.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970, the committee estimates the costs which would be incurred for carrying out the bill would be something less than $93,000 in the current fiscal year, and about $154,000 in fiscal 1973, $162,000 in fiscal 1974, $170,000 in fiscal 1975, $178,000 in fiscal 1976, and $186,000 in fiscal 1977. This estimate concurs with the estimate furnished by the Department of Agriculture in the following letter:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., February 25, 1972.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate.

DEAR MR. CHAIRMAN: This responds to your request for a report on S. 1943, a bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes.

The Department does not oppose enactment of this bill.

An estimated 20 to 30 million pounds of rabbits are consumed each year. Commercial output of processed rabbit meat is estimated at about 4 million fryers annually, while hobby producers raise another 4 to 8 million rabbits which they often sell locally.

Based on a recent survey made by the Consumer and Marketing Service, a total of 29 plants could come under inspection provided for in the bill. First year costs for fiscal year 1972 (based on 6 months' operation) would approximate $93,000 (including one-time training activities). Costs for program operations would approximate $154,000 for fiscal year 1973, $162,000 for fiscal year 1974; $170,000 for fiscal year 1975: and $178,000 for fiscal year 1976. The survey covered two plants now under voluntary Federal inspection, one which has been surveyed as the first step toward applying for voluntary Federal inspection, 14 plants under State inspection, and 12 additional plants which are not now inspected by Federal or State agencies.

Of these 29 plants, 17 (three having voluntary Federal inspection and 14 having State inspection) could probably qualify for the mandatory inspection program. The remaining 12 plants probably would meet the criteria for exemption as listed in the proposed bill.

In accordance with Public Law 91–190, section 102(2)(C), attached is a statement on the impact this proposed bill would have on the quality of the environment.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

USDA ENVIRONMENTAL STATEMENT

(Prepared in accordance with section 102(2)(C) of Public Law 91–190)

Title of statement: S. 1943, a bill "To provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes."

Nature of legislation or action: Enabling legislation.

BACKGROUND

The raising and processing of domestic rabbits as an added source of meat in the diet is a growing industry. Consumers of this product do not always have the assurance that it is wholesome, unadulterated and correctly labeled. This assurance is presently given on meat and poultry products.

At the present time inspection is available for the processing of rabbits under a voluntary program in which the processor pays for the inspection services provided. The added cost of inspection is passed on to the consumer. This bill would make the inspection of rabbit processing mandatory and assure the uniform certification of the wholesomeness of all rabbit products offered the consumer, and shifts the cost to the Federal taxpayer.

ENVIRONMENTAL IMPACT

The proposed bill will apply to the slaughter, preparation and handling, and the disposal of condemned carcasses and parts in processing establishments preparing domestic rabbits for intrastate, as well as interstate or foreign commerce. The processing waste from these establishments could adversely affect the quality of the human environment.

The grant of inspection would be contingent upon the use of potable water and of a waste disposal system acceptable to or certified by the State or local authorities as not violating applicable water quality standards as required by section 21(b) of the Federal Water Pollution Control Act.

FAVORABLE ENVIRONMENTAL EFFECTS

The most significant favorable effect at this time is the providing for wholesome products from all plants under inspection and the utilization of the authority in the Federal Water Pollution Control Act to control the operations of rabbit processing establishments through the granting of inspection, and the withdrawal of inspection should there be entry of a judgment that the plant has operated in violation of applicable water quality standards.

Adverse environmental effects which cannot be avoided: There are no adverse effects of this bill.

ALTERNATIVE TO THE PROPOSED ACTION

The adverse environmental effects of operations of the regulated industry can be minimized by utilization of all presently existing authorities to refuse or withdraw inspection when applicable environmental requirements are not met. Section 21 of the Federal Water Pollution Control Act provides some authority for such actions, and the regulations promulgated under this bill would provide for the exercise of such authority.

The proposed action is administrative.

RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF MAN'S ENVIRONMENT AND THE MAINTENANCE OF LONG-TERM PRODUCTIVITY

The short-term benefit or immediate effect of the bill would be to strengthen health protection for consumers of rabbit products.

The long-term benefits will be to further reduce the possibility of adulterated and misbranded rabbit products entering human food channels, and to build the consumer's confidence in the Nation's food supply, thereby, benefiting the legitimate operator while discouraging illegal, undesirable practices. Further, long-term benefits will be of assistance in the prompt correction of environmental pollution problems.

Irreversible or irretrievable commitment of resources: None.

Consultation with appropriate Federal agencies: Not applicable.

Reviewed by State and local agencies developing and enforcing environmental standards: (See Environmental Impact).

CLEAN WATERS FOR AMERICA WEEK

The joint resolution (S.J. Res. 210) to authorize the President to issue a proclamation designating the last full calendar week in May of 1972 as "Clean Waters for America Week" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to emphasize the need for a continuous program for the control and elimination of water pollution and related problems, and to call the attention of the American people to such need, the President is authorized and requested to issue a proclamation designating the last full calendar week in May of 1972 as "Clean Waters for America Week", and calling upon the people of the United States and interested groups and organizations to observe such week with appropriate ceremonies and activities.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–735), explaining the purposes of the measure.

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

CLEAN WATERS FOR AMERICA WEEK

PURPOSE

The purpose of the joint resolution is to authorize the President of the United States to issue a proclamation designating the last full calendar week in May of 1972 as "Clean Waters for America Week."

STATEMENT

The Congress has passed an impressive number of laws for action programs to do something about improving our environment. Recently the National Environment Policy Act—Public Law 91–190, was signed into law by the President. This act declares that it is the policy of the U.S. Government to create and maintain conditions under which man and nature can exist in productive harmony. Title I states:

"Each person should enjoy a healthful environment and has a responsibiltiy to contribute to the preservation and enhancement of the environment."

The leadership of the Congress has been particularly strong on legislation for water quality and productivity. The Water Quality Act of 1965—Public Law 89–234—was a landmark law, establishing the Federal Water Pollution Control Administration. It called for the States to set standards based on federally promulgated criteria. After 4 years of scientific study and river basin planning, the Nation is making the hard choices and committing the funds to meet these standards. The Clean Waters Restoration Act of 1966 authorized matching funds to local governments for sewage treatment plant construction. Other acts have authorized and funded the extensive works of the Corps of Engineers and the Bureau of Reclamation. Through annual authorizations, the Congress has maintained a strong research and development effort in the desalting of sea water and brines. The Water Resources Act—Public Law 89–80—established river basin commissions and the Water Resources Council. Public Law 90–515 set in motion a 5-year intensive review of the entire water problem by the National Water Commission. These diverse efforts assure steady progress but there are many facets to the water resource issue and water quality is only one part of the broadening interest in the environment.

Priorities must be set and the emphasis of limited revenues and manpower placed on the most critical natural resource areas. The committee believes that water is at the top of the list and that we should periodically remind ourselves of the importance of water while we are recognizing and appreciating the more subtle and particular interactions of man and his surroundings. That is why it is

fitting to set aside a time especially to examine the status of water resources and the quality of our streams, lakes, and reservoirs. All are well aware of the enormous requirements of a modern industrial society for water. The laws we have established implement a national policy of multiple use.

Pollution must be corrected in the Great Lakes and most larger river systems and estuaries of the east coast. Water supply crises are always hovering over New York City and the Pacific Southwest. The great increase in boating recreation threatens to overwhelm the recent development of inland reservoirs and lakes. Enormous growth in electric power generation produces corresponding quantities of waste heat which is largely dissipated in surface waters, changing the ecology of the river or bay.

Thus, the observation of Clean Waters for America Week should dramatize the very real accomplishments of the past, the importance of water resource planning for the future, and the urgency with which we must attack some present day pollution problems.

The Federal Government is well organized to participate in such an event. The Water Resources Council coordinates most of the agencies with responsibilities for water quality and the many uses of our rivers, lakes, and ocean areas. All departments should contribute imaginative suggestions for Clean Waters for America Week activities. There should be a variety of opportunities for education of young persons. The demonstration of successful water management is important to sustain taxpayer support for the continuing programs and projects ahead.

Accordingly the committee recommends favorable consideration of Senate Joint Resolution 210, without amendment.

NATIONAL ARBOR DAY

The Senate proceeded to consider the joint resolution (H. J. Res. 563) to authorize the President to proclaim the last Friday of April 1972 as "National Arbor Day."

ONE HUNDREDTH ANNUAL ARBOR DAY

Mr. HRUSKA. Mr. President, a most significant celebration occurs in Nebraska City, Nebr., on April 22–23. It will be the 100th annual observance of Arbor Day. Nebraskans will gather from all over the State and dignitaries will descend on Nebraska City from all parts of the Nation to participate in this worthy celebration and honor the memory of the man who started it, J. Sterling Morton.

This Senator has spoken many times to this body about Arbor Day. I have done so in the sincere belief that the annual observance which represented our Nation's very first efforts at conservation is not taken nearly seriously enough by Americans in this day and age.

Yet the principles espoused by Mr. Morton and his idea that all Americans set aside one day each spring to plant trees are much-needed principles today. If we can return to widespread practice of them, they will stand us in good stead in our current effort to protect and restore our environment.

J. Sterling Morton was a newspaper publisher, horticulturist, and effective public servant. He conceived the idea for Arbor Day as he contemplated Nebraska's tireless plains after he had moved from Michigan to Nebraska City.

He went on to become secretary of the Nebraska Territory, president of the State Board of Agriculture, and Secretary of Agriculture under President Grover Cleveland, but of all his selfless contributions to his State and Nation, the one for which he is best remembered is his inauguration of the annual Arbor Day observance.

In 1872 Mr. Morton told Nebraskans:

If every farmer in Nebraska will plant out and cultivate an orchard and a flower garden, together with a few forest trees, this will become mentally and morally the best agricultural state in the Union.

Nebraskans responded to his call for Arbor Day by planting more than 1 million trees the first year. Within 16 years after his mass tree planting day had become an official State observance, more than 600 million trees had been planted and 100,000 acres of forest had been created on the once-barren Nebraskan plains.

The idea of Arbor Day spread quickly beyond Nebraska's boundaries and within a very few years, more than 35 States conducted their own observance. Today Arbor Day is celebrated by every State in the Union, and Florida and West Virginia have 2 Arbor Days each year. In addition, a number of foreign countries have adopted the celebration. Among other countries, Arbor Day is commemorated in England, Canada, Australia, British West Indies, South Africa, New Zealand, France, Mexico, Norway, Russia, Japan and China.

Unfortunately, as the New York Times pointed out in a comprehensive and excellent review of Arbor Day 2 years ago, the holiday has assumed a pro forma posture in too many places. While Nebraskans continue to observe the day vigorously and reemphasize the conservation principles which it espouses, the urbanization of our society has led to a general and most unfortunate deemphasis of Arbor Day on a national basis.

This is regrettable. One of our chief national concerns is our deteriorating environment. We are desperately seeking effective means of restoring our once great heritage of natural resources. We have in J. Sterling Morton's concept of Arbor Day one of the most valuable weapons in our environmental struggle, if only we will return to serious pursuit of his principles.

It is understandable that Arbor Day does not seem as important to our highly-urbanized society as it once did to our pioneer forefathers. Millions who live and work in the asphalt acres of our cities have little or no space to plant trees. But it is precisely the nature of our society today which places on us a greater requirement than ever to observe Arbor Day seriously and follow the principles of Mr. Morton more scrupulously than we have been.

The New York Times offers a most convincing argument for making Arbor Day a national holiday. With such official sanction, the day would once again recapture the imagination and vision of the Nation as it did a century ago. It would become one of the most effective stimuli to a unified national approach to our environmental goals.

This Senator concurs wholeheartedly with that thought so well expressed by the Times. I have in the past submitted to this body resolutions which would proclaim the last Friday of April each year as National Arbor Day, thus elevating this annual observance to the national status which it so well deserves and which is needed to increase its effectiveness as a rallying point for sound principles of conservation, and again submitted such a resolution this year. I urge my colleagues to consider it carefully—not just as a matter of pride for my State of Nebraska, which of course it is—but as a valuable tool in our struggle to restore our environment, a tool which can be even more valuable if it is given the official sanction which would come from status as a national holiday.

Because the article so well expresses the problem confronting us today, Mr. President, I ask unanimous consent that the New York Times article on Arbor Day, printed on April 19, 1970, be printed in the RECORD.

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

[From the New York Times, Apr. 19, 1970]

WHAT BECAME OF ARBOR DAY?

(By Richard Reinhardt)

Two great holidays of American origin outshine all others in their freedom from chauvinism, sectarianism and commercial exploitation.

One is Thanksgiving, a feast of brotherhood and gratitude based upon a long and honorable historic tradition. The other is a neglected, ridiculed, almost forgotten festival called Arbor Day, which celebrates human kinship with the living earth. Of all our major anniversaries, Arbor Day is the least known and least respected, although it probably is the most significant of all holidays in an era of destructive technology, irretrievable waste and the dark stain of poisons in the air and water.

Unlike the general run of civic and religious celebrations, Arbor Day was the deliberate creation of one man, a Nebraska newspaper publisher named Julius Sterling Morton. It was Morton's happy notion, inspired by ancient European and Middle Eastern folkways, to devote a day each spring to mass treeplanting. During his long career as a horticulturist, editorial writer and politician, he succeeded in spreading this idea to several dozen states and a handful of foreign countries.

Morton first gave evidence of his zeal for forestry in 1854, when he moved from his boyhood home in Michigan to the treeless prairies of Nebraska. Taking squatter's rights on 160 acres of naked loam on the west bank of the Missouri River, he built a four-room house for his young wife and almost immediately began planting slips and seeds. Within a few years he had surrounded the cottage with a jungle of shade trees, shrubbery and vines and was using the columns of his Nebraska City News to urge his neighbors to get busy with their own landscaping projects.

With his friend, Robert W. Furnas, who had started a large orchard in nearby Brownville, Morton toured eastern Nebraska to encourage farmers to plant fruit trees. It was largely to the credit of these two men that the area became an important fruit-growing region.

But Morton's enthusiasm for vegetation went far beyond uses of commercial agriculture. He saw treeplanting as a communal function with social and educational values. He hounded churches, schools and clubs to undertake planting projects, and he came

up with the suggestion that Nebraska towns should set out young trees to commemorate such notable events as the visit of a distinguished guest, the dedication of a public building, or the anniversary of a respected leader.

For four years—1858 to 1861—as secretary of the Nebraska Territory, and later as president of the State Board of Agriculture, Morton had frequent occasion to promulgate both his simple, Jeffersonian faith in the nobility of small farmers and his love of trees. He seldom passed up an opportunity to state the case:

"If every farmer in Nebraska will plant out and cultivate an orchard and a flower garden, together with a few forest trees, this will become mentally and morally the best agricultural state in the Union."

This message with its calm faith in the ultimate virtue of hugging close to the earth was balm to the homesteaders of that raw territory, where nature was harsh, tillage was difficult and failure was common. When Morton published a resolution in 1872, calling on this courageous fellowship of farmers to conduct a state-wide day of tree-planting in early April, the Nebraskans responded by planting something over a million trees.

Two years later Morton's friend, Robert Furnas, who had been elected Governor of the state, proclaimed April 8 the official Arbor Day. With this authoritative blessing, the holiday blossomed into Nebraska's favorite public event. Over the next 16 years, the people of the state planted more than 600 million trees and created 100,000 acres of forest on the once-open plains. The Nebraska legislature in 1885 made Arbor Day a legal holiday, setting it on the date of Sterling Morton's birthday, April 22.

Arbor Day spread with marvelous speed. Kansas, Tennessee, Minnesota and Ohio quickly adopted the idea. By 1890, 35 states had established some kind of Arbor Day, each one picking a date that was appropriate to the local climate.

Few states kept Arbor Day with as much enthusiasm as did Nebraska, but few dared to ignore the occasion. Then as now, the word "conservation" was a shibboleth. The United States rapidly was changing from a rural nation of small farmers into an urban nation of factory workers, and this sentimental rural, earth-centered ceremony seemed to provide a link with the past and a promise for the future. Cynical legislators saw this harmless holiday as a sop for the worriers who were already complaining about disappearing forests and lost wilderness. Arbor Day? Why not? How much easier it would be to plant a few trees new once a year than to forbid the wanton cutting of virgin timber.

What has happened to Arbor Day? On paper it is flourishing. Every state in the union gives it some form of official sanction, two states (Nebraska and Utah) make it a legal holiday, and two other states (Florida and West Virginia) celebrate it twice a year. Elementary school classes everywhere set out arborvitae trees along the parking strip. Ladies clubs adorn the facades of telephone exchanges and state and Federal tree nurseries ship out millions of seedlings to be planted in windbreaks, woodlots and erosion barriers.

But these demonstrations of amateur agriculture do not add up to a great national sentiment for the stewardship of the earth. They are only ludicrous parodies of a pioneer ritual that was intended to seal a yearly covenant with nature and to inculcate in young and old a reverence for the earth and a sense of personal responsibility for its perpetual renewal.

The spirit is gone dormant. Arbor Day is a sham. It goes on, year after year, but it no longer seems important.

Part of the trouble is that Arbor Day began in a struggling, frontier society that has disappeared. Once the buffalo grass had been plowed under and "village adornment societies" had done their work of planting cotton woods and elms on the residential streets of the Great American Desert, Arbor Day lost its compelling urgency.

Then, too, America has become an urban nation. Our tastes are more sophisticated. Family picnics at the country fairgrounds no longer amuse us. On holidays we drive 300 to 400 miles to go waterskiing. Arbor Day smacks of the rural past. It reminds us of lukewarm lemonade, speeches on the courthouse steps. Main Street, outhouses, dialect jokes and other crudities we have outgrown.

The saddest reason for the decline of Arbor Day is that many Americans have lost their easy confidence in the positivist principles that guided Sterling Morton and thousands of tree-planting committees since his time. Recent history has given ample evidence that the good, the true and the beautiful do not inevitably triumph. The faith of a Nebraska editor in the ultimate progress of civilization through the promulgation of shade trees and flower gardens now seems blissfully naive. We have learned that trees grow in slums and in concentration camps and on battlefield. How can we pretend that planting trees will guarantee a general improvement in the moral quality of mankind?

The question is why do we bother to keep Arbor Day on the calendar? In its present form, it is a mockery of the very principles it espouses. It would be worth keeping only if it could be revived and reestablished as a national day of homage to the earth. If that should happen, Arbor Day could become the most important holiday in the year.

There are reasons to think this observance would be welcomed by most Americans. The harshness of frontier life has, in a sense, returned to this richly favored continent. In the midst of luxuriant technological development, we find ourselves looking forward into a wasteland as dark and dry as any that confronted a starving immigrant on the Great Plains. Once again, we are confronted by the frailty and finite limits of the natural environment.

It would do us spiritual and practical good to have a day in which to demonstrate that we are not helpless to save ourselves from this crisis, to show that, as a nation, we are capable of sowing as well as reaping, of healing as well as hurting, of creating as well as destroying. Arbor Day would be a pledge to our children that we will not let the world go to waste; that there will, indeed, be blue skies, greenery and clear water, and that trees will endure.

To serve this object, Arbor Day must become a legal, national holiday. Past efforts to accomplish this have failed, but it is time to make the effort again. Even if it is impossible to find a date to suit all climates, a date could be chosen that will satisfy a majority of states. April 22, Morton's birthday, might well be as suitable as any.

When a date has been chosen, Arbor Day could be called each year by Presidential proclamation, as is Thanksgiving. The President could appoint a national committee to advise him on programs of environmental concern that can be undertaken as Arbor Day projects. The committee could coordinate state and local projects so that the impact of Arbor Day would be immediate, conspicuous and exemplary.

Above all, the pattern of Arbor Day activities must change to suit the mood and manners of today. This holiday is too important to be laid out and embalmed in a 19th-century costume. Arbor Day needs a fresh array of ceremonial symbols, an infusion of new ideas.

Mr. WILLIAMS. Mr. President, I strongly urge the passage of House Joint Resolution 563, legislation to authorize the President to proclaim the last Friday in April 1972 as "National Arbor Day." This bill is identical to Senate Joint Resolution 205, which I introduced earlier this year.

Action at this time by Congress on this resolution is especially timely, as this April marks the 100th anniversary of the original founding of Arbor Day in the State of Nebraska in 1872.

Arbor Day was originally conceived by J. Sterling Morton, of Nebraska, who, as a concerned conservationist aware of the need and value of trees in preserving and protecting soil, initiated a statewide tree-planting contest. The successful program encouraged each citizen to plant as many trees as possible. On that 1 day a century ago, more than 1 million trees were planted in Nebraska. Interestingly, within 20 years, 100,000 acres of wasteland were turned into forests. Since that time, many States have continued to recognize Arbor Day with statewide programs. Most common are school programs and individual classroom projects.

At this time I wish to take the opportunity to recognize the outstanding and continued work of those members of all national and State associations and organizations who have actively supported this legislation passed today. I especially wish to commend and acknowledge a citizen of my State, Mr. Harry Banker, of West Orange, N.J., who, as executive secretary of the Committee for National Arbor Day, has dedicated great time and energy to establishing a National Arbor Day. Mr. Banker's personal interest in this worthy observance dates back for nearly 26 years, during which time, as New Jersey State Chairman of the National Arbor Day Committee, he was instrumental in encouraging our State legislature to adopt an annual State observance of Arbor Day. My appreciation for an outstanding accomplishment goes out to Mr. Banker and all those who have worked closely with him.

I also wish to extend my sincere appreciation to Senators HRUSKA and MCCLELLAN of the Senate Subcommittee on Federal Charters, Holidays, and Celebrations for their efforts in this regard. Senator HRUSKA's personal and extensive knowledge of Arbor Day is most impressive and his help in this matter was enormous.

Mr. President, in this time of great need for national concern for our environment and with the growing awareness of the serious problem facing this country, I believe that the observance of National Arbor Day is particularly significant in preserving this Nation's natural resources and in protecting our trees and forests. By proclaiming a national observance, all citizens will be given the opportunity to demonstrate their commitment to preserving and improving our ecology.

I am hopeful, therefore, that the President will quickly sign this resolution into law so that all Americans may appropriately observe April 28, 1972, as "National Arbor Day."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–736), explaining the purposes of the measure.

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

NATIONAL ARBOR DAY

PURPOSE

The purpose of the joint resolution is to authorize the President to issue a proclamation designating the last Friday of April 1972 "National Arbor Day" and to call upon the people of the United States to observe such day with appropriate ceremonies and activities.

STATEMENT

This resolution would be a timely beginning for this decade during which we all hope increased emphasis will be placed on environmental and conservation problems. With the growing awareness today of the environment and the need to protect and preserve our natural resources, passage of the Arbor Day resolution will serve to stimulate public appreciation of our trees and forests.

The committee is of the opinion that this resolution has a meritorious purpose and that proclaiming the last Friday of April 1972 as "National Arbor Day" will focus the attention of the people of the United States to the environmental and conservation problems facing the Nation. Accordingly, the committee recommends favorable consideration of House Joint Resolution 563, without amendment.

The ACTING PRESIDENT pro tempore. The question is on the third reading and passage of the joint resolution.

The joint resolution was ordered to a third reading, was read the third time, and passed.

FATHER'S DAY

The joint resolution (H.J. Res. 687) to authorize the President to designate the third Sunday in June of each year as "Father's Day" was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–737), explaining the purposes of the measure. There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the joint resolution is to authorize the President to designate the third Sunday in June of each year as Father's Day.

STATEMENT

The Congress enacted Public Law 450 in 1966 officially proclaiming Sunday, June 19, of that year as Father's Day. In the 91st Congress, Public Law 595, the act of December 28, 1970, authorized the President to designate the third Sunday in June 1971 as "Father's Day." No resolution permanently recognizing Father's Day has been passed, although Mother's Day has been recognized on a continuing basis since May 8, 1914.

No sound reason appears why similar recognition should not be accorded Father's Day in view of the burdens and responsibilities placed upon them during these trying times.

The committee therefore is of the opinion that this resolution has a meritorious purpose and will accord fathers the recognition they deserve. Accordingly, the committee recommends favorable consideration of House Joint Resolution 687, without amendment.

NATIONAL CHECK YOUR VEHICLE EMISSIONS MONTH

The Senate proceeded to consider the joint resolution (H.J. Res. 1095) authorizing and requesting the President to proclaim April 1972 as "National Check Your Vehicle Emissions Month."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by the Senator from Indiana (Mr. HARTKE) be printed in the RECORD.

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

STATEMENT BY SENATOR HARTKE

It gives me great pleasure to see the Senate pass H.J. Res. 1095. That resolution is identical to S.J. Res. 156 which I introduced on September 16, 1971. The essence of the resolution is to designate the month of April as "National Check Your Vehicle Emissions Month".

Although I had hoped for earlier passage of the resolution, nonetheless, I am pleased that the Senate has joined with the House of Representatives to send to the President this timely resolution to call for a voluntary public effort to decrease pollution caused by automobile emissions.

Since time is of the essence, hopefully the President will act expeditiously on the resolution. Prompt action will reinforce current efforts to implement the resolution. Presently substantial efforts are being made in that direction. In addition to massive support from the service industry press many consumer magazines have donated advertising space to support the effort. State and local ecology groups have expressed considerable interest and have indicated their support in any way possible.

As the Judiciary Committee report stated, the program conducted during this month will have four main goals.

First, to publicize to the American people the message that they have a responsibility to keep their automobiles in the best possible running condition in order to help clean up the air;

Second, to teach garagemen and mechanics how to check engines to ascertain amount and type of emissions and their causes;

Third, to convince dealers and service station owners to offer free clean air engine diagnosis; and

Fourth, to urge the American people to bring their automobiles in for this diagnosis.

There are those who have stated that the call for a voluntary effort cannot be the American way to reduce air pollution. I disagree with that contention. I am convinced that the voluntary nature of this resolution will exhibit our collective resolve to reduce air pollution. Many citizens have railed against air pollution, and this resolution provides them with an opportunity to make a positive contribution to decrease pollution.

Hopefully this resolution is only the beginning of a commitment to eliminate the unnecessary pollution caused by vehicle emissions. I am optimistic about the results of "National Check Your Vehicle Emissions Month," and intend to work to make this an annual and ongoing project to encourage every motorist to make the battle against air pollution a very personal one.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–738), explaining the purposes of the measure.

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

PURPOSE

The purpose of the joint resolution is to authorize the President of the United States to issue a proclamation designating the month of April 1972 as "National Check Your Vehicle Emissions Month."

STATEMENT

House Joint Resolution 1095 authorizes and requests the President to proclaim April 1972 as "National Check Your Vehicle Emissions Month" and call upon the motorists and automotive industry of the United States to take appropriate steps during this month to reduce substantially air pollution from motor vehicles.

The program conducted during this month would have four main goals:

First, to publicize to the American people the message that they have a responsibility to keep their automobiles in the best possible running condition in order to help clean up the air;

Second, to teach garagemen and mechanics how to check engines to ascertain amount and type of emissions, and their cause;

Third, to convince dealers and service station owners to offer, free, clean air engine diagnosis; and

Fourth, to urge the American people to bring their automobiles in for this diagnosis.

The program has full industry support at every level and many State governments have indicated their backing of the effort. An ad hoc committee to support a Presidential proclamation designating April 1972 as "National Check Your Vehicle Emissions Month" has been formed.

Its members are: James E. Bates, Ignition Manufacturers Institute; Dr. B. G. Gower, Atlantic Richfield Co.; Gerry Haddon, Motor Age magazine; Richard D. Kudner, Champion Spark Plug Co.; Frank McGonagle, Fram Corp.; Arthur H. Nellen, Jr., Car Care Council; and A. J. "Russ" Russo, Shell Oil Co.

The committee is convinced that this is a very serious effort on the part of industry to conduct a voluntary campaign to help cut down on emission-caused air pollution. In fact, tests have indicated that simple adjustments and minor tuneups could result in a minimum of 15- to 25-percent reduction of automobile air pollution. Furthermore, efficient engines would, in the long run, save motorists money through increased engine life, improved performance, and reduced operating costs. Trucking and bus firms would also be encouraged to participate. The broadcast and print media have promised to donate free time and space to publicize the month.

This type of program could bring an even greater reduction in air pollution than would the Federal emission standards for 1975 model cars. These standards, it is estimated, will bring only a 2-percent reduction.

Studies in Wisconsin, New Jersey, Arizona, and California, along with tests conducted by private industry, show that emission of carbon monoxide and hydrocarbons can be reduced by implementing a program of vehicle inspections and, where needed, repairs. The reductions attainable can range from 15 to 68 percent.

The committee is very optimistic about the results of the programs conducted during National Check Your Vehicle Emissions Month and with the backing of the President and the Congress it can become an annual affairs to encourage motorists and industry to join the battle against automobile-caused air pollution.

Accordingly the committee recommends favorable consideration of House Joint Resolution 1095, without amendment.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

NATIONAL SHUT-IN DAY

The Senate proceeded to consider the joint resolution (S.J. Res. 208) authorizing the President to proclaim the first Sunday in June of each year as "National Shut-in Day."

Mr. ROBERT C. BYRD. Mr. President a great many of our fellow citizens spend each day either bedridden, or confined to a small room. These are the Nation's shut-ins, who, because of old age or illness—or both—suffer a loneliness that sometimes borders on the unbearable.

Too many of these people have found that their forced solitude has been accompanied by indifference on the part of friends and relatives who lead normal, active lives. Too many of our shut-ins have found that their status has brought with it a certain kind of oblivion.

In order to call attention to the plight of these people, I introduced Senate Journal Resolution 208, some time ago, which directs that a Presidential proclamation designate the first Sunday in June of each year as National Shut-In Day. The resolution seeks to have citizens brighten the lives of the shut-ins, at least on this one day, through personal visits.

Mr. President, the Americans who are now confined because of illness or old age have, in the past, made great contributions to our way of life. They have been good parents, hard workers, and concerned citizens. Much of what we have today, we owe to the efforts of these people.

I urge that the Senate pass this joint resolution, and hope that all Americans will help to lessen the solitude of shut-ins by observing this day.

Mr. President, I ask unanimous consent to add my distinguished colleague (Mr. RANDOLPH) as a cosponsor of the joint resolution.

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

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas the sick and the old constitute an often neglected segment of our people; and

Whereas many shut-in persons, who now suffer the oblivion of solitude and indifference, have in the past contributed greatly to our present well-being, by being good parents, hard workers, and concerned citizens; and

Whereas there is no other hardship more amenable to human kindness than is this problem of loneliness; and

Whereas solitude knows no social or racial barriers, but is recognized by all men as a cause for bitterness and heartbreak; and

Whereas we, as individuals, possess the will to change our indifference to consolation and useful concern: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the first Sunday in June of each year as "National Shut-In Day" and calling upon the people of the United States to observe such day by visiting at least one shut-in person on this special day if possible, and by participating in other appropriate ceremonies and activities.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet today.

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

FORTHCOMING TRIP TO CHINA BY MAJORITY AND MINORITY LEADERS

Mr. SCOTT. Mr. President, as the press has reported, the distinguished majority leader and I will shortly have the privilege and the honor of visiting the People's Republic of China.

As the distinguished majority leader has so well stated, we will go to look, to listen, to observe, and to do all that is possible for us to do in order to widen and to improve communications between our two great nations and its people.

It will be necessary that we go at the time designated in order to accord with the convenience of our host. That will necessitate certain absences from the Senate which I regret very much, but the distinguished assistant majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), and the distinguished assistant minority leader, the distinguished Senator from Michigan (Mr. GRIFFIN), will, I am sure, be fully prepared to meet the various responsibilities of the day-to-day operations of the Senate—as, indeed, they have done so well during the time they have held these offices. We both have entire confidence in them.

I am sure that the distinguished majority leader and I would have preferred, had the time been up to us, to have gone during the Senate's recess, as we have been concerned about attendance of Senators at sessions of the Senate this year. It is the more difficult for us to be absent, as we have consistently made that point.

We are, however, as a matter involving the policy of our two nations, held within the framework of the itinerary and, therefore, must comply with developments as they are laid down for us.

I hope for and solicit the understanding of our colleagues during this time. Upon our return, we will be prepared to report to the Senate and to the Committee on Foreign Relations.

I thank the Chair.

ORDER OF BUSINESS

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

PRESIDENT NIXON'S ACTION IN RESPONSE TO INVASION OF SOUTH VIETNAM

Mr. BUCKLEY. Mr. President, the Communist invasion of South Vietnam is the ultimate and logical consequence of their long-term strategy of aggression. Hanoi has since 1954 attempted to conquer South Vietnam and, more recently, Laos and Cambodia, by subversion and terrorism, guerrilla warfare and armed invasion. All such attempts have failed. Now, in desperation, they themselves have ripped off the final mask. There can no longer be any mistake about Hanoi's motives or its goals as tanks pour across the DMZ in a display of naked force. Nothing less than the complete and final subjugation of the people of Indochina, beginning with South Vietnam, will satisfy the Hanoi politburo's appetite for conquest.

The Russian-made tanks rolled across much more than the DMZ; they rolled across the illusions and the fantasies and the rhetoric of those in our country—those in the U.S. Senate—who have argued that the war is a civil war among the South Vietnamese themselves and that the leaders of the Soviet Union want a peaceful world.

The Russian-made transportable surface-to-air missiles with a highly sophisticated radar tracking system are not devices being used by the simple Vietnamese peasants of fashionable pacifist mythology. These weapons are being used by highly trained troops in a conventional war directed toward conventional military goals. What is at stake now is the fate of the entire Indochinese peninsula. Hanoi has made this last desperate throw of the dice in the hope that what they could not gain in almost 20 years by terrorism and guerrilla warfare they can gain in a few weeks of invasion. There is a desperate gamble to achieve not just a military victory in the field; but most importantly, to achieve a decisive political victory within the United States—within the U.S. Senate itself.

Given the situation, President Nixon's response in calling for American air attacks against Communist positions has been one of remarkable restraint and one which I wholeheartedly support. The initial successes of the Communist invaders have, as I speak, been momentarily checked and this is due in no small part to the swift reaction on the part of the President. The South Vietnamese are battling bravely against the invaders. Political factions hostile to President Thieu have put aside political differences in condemning the invaders and in coming to the aid of their own country.

In the northern provinces, in the area along the Cambodian border, in the delta region, a battle has been joined which either a chance for freedom and peace or the certainty of tyranny will emerge for the South Vietnamese people. Our prayers are with them at this moment as they meet a determined foe. I can understand the feelings of President Thieu when he tells his fellow countrymen that South Vietnam is fighting for its very life.

What I cannot understand—what I find inexplicable to a degree beyond any I have known since I have been in the Senate—is the reaction of certain U.S. Senators toward this invasion.

The New York Times reports that a hundred thousand South Vietnamese have been driven from their homes by this invasion. They have all fled south—

away from the invading Communist forces. They have fled only because they fear the invading forces. Yet the Senator from Massachusetts (Mr. KENNEDY), taking note of the terror being inflicted on these people, condemns not North Vietnam but President Nixon. Senator KENNEDY tells us that the President's Vietnamization program is being tested now and being carried out with "the lives of men and women and children."

Even at the most charitable such an interpretation of the events of the past week seems at the very least perverse. Is it the Senator's point that President Nixon has somehow or other caused the North Vietnamese to invade South Vietnam? Does he suggest that we order the South Vietnamese to lay down their arms, to surrender their freedom and submit meekly to the bloody purges that will inevitably follow?

He states that there is a blood bath but then neglects to state just who is directly and solely responsible for it. Is Senator KENNEDY prepared to call this invasion immoral? It appears not, although the word "immoral" falls from his lips with computer-like regularity when describing any effort to help the South Vietnamese defend themselves against the savage attacks of an enemy sworn to destroy them. The reasoning which impels Senator KENNEDY toward such odd interpretations frankly escapes me. But we at least know this: On the occasion of one of the most outright, clearcut, and unquestionable invasions of one nation by another since September 1939, Senator KENNEDY failed to condemn the invaders. He did, however, compare the American people to Romans who watched the gladiators. He did ask the President—not the leaders of Hanoi—to call for a cease-fire at the DMZ; as if the President had not clearly, on a dozen occasions, called for a cease-fire not only at the DMZ but throughout Indochina.

The Senator from Minnesota (Mr. HUMPHREY) who, many years ago, upheld the right of the South Vietnamese to live in peace and freedom, called Senator KENNEDY's speech "a sensible, constructive message." Senator FULBRIGHT's reaction to the invasion was to call for a cutoff of funds for the Vietnam war—a cutoff of American funds.

Senator HUMPHREY, at least was candid enough to admit that in the past he had believed arguments about Vietnam that "did not make much sense." It is understandable then that he should find Senator KENNEDY's argument "sensible and constructive." But what are we to say about the others—in and out of the Senate—who prefer to pour abuse on the head of the President of the United States rather than utter a single word of criticism against those responsible for an invasion of one sovereign state by another?

For myself, I repeat my support of the President. He is acting within the limits he himself set down as part of the Nixon doctrine by giving aid to a beleaguered nation in the form of air and naval support. The fate of South Vietnam is, as the President knows, in the hands of its people. He is confident—as I am—that the invasion will be met by a united, determined effort on the part of the South Vietnamese people.

In one sense, this naked aggression is welcome: it is no longer possible for honest men to differ as to who is the aggressor. If some feel that it is better now to be silent about the real aggressors of this war, about the real nature of the Communist threat, then let it be. If some feel that our proper course is to terminate the war by the supine surrender of the liberties of the people of South Vietnam, then let it be.

I, for one, not only endorse the steps which the President has taken thus far, I am prepared to give my full support to such new military and diplomatic initiatives which may be required not only to blunt the current offensive, but to hasten the date on which Hanoi will finally give up its dream of conquest and turn instead in good faith to the negotiating tables. The following are the kinds of military initiatives which I am fully prepared to support:

First. Provision of appropriate air, naval, and logistics support for battalion-sized amphibious assaults by South Vietnamese Marines along the coast of North Vietnam in order to give the Communist leadership a useful lesson in the fact that North Vietnam will no longer be regarded as a "sanctuary" from which attacks can be launched at will. Such assaults could result in the recall of a number of NVA divisions now operating in Laos, Cambodia, and South Vietnam, thus relieving pressures on all these fronts.

Second. Execution of surgical strikes on the continuing dredging operations which are needed to keep the port of Haiphong open. Such strikes can be made with a high degree of precision with modern laser and electro-optical bomb-delivery techniques without risk to shipping in the harbor.

Third. Addition, to the approved target list, of all targets in North Vietnam which support the war effort, wherever located, provided ample advance warning is given through leaflets and other means to civilian populations living in the area of any such military support activities.

Fourth. Supplying the South Vietnamese with sufficient F–4 aircraft to enable them to conduct credible retaliation strikes of their own in the case of future North Vietnamese invasions.

Fifth. Recommissioning the battleship *New Jersey* to provide continual harassing fire on appropriate military installations along the North Vietnamese coast. This ship is uniquely equipped for this task, and should be made immediately available.

Any of the above steps is totally consistent with the Nixon doctrine and would not involve the commitment of any additional ground forces. More than that, I believe that the President must take some form of dramatic action in order to finally convince Hanoi that she cannot wait us out. Only then can we hope to see a serious move to terminate this war by the only power which is insisting on its continuation.

On the diplomatic front, I urge the President to assess as carefully as possible the role of the Soviet Union in the current escalation of hostilities. It is clear, of course, that the North Vietnamese could not have launched their multi-front campaign without the massive infusions of evermore sophisticated Soviet equipment. Moreover, there is evidence to suggest that the Russians may have been at least privy to Hanoi's plans for the renewed assaults on South Vietnam. This possibility is suggested by a speech by Mr. Brezhnev reported in Pradva on March 20, 1972, alluding to the possibility of a major attack by Hanoi on the South. It is also supported by the presence in North Vietnam in March of a high level Soviet military mission.

Should such a study reveal a positive Soviet role, then this Senator would support a decision by the President to postpone his intended visit to Moscow until after the present crisis in Vietnam has been resolved. This Senator would also support any questions which the President might raise as to the prudence at this time of any treaties between members of NATO and the nations of the Soviet bloc which are premised on the assumption that Moscow has at long last rejected force as an instrument of its foreign policy and is willing to operate henceforth within the framework of peace.

These are the kinds of initiatives, military and diplomatic, which I am prepared to support, and which I am certain will receive the support of the overwhelming majority of the American people.

Mr. President, I ask unanimous consent to have printed in the RECORD three items which should be required reading for those who tenaciously cling to the illusion that Hanoi is invincible, that the people of South Vietnam yearn for "liberation" from the North, and that the way to avoid further bloodshed is for us to persuade the South Vietnamese to submit docilely to a takeover by the Communist forces.

The first item is a column by Joseph Alsop titled "Last Hurrah for Hanoi" which appeared in yesterday's Washington Post. The second is an article which appeared in the New York Times of April 8 under the headline, "North Vietnamese Drive Reaps Anger in Battle Areas." The third is the introduction by the distinguished Senator from Mississippi (Mr. EASTLAND) to a compendium prepared for the Subcommittee on Internal Security under the title "The Human Cost of Communism in Vietnam."

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

[From the Washington Post, April 11, 1972]

LAST HURRAH FOR HANOI

(By Joseph Alsop)

In preparation for the present major offensive, the Hanoi war-planners ordered massive draft calls of "the undesirables." The "undesirables" are really the unreliables—the remaining North Vietnamese Catholics, for example. Despite the fearful character of North Vietnam's losses, the "undesirables" had always been draft-exempt in the past.

In preparation for the present offensive, again, Hanoi did a good many other things that Hanoi had never done before. The Nixon administration is stressing the flagrant crossing of the supposedly "demilitarized" zone. But here the difference is only that between covert and overt illegality.

The biggest thing that Hanoi had never done before, was, in fact, stripping the whole of North Vietnam of viable fighting troops. As previously reported in this space, the Hanoi war-planners have kept at home only a single division, the 325th, to guard the capital.

In this respect, the contrast with the past is dramatic. Hanoi has poured out its people's blood as though the blood were water. In proportional terms, an American government that had used its people as the Hanoi leaders have used the North Vietnamese people, would now be pushing up toward a horrifying "body-count" of close to 10 million American men.

Yet the Hanoi leaders have never before exposed themselves by leaving North Vietnam all but defenseless except for a single division, plus training detachments, plus unreliable and sometimes disaffected militia. In the biggest offensives of the past, three or four effective divisions have always been kept in North Vietnam as a home guard.

Partly, no doubt, this astonishing divergence from past precedents can be explained by President Nixon's Vietnamization program. While there were a lot of American troops on the ground, the Hanoi war leaders always felt they had to worry about something like the Inchon landing, by which Gen. Douglas MacArthur broke the backs of the North Koreans.

In the main, however, the "more-of-the-same" analyses we are already beginning to hear, are nothing more nor less than purest twaddle. This is not more of the same. It is much more like Adolf Hitler's effort, when he threw all his remaining resources into the famous Battle of the Bulge, which ended at Bastogne.

No rational government bets every last remaining blue chip on a single toss of the dice of war, except under pressure of harsh necessity. Hanoi is eminently rational, if sometimes unwise and always ruthless and cold-blooded. So as we wait breathlessly for the outcome, the question is: Why were all the blue chips bet at this time?

Some say that the motive was a desperate hankering to catch President Nixon between the wind and the water in the election year. There is some sense in this. The Hanoi leaders did not win their war against the French at Dienbienphu or anywhere else in Vietnam. They won their war against the French in Paris. Of course, they want a repeat.

But the planning for this offensive demonstrably began when the "undesirables" began to be drafted, about six months ago. At that time, any sensible man would have said the Democrats had an even chance to beat President Nixon, as the polls also indicated. Except for Sen. Henry S. Jackson, moreover, every single Democratic candidate was publicly pledged to give Hanoi victory on a golden platter, as they all still are.

So why not wait and see? The answer, undoubtedly, had to do with two aspects of Hanoi's own situation. After the human hemorrhages the Hanoi leaders have inflicted on their army and their people, the quality of their regular forces in uniform has naturally deteriorated.

Worse still for the Hanoi leaders, the dilapidation of their one really irreplaceable military asset has been continuous and progressive, ever since President Nixon's Vietnamization began. The Vietcong, inside South Vietnam, are the irreplaceable asset.

At Tet, the present offensive was optimistically scheduled to begin. But at Tet, the remaining Vietcong in the few provinces where the Vietcong are still theoretically strong, quite openly and crossly defied Hanoi's orders.

So Hanoi is going for broke because Hanoi has to go for broke. You do not go for broke without risk to yourself. But that works the other way, too. So one must wait and see, and even go and see, as this reporter will soon be doing.

[From the New York Times, Apr. 8, 1972]

NORTH VIETNAM'S DRIVE REAPS ANGER IN BATTLE AREA

(By Fox Butterfield)

DONGHA SOUTH VIETNAM, April 7.—North Vietnam's attack on Quangtri Province, appears to be angering many people of this devastated region and stirring rarely displayed feelings of patriotism.

The South Vietnamese, 100,000 of whom have fled their homes, are angry because they consider the attacks—by tens of thousands of men backed by tanks and heavy artillery—no longer part of the traditional conflict between different groups of South Vietnamese for control of the country, but outright invasion.

"Why do they send these boys to attack us?" a grizzled, muscular farmer asked yesterday. He was looking at the bodies of eight enemy soldiers who had tried to cut the highway running through his village five miles south of Quangtri city.

The dead, who appeared to be 15 or 16 years old, crossed into South Vietnam last week through the demilitarized zone, according to a captured comrade. They were killed by local militiamen who stood and fought the once-feared enemy regulars without air or artillery support.

MILITIA'S JUBILANT

When the battle was done, the bodies of 16 North Vietnamese lay scattered around the village and only one Government militiaman had been wounded. The militiamen, members of the Regional, or Popular Forces, were jubilant.

"We got them! We got them!" they yelled.

"We will teach them not to attack our homes," said a young soldier who had tied a purple scarf around his neck.

American officials, who have tried unsuccessfully for years to create a sense of South Vietnamese nationhood, say they are astonished at such signs of unity against the North Vietnamese. While the signs are tenuous, the officials hope they will multiply.

Many of the Communists' attacks of the Tet offensive of 1968 were carried out by local, southern Vietcong who found it easy to infiltrate cities and army units. The militiamen were largely ineffective then and the Communists had major bases in South Vietnam.

This week, however all the enemy's attacks have been launched from outside, mostly by North Vietnamese units: On Quangtri from North Vietnam, on Kontum from Laos and on Binhlong from Cambodia.

There are other signs of nascent support for the fight against the North Vietnamese, but American and South Vietnamese officials say they are not sure of the feeling.

OPPOSITION TRIES TO HELP

In Hue, the imperial capital 50 miles south of the buffer zone, a traditionally anti-government center, Buddhists and left-wing university students normally opposed to Saigon have joined with Roman Catholics and Government workers in a widespread volunteer effort to aid refugees from Quangtri.

NO PRECEDENT, BUT . . .

"There really is no precedent for this sort of thing but it does create an opportunity for the Saigon Government," an American adviser in Hue said. "The question is, Will the Government be able to do anything about it?"

In one apparent effort to make use of the current feeling against the North Vietnamese the official Vietnam Press Daily Bulletin announced today the formation of a "front support movement" to raise money, food and clothing for the refugees and the wounded.

The South Vietnamese Army's response to the attacks has varied from unit to unit. The Third Infantry Division, stationed just below the zone in the firebases that were abandoned in the first Communist attacks, behaved badly, according to refugees, Government officials and American advisers on the scene.

MAD RUSH TO THE REAR

"Let's face it—the Third Division was routed," said an American officer in Dongha. "It was nothing but a mad rush to the rear once the North Vietnamese started shelling them," he said. "Thousands of them came running here those first days as fast as they could."

But, that officer pointed out, two other units—the battalion of South Vietnamese marines and the squadron of tanks that were rushed up to Rongha—held the town and stopped the North Vietnamese despite the heaviest enemy bombardment of the war. Dongha has been hit by more than 3,000 122-mm. rockets, 130-mm. artillery shells and mortar rounds.

The town now falls on the boundary between North Vietnamese and South Vietnamese territory. Except for the troops, it is deserted, and almost every building bears scars of the barrages. Dead dogs, dead water buffaloes, smashed bicycles, shreds of bloodied clothing and uneaten rice pots lie in the streets.

The South Vietnamese tanks, American M–48's, had been turned over to the Government troops late last year. The tank squadron was still undergoing training when, on Sunday, it got the call to speed to Dongha.

"They were magnificent," said an American adviser who was wounded in the fighting here.

The South Vietnamese Air Force has also performed bravely, according to soldiers at the front, despite heavy losses from anti-aircraft fire and missiles.

Though the Government forces appear to be holding at Dongha, they are not yet ready for a counterattack, for they lack the helicopters, trucks and air-transport capacity that enabled American troops to react quickly. In the meantime, the North Vietnamese are digging strongly fortified bunkers for their men and artillery.

THE HUMAN COST OF COMMUNISM IN VIETNAM

(Introduction by Senator JAMES O. EASTLAND, Chairman, Senate Subcommittee on Internal Security)

This is the third in a series of studies on the human cost of communism published by the Senate Subcommittee on Internal Security.

The first study, "The Human Cost of Soviet Communism," was prepared by the renowned British Sovietologist, Robert Conquest.

The second study, "The Human Cost of Communism in China," was written for the Subcommittee by Professor Richard L. Walker, Director of the Institute of International Studies at the University of South Carolina and one of this country's foremost China scholars.

In attempting to assess the human cost of communism in Vietnam and to come up with some kind of estimate of the human cost of a Communist victory, it was our conviction that a reasonable assessment could best be achieved through a compendium of excerpts from the most authoritative writings on the subject.

The American ground combat role in Vietnam is now rapidly drawing to a close. No one can say at this juncture whether the Communists will continue to spurn the very generous terms that have been offered to them and to reject any settlement that offers them less than total victory. But, in any case, the era of unlimited American assistance is already ended. The scale of future assistance, in addition to being very much reduced, is bound to be determined within relatively narrow limits.

The assertion that a Communist victory

in South Vietnam would result in a ruthless massacre of those the Communists regard as their enemies has been challenged by certain critics of American policy—especially by those critics who believe that the situation is hopeless, that we should cut our losses, terminate our aid program, accept the terms offered by the Communists, and reconcile ourselves to a Communist takeover of all Indochina. For understandable reasons, such critics want desperately to believe that the course they advocate is not attended by the danger of a major bloodbath.

There are others who believe that there is a fighting chance that the Communists may yet come to terms or be held in check, and that it would be politically and morally wrong to withdraw all aid, fold our hands, and accept a Communist victory as foreordained. They see scope for hope in the remarkable successes achieved by the Vietnamization program, the grave disorganization of the Chinese Communist armies in the wake of the Lin Piao purge, and the massive social and political stresses that have become apparent in North Vietnam.

But whatever one believes, the record set forth in this study is something that every honest man will want to keep in mind in assessing the future of our Indochina policy.

It is, of course, impossible to provide mathematical proof for the proposition that a Communist victory in South Vietnam would result in a bloodbath. But there are documents and historical indices that permit one to make an intelligent assessment of what is likely to happen if a Communist regime ever should come to power in Saigon. And an examination of the totality of these documents and historical indices point to the almost certain probability that a Communist victory would be followed by a bloodletting that would rival the worst bloodlettings that have taken place in Communist countries to date.

The documentation that follows presents a wide range of estimates of what might be expected in the wake of a Communist takeover in South Vietnam.

The lowest estimate was that made by Stephen Hosmer in his superbly researched study of terror as an instrument of Communist policy. Always exceedingly careful never to overstate himself, Hosmer considers the possibility that the Communists may decide to limit the bloodletting under certain circumstances—but then goes on to state that, should a Communist regime decide to deal severely with members of the groups listed for repression, he finds it difficult to believe that the number of victims would be much less than 100,000, and that the total might well be very much higher than this.

Professor P. J. Honey of London, widely recognized as one of the foremost authorities on North Vietnam in the free world, predicts that "on the basis of past Communist deeds, and given the size of South Vietnam's population, the minimum number of those to be butchered will exceed one million and could rise to several times that figure."

Colonel Tran Van Dac, a North Vietnamese officer who defected after 24 years in the Communist movement, informed the press that the Communists, if they win, will slaughter up to 3,000,000 South Vietnamese who have resisted them so bitterly for so many years.

Another North Vietnamese colonel, Le Xuan Chuyen, who defected after 21 years membership in the Communist Party, asserted that 5,000,000 people in South Vietnam are on the Communists' "blood debt" lists; that 10 to 15 per cent of these would pay with their lives; that another 40 per cent would be imprisoned; and that the rest would have to undergo "thought reform."

Douglas Pike, author of the definitive work "The Viet Cong," who made an in-depth study of the organized mass killings carried out by the Communists during their brief occupation of a portion of Hue, concludes his study with these ominous words:

"The meaning of the Hue Massacre seems clear. If the Communists win decisively in South Vietnam (and the key word is decisively), what is the prospect? First, all foreigners would be cleared out of the South, especially the hundreds of foreign newsmen who are in and out of Saigon. A curtain of ignorance would descend. Then would begin a night of long knives. There would be a new order to build. The war was long and so are memories of old scores to be settled. All political opposition, actual or potential, would be systematically eliminated. Stalin versus kulak, Mao versus landlord, Hanoi Communist versus Southern Catholic, the pattern would be the same: eliminate not the individual, for who cares about the individual, but the latent danger to the dream, the representative of the blocs, the symbol of the force, that might someday, even inside the regime, dilute the system. Beyond this would come Communist justice meted out to the "tyrants and lackeys." Personal revenge would be a small wheel turning within the larger wheel of Party retribution.

"But little of this would be known abroad. The Communists in Vietnam would create a silence.

"The world would call it peace."

Given the 15 broad categories of political opponents whom the Communists have included in their "blood debt" list, Pike indicates that the estimate of several million victims, if the communists win, may not be excessive.

That there would be a massive bloodletting is something that is taken for granted by virtually every serious student of Vietnamese affairs. And the probability is that the final toll would lie somewhere in the range indicated by Professor Honey, Douglas Pike, and the two North Vietnamese colonel-defectors.

What are some of the indices that point to this probability?

First, there is the merciless body of Communist doctrine—from Lenin to Stalin to Mao Tse-tung to Ho Chi Minh—which justifies and insists on the imperative need for mass terror.

Second, there is the historical record of Communist bloodlettings—in the Soviet Union, in Red China, in North Vietnam, and wherever they have come to power.

Third, there is the record of the Communist terror in South Vietnam during the entire period of the so-called insurgency, including the merciless massacres of men, women and children at Dak Son, Duc Duc and other places.

Fourth, there was the Hue massacre with its systematic killing, which exacted a toll of 5,700 civilian victims, who, according to captured Communist documents were considered "wicked tyrants" or "counter-revolutionaries", who owed "blood debts" to the people.

Fifth, there is the considerable body of evidence of Communist intentions contained in captured documents and in the testimony of defectors.

Let us examine some of the precedents and some of the testimony.

THE SOVIET PRECEDENT

V. I. Lenin told his followers that "not a single revolutionary government can dispense with the death penalty for exploiters (i.e., for landlords and capitalists)." And when the Leningrad Party in June 1918 sought to restrain elements who were engaging in undiscriminate mass terror, Lenin rebuked the Leningrad Party in these words: "This is unheard of. The energy and mass nature of the terror must be encouraged."

Lenin's directives on the need for mass terror were honored to the hilt both in his lifetime and after death. In his monumental work, "The Great Terror," and in the study which he subsequently prepared for the Subcommittee on Internal Security, Robert Conquest came up with the staggering finding that well over 20,000,000 human beings were executed or killed in other ways by the Soviet authorities in successive waves of terror, in the decades after the Bolshevik Revolution. He made the further point that this was a conservative computation, and that the real figure might be closer to 30,000,000. If the casualty roll was extended to include victims of the civil war and the famine and typhus which followed it, then the aggregate figure for the human cost of Soviet communism would be somewhere between 35,000,000 and 45,000,000 human lives.

There was a time, during the 30's and 40's, when it was fashionable among intellectuals to disbelieve or challenge the accounts of mass terror that were brought out by refugees and defectors and critical observers. So determined were they to defend the nebulous belief that Soviet communism represented some kind of brave new world, that they swallowed uncritically Moscow's tortured justification of the purge trials of the 30's—at the same time they damned as "reactionaries" and "extremists" all those who sought to set forth the facts about a mass terror that had already cost many millions of human lives.

But then at the 20th Congress of the Communist Party of the Soviet Union in 1956 Khrushchev made his famous speech on the crimes of the Stalin era—and suddenly it became clear that the charges of mass terror made by the so-called "extremists" and "reactionaries," were, if anything, understatements. Today the mountain of evidence that has become available makes it impossible—even for the most determined sympathizer—to challenge the basic facts about the Soviet terror, or the general parameters of the computation made by Robert Conquest.

About the human cost of Soviet communism, therefore, we need not argue. The facts are in. The record is unchallenged.

THE CHINESE PRECEDENT

An ardent Leninist and Stalinist, Mao Tse-tung added some refinements of his own—like public mass executions—to the pioneering terrorism of his Soviet antecedents. In one of his earliest published works, in March 1927, Mao wrote that a revolution cannot be . . . "kind, courteous, restrained and magnanimous." He said that for the revolution to succeed, "To put it bluntly, it is necessary to create terror for a while in every rural area."

In the case of China, the documentation on the Communist terror, while not nearly so voluminous as it is in the case of the Soviet Union, is nevertheless extensive enough to permit estimates within wider margins. In the study which he prepared for the Subcommittee, it was Professor Walker's estimate, after having studied all the evidence, that communism in China, from the time of the first civil war (1927–1936) until today, has cost a minimum of 34 million lives, and that the total might run as high as 64 million lives.

THE NORTH VIETNAMESE PRECEDENT

A dedicated disciple of Lenin, Ho Chi Minh gave early proof that he understood the importance of liquidating all political opposition. His most formidable rival in the early 20's was Phan Boi Chau, a greatly respected nationalist leader, considered by many to be the Sun Yat Sen of Vietnam. Ho Chi Minh—at the time of Nguyen Ai Quoc—eliminated Phan Boi Chau as a rival by arranging to deliver him to the French Security Service for a reward of 100,000 piastres. He subsequently justified his action with the explanation that he needed the money to finance party activities.

During the final days of World War II, with Japan teetering on the brink of collapse, Ho Chi Minh and the Indo-Chinese Communist Party staged a coup which gave them control of most of North Vietnam. Ostensibly the

"Provisional Government of the Democratic Republic of Vietnam" was a coalition nationalist government, including representatives of other nationalist parties as well as the Communists. With unerring Machiavellianism, Ho Chi Minh played off one nationalist group against the other, and played off the nationalists against the returning French and the French against the nationalists. Meanwhile the assassins and the execution squads were busy. Ngo Ton Dast, the son of a leading Vietnamese Nationalist, has estimated that during a two-month period in the Fall of 1945, some 10,000 people were killed in Hanoi and its immediate environs. The myth of the "coalition government" survived into 1946, while the killing continued unabated. When the charade had played itself out, Ho Chi Minh had achieved the physical elimination of all potential political rivals, including the influential Vietnamese Trotskyist movement. So thorough was his political purge, that by 1947 there was virtually no political personality left alive in Vietnam to challenge his influence.

At a later date, the North Vietnamese Communists openly bragged about their cleverness in exploiting the "united front" tactic to divide their opponents and ultimately to destroy them, both in the events leading up to the coalition government of 1945–46, and currently in South Vietnam. An article in "Hoc Tap" (Hanoi), the Party's theoretical organ, in September 1966, put the matter this way:

"On the basis of keeping firm in strategy, our Party cleverly applied its tactics: On the one hand, it cleverly took advantage of the regional and temporary contradictions of the enemy to sow division among him. On the other hand, it united with anyone who could be united, won over anyone who could be won over, neutralized anyone who should be neutralized, completely isolated the imperialists and their most dangerous lackeys, and concentrated the spearheads of the attacks on them to overthrow them.

"The policy of founding the Indo-Chinese Democratic Front between 1936 and 1939, the Viet Minh Front between 1941 and 1951 and the Lien Viet Front after the August Revolution; the decision of signing the 6 March 1946 Preliminary Accord (on French troop entry into North Viet-Nam) the present NFLSV policy of upholding the mottoes of independence, democracy, peace and neutrality, and so forth are the typical examples of the clever application of the following instruction of Lenin:

"It is possible to defeat a stronger enemy only through displaying great effort and under the necessary condition of taking advantage very minutely, very attentively, very carefully and very cleverly to any rift among the enemy, even the smallest contradiction among the interests of various bourgeois groups and factions in each country . . ."

The word "neutralize" is, of course, a communist euphemism for "destroy." Summarizing the purges which took place after the August 1945 revolution, Bernard Fall wrote:

"In a series of swift stabs, he [Giap] destroyed the back-country strongholds of the nationalist parties; executed hundreds of Vietnamese nationalists and even such old comrades in arms as the Trotskyite leader Ta-Thu-Thau, a personal friend of Ho Chi Minh. Finally, on July 11, 1946, Giap launched a country-wide purge of nationalist leaders and closed down Viet-nam, the last opposition newspaper.[1]

". . . The coalition government in the National Assembly was similarly decimated. By the end of 1946, the non-Communist representatives had been reduced from 70 seats to 20 in attendance and of the 20 all but two voted with the Communists. Of the two, one was arrested and the other went into hiding."[2]

Looking back upon this period, the leaders of the Vietnamese Communist movement concluded that they had killed—not too many people—but too few peple. Truong Chinh, at present the No. 2 man in Hanoi and the recognized theoretical leader of the Party, put it this way:

"We admit that because of the extremely intricate situation in our country and the relatively limited strength of the Vietnamese revolution, it was not possible to carry out a systematic elimination of the counter-revolutionary elements on Jacobean or Bolshevik lines. . . . However, it is to be regretted that energetic, timely and necessary measures to counteract all possible dangers in the future were not taken immediately upon the seizing of power and before any foreign intervention, at a time when the reactionaries in the country were still at a loss, and had not had time to reorganize themselves. . . . We regret only that the repression of the reactionaries during the August period was not carried out more fully, within the framework of the possibilities. . . . For a newborn revolutionary power to be lenient with counterrevolutionaries is tantamount to committing suicide."[3]

If they failed to kill enough people in the wake of the August 1945 revolution, the Vietnamese Communists more than made up for this failure when the Geneva agreement of 1954 established them in undisputed control of North Vietnam. The body of evidence about the mass terror in North Vietnam suffers from major gaps because the North Vietnamese Communists did not publicize their killings, while the handful of foreigners who were there, with few exceptions, had their movements severely restricted. Though the Communists killed in every village, the people in one village generally remained ignorant of the killings in neighboring villages. For this reason, the range of estimates is even wider than it is in the case of China. Bernard Fall placed the human cost of the Agrarian Reform campaign alone at a minimum of 50,000 executed and 100,000 imprisoned. Hoang Van Chi, a leading nationalist who held important posts under Ho Chi Minh, placed the post-Geneva toll at 500,000. This estimate generally coincides with the estimate of Gérard Tongas, a Frenchman who was originally sympathetic to Ho Chi Minh, but who was revolted by what he saw in North Vietnam in the post-Geneva period and put his observations into a book captioned "I Lived in the Communist Hell."[4]

THE SOUTH VIETNAMESE PRECEDENT

About the Vietcong record of terror in South Vietnam there can also be little dispute, because the facts are too well established. Since 1960, when the insurgency was first getting under way, Communist terrorists have killed over 36,000 South Vietnamese civilians (more than 16,000 were killed in the three-year period 1969–1971); they have kidnapped 54,000 (18,000 kidnappings occurred from 1969–1971); and they have, in addition, wounded several scores of thousands. (For a complete tabulation, see table on p. 77.)

As Stephen Hosmer points out, these official figures are, if anything, underestimates because many incidents go unreported.

The terror is not savagery for savagery's sake. Neither is it the work of undisciplined soldiers, operating without instruction or in violation of existing instructions (as a unit of American soldiers did at My Lai). On the contrary, it is a deliberate policy, conceived at the highest level and communicated in detailed directives to Vietcong units at all levels.

What is the purpose of this terror? As Stephen Hosmer puts it:

"The primary object of repression is the disruption and demoralization of the GVN's civilian and military bureaucracies, and is achieved, in the first instance, through the physical removal (by assassination, execution after capture, or incarceration) of substantial numbers of military and civilian officials, cadres, and intelligence personnel who perform important services for the GVN and who are not easily replaced. Another, broader purpose is to demoralize, neutralize, and paralyze those other government officials and cadres who may themselves escape repression for a time but who are fully aware of the fate of their less fortunate colleagues. Thus, by assassinating a selected number of hamlet officials in a given district, the Vietcong hope to frighten other officials enough to force them to resign their positions; or to flee to the district town for protection (go into 'exile'); or to become so security-conscious that they no longer carry out their prescribed duties effectively."

Organized terror—of a ruthlessness and on a scale that defies civilized comprehension—has been a cardinal aspect of Communist policy from the very first day of the Vietcong insurgency. By and large, the Western world knows only of a few of the more massive and gruesome terrorist incidents—like the massacre which took place in the Montagnard Village of Dak Son in December 1967, when the Vietcong, attacking with flamethrowers, moved from hut to hut, incinerating alive more than 250 villagers, two-thirds of them women and children. In addition, 200 Dak Son villagers were kidnaped, never to be heard of again. But the thousands of small incidents of terror—equally merciless, equally gruesome, and which account for far more victims than the big incidents—with exceedingly rare exceptions, go unreported.

It did not make the press, for example, when on October 27, 1969, the Communists booby-trapped the body of a People's Self-Defense Force member whom they had killed—so that when relatives came to retrieve the body, four of them were killed in the explosion. Nor did it make the press in May 1967, when Dr. Tran Van Lu-y told the World Health Organization in Geneva that over the prevous 10 years Communists terrorists had destroyed 174 dispensaries, maternity homes and hospitals; had mined or machine-gunned 40 ambulances; and had killed or kidnaped 211 members of his staff.

If the Free World knew little or nothing of this day-to-day terror despite the presence of hundreds of correspondents in South Vietnam, what chance is there that the Free World would know anything at all about the bloodletting that would inevitably take place in South Vietnam if the Communists came to power, expelled the Western press corps, and then proceeded to deal with their enemies?

THE PRECEDENT OF HUE

During the Tet offensive of 1968, the communists occupied a portion of the city of Hue for 26 days. When they were driven out on February 24, some thousands of civilians were missing. In 1969, a series of mass graves containing the bodies of missing civilians were discovered. Some of the victims had been shot, some had been clubbed to death, some had been buried alive. As more and more graves were discovered, the confirmed toll ultimately rose to 2,750. Counting those still missing—who must be presumed abducted or executed—the estimated civilian

[1] "Profile of Giap" by Bernard Fall in Vo Nguyen Giap, *People's War, People's Army* (New York: Praeger, 1965) p. xxxvi.

[2] Ibid.

[3] Truong Chinh, *The August Revolution*, 2nd edition (Hanoi: Foreign Languages Publishing House, 1962) pp. 41–43.

[4] The estimates vary, in part, because some of them refer only to the victims of the Agrarian Reform period, whereas others include the victims of the post-Geneva terror and those of the continuing terror after the Agrarian Reform bloodletting and terminated.

toll, according to Douglas Pike, comes to 5,700.

It was established that the killings were in no sense random, but were carried out on the basis of explicit directives and from prepared lists of names, the Communists moving through the streets methodically with their clip boards and pulling the victims from their houses. A Vietcong after-action report captured in April 1968, boasted:

"We eliminated 1,892 administrative personnel, 38 policemen, 790 tyrants, 6 captains, 20 second lieutenants and many non-commissioned officers."

Hanoi Radio on April 27, 1969, made this revealing comment on the discovery of the mass graves:

". . . in order to cover up their cruel acts, the puppet administration in Hue recently played the farce of setting up a so-called committee for the search and burial of the hooligan lackeys who had owed blood debts to the Tri-Thien Hue compatriots and who were annihilated by the Southern armed forces and people in early May Than spring (Tet)."

". . . What happened in Hue," says Douglas Pike, "should give pause to every remaining civilized person on this planet. It should be inscribed, so as not to be forgotten, along with the record of other terrible visitations of man's inhumanity to man which stud the history of the human race. Hue is another demonstration of what man can bring himself to do when he fixes no limits on political action and pursues uncautiously the dream of social perfectibility."

If the massive and systematic killings which the Communists perpetrated in Hue over a brief 4-week period are any indication of their intentions if they succeed in imposing their rule on South Vietnam, then clearly the estimates that they may kill from 1,000,000 to 3,000,000 South Vietnamese are in no way exaggerated. And in the years that followed this initial bloodletting—if the precedents established in the Soviet Union, Red China, and North Vietnam have any application—there would come further waves of terror and mass killings that might add many hundreds of thousands more to the final toll of victims.

While the focus of this compendium is on Vietnam, it is not unreasonable to assume that a communist victory in Indochina would have roughly the same consequences for the peoples of Cambodia and Laos as it would for the people of South Vietnam.

THE LISTS OF NAMES

That Hue may indeed be considered a pattern for the future, is apparent from Stephen Hosmer's section dealing with the Communist "blacklists." "For some years," Hosmer points out, "the Communists have assiduously compiled blacklists of large numbers of persons in both urban and rural areas whom they choose to classify as 'tyrants,' 'reactionaries,' 'counterrevolutionaries,' spies, or simply opponents of their movement." Hosmer quotes a top-secret Communist directive from Region II:

"Have the enemy situation in hand to serve the common activities of eliminating traitors in cities; carefully keep the names and records of counterrevolutionary individuals; classify these elements and suggest an examination to be able to take the initiative to eliminate them in every situation and prepare the coming counterrevolution repression."

The facts are in, the record is clear, the auguries of things that may come to pass are delineated with frightening clarity. The only question is whether the free world will pay heed to this record and to these auguries.

* * * * *

I wish to express my gratitude to the subcommittee staff, in particular to Mr. David Martin who served as editor for the project, for putting together this remarkable broad and impressive compendium of excerpts and items dealing with the record of Communist terror in North and South Vietnam. I also wish to thank Mr. Max Friedman for his volunteer assistance on the project.

I wish to thank Praeger and Co. for their permission to reproduce excerpts from "The Two Vietnams" by Bernard Fall; from "From Colonialism to Communism" by Hoang Van Chi; from "Vietnam: The Dragon Embattled" by Joseph Buttinger. I also wish to thank the Rand Corporation for permission to reproduce excerpts from "Viet Cong Repression and Its Implications for the Future" by Stephen T. Hosmer and the text of "On the Question of Communist Reprisals in Vietnam" by Anita Lauve Nutt. Finally, I wish to thank "Southeast Asia Perspectives," (published by The American Friends of Vietnam) for permission to reproduce excerpts from "Vietnam: If the Communists Won" by P. J. Honey.

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

Mr. BUCKLEY, I yield.

Mr. BROCK. Mr. President, I congratulate the Senator on his statement. I wish to add a few remarks of my own. In particular I would like to say to those who would say that the current invasions spells doom for the Vietnamization program, let us await the outcome of the battle. The South Vietnamese are fighting these ground actions alone, whereas in 1968 the United States had 550,000 ground troops there. Today the United States has fewer than 90,000 troops in South Vietnam and none are engaged in combat.

To those who say that Vietnamization is a failure, let them explain why the North Vietnam Regular Army and not the South Vietcong are carrying the battle, and let them explain how after more than a week of intensive fighting, without strong U.S. support, they are fighting vigorously and defending their people and their cities, whereas in 1968 after a few days the U.S. forces were doing the fighting.

It is tragic that at the very time when the Republic of Vietnam and the United States are taking major steps toward peace, Hanoi has chosen to launch a massive invasion of South Vietnam.

But this all-out attack should make Hanoi's objectives absolutely clear to even the most doubtful. Hanoi is committed to follow the path of war rather than the path of peace as they would have the world community believe.

As we watch Hanoi openly commit its regular divisions to an invasion of South Vietnam, even the most doubtful should admit that this is a one-way war.

This ruthless attack explodes for once and for all the myth that this is a people's war.

Hanoi has realized that President Nixon's Vietnamization plan is working. The South Vietnamese Armed Forces and people are substantially increasing their strength. They are rapidly gaining the ability and the desire to defend themselves without American ground support.

In view of this, Hanoi saw no option but to openly violate its "people's war" myth. Hanoi's mistake has been to underestimate the ability of the South Vietnamese.

The South Vietnamese Army, with the support of the South Vietnamese people, is repelling Hanoi's invasion.

The United States can have only the greatest respect for the brave resistance of the South Vietnamese in the face of North Vietnam's all-out offensive.

As he should, President Nixon has provided air, naval, and logistical support to help the South Vietnamese in their successful self defense.

Hanoi's invasion should come as no surprise—her every action has been aimed at this. Hanoi is dedicated to the devastation and eventual domination of South Vietnam.

The only surprise comes to the commentators, columnists and presidential hopefuls who have taken pot shots at Presdent Nixon's Vietnamization plan. They said the South Vietnamese had neither the will or the ability to defend themselves without leaning on U.S. ground troops.

I await their comments now that the South Vietnamese are doing so with courage. They may not win in the face of such odds, but thousands are trying as best they can to secure freedom for their children.

What are the real facts of this invasion?

In my opinion, this Nation can only have the greatest praise for the brave resistance of the South Vietnamese forces in the face of this operation and the massive offensive and invasion by North Vietnam.

I fully support the President's effort to supply the naval, air, and logistical support so that it may be possible for them to forge their own future and form of government. I thank the Senator for his contribution.

I conclude with my prepared remarks on this subject.

NORTH VIETNAM'S INVASION

Twelve of North Vietnam's 14 Regular Army divisions are now engaged in aggression outside its borders against Laos, Cambodia, and South Vietnam.

Hanoi is currently engaged in a three-division offensive across the Demilitarized Zone—DMZ—against the northern part of South Vietnam. Most of these forces including accompanying sophisticated armor, artillery and antiaircraft equipment have come directly across the Demilitarized Zone.

Other large North Vietnamese regular army units are attacking South Vietnamese population centers in the highlands and near the Cambodian border.

NORTH VIETNAM'S VIOLATIONS

The 1954 Geneva Accords provided for a demilitarized buffer between North and South Vietnam.

The 1968 understandings which led to the cessation of U.S. bombardments against North Vietnam specifically provided for respect for the status of the DMZ.

The United States made clear in negotiations leading to this bombing halt that we considered respect for the DMZ as a situation in which there would be no firing of artillery, rockets or mortars from, across or within the DMZ and there would be no movement across or within the DMZ.

Hanoi has illegally constructed a major infiltration route across the DMZ extending far into the northern part of South

Vietnam. Hundreds of tons of military supplies have been moved on this route.

Hanoi's latest invasion across the DMZ the clearest, most blatant and outrageous violations of these 1968 bombing halt understandings.

Hanoi's leaders have now removed any pretense that the war in Vietnam is a local insurgency. This is an outright and massive conventional military assault supported by the most sophisticated military equipment.

U.S. RESTRAINT

Throughout the period of buildup for the anticipated offensive the United States showed great restraint.

The United States and South Vietnam have proposed a comprehensive eight-point peace proposal made public on January 25. The U.S. proposal included provisions for a settlement fair to both sides even as we knew that North Vietnam's offensive preparations were underway.

The United States leaned over backwards to show our will for peace and genuine desire to bring the conflict to an honorable end.

But Hanoi responded with a massive invasion across the Demilitarized Zone and with multidivision attacks across the Laotian and Cambodian borders.

The United States cannot accept the response Hanoi has shown toward the Allies' goodwill for peace.

We have no designs against North Vietnam. Saigon has no designs against North Vietnam.

But as long as Hanoi persists in this invasion; Saigon's forces will resist it with every resource they have. We will support them in their self-defense.

HANOI'S CHOICE

Hanoi's current invasion has made senseless any talk of serious negotiations; it has made senseless any talk on their part that our precautionary steps, taken when we knew as early as last November that they were planning a major military effort, were the cause of the stalemate in the Paris negotiations. The record is absolutely clear with regard to who is responsible for the interruption of the meetings in Paris.

If Hanoi on the other hand chooses to desist from its countrywide offensive plans, if it desists from its invasion, then the United States asks nothing more than to return to principles of the 1954 Geneva Accords and respect for the understanding of 1968. If Hanoi desists, the United States asks nothing more than to negotiate seriously on the basis of proposals both sides have advanced.

VIETNAMESE PERFORMANCE AND U.S. ASSISTANCE

To those who would say that the current invasion spells the doom of the Vietnamization program, let us await the outcome of the battle. The South Vietnamese Army is fighting the ground actions alone, whereas in 1968 the United States had 550,000 ground troops there. Today the United States has fewer than 90,000 and none of these ground forces are engaged in the combat.

To those who would say Vietnamization is a failure let them explain why it is North Vietnam's regular army and not the Southern Vietcong which is carrying the battle. Let them explain how after more than a week of intensive fighting the South Vietnamese Army, without any U.S. ground support, is fighting vigorously to defend their people and their major cities whereas in 1968, after but a few days U.S. troops were fighting Hnaoi's forces in several of South Vietnam's major cities.

The United States can have only the greatest praise for the brave resistance of the South Vietnamese in the face of North Vietnam's all-out offensive, and will provide air, naval, and logistical support to help them succeed against the invaders.

Mr. BUCKLEY. Mr. President, I thank the distinguished Senator for his remarks. I believe we should think back to the prophets of gloom in the spring of 1968 who said the Tet offensive was the end of our efforts to make South Vietnam self-supporting.

We should all reserve judgment as the Senator has suggested until we have the outcome of the present offensive.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for 30 minutes, with a limitation of 3 minutes on statements herein.

VIETNAM

Mr. MANSFIELD. Mr. President, the distinguished Senator from New York said we should all reserve judgment, but he has given the Senate the benefit of his judgment as to what he thinks should be done: Surgical strikes, Haiphong, this, that, and the other thing.

May I say that I am far less interested in the future of Vietnam and the welfare of the North Vietnamese, the South Vietnamese, the Cambodians, and Loatians but I am far more interested in the welfare of Americans who have been fighting for 10 years in Indochina and who have suffered tremendous losses.

The latest figures, through April 1 of this year, and this is no April fool joke—it is a horrible reality—are as follows: 302,820 Americans wounded, 45,679 Americans killed in combat, 10,123 Americans killed in noncombat activities. For this country, our total casualties, U.S. casualties, are 358,622.

We should have been out of Vietnam and Southeast Asia long ago. We should never have become involved in that immoral, in that tragic war. It is an American tragedy, as well as a Vietnamese, Cambodian, and Laotian tragedy. It has cost this Government well in excess of $130 billion. It has accentuated dope addiction among our people, it has lowered the morale of the Army, it has created dissension and division at home. I, for one, want it plainly understood that as far as I am concerned, I am interested in my own country and my own people first and foremost. There should be no division here; there should be unity.

Today we have four aircraft carriers off Vietnam in the South China Sea, five to seven destroyers, and others on the way, even from as far away as Jacksonville, Fla., as well as the west coast. We have air installations on the alert. We have dropped three and one-half times the number of bombs in tonnage that we dropped in World War II and Korea combined.

I am interested in the United States. I am interested in Americans. I am interested in our own future and I think the sooner we bite the bullet, to use a well-known phrase, and face up to the fact that our involvement in Vietnam was a mistake, and admit that mistake, the better off we will be and the greater this Nation will become.

JAMES F. BYRNES

Mr. HOLLINGS. Mr. President, late last night I returned from Cameroon, where I was a member of the congressional delegation to the Inter-Parliamentary Union. Upon my arrival home, I learned the sad news that the greatest South Carolinian of modern times was dead. James Francis Byrnes—lawyer, Member of both Houses of Congress, Associate Justice of the U.S. Supreme Court, Assistant President during the dark days of World War II, Secretary of State during the crucial early years of the postwar era, Governor of South Carolina, and revered elder statesman—now belongs to history. His story will be writ large in the annals of our time. James Byrnes was a great South Carolinian and a great American. He leaves behind a better State—and Nation—for having walked our way. We have lost the wisdom of a good and wise man.

It was my privilege to know Jimmy Byrnes well, and my good fortune to have received his counsel on innumerable occasions. I always found him completely dedicated to what he thought was right. He was totally committed to the people and the country he served so generously.

Governor Byrnes went as far as he did because he practiced the ideals that are too often only preached. He not only believed in service to his people, he worked at it. He not only paid homage to the litany of individual initiative and hard work, he practiced it. He not only testified to great love of country, he lived it.

His was the world of action—the arena of great events. Presidents, Prime Ministers, and Kings eagerly sought his advice. But his wisdom was never exclusively reserved for statesmen and monarchs. It was given as openly and freely to anyone willing to listen. Throughout his life, James Byrnes never forgot the cares and concerns of the little man. How could he, when he was born and raised—and preferred to live—among the people?

He was born in a simpler era, when America was just beginning its great leap into modern times. The Nation in which he began his life was predominantly rural and predominantly isolationist. Yet the Nation in which he wielded such power was overwhelmingly industrialized and involved in the international holocaust of the Second World War. Few men have witnessed as much history and as much profound transformation as Governor

Byrnes did. But those who knew him saw how easily he moved through the passing years. There was always some tremendous inner strength which allowed him to keep his moorings amidst the greatest of changes. Our greatest men seem almost invariably to have that quality.

Through it all, they retain their fundamental faith in their fellow man and their fundamental belief in the destiny of their country. James F. Byrnes had that kind of character. He had greatness.

The great traits of character that Jimmy Byrnes possessed were nourished by superior wisdom. His mind was of the first order. During his career, he demonstrated time and time again the ability to cut through to the heart of a matter, to put aside the meaningless and inconsequential and to deal with the core of problems.

In the Senate, he was known as someone who could deliver. No posturing or flowery oratory or image-building for him—he devoted himself instead to passing legislation and solving problems. Would that we had more such men today. Although he was by no means the Senator highest up in seniority, it was to Jimmy Byrnes that President Roosevelt came when he had a particularly important piece of legislation to get through the Congress. And Senator Byrnes usually delivered.

In 1940, and again in 1944, there was considerable speculation that James Byrnes would be tapped for the Vice Presidency. Had it not been for the accident of his southern birth, he probably would have been Vice President—and quite possibly President. But, as it turned out, James Byrnes wielded far more power than any Vice President in the history of the Republic.

In 1941, a grateful President had appointed Byrnes to the U.S. Supreme Court. On the High Tribunal, the new Justice began another promising career. But, once the United States was plunged into a war for its very survival in late 1941, Justice Byrnes longed to involve himself more directly in the struggle. After little more than a year on the job, his friend in the White House called him to action. President Roosevelt named the distinguished South Carolinian Director of Economic Stabilization.

James Byrnes was not on the job very long before he realized that the war effort demanded a tighter and more cohesive governmental organization. There had to be one control center to coordinate the manpower and industrial and agricultural resources of the country and direct them toward the speediest possible winning of the war. The President came to the same realization, and before long James Byrnes was war mobilizer. Roosevelt referred to him as the "Assistant President." And, in fact, he was. Byrnes had direct, day-by-day stewardship over the direction of the domestic economy. He was trusted and respected, and the President gave him the widest possible latitude of action.

It was not the kind of job that wins a man friends. It called for making choices and taking tough decisions. The new war mobilizer was in charge of regulating prices, wages, and rents; of coordinating all the resources of the country and bending them toward the defeat of the Axis Powers; or rationing foods and fuels to make the most effective use of them; of overseeing Government procurement of the implements of war; and, in general, of overseeing the entire operation of the American economy.

For his unprecedented contribution to victory, he was awarded the Distinguished Service Medal. And he also won the respect of all those with whom he worked. He had shown no partiality, no favoritism, no bad judgment. He had exercised his vast power with maximum respect for the freedom and liberties of the people. In seeing the Republic through to victory, James Byrnes made sure the America of 1945 was as free and open as the America of 1941.

The year 1945 brought Jimmy Byrnes a momentary respite from the tremendous responsibilities he had been carrying. The war was over and better days seemed to be ahead.

These hopes for a peaceful postwar era were short-lived, however. When Franklin Roosevelt died and Harry S Truman became President, the new Chief Executive quickly discovered that the Soviet Union was hell-bent on extending its influence in Europe and elsewhere. Truman needed a man he could trust, a man of judgment, experience, and wisdom, to help him conduct the diplomacy of those dangerous times. He turned almost instinctively to James F. Byrnes. The Nation had a new Secretary of State.

The new Secretary accompanied the President to the important Big Three Conference at Potsdam, and he was the chief American delegate at a series of meetings with the Foreign Ministers of the Big Three. Byrnes quickly grasped the direction of events and he understood the stubborn tenacity of the Soviets in their plans to take over the devastated continent of Europe. The subsequent months of Byrnes' tenure were marked by the formulation of a policy to contain Soviet expansion, maintain the freedom of the peoples of Europe, and protect vital American interests abroad.

As anyone who knew him will attest, Jimmy Byrnes was a man of independence. He stood up for what he thought was right, and he always did so simply and directly. He pulled no punches. By 1947, the Secretary of State was having serious doubts about the direction of domestic policy under Harry Truman's New Deal. Byrnes believed Truman was moving too close to the welfare state. This, combined with some irritation at the President's alleged failure to deal more strongly with the Soviet menace, led to Byrnes' resignation from the Cabinet in 1947.

The next 3 years saw Jimmy Byrnes in private life, although he could never really escape public attention, nor could he avoid speaking out occasionally on the issues of the day. And it was during this period that he became an author, with the publication of an informative and detailed account of his diplomatic experiences.

In 1950, at the age of 71, Byrnes ran for—and won—the Governorship of South Carolina. He served until 1955.

It was during these years that I came to know Jimmy Byrnes well. During Governor Byrnes' term, I was serving in the South Carolina Legislature. And I had the privilege of working with the Governor on some important pieces of legislation.

I was impressed with his program and did everything I could to see to it that his important legislation was written into law. There were some real milestones during his governorship. An increased teacher pay schedule—more school construction funds—improved transportation measures—the establishment of mental health facilities—anti-Klan legislation—all these and many more marked the years of Jimmy Byrnes' governorship.

In addition to the official capacity I so often saw the Governor in, I was fortunate to have him as a neighbor on the Isle of Palms. There I came to know the personal side of the man, and there I learned much about his experiences with the great men and events of his time. It was a true education, and an opportunity that I shall always remember with gratitude.

In his later years, Governor Byrnes interested himself in bettering educational opportunities for the orphaned and under-privileged youth of the State. He established the James F. Byrnes Foundation and contributed much time and effort—and money—to making a reality out of his dreams.

Today, Mr. President, newspapers throughout the State and Nation are filled with the record of this illustrious son of South Carolina. But the accomplishments of his work, and the integrity of his character, will long outlive the newspaper obituaries and the present eulogies. That is as it should be. For in the final analysis, a man's most fitting monument is the legacy of great deeds and good character that he leaves behind.

Today Americans from every station and calling mourn the death of our esteemed fellow citizen. We are saddened that his life is ended. But we are thankful for the years he spent working for the betterment of his country. And we are proud of the historic contributions that this first citizen of South Carolina has made.

CONVENTION ESTABLISHING AN INTERNATIONAL ORGANIZATION OF LEGAL METROLOGY—REMOVAL OF INJUNCTION OF SECRECY

Mr. MANSFIELD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention Establishing an International Organization of Legal Metrology, as amended (Executive I, 92d Congress, second session), transmitted to the Senate today by the President of the United States, and that the convention with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

To the Senate of the United States:

Today I ask the Senate to give its advice and consent to accession by the United States to the Convention Establishing an International Organization of Legal Metrology, as amended.

Legal metrology, as broadly defined, relates to the compatibility of standards of measurement and the legislation or regulations which may affect them.

The International Organization of Legal Metrology, established in 1955, is concerned primarily with standards for instruments and measurement techniques involved in the legal determination of quantity and quality. Presently, many of its 36 member nations and eight corresponding members are European.

The Organization's tasks fall generally into two groups:

—to serve as a center for documentation and information; to foster close working relations with national weights and measures services and other concerned organizations; and to furnish advisory assistance to interested countries.

—to determine the general principles of legal metrology; to recommend uniform international requirements for measuring instruments; and to work out model laws and regulations for consideration by member countries.

The Organization's recommendations are not binding but they are accepted by most member nations—many of which are also our major trading partners.

The United States has in the past been an interested observer in the Organization's work and I believe that accession to the Convention would now be of clear advantage to the United States. As the world's largest trading nation and as a world leader in the standards field, we would be better able to assume a positive role in the setting of international standards for measurements and, in so doing, to expand our international trade.

I recommend that the Senate give favorable consideration to United States accession to this Convention, as amended.

RICHARD NIXON.

THE WHITE HOUSE, *April 11, 1972.*

ORDER FOR DIVISION OF TIME ON THE UNFINISHED BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the unfinished business is laid before the Senate today, the time be equally divided between the sponsor of the amendment, the distinguished Senator from Nebraska (Mr. HRUSKA) or his cosponsor, the distinguished Senator from North Carolina (Mr. ERVIN), and the manager of the bill, the distinguished Senator from Virginia (Mr. SPONG).

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

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

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

(Later in the day this order was changed to provide for the Senate to adjourn until 9:45 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATOR TUNNEY TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Tennessee (Mr. BROCK) on tomorrow, the distinguished Senator from California (Mr. TUNNEY) be recognized for not to exceed 15 minutes.

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

ORDER TO RESUME THE CONSIDERATION OF THE UNFINISHED BUSINESS FOLLOWING THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for recognition of Senators 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 the Chair lay before the Senate the unfinished business, S. 2956.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON ADMINISTRATION OF THE WELFARE AND PENSION PLANS DISCLOSURE ACT

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on administration of the Welfare and Pension Plans Disclosure Act, for the calendar year 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT ON DISASTER PREPAREDNESS

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, a report on disaster preparedness (with an accompanying report); to the Committee on Public Works.

REQUEST FOR RETURN PROPOSED PROSPECTUS ON THE WALTHAM, MASS., FEDERAL RECORDS CENTER

A letter from the Acting Administrator, General Services Administration, requesting the Committee on Public Works to return, without further action, the proposed prospectus Project No. 200136–1 on the Waltham, Massachusetts, Federal Records Center; to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution of the Legislature of the State of Hawaii; to the Committee on Finance:

"S. RES. No. 138

"Resolution urging the U.S. Congress to enact legislation for a national reform of public welfare financial assistance programs

"Whereas, the number of persons receiving financial assistance from public welfare in Hawaii has more than tripled in the past ten years, and more than two-thirds of this growth has occurred in the past four years; and

"Whereas, welfare costs in Hawaii have risen even faster, increasing more than fivefold in the past ten years; and

"Whereas, the main immediate reason for the rising caseload and cost is simply that more eligible needy people are applying for assistance from the programs that were intended to help them, yet this includes perhaps only one-third of those who might be eligible; and

"Whereas, it is desirable that all persons have at least a minimum income that will assure them a decent standard of living above the poverty level; and

"Whereas, because of rising welfare caseloads and costs and declining State revenues, the State of Hawaii would find it difficult to maintain this standard without additional help from the Federal Government; and

"Whereas, the State of Hawaii is already bearing a relatively greater burden than other States by maintaining higher benefit levels and receiving a smaller share of the cost from the Federal Government; and

"Whereas, the most desirable way to deal with these immediate fiscal problems is not to cut back welfare benefits to recipients but instead to seek greater fiscal support from the Federal Government; and

"Whereas, weaknesses in the present welfare system include not only the fiscal burden it imposes on States but also its inadequate benefit levels, unfair variations from State to State, disintegrating effects on family life, disincentives to work and cumbersome, costly dehumanizing procedures; and

"Whereas, these problems must be dealt with through meaningful, comprehensive, enlightened and progressive reform of the welfare system at the national level; and

"Whereas, in addition to dealing with the immediate problems of the welfare system, all levels of government and the community must deal meaningfully with the underlying issues and problems, including the shortage of decent jobs, educational barriers, inflation, housing shortages and costs, and the breakdown of the family social unit; now, therefore,

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that the United States Congress be and is hereby urged to enact public welfare reform legislation embracing the concepts of Federalization of costs, elimination of unfounded variations from State to State, more jobs and work incentives, and simpler administration of benefits; and

"Be it further resolved that the State of Hawaii request that the Congress of the United States review and re-assess the total income maintenance program in relation to other federally sponsored programs which purport to serve the needy; and that those programs which prove ineffective or ineffi-

cient be curtailed or abolished and substituted by programs that benefit the needy directly and equitably; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, Senator Hiram L. Fong, Senator Daniel K. Inouye, Representative Spark M. Matsunaga, and Representative Patsy T. Mink."

A resolution of the Legislature of the State of South Carolina; ordered to lie on the table:

"H. 3065

"A concurrent resolution memorializing the Congress of the United States not to ratify the United Nations Genocide Treaty

"Whereas, the Genocide Convention is a United Nations Treaty designed to outlaw the mass extermination of any group of humans because of their national, ethical, racial, or religious classification. This treaty was approved in the United Nations General Assembly December 9, 1948; however it has not been ratified by the United States Congress because of numerous objections; and

"Whereas, the American Bar Association has consistently taken a position against ratification of the Genocide Convention, Frank Holman, former President of the American Bar Association stated that 'Acts are made punishable which are not only purely domestic in character, but public officials as well as private citizens are to be made amenable to international tribunals for a variety of ill-defined and ambiguous so-called acts of genocide—to the extent that the causing of mental harm to a member of a group or complicity in so doing, is an act of genocide.'; and

"Whereas, the dangers of ratifying this treaty are not theoretical. The public officials of South Carolina and ten other states, the President of the United States, the Congress, the Supreme Court, the Attorney General and the Department of Justcie were formally charged with complicity in genocide before the United Nations in 1951. If this convention is ratified, it would give the United Nations legal grounds for action on these charges; and

"Whereas, there can be no question of our abhorrence of genocide against any peoples or our desire to prevent such action; however the members of the General Assembly oppose this treaty in the form submitted to the United States Congress for ratification. Free men do not, with full understanding, surrender their liberty to join an organization or ratify a treaty to prohibit acts they, themselves, have never committed.

"Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

"That the Congress of the United States is hereby memorialized not to ratify the Genocide Convention, which was approved in the United Nations General Assembly December 9, 1948, which is a United Nations Treaty making it an international crime to attempt the destruction of entire national, ethnical, racial or religous groups.

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

A resolution adopted by the City Council of Seattle, Wash., praying for the enactment of legislation relating to tax-sharing; to the Committee on Finance.

A resolution adopted by the Society of the War of 1812 in the State of Louisiana, New Orleans, La., praying for the enactment of legislation to keep military graduate students from certain universities which have closed their ROTC units; to the Committee on Armed Services.

A resolution adopted by the Society of the War of 1812 in the State of Louisiana, New Orleans, La., expressing opposition to the granting of amnesty to certain draft evaders; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TUNNEY, from the Committee on the District of Columbia, without amendment:

S. 1346. A bill relating to benefits for employees of the Government of the District of Columbia, and for other purposes (Rept. No. 92–744);

H.R. 9395. An act to authorize the Commissioner of the District of Columbia to enter into agreements with teachers and other employees of the Board of Education of the District of Columbia for the purchase of annuity contracts (Rept. No. 92–746); and

H.R. 10344. An act to authorize the District of Columbia to enter into the Interstate Compact on Mental Health (Rept. No. 92–747).

By Mr. TUNNEY, from the Committee on the District of Columbia, with amendments:

S. 1993. A bill relating to educational personnel in the District of Columbia (Rept. No. 92–745).

By Mr. TALMADGE, from the Committee on Finance, without amendment:

H.R. 9900. An act to amend section 112 of the Internal Revenue Code of 1954 to exclude from gross income the entire amount of the compensation of members of the Armed Forces of the United States and of civilian employees who are prisoners of war, missing in action, or in a detained status during the Vietnam conflict (Rept. No. 92–748).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Dr. Jerome H. Jaffe, of Virginia, to be Director of the Special Action Office for Drug Abuse Prevention; and

Paul Louis Perito, of Massachusetts, to be Deputy Director of the Special Action Office for Drug Abuse Prevention.

ENROLLED BILL SIGNED

The enrolled bill (H.R. 12749) to authorize appropriations for the saline water conversion program for fiscal year 1973 was signed by the Acting President pro tempore (Mr. STEVENSON).

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. CASE:

S. 3471. A bill to deauthorize United States Army Corps of Engineers projects if Congress has not appropriated funds to carry out the projects for a period of 8 years since authorization. Referred to the Committee on Public Works.

By Mr. ANDERSON:

S. 3472. A bill to authorize Federal cost sharing in promoting public safety through the elimination of hazardous open canals by converting them to closed conduits and by fencing. Referred to the Committee on Interior and Insular Affairs.

By Mr. INOUYE:

S. 3473. A bill for the relief of Armanda Norma Cerro. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON (by request):

S. 3474. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes. Referred to the Committee on Commerce.

By Mr. ERVIN:

S. 3475. A bill to help preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for Congressional review of executive agreements. Referred, by unanimous consent, to the Committee on the Judiciary, and then to the Committee on Foreign Relations, if and when reported by the Committee on the Judiciary.

By Mr. MATHIAS:

S. 3476. A bill to extend for three years the authority of the Secretary of Commerce to carry out fire research and safety programs;

S. 3477. A bill to provide financial aid for fire departments in the purchase of firefighting suits, self-contained breathing apparatus and firefighting equipment;

S. 3478. A bill to amend the Hazardous Materials Transportation Control Act of 1970 to require the Secretary of Transportation to issue regulations providing for the placarding of certain vehicles transporting hazardous materials in interstate and foreign commerce, and for other purposes;

S. 3479. A bill to provide for the creation of the National Fire Academy, and for other purposes;

S. 3480. A bill to amend the Flammable Fabrics Act to extend the provisions of that Act to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and to authorize the establishment of toxicity standards; and

S. 3481. A bill to establish a National Fire Data and Information Clearinghouse, and for other purposes. Referred to the Committee on Commerce.

S. 3482. A bill to provide the Secretary of Health, Education, and Welfare to make grants to accredited institutions of higher education for up to 90 per cent of the costs of fire science and training programs. Referred to the Committee on Labor and Public Welfare.

By Mr. BURDICK:

S. 3483. A bill for the relief of Cass County, N. Dak. Referred to the Committee on the Judiciary.

S. 3484. A bill authorizing the construction of certain bank stabilization works on the Missouri River below Garrison Dam. Referred to the Committee on Public Works.

By Mr. KENNEDY:

S. 3485. A bill to establish the Nantucket Sound Islands Trust, to preserve and conserve the said islands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BUCKLEY (for Mr. MCCLELLAN) (for himself and Mr. BUCKLEY):

S. 3486. A bill to amend title 37, United States Code, in order to provide a special bonus for members of the Armed Forces of the United States who were held as prisoners of war during the Vietnam era. Referred to the Committee on Armed Services.

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

S.J. Res. 221. A joint resolution to designate Benjamin Franklin Memorial Hall at the Franklin Institute, Philadelphia, Pa., as the National Memorial to Benjamin Franklin. Referred to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CASE:

S. 3471. A bill to deauthorize United States Army Corps of Engineers projects if Congress has not appropriated funds to carry out the projects for a period of 8 years since authorization. Referred to the Committee on Public Works.

Mr. CASE. Mr. President, I am today introducing legislation that would foster a change in direction by the world's largest engineering organization, the U.S. Army Corps of Engineers.

For many, the Corps of Engineers has had the reputation as the worst environmental offender among all Government agencies. The legislation I am introducing seeks to encourage the Corps of Engineers in its effort to change all that; to become known as a protector of the environment.

The corps, drawing on the best of West Point's engineering graduates and supported by more than 40,000 civilian employees, is potentially the greatest single instrument for the protection of the environment in this country.

Eventually, the Corps of Engineers could provide studies, plans and technical assistance, and, in some cases, it could construct public works for the collection, purification, storage, or reuse of storm waters, sanitary sewage, waterborne industrial wastes, and other liquid wastes. It could restore land areas scarred by strip mining, construction projects or other means. It could reclaim lakes, rivers, streams and other bodies of water that have become polluted to an extent that they are no longer useable for recreational or commercial purposes. It could develop means of reducing or disposing of solid wastes and providing for adequate supplies of potable water. And it could help reclaim deteriorating areas such as waterfronts.

But before all that can happen, we in the Congress have to work out the authorization for such projects in a manner that will assign priorities that the corps can follow in determining which of its responsibilities it should take on first.

In some areas we have in recent years begun to provide the corps with the authority to work on this type of project.

But I believe we have to go further. We have to make sure that older projects, designed to meet the needs of an era when the importance of the environment was not as well recognized, do not get in the way of the corps' new responsibilities.

Currently almost 1,300 Corps of Engineers projects are authorized by Congress and most of them do not relate to protection of the environment. Some of them were authorized as long ago as the late 1880's. Many of them were designed to meet objectives that once were valid but have long since become outdated. Some have not been reviewed in any manner for decades.

It is time that we take a look at these projects in the light of today's needs.

Charles H. Stoddard, former chairman of the Environmental Advisory Board of the Corps of Engineers, in his letter of resignation, said:

> The time for a thorough review of backlogged Corps projects is long overdue.

He went on to say:

> The slate should be wiped clean by the Congress, followed by a hard-eyed review and reappraisal by CEQ (Council on Environmental Quality), and then the Congress, with environmental input at each stage. This would be followed by individual project authorization only after full environmental input analysis.

Later, Stoddard told my office that the corps was so imbued with traditional developmental concepts that it really could not become committed to projects designed to protect the environment so long as the engineers had a backlog of traditional projects.

Therefore, the legislation I am introducing would proclaim the intent of Congress that the Corps of Engineers place increased emphasis on projects it has been authorized to undertake to protect the environment. In addition, the bill provides for automatic deauthorization of any corps project that has been authorized for 8 years or more but has not had construction funds appropriated for it by Congress during that time.

This does not necessarily suggest that all of these projects would be harmful to the environment. The list of projects that would be affected includes some designed to protect against beach erosion and some for flood control, as well as other purposes, that may still be valid.

Therefore, the bill authorizes the Secretary of the Army to submit to Congress a study and recommended plan for reauthorization of any project terminated under the provisions of the bill if the plan for reauthorization reflects environmental standards in effect at the time the plan is submitted.

This bill already has gained widespread public support. Since I announced my intention to introduce the bill in a speech prepared for delivery at Atlantic City, N.J., in February, I have heard from supporters of the concept in all corners of the Nation, from Florida, Washington, California, Indiana, Arizona. New Jersey, New York, Pennsylvania and many other States. In addition, several environmental organizations have informally expressed their support for the concept.

I hope my colleagues in the Senate also will give the bill careful consideration.

Mr. President, I ask that a copy of the bill and an editorial from the New York Times supporting the concept of the bill be printed in the RECORD, at this point.

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

S. 3471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the intent of Congress that the Secretary of the Army through the Corps of Engineers will place increased emphasis on authorized projects designed to protect the environment.

SEC. 2. In order that the Corps of Engineers may better carry out the intent of Congress, the authorization for any public works project is terminated, if such project has been authorized by law for eight years or more prior to the date of enactment of this Act and if no funds have been appropriated for construction of such project since authorization. The Secretary of the Army is authorized to submit to the Congress a study and recommended plan for re-authorizing any project terminated by this section, if such plan reflects environmental standards in effect at the time the plan is submitted.

[From the New York Times, Apr. 4, 1972]

USEFUL ENGINEERING

Senator Clifford Case of New Jersey has launched a campaign to redirect the misplaced energies of the Army Corps of Engineers. The Corps has long had the reputation of being the Government's own worst offender against the environment—particularly for its tendency to dam up rivers without regard to ecological damage for the sake of an often excessive degree of flood control.

The Senator would make a vigorous start by having Congress rescind authorization for all projects that have remained unfunded on the Corps' list for eight years or more. All these projects, more than half the Corps' backlog, would have to be resubmitted to Congress, along with reappraisals by the Council on Environmental Quality.

Obviously a great deal of dead wood could be eliminated by such action since many of the projects were conceived in a period when development, not environment, was the magic word—some going back as far as the 1880's. Both the Corps and Congress itself would have a chance to reconsider projects that have provoked a proliferation of citizen suits based on environmental issues.

If Senator Case's proposal were purely negative, it could expect a meager response from fellow-Congressmen unwilling to lose pork-barrel handouts for their states and districts. But the plan is to guide the Corps—with the aid of some of the $10 billion that might be saved on the backlog of discarded projects—in the direction of those "designed to protect and enhance" the environment. If it is action the Corps needs, there is more than enough to do in the way of restoring lands defaced by strip mining and waters fouled by industrial waste; of reconstructing decayed waterfronts, redesigning the sewer systems of the cities and building the water treatment plants that country so desperately needs.

The Army Corps of Engineers can and should become a positive force for restoring and preserving the American environment.

By Mr. ANDERSON:

S. 3472. A bill to authorize Federal cost sharing in promoting public safety through the elimination of hazardous open canals by converting them to closed conduits and by fencing. Referred to the Committee on Interior and Insular Affairs.

Mr. ANDERSON. Mr. President, in the past decade the lives of perhaps 400 persons, mostly young children, have been lost by drowning in canals associated with irrigation and reclamation projects. Just recently, two children, a 2-year-old and a 3-year-old, drowned in an open waterway operated by the Middle Rio Grande Conservancy District in my State. In that same district, which is only one of literally hundreds throughout the Nation, 41 lives were lost between 1959 and 1968.

Although statistics may not be completely adequate, and indeed they may be conservative, it appears that at least 40 lives are lost each year in waterways

throughout the Nation's conservancy systems.

I am today introducing legislation which should be enacted quickly in order to prevent additional needless tragedies. Already, there have been inexplicable and indefensible delays—delays which have provoked frustration and anger among parents who are rightfully fearful for their children's lives. Because of the divided governmental authority, the blame for lack of corrective steps cannot be readily pinpointed. But suffice it to say that the need for safety measures has long been recognized, especially by those who must live with the daily fear, and that the crucial need now is not for recriminations but quick action.

My bill recognizes that Federal financial assistance is necessary, but it also calls for contributions, in cash or in kind, from the local conservancy and reclamation districts.

I had hoped that the Department of the Interior would have responded to a problem of this magnitude with greater speed and evidence of concern. In an August 27, 1970, letter to me from Commissioner Ellis L. Armstrong of the Bureau of Reclamation, this statement was made:

> Legislation is needed which would authorize the Secretary of the Interior to improve safety conditions on federally constructed water conveyance systems, allocate costs in relation to benefits and repayment capability of water users, and enter into appropriate cost-sharing arrangements. We are preparing a draft of proposed legislation which would provide Federal assistance to improve safety conditions on existing systems.

Still, the legislation has not been submitted to Congress. In view of this delay, I intend to seek the submittal of a departmental report on my legislation as soon as possible so that we can move rapidly toward enactment.

My bill calls for a 50–50 cost-sharing system designed to improve safety—through fencing or enclosed conduits—along canals in or adjacent to urban areas. I should state that the 50-percent figure is included only for purposes of devising a proper formula. Hearings could result in modifications of this and other details, a process which is perfectly acceptable to me as long as we produce genuine reforms. Nor are estimated costs known with any degree of accuracy at this time. I believe the hearings will produce more information on this aspect, also. Apparently the central reason for delay, on the part of both the administration and local districts, has been a belief that financial costs would be excessive.

I am inclined to discount this assertion. First, it is unnecessary—and indeed foolish—to contemplate fencing or emplacing conduits along every mile of every canal in every conservancy or irrigation district in the Nation. But we can and should concentrate on constructing safety measures along those waterways in populated areas, places where children are likely to live, places where tragic experience has shown us we must focus our efforts. The safety program I envision would begin immediately to enclose these canal segments, and then in later periods of time the enclosures would be gradually extended to less critical areas. The second point that should be made is that human lives are at stake, especially the irreplaceable lives of adventurous and incautious young children. The Federal Government has a high obligation to participate in federally related projects in such a fashion that the safety of the public is protected.

By Mr. MAGNUSON (by request):

S. 3474. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes, and ask unanimous consent that the letter of transmittal and section-by-section analysis be printed in the RECORD with the text of the bill.

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

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 "National Traffic and Motor Vehicle Safety Authorization Act of 1972".

SEC. 2. Section 106 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary is authorized to conduct investigations of the facts, circumstances, conditions and causes of motor vehicle accidents for the purposes of gathering information to identify design failures or defects relating to motor vehicle safety, collecting data to assist in the preparation of Federal motor vehicle safety standards for new and used motor vehicles, and conducting other studies to carry out the purposes of this Act. In making such investigations, the Secretary shall cooperate with appropriate State and local officials to the greatest extent possible consistent with the purposes of this subsection.

"(2) For the purpose of carrying out the provisions of this subsection, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times and in a reasonable manner, any premises where a motor vehicle or item of motor vehicle equipment involved in a motor vehicle accident is located; (2) to impound temporarily for a period not to exceed 72 hours, such motor vehicle or item of motor vehicle equipment; and (3) to inspect such motor vehicle or item of motor vehicle equipment.

"(3) Whenever the Secretary inspects or temporarily impounds for the purpose of inspection any motor vehicle under this subsection (other than a vehicle subject to Part II of the interstate Commerce Act), he shall pay reasonable compensation to the owner of such vehicle to the extent that such inspection or impounding results in the denial of the use of the vehicle to its owner or in the reduction in value of the vehicle.

"(4) The Secretary is authorized to obtain, with or without reimbursement, a copy of the report of the autopsy performed by State or local officials on any person who dies as a result of having been involved in a motor vehicle accident.

"(5) No portion of any statement or information relating to a motor vehicle accident which has been furnished by an individual to the Secretary pursuant to this section and no portion of any report of the Secretary relating to such accident or the investigation thereof shall be admissible in any subsequent criminal, civil, or administrative proceeding.

"(6) As used in this subsection, 'motor vehicle accident' means an occurrence associated with the operation of a motor vehicle in or as a result of which any person suffers death or personal injury, or in which there is property damage."

SEC. 3. Subsection (a) of section 108 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397) is amended by changing the period at the end of subsection (a)(4) to a semi-colon and adding at the end of subsection (a) the following new paragraphs:

"(5) fail or refuse to permit entry, impounding or inspection, as required under section 106;

"(6) fail to comply with any rule, regulation or order issued under this title."

SEC. 4. (a) The first sentence in subsection (a) of section 109 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398) is amended by deleting immediately after "any provision of section 108" the following: ", or any regulation issued thereunder,".

(b) The second sentence in subsection (a) of section 109 of such Act is amended by deleting immediately after "a provision of section 108" the following: ", or regulations issued thereunder,".

SEC. 5. (a) The first sentence of subsection (a) of section 110 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1399) is amended by inserting immediately after "pursuant to this title," the following: "or to contain a defect which relates to motor vehicle safety,".

(b) The next to the last sentence in subsection (a) of section 110 of such Act is amended by deleting the period at the end thereof and adding the following: "or to remedy the defect."

SEC. 6 (a) Subsection (a) of section 112 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401) is amended to read as follows:

"(a) The Secretary is authorized to conduct such inspection and investigation as may be necessary to enforce this title and any rules, regulations or orders issued thereunder. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with this title or any rules, regulations or orders issued thereunder, for appropriate action."

(b) The first sentence of subsection (b) of section 112 of such Act is amended by inserting immediately after "purposes of enforcement of this title," the following: "or any rules, regulations or orders issued thereunder,".

(c) Subsection (c) of section 112 is amended to read as follows:

"(c) Every manufacturer of motor vehicles and motor vehicle equipment shall establish and maintain such records and make such reports, and every manufacturer, dealer or distributor shall provide such information, as the Secretary may reasonably require to enable him to determine whether such manufacturer, dealer or distributor has acted or is acting in compliance with this title or any rules, regulations or orders issued thereunder and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such

manufacturer, dealer or distributor has acted or is acting in compliance with this title or any rules, regulations or orders issued thereunder. Nothing in this subsection shall be construed as imposing reporting or record keeping requirements on distributors or dealers."

SEC. 7. (a) Subsection (b) of section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402) is amended by inserting immediately after "required by subsection (a)" the following: "or (e)".

(b) Subsection (c) of section 113 of such Act is amended to read as follows:

"(c) The notification required of a manufacturer by subsection (a) or (e) pursuant to the determination of the existence of a defect related to motor vehicle safety or of a failure to comply with an applicable Federal motor vehicle safety standard shall contain a clear description of such defect or failure, an evaluation of the risk to traffic safety reasonably related to such defect or failure, and a statement of the measures to be taken to remedy such defect or failure."

SEC. 2. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. There are authorized to be appropriated such funds as are necessary to carry out the purposes of this Act."

SEC. 9. Section 123 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410) is amended to read as follows:

"(a) Except as provided in subsection (d) of this section, upon application by a manufacturer at such time, in such manner, and containing such information as the Secretary shall prescribe, the Secretary shall, after publication of notice and opportunity to comment and under such terms and conditions and to such extent as he deems appropriate, temporarily exempt a motor vehicle from any motor vehicle safety standard established under this title if he finds (1) that compliance would cause such manufacturer substantial economic hardship or that such temporary exemption would facilitate the development of new motor vehicle safety features or that such temporary exemption would facilitate the development of vehicles utilizing a propulsion system other than or supplementing an internal combustion engine, and (2) that such temporary exemption would be consistent with the public interest and the objectives of this Act. Notice of each decision to grant a temporary exemption and the reasons for granting it shall be published in the Federal Register.

"(b) The Secretary shall require, in such manner as he deems appropriate, notification to the dealer and first purchaser of an exempted motor vehicle (not including the dealer of such manufacturer) that such vehicle has been exempted from certain motor vehicle standards, and the standards from which it is exempted.

"(c) No exemption granted under this section shall remain in effect after three years after the date such exemption is granted."

"(d) No manufacturer whose total motor vehicle production, as determined by the Secretary, exceeds ten thousand annually shall be eligible for an exemption under this section."

SEC. 10. (a) The first sentence of subsection (a) of section 301 of the National Traffic and Motor Vehicle Saefty Act of 1966 (15 U.S.C. 1431) is amended by deleting all that precedes "except that" and inserting in lieu thereof the following:

"SEC. 301. (a) The Secretary of Transportation is authorized—

(1) to plan, design, and construct new facilities,

(2) to alter existing facilities,

(3) to lease facilities, and

(4) to acquire or lease real property for use as sites for new facilities or the alteration of existing facilities,

suitable to conduct research, development, and compliance and other testing in traffic safety, including highway safety and motor vehicle safety,".

(b) The first sentence of subsection (a) of section 301 of such Act is further amended by striking "or construction", each place it appears in the sentence, and inserting in lieu thereof the following: "constructing, altering or leasing".

(c) The second sentence of subsection (a) of section 301 of such Act is amended by deleting "or constructed" and substituting in lieu thereof the following: "constructed, altered or leased".

(d) The second sentence of subsection (a) of section 301 of such Act is futher amended by deleting "and" at the end of clause (3), by deleting the period at the end of clause (4) and inserting in lieu thereof a semicolon and by adding a new clause (5) as follows:

"and (5) a statement of justification of the need for leasing any facilities or real property."

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., March 24, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation is submitting for your consideration and appropriate reference a draft bill:

"To amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes."

Since the enactment of the National Traffic and Motor Vehicle Safety Act in 1966, the Department has issued numerous Federal motor vehicle safety standards and notices of proposed standards designed to improve the safety performance of motor vehicles. In addition, the Department has conducted extensive research in accident causation and in innovative techniques for improving motor vehicle safety. These efforts are beginning to show benefits. Despite substantial annual increases in the number of drivers, vehicles and total vehicle miles since 1966, the rate of highway deaths per 100 million miles driven has steadily declined and the number of annual deaths has stabilized. Yet much remains to be done. Nearly 300,000 persons have lost their lives in highway accidents since the passage of the Act; 55,000 persons died during last year alone.

The purpose of this legislation is to amend the Act to improve the Department's effectiveness in preventing traffic accidents, and deaths and injuries resulting therefrom. The Secretary would be authorized to conduct such investigations as are necessary in the course of research to carry out the purposes of the Act.

Multi-disciplinary accident investigation teams, acting under present authority, have had difficulty in persuading witnesses and parties to accidents to provide information necessary to the conduct of safety research. This legislation would protect these persons by prohibiting the use of investigation teams accident reports as evidence.

The civil penalty authority under the Act would be clarified by expressly providing that it extends to all rules, regulations and orders issued under the Act. This legislation would also authorize the Secretary to seek civil penalties against those persons who impede vehicle safety research by failing or refusing to permit the temporary impoundment or inspection of motor vehicles or the entry of premises for such purposes by accident investigation teams.

This legislation would correct a deficiency in the Act regarding the Department's injunction authority by providing for the restraining of the importation into the country, as well as the sale by American manufacturers, of vehicles which contain a safety defect. At present, the Act provides only for the restraining of the entry into this country or the sale of vehicles that fail to comply with all applicable safety standards.

This legislation would clarify the Secretary's authority to inspect and investigate for the purpose of enforcing those rules, regulations, and orders other than safety standards and determining the existence of a safety defect or noncompliance. It would also require motor vehicle dealers and distributors to furnish requisite performance data and other relevant information. This amendment would enable the Department to enforce the Act under circumstances in which the necessary evidence is obtainable only from dealers or distributors.

Appropriation would be authorized of such funds as are necessary to carry out the purposes of the Act. This open-ended authorization, which would replace the current specific yearly authorizations, would provide the funds necessary to implement the Act after the present authorization terminates on June 30, 1972.

This legislation would renew indefinitely the Secretary's authority to grant, in appropriate circumstances, temporary exemptions from safety standards to manufacturers. It would also expand the authority by authorizing the Secretary to grant an exemption to manufacturers whose annual production is not more than 10,000 vehicles. To encourage the development of safer motor vehicles, this legislation would authorize the Secretary to grant exemptions to such manufacturers to permit them to incorporate new safety features into their vehicles.

To increase the Secretary's flexibility in acquiring test facilities for highway safety research, this legislation would authorize him to lease such facilities and to lease real property for use as sites for the construction of new facilities or the alteration of existing facilities.

We urge the prompt introduction and early enactment of this legislation.

The Office of Management and Budget has advised that this proposed legislation is consistent with the Administration's objectives.

Sincerely,

JOHN A. VOLPE.

Enclosures.

SECTION-BY-SECTION ANALYSIS OF DRAFT BILL TO AMEND THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

Section 2. This section adds a new subsection (d) to section 106 of the Act.

Paragraph (1) of subsection (d) authorizes the Secretary to conduct investigations of motor vehicle accidents to gather information and data for the purpose of conducting research authorized by section 106. The Secretary is required to cooperate with State and local officials while conducting his investigations.

For the purpose of conducting the investigations, paragraph (2) of subsection (d) authorizes officers or employees duly designated by the Secretary (1) to enter, at reasonable times and in a reasonable manner, any premises where a motor vehicle or item of motor vehicle equipment involved in a motor vehicle accident is located; (2) to impound temporarily for a period not to exceed 72 hours such motor vehicle or item of motor vehicle equipment; and (3) to inspect such motor vehicle or item of motor vehicle equipment. This paragraph includes the authority to inspect or impound for the purpose of inspection a motor vehicle or impound for the purpose of inspection a motor vehicle or item of motor vehicle equipment located at the scene of the accident in which such vehicle or equipment was involved.

Paragraph (3) of subsection (d) requires that whenever an inspection and/or impounding of a vehicle by the Secretary results in the denial of the use of the vehicle to its owner or reduction in value of the vehi-

cle, the Secretary shall pay reasonable compensation to the vehicle owner.

Paragraph (4) of subsection (d) authorizes the Secretary to obtain a copy of an autopsy report prepared by State and local officials concerning a person who dies in or as a result of a motor vehicle accident.

Paragraph (5) of subsection (d) provides that no portion of any statement or information furnished the Secretary by an individual and no portion of any report of the Secretary relating to a motor vehicle accident or the investigation thereof shall be admissible in any subsequent criminal, civil, or administrative proceeding. This amendment does not prevent a party or witness to an accident from adducing in any proceeding any information which he may have also previously furnished the Secretary concerning such accident.

Paragraph (6) of subsection (d) provides that the term "motor vehicle accident", as used in subsection (d), means an occurrence associated with the operation of a motor vehicle in or as a result of which any person suffers death or personal injury, or in which there is property damage.

Section 3. This section adds (1) the failure or refusal to permit entry, impounding, or inspection, as required under subsection (d) of section 106, and (2) failure to comply with any rules, regulations or orders issued under title I of the Act, to the list in subsection (a) of section 108 of acts which constitute violation of the Act. This section permits the Secretary to seek civil penalties against persons who violate subsection (d) of section 106. It also clarifies his authority to seek civil penalties against persons who fail to comply with rules and regulations other than motor vehicle safety standards.

Section 4. This section deletes from section 109 of the Act language that would become superfluous upon the addition of the failure to comply with any rules, regulations or orders issued under title I to the list in subsection (a) of section 108 of the acts that constitute violation of the Act.

Section 5. Paragraph (a) of this section amends subsection (a) of section 110 of the Act to permit the Secretary to seek an injunction against the sale, offer for sale, or the introduction or delivery for introduction in interstate commerce, or the importation into the United States, of any motor vehicle or item of motor vehicle equipment that contains a defect which relates to motor vehicle safety.

Paragraph (b) of this section amends subsection (a) of section 110 to require the Secretary, whenever practicable, to give notice to any person against whom injunctive relief, authorized by paragraph (a) of section 5, is contemplated, and afford such person an opportunity to present his views, and to remedy the defect.

Section 6. Paragraph (a) of this section amends subsection (a) of section 112 of the Act to clarify the Secretary's authority to conduct such inspection and investigation as may be necessary to enforce title I or any rules, regulations or orders issued under title I.

Paragraphs (b) and (c) of this section amend subsections (b) and (c) of section 112, respectively, to conform with the amendments to subsection (a) of section 112 made in paragraph (a) of this section.

Paragraph (c) also amends subsection (c) of section 112 to require that dealers and distributors of motor vehicles and motor vehicle equipment furnish the Secretary with such information and data as he may require to carry out his enforcement responsibilities. Other requirements in this subsection, imposed upon manufacturers, would not be imposed upon distributors and dealers.

Section 7. Paragraph (a) of this section amends subsection (b) of section 113 of the Act to clarify the requirement that notifications sent by manufacturers pursuant to the Secretary's determination of a defect or noncompliance under subsection (e) of section 113 must be sent to first purchasers, subsequent warranty holders and dealers by certified mail.

Paragraph (b) of this section amends subsection (c) of section 113 to require that purchaser and dealer notifications sent by manufacturers pursuant to a determination by the Secretary under subsection (e) of section 113 of a noncompliance shall contain a clear description of the noncompliance, an evaluation of the risk to traffic safety reasonably related to the noncompliance, and a statement of the measures to be taken to remedy the noncompliance.

Section 8. This section authorizes the appropriation of such funds as are necessary to carry out the purposes of the Act.

Section 9. This section renews the Secretary's exemption authority. It amends subsection (a) of section 123 of the Act by adding to the categories of manufacturers that the Secretary is authorized to exempt temporarily a new category of manufacturers who can demonstrate that a temporary exemption from a particular standard would facilitate the development of new motor vehicle safety features and would be consistent with the public interest and the objectives of the Act. The Secretary is required to publish in the Federal Register each application for a temporary exemption and afford interested persons an opportunity to comment. If the Secretary grants the requested exemption, he must also publish notice of the decision.

This section adopts unchanged the present subsection (b) of section 123, which directs the Secretary to require exempted manufacturers to inform his dealers and first purchasers of his exemption.

This section deletes the present subsection (c) of section 123 which defines the term "limited production motor vehicle." As amended by this section, section 123 makes only manufacturers, whose annual production volume is not more than 10,000 vehicles, eligible for exemption.

This section amends subsection (d) of section 123 by deleting the temporal limitation on the Secretary's exemption authority and redesignating the subsection as subsection (c). It also deletes the word "originally" to clarify the Secretary's authority to renew an exemption previously given a manufacturer if that manufacturer submits a new application for exemption.

Section 10. This section would amend section 301 of the Act by authorizing the Secretary to lease test facilities and to lease real property for use as sites for the construction of new facilities or the alteration of existing facilities. Subsection (a) of section 301 presently authorizes the Secretary to acquire, but not to lease, facilities or real property. This section would also clarify the Secretary's authority to acquire real property for use as sites for the construction of new facilities or the alteration of existing facilities. This authority is implicit in the Secretary's authority to construct facilities.

In accordance with these amendments, this section would also amend section 301 to require that a prospectus, submitted to the Congress pursuant to that section, contain an explanation of the need for leasing, rather than acquiring, any facility or real property.

STATEMENT OF JUSTIFICATION

This legislation would amend the Act by (1) expanding the Secretary's authority to conduct investigations of motor vehicle accidents, (2) expanding and clarifying the injunctive and civil penalty authority under the Act, (3) clarifying the extent of the Secretary's authority to conduct inspection and investigation to enforce title I of the Act, (4) extending to dealers and distributors the requirements concerning submission of performance data, (5) authorizing appropriations of such funds as may be necessary to carry out the Act, (6) renewing and expanding the exemption authority of the Secretary, and (7) making several clarifying or technical amendments.

Section 2. This section would amend section 106 of the Act by authorizing the Secretary to conduct such investigations as may be necessary in the course of research to carry out the purposes of the Act. Pursuant to existing authority under section 106, multi-disciplinary accident investigation teams have been established to conduct in-depth studies of motor vehicle accidents. The data collected by the teams is being used to develop a reliable and extensive data base concerning the cause and effect of motor vehicle accidents. Without an adequate data base, measures concerning vehicle design and driver behavior might be formulated by Federal, State or local governments on the basis of inaccurate information and incorrect assumptions concerning accident causation.

The data collected by the accident investigation teams has already contributed to promulgation or proposal of many Federal motor vehicle safety standards. In addition to aiding in the development of new standards and proposals, the accident investigation data also facilitates evaluation of existing standards.

The full value of the accident investigation teams cannot, unfortunately, be realized under the present authority in section 106. The teams have been hampered in their collection of data by the reluctance of witnesses or parties to accidents to divulge information and the difficulty in gaining access to vehicles involved in accidents. Despite assurances by the teams that their only purpose is research, witnesses and parties to accidents frequently refuse cooperation. The refusal generally stems from advice by legal counsel or insurance companies or from a fear of self-incrimination.

The lack of cooperation has frequently prevented the teams from obtaining information concerning driver behavior. The experience of the teams in attempting to inspect vehicles involved in accidents has often been equally frustrating. Analysis of accident causation is frequently complicated by alteration of the accident scene and the condition of the vehicles by wrecker crews. The inability of the teams to preserve the post-accident condition of vehicles is particularly critical in those accidents in which malfunction or other defect is suspected. Even when the teams succeed in obtaining permission to take a vehicle to their garage, they are not always able to conduct an adequate inspection. Frequently, the owner or an insurance company picks up the vehicle before the inspection can be completed.

To remove these obstacles to motor vehicle safety research, this legislation provides that no information furnished the Secretary by an individual and no portion of any report of the Secretary relating to a motor vehicle accident or the investigation thereof would be admissible in any subsequent criminal, civil, or administrative proceeding. The Department believes that enabling the accident investigation teams to assure parties to accidents and their representatives that their statements will not be used against them will eliminate most of the present difficulty encountered by the teams in gathering data.

To ensure that the accident investigation teams will be able to preserve and inspect the post-crash condition of motor vehicles involved in motor vehicle accidents, this legislation would authorize the officers or employees duly designated by the Secretary to inspect or impound temporarily for the purpose of inspection such motor vehicles. This legislation would also authorize the Secre-

tary to enter any premises for the purpose of such inspection or impounding.

The provision in section 2 of this legislation, that would prohibit the use of information furnished the Secretary as evidence, would not result in denying the public access to the findings of the accident investigation teams. All information concerning malfunctions or other defects in motor vehicles and concerning human behavioral factors related to accident causation would be published, but not so as to disclose the names or identities of individuals.

Sections 3 and 4. These sections of this legislation would clarify the extent of the civil penalty authority under section 109 of the Act by amending section 108 of the Act to include a prohibition against the violation of any rule, regulation or order issued under title I of the Act. These amendments would remove any doubt that the civil penalty authority can be used to enforce all rules, regulations and orders issued under title I, including the tire identification and record keeping regulations and all aspects of the important regulation on vehicles manufactured in two or more stages. These sections would also permit the Secretary to seek civil penalties against those persons who fail or refuse to permit impounding or inspection of motor vehicles or entry of premises for such purpose as required by the proposed new subsection (d) of section 106 of the Act.

Section 5. This section would expand the injunction authority under section 110(a) of the Act so as to permit the restraining of (1) the importation into the United States of vehicles which contain a defect related to motor vehicle safety and (2) the sale of vehicles in this country which contain such a defect. This authority would enable the Department, when it learns of the existence of vehicles that comply with all applicable safety standards but are nevertheless defective, to obtain a court order stopping the manufacturer and/or dealers from continuing to sell the defective vehicles. (Those defective vehicles already sold would, of course, be the subject of a defect notification campaign currently provided for in section 113 of the Act.)

This authority would also enable the Department to seek an injunction to prevent the importation or sale of foreign manufactured vehicles, certified as complying with the standards, but damaged in transit to such an extent that they are considered defective. Presently, these vehicles cannot be prevented from entering this country unless the Department has evidence of noncompliance with an applicable safety standard. During the past year, several foreign vehicle manufacturers advised the Department that unauthorized dealers were attempting to bring irremediably damaged vehicles into this country.

Section 6. Paragraph (a) of this section of this legislation would clarify the extent of the Secretary's authority under section 112(a) of the Act to conduct inspection and investigation. The language of section 112(a) presently refers only to inspection and investigation for the purpose of enforcing the motor vehicle safety standards.

The language of section 112(b), however, is substantially broader. It refers to the entry and inspection of certain premises for the purpose of enforcement of title I of the Act. The proposed amendment would eliminate the inconsistency in the language of these two subsections of section 112 concerning the scope of the Secretary's inspection and investigation authority by amending section 112(a) to authorize expressly inspection and investigation for the purpose of enforcing title I and any rules, regulations or orders issued thereunder. The amendment would remove any doubt that the Secretary has the authority to inspect and investigate for the purpose of enforcing rules, regulations and orders other than motor vehicle safety standards. The amendment would also make clear that the Secretary's authority under section 112 includes the authority, implied by his disclosure authority in section 113(d), to inspect and investigate for the purpose of determining the existence of a defect related to motor vehicle safety.

Paragraph (c) of this section would expand the Department's information-gathering authority by amending section 112(c) to require dealers and distributors to furnish the Department with information relating to investigatory matters. Section 112 presently requires such information from manufacturers only. In some instances, however, information necessary to the enforcement of the Act may be obtainable only from dealers or distributors. The problem is particularly likely to arise in safety-defect investigations or situations in which the dealer or distributor alters a vehicle or item of motor vehicle equipment after the manufacturer has certified the compliance of the vehicle or equipment with all applicable safety standards.

Section 7. Paragraph (a) of this section is a clarifying amendment that would remove any doubt that notifications sent by manufacturers pursuant to the Secretary's determination of a safety defect or noncompliance under subsection (e) of section 113 of the Act must be sent to first purchasers, subsequent warranty holders and dealers by certified mail.

Paragraph (b) of this section is also a clarifying amendment that would expressly set forth the required contents of a noncompliance notification letter. It would amend subsection (c) of section 113 to require expressly that such notification contain a clear description of the noncompliance, an evaluation of the risk to traffic safety reasonably related to the noncompliance, and a statement of the measures to be taken to remedy the noncompliance.

Section 8. This section would authorize the appropriation of such funds as may be necessary to carry out the purposes of the Act. These funds would be used for the following program activities: motor vehicle and equipment safety standards, safety standards compliance testing, defects analysis, and supporting research and development. The current authorization under the Act terminates June 30, 1972.

Section 9. This section would amend section 123 of the Act by renewing the Secretary's exemption authority indefinitely, and expanding its scope. The Secretary's authority under section 123 expired April 10, 1971. Section 123 authorized the Secretary to grant, under specified conditions, exemptions of not more than three years' duration to manufacturers who produced less than 500 vehicles annually. The Secretary's authority under this section permitted him to enable low volume manufacturers to continue production while working toward incorporation of standards for which exemptions had been obtained. Without the exemptions, some manufacturers would probably have been forced to discontinue production and go out of business.

Low volume manufacturers are still subject to the same handicaps which originally led to the creation of the exemption authority in section 123. Their vehicle models seldom vary, their supplies are purchased in large quantities to reduce costs, and their technical staff and testing ability are very limited. Producers of one-of-a kind vehicles, which may have a production period in excess of a year, cannot continually modify production plans to incorporate new standards becoming effective during production. As the motor vehicle safety standards become more sophisticated, these production and compliance limitations will assume increasing importance for the low volume manufacturer.

In recognition of the continued problems of low volume manufacturers, section 9 of this legislation would renew indefinitely the Secretary's authority to grant exemptions of up to three years. If the Secretary's authority is not renewed, low volume vehicle manufacturers would be required to comply with new standards at the same time as the larger manufacturers. The economic hardship which many of the small manufacturers would encounter might force them to cease production or, insofar as foreign manufacturers are concerned, make exportation to the United States economically unfeasible.

In addition to renewing the Secretary's exemption authority, section 9 would also expand the Secretary to grant exemptions to manufacturers whose annual production does not exceed 10,000 vehicles. Such manufacturers share many of the same problems experienced by low volume manufacturers.

In addition to authorizing exemptions for the presently specified reasons, section 123, as amended, would authorize an exemption to facilitate the development of new motor vehicle safety features. The exemption would permit a manufacturer to incorporate in his vehicles new safety developments or devices which, in the absence of the exemption, would conflict with certain existing standards. The Department would grant these exemptions only where the manufacturer could demonstrate that the use of the new safety features in a vehicle would not result in a reduction of the level of the vehicle's safety performance below that set in the standards for which an exemption is sought. Although the motor vehicle safety standards are performance standards, they may be design restrictive to the extent that they cannot be drafted to allow for all future technological innovations. While standards applicable to new safety features might eventually be amended to permit their use, the rulemaking process is often slow. Further, it may not always be possible to amend a standard or set of interrelated standards to permit the use of a new safety feature.

Section 10. This section would amend section 301 of the Act by authorizing the Secretary to lease test facilities and to lease real property for use as sites for the construction of new facilities or the alteration of existing facilities. This section would permit the Secretary to take advantage of those situations in which leasing arrangements would be a more economical means of obtaining the use of facilities or real property than complete acquisition.

This section would also clarify the Secretary's authority to acquire real property for use as sites for the construction of new facilities or the alteration of existing facilities.

By Mr. ERVIN:

S. 3475. A bill to help preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for congressional review of executive agreements. Referred, by unanimous consent, to the Committee on the Judiciary, and then to the Committee on Foreign Relations, if and when reported by the Committee on the Judiciary.

THE ROLE OF THE CONGRESS IN THE MAKING OF EXECUTIVE AGREEMENTS

Mr. ERVIN. Mr. President, today I introduce a bill which will help restore the balance of power between the executive and legislative branches of the Government in the area of international agreements made with foreign nations on behalf of the United States.

Because of the momentous separation of powers problems in this area, I should

like to request that this measure be referred to the Senate Judiciary Committee where its Subcommittee on Separation of Powers will be afforded an opportunity to give a careful and definitive examination of the powers, duties, and prerogatives of the two branches of the Government in the area of international agreements.

In recent years, so-called executive agreements have been utilized time and time again in situations where many legal scholars believe that the treaty provisions of section 2, article II of the Constitution should have been followed. The Founding Fathers were, indeed, wise when they formulated the concept of shared powers between the legislative and executive branches of the Government in the making of international agreements. These learned men mentioned only one kind of international agreement in the Constitution: The treaty. From their bitter experience with tyrannical rule, they realized that a system of government serves the people best when its powers are disbursed among various repositories within the government. They were acutely aware that unrestrained Executive power leads to despotism, and for that reason they attempted to make certain that the Congress, as the most direct representative of the people, would play a role in the making of international agreements. To my mind, this bedrock principle is no less important in this era of rapid change and computerization than it was in the simpler times when our Constitution was written.

The bill I introduce is simple. It recognizes that the Founding Fathers' concept of shared powers in the area of international agreements has been substantially eroded by the use of so-called Executive agreements. In plain language, the measure defines Executive agreements and requires that the Secretary of State shall transmit each such agreement to both Houses of Congress. If, in the opinion of the President, the disclosure of any such agreement would be prejudicial to the security of the United States, the bill provides that it shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy. Under this injunction of secrecy, only the Members of both Houses of the Congress shall be permitted to inspect the document.

The bill further provides that each Executive agreement transmitted to the Congress shall come into force and be made effective after 60 days—or later if the agreement so provides—unless both Houses pass a concurrent resolution expressing disapproval of the Executive agreement between the date it is transmitted to the Congress and the end of a 60-day period. In other words, the Congress, in its shared-power role, will have an opportunity to state that it does not approve of an Executive agreement during the 60-day period after the agreement is transmitted to the Congress.

To many, this measure may seem rather strict in its provisions; however, it appears to me that the executive branch of the Government would welcome a method whereby the Congress would share the responsibility for making international agreements which affect the international image of our Nation and its people, the allocation of our tax resources, and, in many instances, impinges upon the possibilities of achieving peace in the world.

In the very near future, the Subcommittee on Separation of Powers will begin hearings on the complex subject of Executive agreements as distinguished from treaties. It is my hope that these hearings will afford the Congress a basis for determining the sort of so-called Executive agreement which, under the provisions of the Constitution, should be submitted to the Congress for its approval and that this measure will provide a focal point for the many views which will be expressed before the subcommittee.

Mr. President, I ask unanimous consent that the bill be referred to the Committee on the Judiciary, with the understanding that after that committee has completed its consideration of the bill, it then be referred to the Committee on Foreign Relations; and I would like to assure the Senate and the Chair that I have consulted with the distinguished chairman of the Committee on Foreign Relations (Mr. FULBRIGHT) and he agrees to this unanimous-consent request as to the reference of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, may I hear the unanimous-consent request?

Mr. ERVIN. It was that this bill, which deals with Executive agreements, shall be referred initially to the Committee on the Judiciary, and that after the Committee on the Judiciary has completed its consideration of the bill, it then be referred to the Committee on Foreign Relations. I assure the Senator from New York that I have consulted with the distinguished chairman of the Committee on Foreign Relations, and he has agreed to this reference.

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

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

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

S. 3475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Whereas, the Constitution of the United States established a system of shared powers between the legislative and executive branches of the United States Government in the making of international agreements; and whereas, the Congress finds that its powers have been substantially eroded by the use of so-called executive agreements, and the Senate is thereby prevented from performing its duties under section 2, Article II, of the Constitution, which provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur," and, whereas, the Congress is often prevented from participating in the conduct of foreign relations by way of prior statute or concurrent resolution, therefore be it enacted as follows:

SECTION 1. (a) In furtherance of the provisions of the United States Constitution regarding the sharing of powers in the making of international agreements, any executive agreement made on or after the date of enactment of this Act shall be transmitted to the Secretary of State, who shall then transmit that agreement (bearing an identification number) to the Congress. However, any such agreement the immediate disclosure of which would, in the opinion of the President, be prejudicial to the security of the United States shall instead be transmitted by the Secretary to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate written injunction of secrecy to be removed only upon due notice from the President. Each committee shall personally notify the members of its House that the Secretary has transmitted such an agreement with an injunction of secrecy, and such agreement shall thereafter be available for inspection only by such members.

(b) Except as otherwise provided under subsection (d) of this section, any such executive agreement shall come into force with respect to the United States at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the executive agreement is transmitted to Congress or such committees, as the case may be, unless, between the date of transmittal and the end of the 60-day period, both Houses pass a concurrent resolution stating in substance that both Houses do not approve the executive agreement.

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(d) Under provisions contained in an executive agreement, the agreement may come into force at a time later than the date on which the agreement comes into force under subsections (b) and (c) of this section.

SEC. 2. For purposes of this Act, the term "executive agreement" means any bilateral or multilateral international agreement or commitment, other than a treaty, which is binding upon the United States, and which is made by the President or any officer, employee or representative of the executive branch of the United States Government.

SEC. 3. (a) This section is enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions described by subsection (b) of this section; and it supersedes other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) For the purposes of this section, "concurrent resolution" means only a concurrent resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the executive agreement numbered ——— transmitted to (Congress) (the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives) by the President on ————, 19—.", the blank spaces therein being appropriately filled, and the appropriate words within one of the paren-

thetical phrases being used; but does not include a concurrent resolution which specifies more than one executive agreement.

(c) A concurrent resolution with respect to an executive agreement shall be referred to a committee (and all concurrent resolutions with respect to the same executive agreement shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

(d) (1) If the committee to which a concurrent resolution with respect to an executive agreement has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the concurrent resolution or to discharge the committee from further consideration of any other concurrent resolution with respect to the executive agreement which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the concurrent resolution, is highly privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same executive agreement), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same executive agreement.

(e) (1) When the committee has reported, or has been discharged from further consideration of, a concurrent resolution with respect to an executive agreement, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(f) (1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution with respect to an agreement, and motions to proceed to the consideration of other business, shall be decided without debate.

(2) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution with respect to an executive agreement shall be decided without debate.

By Mr. MATHIAS:

S. 3476. A bill to extend for 3 years the authority of the Secretary of Commerce to carry out fire research and safety programs;

S. 3477. A bill to provide financial aid for fire departments in the purchase of firefighting suits, self-contained breathing apparatus, and firefighting equipment;

S. 3478. A bill to amend the Hazardous Materials Transportation Control Act of 1970 to require the Secretary of Transportation to issue regulations providing for the placarding of certain vehicles transporting hazardous materials in interstate and foreign commerce, and for other purposes;

S. 3479. A bill to provide for the creation of the National Fire Academy, and for other purposes;

S. 3480. A bill to amend the Flammable Fabrics Act to extend the provisions of that act to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and to authorize the establishment of toxicity standards; and

S. 3481. A bill to establish a national fire data and information clearinghouse, and for other purposes. Referred to the Committee on Commerce.

S. 3482. A bill to provide the Secretary of Health, Education, and Welfare to make grants to accredited institutions of higher education for up to 90 percent of the costs of fire science and training programs. Referred to the Committee on Labor and Public Welfare.

Mr. MATHIAS. Mr. President, fire, primitive man's best friend, is fast becoming modern man's worst enemy. For 6 consecutive years, more than 12,000 men, women and children have died because of fire. Hundreds of thousands more have been injured.

In Maryland, according to preliminary figures, 164 people died from fire last year, 54 in Baltimore City, and 1,625 were injured seriously enough to require hospitalization. The National Commission on Fire Prevention and Control reports that 210 firemen were killed and 38,583 were injured in the line of duty last year, making firefighting the most hazardous profession in the United States. According to the International Association of Fire Fighters, the rate of death in the line of duty among firefighters last year rose to 115 per 100,000 men. This compares to 35 line-of-duty-deaths per 100,000 men in 1964 and 104 in 1969.

Such a staggering increase reflects the fact that while the modern world has compounded the dangers and problems today's firefighter must face, it has not provided the accouterments he needs to fight today's fires.

Firefighters and their officers have voiced dissatisfaction with much of the equipment now in use. Masks are clumsy, heavy and cumbersome. They carry a limited oxygen supply and can become a foe rather than a friend to a firefighter who needs a few more seconds of air to escape from the deadly fumes of a fire fed by modern, toxic fabrics.

The Nation's space program has made technological advances in miniaturization, developed lightweight equipment and flameproof materials to protect and aid our astronauts. But so far the lightweight material carried to the moon has not been employed to lighten the load a firefighter must carry into a burning building. The clothes that could protect him—even save his life—are still hanging in a closet at the National Aeronautics and Space Administration rather than in the Nation's firehouses.

Indeed, the urgent need for such protective clothing is emphasized by the NCFPC which reported that many of the nation's 1,200,000 firefighters use turnout coats which the National Bureau of Standards has found unacceptable under the flammability standards for childrens' sleepwear.

This statistic is especially poignant in Baltimore where Firefighter Thomas Herz was severely burned while fighting a fire here in July 1970. It is a tribute to his courage and determination to live that Tommy Herz is today a member of the fire department's fire alarm office. But at the same time, his experience is an indictment of the scant attention this Nation has paid to the dangers facing its firefighters.

But, as statistics show, the firefighter is not the only one whose life is endangered by fire.

Approximately 6,600 of the 12,200 lives lost last year were in residential fires. About one-fourth of those 6,600 victims—over 1,600—were children and approximately one-third of these youngsters were alone or without supervision at the time struck.

Among the perils facing civilians and firefighters today are high-rise buildings which, according to the NCFPC, can no longer be termed fireproof because of modern funiture fabrics that produce heavy smoke and toxic gases and stairwells, elevator shafts, and mail chutes which vent smoke like the flues of a chimney. In addition, the electronic touch-type elevator call buttons which are found in many high rise apartment and office buildings can be activated by heat with the result that the elevator can be brought to the fire. Once there, the light beam which closes the elevator's doors can become inoperable and may doom passengers on the elevator.

Knowing of these and other hazards help us to explain why the rate of death by fire in the United States is twice that of Canada, four times that of Great Britain and six times that of Japan. Unfortunately they do not explain why we have been so slow to do something about it. The number of fires reported in the first quarter of 1971, 2,303, was more than double the 986 fires reported for the same period in 1970. According to the NCFPC, fires in the United States did an estimated $2.8 billion property damage last year, about $215 million more than losses recorded in 1970.

In an effort to stop the senseless loss of lives and property by fire, I am today presenting a seven bill legislative package that seeks to modernize the Nation's approach to firefighting, fire prevention, and fire protection. Briefly, the bills would:

Create a National Fire Academy to serve as the national center for fire research and education.

Authorize $75 million for fire research and safety programs over the next 3 fiscal years.

Authorize the Commerce Department to pay 90 percent of the cost of training firefighters and up to 90 percent of the cost of fire science programs.

Provide financial aid of up to 90 percent of the total cost so local fire depart-

ments can purchase new firefighting equipment.

Establish a national fire data and information clearinghouse.

Amend the Hazardous Materials Transportation Control Act of 1970 to require the placarding of certain vehicles transporting hazardous materials.

Amend the Flammable Fabrics Act to extend its provisions to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and, additionally, authorizes establishing toxicity standards.

I will also recommend that the National Fire Academy be located either here at the Baltimore Fire School or the University of Maryland at College Park. Both locations are convenient to major highways and mass transportation and are easily reached from Washington.

In addition, I am exploring with the Law Enforcement Assistance Administration of the Department of Justice the possibility of funding programs designed to cut the growing number of false alarms and the increased harassment of firefighters. In 1970, 208 firefighters were injured while responding to, or returning from, false alarms.

I hope one immediate result of the introduction of these bills is to attack the complacency that surrounds the Nation's attitude toward fire. While fire prevention programs in schools and businesses have made most of our citizens aware of the dangers of fire and of the need to prevent hazardous situations in their homes, they still seem to have an attitude of, "Well, it won't happen to me."

But it did happen to hundreds of thousands of Americans last year and it will continue to happen until we realize that it takes more than water to fight fire.

By Mr. KENNEDY:

S. 3485. A bill to establish the Nantucket Sound Islands Trust, to preserve and conserve the said islands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. KENNEDY. Mr. President, the legislation I am introducing today is designed to preserve and conserve the unique characteristics of a unique area of the United States. That area is the group of islands off the coast of Massachusetts which ring Nantucket Sound—principally the islands of Martha's Vineyard and Nantucket.

The legislation will not make these islands into a Federal preserve. To do so would ignore their fragility, would chill their liveliness, and would, in fact, accelerate their destruction. Instead, the legislation seeks to harness and channel local efforts, of both a public and private nature, which hold great promise for securing a guarantee against the islands' ultimate and fast-approaching ruin.

But the local efforts need augmentation. The forces and pressures of development are far stronger than the local governments and local private organizations can successfully withstand. This is a sad fact, but it is true; and it is true because for years local efforts have been hampered by both a lack of sufficient authority and a lack of ample funds. The entry of a Federal presence, then, as envisioned by this legislation, is designed to be a stimulus, a challenge, an assist, to local efforts. It can and should be a complement to the work already underway, and should become a primary step only when and where local efforts fail.

The legislation will establish a Nantucket Sound Islands Trust. The policies of the trust will be established principally by a Nantucket Sound Islands Trust Commission. The Commission will be made up of members predominantly representing the local town and county governments. The U.S. Secretary of the Interior will work with the Commission members in setting standards and policies, and the Commission will be able to draw upon the experience and skills of the Department of the Interior and of other Federal and State agencies in carrying out preservation and conservation plans.

In brief summary, the legislation establishes four general classifications for the land in the islands trust. The first classification is lands forever wild—those areas whose scenic or ecological or other values are so great that no development should be permitted on them, or should ever take place on them. The second classification is scenic preservation lands—those areas in which the intensity of development should not be increased over what it currently is. The third and fourth classifications are town and county lands—those areas to which future development activity should be confined, and in which the town or county governments, as appropriate, will have the authority and responsibility to plan for this development.

In addition to these classifications, all beach lands would be made part of the forever wild classification. This is a guarantee that the most fragile of all parts of the islands—the dunes, headlands, beaches—will not be destroyed as they have been in so many other parts of the United States.

In short, the legislation establishes an overall physical plan for the preservation and conservation of the islands. It also has a workable governmental plan for insuring the smooth administration of this plan, consistent with the principal purposes of the legislation itself—preservation and conservation.

In September of last year I introduced a bill calling for a study of extending the Cape Cod National Seashore to these islands. In the intervening months, I have become convinced of two separate points.

First, there is no real need for another extensive and expensive study. The studies have already been made. Furthermore, to win congressional passage of even the study legislation, to complete the study, and then to win passage of whatever legislation it may recommend, may take 5 years—by which time, sadly, it may be too late.

Second, the model of the Cape Cod National Seashore is not the one most appropriate to the needs of the islands. The national seashore has been highly successful on Cape Cod, and its success has been incorporated in other national seashores in the rest of the country. But the Nantucket Sound islands present a different problem entirely, and the direction taken by this bill reflects a novel approach to their distinctiveness.

It is from the many hundreds of letters I have received, from the extensive commentary in island newspapers, and from the comments of concerned citizens at public meetings that I have drawn these two conclusions and shaped this legislation. As the Congress considers it, I am sure the bill and its concepts will be refined and reshaped even further. When the committees of the Congress hold their hearings on the bill, some of which will take place out on the islands themselves, I am confident that the voices and recommendations of those most concerned with preservation and conservation will be heard and carefully weighed, and will have strong influence on the members of the committees. This was the experience with the Cape Cod National Seashore, and will unquestionably be the case with this bill. I am confident, furthermore, that what may now be active opposition to this proposal on the part of many individuals will, over time, become active support. This, too, has a precedent on Cape Cod, as has been often reported in the islands' newspapers. For example, the president of the Nickerson Lumber Co. on Cape Cod, Mr. Joshua Nickerson, told the Nantucket Rotary Club in January that he was originally one of the many Cape Codders who strongly opposed that Federal project. Now, however, Mr. Nickerson and many of his fellow Cape residents have, after seeing the seashore in operation, come to accept and to actively support it.

This experience—where distrust and opposition has become acceptance and support—has been repeated all across the country; and it can be the case with the Nantucket Sound Islands Trust as well.

In the remarks which follow, I have discussed why the islands are unique, why the need for preservation and conservation action is so acute right now, and finally, how this legislation is designed to carry out this action.

THE UNIQUE NANTUCKET SOUND ISLANDS

A large number of studies down through the years have pinpointed just how serious are the conservative problems which confront islands, and have detailed how strongly concerted action is necessary if they are to be preserved.

The first modern and comprehensive survey of islands was completed in 1934 by the National Park Service of the Department of the Interior, which identified undeveloped ocean shorelines in the United States, with high recreation value, for State or Federal acquisition. Little was done on the basis of these recommendations, however, or on a follow-up survey completed during the 1950's. The principal reasons for the lack of action were the scarcity of Federal funds and the absence of development pressures.

In 1962, the Outdoor Recreation Resources Review Commission submitted a massive study to President Kennedy and to the Congress. That Commission, chaired by Laurence Rockefeller, recom-

be taken by Federal, State, and local mended that "immediate action should governments to acquire additional beach and shoreline areas." The Commission reasoned:

Historically, the shoreline has been relatively neglected by the Nation as a public resource. It has been left for acquisition and use by whoever wanted it . . . The central problem is to secure adequate access to shorelines for public recreation.

In 1968, the President's Council on Recreation and Natural Beauty, with Laurence Rockefeller and Vice President Hubert Humphrey as chairmen, submitted a report to President Johnson entitled "From Sea to Shining Sea." That report stated in part:

Unfortunately, opportunities to know and enjoy shorelines and islands are steadily diminishing. Natural shorelines increasingly are being fenced, bulldozed, paved, and built upon. Increasingly, scenic stretches of tidelines, beaches, dunes and seacliffs are covered with shacks and chalets, hamburger emporiums and parking lots, highways and billboards, powerplants and even oil derricks. It is time to proclaim the principle that . . . ocean and lake shorelines with high-quality scenic and recreation values are natural resources to be conserved and not destroyed.

In 1969, the National Commission on Marine Science, Engineering and Resources, of which Julius A. Stratton was president, published its report, which states in part:

Outdoor recreation increasingly is becoming a massive rush to the water . . . Nearly everyone wants to get in or on the water. Marine recreation, including activities on the seashore and in the adjoining water, has become big business and is certain to grow rapidly in the future. Therefore, preservation and development of seashore lands for recreational purposes are matters of National interest and concern.

Steps short of acquisition should be used to the extent feasible, but, when necessary to control coastal use, land should be acquired.

In 1970, the Department of the Interior published a report entitled "Islands of America." Its summary says in part:

Islands are fragile resources, vulnerable both to destructive natural forces and to the inconsiderate actions of man. The purposes of this report are to alert the Nation to the presence and importance of its islands, to identify conservation opportunities for the various levels of government and the private sector, and to propose a national program for island conservation.

The national program recommended by this 1970 report is a National System of Island Trusts. The legislation I am introducing draws on the recommendations for a National System of Island Trusts, but is more closely tailored to the distinctive needs of the Nantucket Sound islands.

Interestingly enough, this 1970 report did recommend that Martha's Vineyard, Nantucket, and the Elizabeth Islands be studied "for possible National Seashore, National Island Trust, or other protective status." Its reasoning was straightforward and logical:

These island groups appear to be of a national significance that would warrant some type of Federal action for their protection. Further investigation is required, however, to determine the status that would best protect and enhance their unique values.

This is a conclusion not made superficially. The Bureau of Outdoor Recreation, which conducted the 2-year study for the Department of the Interior, surveyed during the study over 26,000 U.S. islands, compiling extensive resource and ownership data on them. On the basis of this expertise, it found the Nantucket Sound islands deserving of early and forthright Federal action.

The islands covered by the legislation I am introducing include: Monomoy Island, Nantucket Island, Smith's—or Esther—Island, Tuckernuck Island, Muskeget Island, Martha's Vineyard Island, Noman's Land Island, and the Elizabeth Islands.

They lie south of Cape Cod, and total about 110,000 acres overall. The resident population in 1970 totalled 10,088. This year-round population increases to about 56,500 in the summer months, with the addition of summer residents. The short-stay and day-trip visitors totalled about 375,000 in 1970—and it is this annual surge of visitors which greatly intensifies the island's problems.

The islands as they appear geologically today are the product of the great Ice Age glaciers. The beaches, the moraines, the outwash plains, the kettle-bottom ponds, the run-off ponds—these are all products of the glaciers which millions of years ago advanced and retreated over southeastern New England.

The noted geologist G. F. Wright said of the islands:

In the hills of Nantucket and Martha's Vineyard, we have one of the most remarkable true terminal moraines anywhere to be found in the world.

Another geologist, B. B. Chamberlain, says:

In its [Martha's Vineyard] past we can read the pasts of Cape Cod and Nantucket; and its clear history reflects the hidden history of New England, indeed, that of the entire eastern seaboard, during the past million centuries.

And the Gay Head Cliffs, on Martha's Vineyard, were designated a national landmark in 1966 because of their geological significance.

The islands are unique in other ways relating to their physical features. On Naushon Island grows the only proven oak and beech forest surviving in New England. In the town of West Tisbury, on Martha's Vineyard, every type of wild flower found in Massachusetts grows wild. It has been said that Nantucket has a larger assortment of plant life than any other U.S. locality. The salt marshes of the islands are among the most unspoiled of any along the entire eastern coastline.

Others than naturalists have recognized the distinctiveness of the islands. In Moby Dick, Melville said of Nantucket:

Take out your map and look at it. See what a real corner of the world it occupies; how it stands there, away off shore, more lonely than the Eddystone Lighthouse. Look at it—a mere hillock, and elbow of sand; all beach, without a background.

Further along in his classic novel, Melville discusses the whaling activity which in the mid-19th century made Nantucket the whaling capital of the world:

They pushed off in boats . . . launching a navy of great ships on the sea, explored this watery world; put an incessant belt of circumnavigations round it. And thus have these Nantucketers overrun and conquered the watery world like so many Alexanders; parcelling out among them the Atlantic, Pacific and Indian Oceans. Two thirds of this terraqueous globe are the Nantucketer's. For the sea is his; he owns it.

This affinity of the islands, down through history, with the world's oceans is reflected in much of the architecture. The early 19th century houses of the shipowners, the ship captains, and the more prosperous of the ship's crews still stand, much as they stood then, in the towns of Nantucket and Edgartown. There were no pressures brought on by the industrial revolution to raze them, as there were in so many of our other early settlements, for factories or commerce. Unspoiled, they offer a rare and living picture of what life in seacoast towns was like a century and a half ago.

There is, then, much about the Nantucket Sound islands which makes them distinctive—not only because they are islands, but because even among islands their geology, their architecture, their history, and their current life style sets them apart and makes them worthy of a concerted preservation and conservation drive.

THE IMMEDIATE NEED FOR ACTION

I have become convinced that without an immediate and carefully planned preservation and conservation program, all that is unique about the Nantucket Sound islands will very soon be irretrievably lost. The ravages of unplanned, uncontrolled development are well known to all of us who live in today's metropolitan America—jammed highways, polluted waters, despoiled countrysides, and natural beauty forever destroyed.

Today, Nantucket and Martha's Vineyard stand on the brink. If unchecked development continues its current course, then there will be no turning back, and the generations which follow us will find these offshore islands, in the years to come, little different from today's sprawling suburbs.

But action, today, can freeze the current disastrous course of development and then redirect it along planned, sensible avenues which protect all that so badly needs protection—yet at the same time, offer elbow room for reasonable growth.

The fears for the future of the islands, held by so many concerned citizens, are based on factual analysis and projections, not on hypothetical or irrational suppositions. Two extensive and professional specific studies have recently been completed, which give stark illumination to these fears. The first was carried out by the Urban Design Group of Newport, R.I., for the planning board of the town of Nantucket, and submitted in July 1970. The second was carried out over 2 years by Metcalf & Eddy of Boston, Mass., for the Planning and Economic Development Commission of Dukes County—Martha's Vineyard and the Elizabeth Islands—and submitted in October 1971.

These reports make clear beyond any doubt the nature and magnitude of the current threats to the islands.

On its final page, the Metcalf & Eddy report sets out this challenge to the people of the islands:

Can you be the exception and protect the rural environment of your county from the ravages caused by unrestricted development or will your failure to act decisively and rapidly result in the indeterminate destruction of natural resources as has happened elsewhere? [Martha's Vineyard] and Nantucket are the last bastions of hope for warm water islands lying off the Eastern Coastline of the United States.

In its summary, the same report says:

By 1990 the County, particularly the Vineyard, could have destroyed its rural environment at economic disadvantage to itself and the developers will move on to the next unspoiled area.

The next 5 years are critical.

The urban design group report, speaking of Nantucket, says:

The availability of Nantucket's present historic and scenic assets is a direct consequence of *lack of demand* and therefore low levels of consumption of these resources over the past century. However, a "peaking" of demand has been evidenced during the past decade and, barring the occurrence of any major natural, economic or political disasters, can be expected to experience a similar "peaking" in the next decade. Undoubtedly, the period 1960 to 1980 will be as significant as any point in the Island's previous history.

The present precarious status of the islands has been recognized by other than these planning professionals. The New York Times editorialized in October that:

Of the Atlantic Islands, perhaps the most desperately in need of protection . . . is Martha's Vineyard . . . , now teetering on the edge of uncontrolled speculative explosion that could destroy in a decade the delicate balance between man and nature that has evolved there in the course of three centuries.

The Nantucket Inquirer and Mirror, that island's weekly newspaper, editorialized in November with the same notes of urgency:

It's time we moved. The island we have all loved is slipping, slipping, slipping, away from us while we mumble and grumble and sit on our hands. Let's get on our feet and do something about it. Our island lands have never needed protection as much as they do now, and for some of them tomorrow will be too late.

Urgency, then, is the theme struck by all those familiar with these unique islands lying off the coast of Cape Cod. It is the same note struck in 1958 and 1959 and 1960 by those familiar with the Cape Cod outer beaches—now protected by the Cape Cod National Seashore.

We cannot delay in acting on the Nantucket Sound islands, for if we do we have failed.

WHAT THE LEGISLATION DOES

Central to the concept of the Nantucket Sound Islands Trust is local guidance and control of the preservation and conservation purposes of the trust. Corollary to this central concept is another: that local efforts, if they are to succeed, need augmentation from the Federal Government.

The instrument for combining this essential element of local control with the experience and resources of the Federal Government is the Nantucket Sound Islands Trust Commission. This new Commission, created by this legislation, will have 21 members appointed by the Secretary of the Interior, and each will serve 3-year terms.

The Commission's membership will be broadly representative of the interests in and responsibilities for the Islands, and is determined as follows:

One State member, who will be chosen from among recommendations made by the Governor of Massachusetts;

Three county members, one to represent each of the counties of Barnstable, Nantucket, and Dukes. These members will be chosen from among recommendations made by the county commissioners of each of the counties;

Eleven town members. Four will represent the town of Nantucket, and seven—one from each town—will represent the towns of West Tisbury, Edgartown, Oak Bluffs, Tisbury, Gay Head, Chilmark, and Gosnold. These members will be chosen from among recommendations made by the board of selectmen of each town;

One Federal department member, chosen by the Secretary of the Interior;

One Federal agency member, designated by the Administrator of the Environmental Protection Agency;

Four private members, to represent the conservation and preservation groups on the islands. These members shall be chosen from among recommendations made by the U.S. Senators and the U.S. Representatives from Massachusetts.

This 21-member Commission is the basic policy-setting group for the trust. The Secretary of the Interior must consult with it on all matters relating to the trust, and the Commission's members must vote to approve various land-use regulations before they can be put into effect. All members—except the one State and two Federal members—must be either voting residents, or tax-paying residents for at least 5 years, of lands in the trust area, in order to qualify for membership on the Commission.

This is a true partnership, one designed to bring to bear all available resources on the pressing problem of the Island's future. The very existence of the Commission, and the fact that 18 of the 21 members are from the islands, acknowledges beyond doubt the primacy of local knowledge and control. But the presence, on the Commission, of Federal and State members acknowledge the Federal and State interests in the islands, and their representation insures that the public interest, in the broadest sense of that phrase, will be fully served in the trust's administration.

This legislation seeks to give force and effect to the delicate balances between the different uses of land on the islands—present uses as well as future uses.

It achieves this by establishing four separate general land use classifications:

Lands forever wild. These are the lands so noteworthy from a scenic, historic, conservation or other viewpoint that they should be preserved in a natural or wild state forever, without any improvements at all on them. Many of these lands are aegis of private conservation groups or town or State preserves. Many, however, are not so protected, and they should be.

Scenic preservation lands. These are lands presently developed, primarily for residential purposes, which should be frozen in their current state of development. These areas give the islands much of their unique character, and they should be made exempt from the pressures for large-scale subdivisions which are presently being felt.

County planned lands. These are lands for which the appropriate county should have the responsibility for planning and zoning controls. There must be room for growth on the islands, but the growth must not be uncontrolled and haphazard. Thus, in these lands, the county commissioners will set the patterns under which the growth will take place.

Town planned lands. This classification is similar to that for county planned lands, except that the board of selectmen of each town, as appropriate, will set the patterns instead of the county commissioners doing so.

In this legislation all of the lands and water areas of the islands to be included in the trust are assigned to one or another of the classifications.

The boundary lines of each of the classifications, as outlined in this bill, are not intended to be final or dispositive. They are, instead, intended to be illustrative. I hope they stimulate a careful and reasoned discussion, of all the parties in interest, and thus provide a useful framework for the further investigation which is necessary before the exact legal description of the boundary lines is made final.

Without question, when the committees of the Congress consider this legislation, and visit the islands, they will make changes in how the classifications apply to specific property areas. Furthermore, I am sure that even before this, local groups with both expertise and interest will suggest constructive changes; I certainly count on their doing so.

Let me reemphasize—the boundary lines specified in this bill are not intended to be final; they are intended to be a basis for further refinement. In many instances, for example, the boundary lines between the areas are not specified by metes and bounds; instead, they are specified by roads and other prominent features on standard reference maps. This makes them more easily identified than if the more precise legal definitions were used.

It might be helpful if I discussed the classifications, in a general fashion, as they are related to specific areas.

Monomoy Island is now a national wildlife refuge, administered by the Department of the Interior. It would be included in the trust, and the Secretary of the Interior would be given specific authority to make arrangements with private conservation or preservation groups to administer the refuge.

Noman's Land Island is now under the administrative jurisdiction of the Department of the Interior, but is leased to the Department of the Navy for use as a bombing range, which in turn makes it available to private military armaments suppliers for gunnery and bombing practice. It is off limits to visitors, because

of the dangers of both the bombing itself and of unexploded ordnance. This legislation would establish Noman's Land as a national wildlife refuge, thus eliminating its use as a bombing range. Furthermore, it would direct the Department of Defense and the Department of the Interior to make the island safe for public access within 12 months. This is a step long overdue, and a critical one.

The islands in the Elizabeth Islands chain are treated differently, as befits their different characteristics. Pasque Island, Penikese Island, and the Weepeckets are classified as forever wild, recognizing their lack of present development and the desirability of keeping them that way. Naushon, Nashawena, and Nonamesset Islands are classified as scenic preservation lands, recognizing their current state of residential development and the value of keeping them safe from the pressures of further development. These are the islands closest to the mainland—with the exception of Monomoy Island—and thus among the most fragile. They are, however, owned and administered by a unique family trust; and if, after an examination of the trust, the Secretary of the Interior is assured that the administration of them will continue to be farsighted and in the public interest, then he may waive zoning and planning requirements. Cuttyhunk Island, which contains the town of Gosnold, is to be divided between forever wild and town planned lands. The Secretary of the Interior is to publish the division after extensive consultation with the officials and residents of the island.

Tuckernuck, Muskeget, and Smiths—or Esther—Islands are classified as scenic preservation lands. All three islands now have on them some small amount of residential development, but this development, is not so extensive as to damage their value for preservation and conservation. In the case of Tuckernuck and Muskeget Islands, the Secretary of the Interior may, however, classify parts of them as forever wild if the public interest so demands.

The islands of Nantucket and Martha's Vineyard are treated similarly. The towns are given responsibility for planning and zoning for growth in the already built-up areas, and in lands immediately surrounding these built-up areas. If the towns carry out this responsibility with imagination and care, then there is ample room for growth in these areas without damage to the fabric of the islands.

On Martha's Vineyard, the county is given responsibilities similar to the towns for areas lying outside those already built up. On Nantucket, the county and town governments are coterminus, and it is thus unnecessary to assign this task to the county as well as the town.

On both islands, the remaining lands are divided between the forever wild and scenic preservation classifications.

In lands classified forever wild, owners of any improvements now on the lands retain a 25 year right of use and occupancy of the improvements. Thereafter, the improvements are to be moved elsewhere on the island or demolished, depending on their state of repair. All forever wild lands will have free and open access, under regulations and conditions developed by the Commission and the Secretary.

In lands classified scenic preservation, there is to be no further construction or improvements beyond that which currently exists. This will prevent subdivisions and continued haphazard growth patterns; and it will help markedly to preserve the unique character of these lands. Owners of improvements on scenic preservation lands, may sell, lease, or bequeath the improvements and lands, and may carry out reasonable replacements, repairs, and extensions, all subject to regulations and conditions developed by the Commission.

These four classifications are flexible and realistic. They offer the means to preserve what needs preservation, and the room to grow within limits set by the local governments themselves. They may appear to work hardships on a very few people, but upon close examination these hardships will prove to be more apparent than real. No one will suffer an economic loss; wherever the incidents of ownership are diminished, fair market value will be paid for this diminution. And the net result will be a guarantee that the islands themselves, in an overall sense, will not be diminished beyond repair.

This bill has a new and novel feature, one intended to reduce significantly the amount of land which would have to be purchased by eminent domain for preservation and conservation purposes. In general, the bill's approach minimizes public purchases by establishing the four classifications of land, freezing further development in the forever wild classification while leaving to town and county officials the planning and zoning controls in the other classifications.

But beyond this general approach is a specific feature designed to recognize special features of the Islands. One of these features is the aggressive and careful preservation and conservation work of local, private organizations and associations. On Nantucket, they are principally, the Nantucket Conservation Foundation; the Nantucket Ornithological Association; the Nantucket Historical Association; the Nantucket Foundation; and the Nantucket Historical Trust. On Martha's Vineyard, they are the Trustees of Reservations, the Sheriff's Meadow Foundation, the Vineyard Conservation Society, and the Massachusetts Audobon Society. There are other groups as well, all similiarly composed of dedicated, hard-working individuals.

Since the work these groups have already done to encourage preservation and conservation is so significant, and because their future plans are so carefully tailored to realistic appraisals of the Islands' real needs, this bill provides a mechanism for greatly amplifying their impact. It does so by exempting from public purchase any lands either actually donated, or irrevocably committed for donation, to one of the organizations or associations, within 2 years after passage of this bill. This concept has historical precedent in Massachusetts. In 1961, for example, the Massachusetts Commissioner of Natural Resources was authorized to acquire 1,000 acres of marsh along the Sudbury River in Concord and Lexington, known to all school children as the place where "the shots heard 'round the world" were fired. But the commissioner was prohibited from purchasing any lands for 1 year, or thereafter, if the landowners had executed restrictive agreements with local private conservation trusts preserving the land in its natural state.

Let me give an illustration. If a particular section of shoreline, or a promontory, or notable dune area, or an upland tract, is classified a forever wild, and then designated for public purchase through eminent domain proceedings, the owner or owners have 2 years to decide whether to donate the particular parcel to a private conservation group, or whether to let the public purchase take place. Many individuals, who share the view that fragile areas particularly susceptible to the pressures of subdivision development should be preserved, would prefer to see the vehicle for this preservation be a local private group than the Federal, State, or local government. Others would prefer the government. But this bill, instead of forcing one option or the other, encourages flexibility and individual decision.

This emphasis upon individual decision echoes and mirrors the local government initiative in the town and county planned lands. It is the combination of these two features which makes this bill a novel and innovative approach to preservation and conservation—a partnership not only between the Federal, State, and local governments, but also between governments and private citizens and groups.

Particular attention is focused upon the islands' beaches. They are all without exception, classified as forever wild. Beach areas are defined as the dry sand areas lying between the line of mean high tide and the visible line of upland vegetation. In most areas, this is not a difficult demarcation to make; in troublesome areas, the demarcation will be made by the Secretary and the Commission.

Massachusetts is one of the few States in the Nation in which ownership extends to the line of mean low tide. This feature of ownership of seashore land in Massachusetts is a result of English common law, statute, and judicial decision. But it is not a complete ownership—there has long been an accepted public right of passage between the lines of mean high and low tide—the area known as the foreshore. This right of public passage and access across beaches is an important, if little known, feature of the laws and customs of Massachusetts.

All forever wild areas will have open access; they will not be closed off. This does not mean, however—and this is an important consideration—that lands upland of beaches will necessarily have the same open access. Scenic preservation lands, for example, do not have open access; they remain, in effect, private property. But the beaches themselves will be open, whether in private, public, or foundation ownership.

It is interesting, in this connection, to review the case of State ex rel. Thornton versus Hay, decided in 1969 by the Supreme Court of the State of Oregon. In that case, the Oregon Attorney General filed suit for an injunction against operators of a tourist facility who constructed fences in the dry sand area between their facility and the ocean. The Oregon Supreme Court upheld the injunction issued by the lower court against construction or maintenance of the fences.

In the course of its decision, the unanimous court said:

Until very recently, no question concerning the right of the public to enjoy the dry-sand area appears to have been brought before the courts of this State. The public's assumption that the dry sand as well as the foreshore was "public property" had been reinforced by early judicial decisions . . . Recently, however, the scarcity of oceanfront building sites has attracted substantial private investments in resort facilities. Resort owners, like these defendants, now desire to reserve for their paying guests the recreational advantages that accrue to the dry-sand portions of their property.

The court reasoned that a long history of public access to all dry-sand areas granted a continuing right of access to these areas, unobstructed by fences or other restrictions. This decision preserves the beaches forever in their natural condition. Shortly after the decision, the Oregon State Highway Commission banned all nonessential motor vehicles from the dry-sand areas, protecting the dunes and sharply limiting erosion problems.

Erosion is a serious problem on the islands also. The bill would require the Secretary and the Corps of Engineers of the Department of the Army, to survey erosion problems on beach areas in trust lands, and to recommend and carry out erosion control programs wherever they are needed. Some areas are in need of immediate action, while others are more suited for long-range programs. Where immediate erosion control actions are necessary, the programs are to be instituted without delay.

Because a right of public passage along beaches is quite different from public access across the uplands, the bill makes provision for the Secretary and the commission to establish public access to beaches at certain points along the seashore. There are already a number of public beaches, with open access to them, on both Martha's Vineyard and Nantucket. This does not envision a major increase in the number of these public beaches. But it does provide the Secretary with sufficient funds to help to provide adequate facilities at these beaches, and with funds to acquire sufficient property in and around either existing beaches or newly designated ones, to insure their development in a character consistent with the surroundings.

One of the most thorny of all problems confronting the islands in the next decades is that of transportation—both from the mainland to the islands, and then on the islands themselves.

Currently, the bulk of traffic to and from the islands is carried on the ships of the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority, a public instrumentality created by the Massachusetts Legislature. The following table gives some idea of the magnitude of the traffic the authority carries:

Traffic	1968	1969	Percent change
Passengers	792,648	835,410	+5.4
Cars	143,380	156,171	+8.9
Freight (tons)	60,918	67,443	+10.7
Trucks	18,056	19,537	+8.2

Nearly one-third of the passengers traveled in the 2 months of July and August, and over half in the 4 months June through September. More than one-third of all passengers traveled on 1-day excursion rates. The figures are similar for automobiles except that 1-day excursions for automobiles constitute a far smaller percentage of the total than do 1-day passenger only excursions.

It is readily apparent that if this rate of growth continues over any extended period, the character of the islands will be seriously altered. Restricting the number of passengers carried by the public authority or by publicly chartered airlines is a difficult issue. It is strongly repugnant to the American system to limit freedom of travel, and it has long been so. But the Department of the Interior has found it increasingly necessary to limit access to national parks, where overcrowding has reached, in some areas, epidemic proportions. As Stewart Udall, former Secretary of the Interior, put it in a current article:

[Recently] the Park Service recognized that it had erred by promoting "crowdsmanship" and judging its performance by the sheer numbers of visitors that could be crammed into the most popular parks. Parks are for people, but if we make crowds and the number of people served our central goal—and attain that goal with more roads, more motorized vehicles and more service facilities—the parks will surely wither. The quiet reversal of these misguided policies . . . means the rationing of visitor uses . . .

A good case can thus be made that, upon enactment of this bill with its recognition of the national interest in preserving the islands' unique characteristics, access to the islands should be limited to reasonable numbers. In the bill, the Secretary is directed to give this issue serious consideration and to make recommendations in a short time for meeting it.

The other side of this issue relates to the overcrowding and overloading of the roads and highways on the islands themselves. For the most part, the streets are narrow and the patterns winding; there is, consequently, little room to absorb the sharply rising number of automobiles now on the islands. Public transportation systems of some type may be the best solution to this difficulty. A growing minority of residents believes that the number of automobiles themselves allowed onto the islands should be reduced. But because there are no ready answers, the Secretary is directed to survey this aspect of the problem, as he is the other, and to recommend solutions.

To prevent the uncontrolled land speculation which inevitably occurs when an undertaking such as this is under consideration by Congress, a freeze on all building is an inherent and vital part of this bill. But the freeze must be formulated in such a way as not to work an economic hardship on those who can least afford a freeze on their livelihood—the workingmen of the islands.

Consequently, the bill directs that after April 11, 1972, no building or construction of new improvements of any kind is permitted on forever-wild lands. If construction of new improvements is begun after this date, it is the intent of the bill that any time after its enactment, the Secretary and the Commission may require removal of the improvements at the owner's expense.

Construction of new improvements after this date is permitted, however, on scenic preservation, town, or county planned lands, but only after demonstration of the need for the improvements to the County Planning Commission, Planning Boards, or Boards of Selectmen, as the case may be.

This freeze extends to all new construction of any kind. It will prove no burden, however, for needed public projects such as schools or hospitals—the need for which is self-evident and the approval for which would be readily forthcoming from the appropriate governing body. The importance of this section of the bill is that it will shift the burden of proof to those seeking to build, where it belongs, instead of placing it upon those who seek to limit unchecked building, construction, and subdivision.

All construction actually underway or contracted for on April 11, 1972, however, may be completed without appearance before an approval board. In situations in which permission to build or develop is denied, the Secretary and the Commission will be authorized to compensate those to whom such permission has been denied in an amount equal to the value of the development rights in the property in question, plus a reasonable amount for interest to the time of final enactment of this legislation.

Furthermore, where it can be shown that an individual's livelihood has been seriously jeopardized, as in the case of the small island builder who may no longer have an opportunity to construct sufficient new homes to maintain his business, the Secretary and the Commission are to provide financial assistance and training for reemployment in an allied or similar trade on the island in question. Such obligation shall extend for a period of 4 years.

This last proposal insures economic protection for those who have the most to lose, while at the same time providing a concrete incentive for both the Commission and for the islands' populations to develop specific alternatives to an economy which is presently heavily based upon construction and constant expansion.

Passage of this bill is designed to enhance the preservation and conservation of the islands. To do so will necessarily constrict the extent of construction which has grown at such an alarming pace in the past few years. It will, also, constrict the number of jobs in the construction trades. But there are other em-

ployment opportunities on the islands which are presently untapped, opportunities which hold high promise for the future. One of these is aquaculture—fish and shellfish farming. The Japanese have made enormous strides in this field, and we in this country are just beginning to recognize their advances. Oysters are now farmed in the Chesapeake Bay; experimental lobster farming is being studied in Maine. There is a State lobster hatchery on Martha's Vineyard, and this hatchery could well become the nucleus of a large industry.

Another new industry could be viticulture—the cultivation of grapes grown for wine. An experimental vineyard is well underway on Martha's Vineyard and the early results are very encouraging.

The bill directs the Secretary, working where appropriate with the Secretary of Labor, to examine and develop programs of this type, and of others as well, to insure the long-range viability of the islands' economies.

In sum, this bill is a balanced, logical approach to a solution of the dilemma confronting the Nantucket Sound Islands. This dilemma is complex and compound. Its complexity rises out of the delicate balance so necessary between the national interest in the islands' preservation and the essential ingredient of local guidance and control. Its compound nature arises from the critical nature of timing; simply stated, we do not have the luxury of months and months and years and years to consider and act upon a set of gradual steps.

CONCLUSION

This bill I am introducing today is not a panacea to the preservation and conservation crisis confronting the Nantucket Sound Islands. It is instead a working document, a stimulus, a prod.

There is no one in any quarter who suggests that the islands should become a museum, preserved forever in a state of suspended animation. The islands are changing daily and will change continuously every day in the future. The challenge is to devise and establish a framework in which this change can occur without tearing the essential fabric which makes them so unique and so demanding of national attention.

The principal elected officials whose constituencies include the islands have recognized the need for action. In January of this year Senator EDWARD BROOKE, Congressman HASTINGS KEITH, Massachusetts Gov. Francis Sargent, and I sent a joint letter to Mr. George B. Hartzog, Jr., Director of the National Park Service. In that letter, we requested the assistance of the National Park Service in providing study data and recommendations on the alternate methods of assisting the islanders in preserving the character of the Nantucket Sound Islands. We have now received a reply, which I will ask to be printed in the RECORD at the conclusion of my remarks for reference purposes.

The Park Service recommends, in effect, that local initiatives be implemented to safeguard the islands from discordant development. This suggestion ignores the fact that it is precisely because of local interest and concern that the request to the Park Service was initiated. The islanders have long recognized the need for planning and cooperation to determine the best method of maintaining the historic and esthetic character of their islands. Residents of the Cape Cod Islands have pressed their elected officials for assistance in coordinating a program to protect the islands from rampant overdevelopment.

But we simply must do more than plan. We must act. And action, in this context, requires legislation, which is why I am introducing this bill today. Each day that goes by brings more and more building permit applications; each week brings the filing of more subdivision plans; and each month brings more and more off-island developers to Martha's Vineyard and Nantucket. It is my hope that this bill will be the basis for the serious and far-reaching discussions which must take place if action is to be the watchword.

And if action is not the watchword, then the preservation and conservation efforts, directed at all that is unique about the islands, will be no more than a historical footnote.

Mr. President, I ask unanimous consent that the text of the letter from the National Park Service, and the text of the bill I am introducing today, be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 23, 1972.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: This is in reply to your letter signed by you, Senator Edward W. Brooke, Representative Hastings Keith, and Governor Francis W. Sargent requesting study data and recommendations on alternative methods of assisting the islanders in preserving the character of the Cape Cod Islands.

The National Park Service is indeed interested in the future of these islands and plans to begin a study of the Atlantic Coastal natural region during this fiscal year. Nantucket and Martha's Vineyard, and their satellite islands, would be included. This study is one of a series of natural region studies which serve as a basic reference in determining the significance of various types of natural areas. The study will also nominate those natural areas which are nationally significant and potentially eligible for inclusion in the National Registry of Natural Landmarks. Gay Head Cliffs, on the western tip of Martha's Vineyard, is already so designated. The natural landmark program is explained in the enclosed leaflet. Included also will be recommendations concerning those significant sites in the Atlantic Coastal Plain wihch warrant further study by the Service for possible inclusion in the National Park System.

Historic theme studies conducted in the past have already resulted in national historic landmark designations for the Coffin House on Nantucket Island and the Nantucket Historic District.

Upon completion of the earlier mentioned theme study, and should the results of that study so warrant, we would be pleased to program a further study to suggest alternatives for the preservation of the nationally significant natural and historical sites and any associated recreational and cultural resources.

We share your concern for the Cape Cod Islands and would hope, lest these resources and opportunities be lost prior to the time that we might make definitive recommendations to you concerning possible additions to the National Park System, that local initiatives to include land use planning and zoning might be implemented to safeguard the islands for discordant development and use.

Similar replies are being sent to the Honorable Edward W. Brooke, United States Senate, the Honorable Hastings Keith, House of Representatives, and the Honorable Francis W. Sargent, Governor of Massachusetts.

Sincerely yours,

STANLEY W. HULETT,
Associate Director.

S. 3485

STATEMENT OF POLICY

SECTION 1. The Congress finds that the Nantucket Sound Islands in the Commonwealth of Massachusetts, known generally as the islands of Monomoy, Nantucket, Tuckernuck, Muskeget, Martha's Vineyard, Noman's Land, and the group of islands known collectively as the Elizabeth Islands, possess unique scenic, ecological, scientific, historic, recreational, and other values contributing to public enjoyment, inspiration, and scientific study. The Congress further finds that it is in the best interests of the citizens of the United States for the United States to take action to preserve and conserve such values for the enjoyment of present and future generations, to preserve and conserve the natural ecological environment and improve the recreational potential of the area, and to encourage maximum complementary action by State and local governments and private individuals, groups, organizations, and associations.

NANTUCKET SOUND ISLANDS TRUST

SEC. 2. In order to provide for preservation and conservation of the scenic, ecological, scientific, historical, and other values contributing to public enjoyment and recreation uses of the Nantucket Sound Islands, consistent with the well-being of present and future residents of the Islands, there is hereby established the Nantucket Sound Islands Trust (hereinafter referred to as the "Trust"). The area comprising such Trust shall be as described hereinafter. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the Trust from time to time with a view to carrying out the purposes of this Act, with the approval of a majority of the Islands Trust Commission, as established and described in Section 3 of this Act and hereinafter referred to as the "Commission".

NANTUCKET SOUND ISLANDS TRUST COMMISSION

SEC. 3. (a) There is hereby established the Nantucket Sound Islands Trust Commission.

(b) Such Commission shall be composed of members appointed for a term of three years by the Secretary as follows:

(1) a member appointed to represent the Commonwealth of Massachusetts. Such appointments shall be made from recommendations of the Governor of the Commonwealth of Massachusetts;

(2) a member appointed to represent each of the counties of Barnstable, Nantucket and Dukes in said Commonwealth. Such appointments shall be made from recommendations of the governing body of such counties;

(3) a member appointed to represent each of the towns in said county of Dukes, and four from the town in said county of Nantucket. Such appointments shall be made from recommendations of the Boards of Selectmen of such towns;

(4) a member to be designated by the Secretary;

(5) a member to be designated by the Administrator of the Environmental Protection Agency or such other Federal agency which assumes the responsibility for the protection of the environment by change of law

or by Executive Order, unless that agency is under the administrative jurisdiction of the Secretary; and

(6) four members appointed to represent private nonprofit preservation or conservation groups or associations active in the Nantucket Sound Islands. Such appointments shall be made from recommendations of the Members of the Senate and the House of Representatives of the United States from the Commonwealth of Massachusetts.

(c) The Chairman of the Commission shall be elected by the membership thereafter for a term of not to exceed eighteen months. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made. All members of the Commission except those appointed under paragraphs (4) and (5) of subsection (b) of this section shall be either voting residents of Trust lands, or taxpaying residents of such lands for at least five years.

(d) All members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act on the presentation of vouchers signed by the Chairman.

(e) The Secretary or his delegate shall consult regularly with the Commission with respect to all matters relating to the Trust, and with respect to carrying out the provisions of this Act, including but not limited to matters relating to the acquisition of lands, the issuance of regulations specifying standards for zoning ordinances, and the administration of the Trust.

(f) The Commission shall make available to the Secretary and to the public an annual report reviewing matters relating to the Trust, including acquisition of lands, zoning standards policies, and administration, and shall make recommendations thereto.

TRUST BOUNDARIES

SEC. 4. The boundaries of the Trust shall encompass the following lands in the Commonwealth of Massachusetts:

(a) Monomoy Island;

(b) Nantucket Island, and the island to westward called variously Smith's Island or Esther Island;

(c) Tuckernuck Island;

(d) Muskeget Island;

(e) Martha's Vineyard Island, and various islands appurtenant to it;

(f) Noman's Land Island; and

(g) The Elizabeth Islands, including the islands of Cuttyhunk, Nonamesset, Naushon, Pasque, Nashawena, Penikese, and the Weepeckets.

CLASSIFICATION OF TRUST LANDS

SEC. 5. (a) Lands within the boundaries of the Trust shall be assigned to one of the classifications listed in subsection (b) of this section. Upon the date of enactment of this Act, such lands shall be classified as delineated in Section 6 herein: *Provided*, That the Secretary may alter the assignments within ninety days after such enactment upon recommendations therefor by a majority of the Commission.

(b) Classifications of Trust lands;

(1) Class A: Lands Forever Wild. Lands so designated shall remain forever free of development or improvements, as defined hereinafter, of any kind. If improvements or developments exist on any lands so designated on the date of enactment of this Act, then the Secretary shall permit a right of use and occupancy to the owner or owners thereof, or their successors or assigns, for a term of no longer than twenty-five years. Access to such lands shall be free and open, subject only to regulations issued by the Commission and approved by the Secretary.

(2) Class B: Scenic Preservation Lands. Lands so designated shall not be developed beyond their present intensity of use. Owners of such lands, or of improvements thereon, or of both, on the date of enactment of this Act, may transfer, sell, assign, or demise such land or improvements, or both; such owners may not, however, cause to be constructed any additional improvements on such lands. Reasonable replacement, repair and extension shall be permitted, under regulations issued by the Commission and approved by the Secretary;

(3) Class C: County Planned Lands. Lands so designated shall remain within the jurisdiction of the County in which located for purposes of land use planning and zoning ordinances: Provided, That such planning and zoning ordinances must be approved by the Commission and the Secretary as consistent with the purposes of this Act; and

(4) Class D: Town Planned Lands. Lands so designated shall remain within the jurisdiction of the town in which located for purposes of land use planning and zoning ordinances: Provided, That such planning and zoning ordinances must be approved by the Commission and the Secretary as consistent with the purposes of this Act.

ASSIGNMENT OF TRUST LANDS

SEC. 6. Lands within the boundaries of the Trust shall be assigned to the classifications in Section 5 herein as follows:

(a) Monomoy Island. The lands and waters of Monomoy Island shall continue to be a Natonal Wildlife Refuge under the administrative jurisdiction of the Secretary. The Secretary may make such arrangements with a private non-profit organization or organizations for the administration of this National Wildlife Refuge as he deems appropriate and consistent with the purposes of this Act.

(b) Noman's Land. The lands and waters of Noman's Land are hereby established as a National Wildlife Refuge, and the Secretary is directed to prepare and execute the necessary documentation for such establishment forthwith. To make Noman's Land suitable for such establishment, and to make it safe for public access, the Secretary and the Secretary of Defense shall, within twelve months after the date of enactment of this Act, survey Noman's Land for unexploded military ordnance and render such ordnance, where ever it may be found, harmless.

(c) The Elizabeth Islands.

(i) The lands and waters of Penikese Island and the Weepeckets shall be classified as Class A lands.

(ii) The lands and waters of Naushon, Nashawena, and Nonamesset Islands shall be classified as Class B lands: Provided, That if the Secretary is satisfied that the existing legal restrictions against development on these islands are consistent with the purposes of this Act, he may waive the requirements of subsection (a) of Section 7 herein.

(iii) The lands and waters of Pasque Island shall be classified Class A lands.

(iv) The lands and waters of Cuttyhunk Island shall be classified partially Class A and partially Class D. The Secretary shall, sixty days after enactment of this Act, make such classifications consistent with the purposes of this Act and with the classifications of other Trust lands are delineated in this Section, and shall cause such classifications to be publicly available.

(d) Muskeget Island. The lands and waters of Muskeget Island shall be classified as Class B lands: Provided, That if after survey but within twelve months after the date of enactment of this Act the Secretary determines that some portion of Muskeget Island should be classified as Class A lands in the public interest, then he may so classify not to exceed one hundred acres as such Class A lands.

(e) Tuckernuck Island. The lands and waters of Tuckernuck Island shall be classified as Class B lands; Provided, That if after survey but within twelve months after the date of enactment of this Act the Secretary determines that some portion of Tuckernuck Island should be classified as Class A lands in the public interest, then he may so classify not to exceed three hundred fifty acres as such Class A lands.

(f) Smith's or Esther Island. The lands and waters of the island to westward of Nantucket Island called variously Smith's Island or Esther Island shall be classified as Class B lands.

(g) Nantucket Island. The lands and waters of Nantucket Island shall be classified as follows:

(i) Class A Lands:

(A) Great Point-Coatue:

The area circumscribed by a line

Beginning at a point on the mean low-water line of the Atlantic Ocean at a latitude of 41°20′;

thence, in a northerly direction along the mean low-water line to the northernmost extremity of Great Point;

thence, proceeding in a southerly direction around such extremity, on the mean low-water line of Nantucket Sound;

thence, proceeding in a southerly and then northerly direction on the mean low water line of Nantucket Sound, around the peninsula to the south of the northernmost extremity of Great Point, and including all islands between this peninsula and the main body of Great Point;

thence, proceeding in a southeasterly direction on the mean low-water line of Nantucket Sound to the mean low-water line of Nantucket Sound near the area known as Coskata Beach;

thence, proceeding on the mean low-water line along the beach of Coatue Point, and proceeding on the mean low-water line in a southerly and easterly direction around the westernmost extremity of Coatue Point;

thence, proceeding on the mean low-water line in a southwesterly direction to the southernmost extremity of Coatue Point and around this extremity;

thence, in a generally northeasterly direction along the mean low-water line of Nantucket Harbor;

thence, along the mean low-water line of the waters known as Head of the Harbor, in a northerly, easterly and then southerly direction to a point on the mean low-water line of these waters at a latitude of 41°20′;

thence, in an easterly direction along this latitude to the beginning point.

(B) Saul's Hills:

The area circumscribed by a line:

Beginning at the southernmost extremity of Sesachacha Pond;

thence in a straight line in a generally westerly direction to the intersection of the Polpis Road and its eastern meeting point with the Shimmo Road;

thence, along the western edge of Shimmo Road in a northerly, westerly and then southerly direction to its western meeting point with the Polpis Road;

thence, in a straight line in a generally southeasterly direction to the intersection of Milestone Road and Nobadeer Road;

thence, along the western edge of Nobadeer Road to its intersection with the circle described in clause (D) of paragraph (iv) of this subsection;

thence, in an easterly and southerly direction along the edge of such circle until its intersection with Old South Road;

thence, along the southern edge of Old South Road in a generally eastern direction to its intersection with New South Road;

thence, along the southern edge of New South Road in a generally southern and eastern direction to its intersection with Tom Nevers Road;

thence, in a straight line in a generally easterly direction to the southernmost extremity of Tom Nevers Pond;

thence, along the waterline of such pond in a generally easterly direction to its easternmost extremity;

thence, along a line due north to the intersection of Milestone Road, and across such road;

thence, along the northern edge of Milestone Road in a generally westerly direction approximately 1800 feet to an unimproved dirt road;

thence, along the southern edge of such dirt road in a generally northeastern direction to a point due south of the southernmost extremity of Sesachacha Pond;

thence, along a line due north to the point of beginning.

(C) Trots Hills:

The area circumscribed by a line:

Beginning at the northernmost point of the mean low water line of Madaket Harbor on Eel Point Neck;

thence, due east along a line to where it intersects Eel Point Road;

thence, along a line in a generally southeasterly direction to the intersection of Madaket Road and Warren Landing Road;

thence, along the southern edge of Madaket Road in a generally southwestern direction to the intersection of Cambridge Street;

thence, along the southern edge of Cambridge Street to a point where it meets Massasoit Bridge;

thence, in a line in a southwesterly direction along the western edge of the dirt road running along the eastern shore of Long Pond to a point where a continuation of such dirt road would intersect the mean low water line of the Atlantic Ocean;

thence, along the mean low water line in a generally southeasterly direction to longitude 70°10′;

thence, due north to the southern waterline of Hummock Pond;

thence, along the southern and western waterline of Hummock Pond in an easterly and northerly direction to John's Point;

thence, due north along a line to its intersection with the northern edge of Madaket Road;

thence, in a westerly direction along the northern edge of Madaket Road to the intersection of Madaket Road and Eel Point Road;

thence, along the northern edge of Eel Point Road in a generally northwesterly direction to longitude 70°10′;

thence, due north to the mean low water line of Nantucket Sound;

thence, in a generally westerly direction along the mean low water line of Nantucket Sound, around Eel Point, and to the point of beginning.

(ii) Class B Lands:

(A) All lands and waters on Nantucket Island which are not included in areas classified in this sub-section as Class A or Class D, shall be Class B lands or waters.

(iii) Class D Lands:

(A) Siasconset:

The area circumscribed by a line:

Beginning at the highest point on the head of the bluff immediately to the south of the Sankaty Head Lighthouse;

thence, proceeding in a straight line due west to the eastern edge of the dirt road which intersects Polpis Road;

thence, along the eastern edge of the dirt road to the Polpis Road, and across the Polpis Road and continuing along the eastern edge of such dirt road

to the point where the dirt road diverges from the western boundary of the Sankaty Golf Course;

thence, in a southerly and westerly direction along the eastern edge of this dirt road which becomes Burnell Road, and along the eastern edge of Burnell Road;

thence, proceeding in a generally southerly direction on the eastern edge of Burnell Road to the intersection of Burnell Road and the dirt road just north of the intersection of Burnell Road and Clifton Street;

thence, in a westerly direction along the southern edge of this dirt road to the first intersection with a dirt road which intersects Milestone Road;

thence, in a southerly direction along the eastern edge of such dirt road, through the intersection with Milestone Road, and then along the southern edge of such road until reaching the boundary of the Nantucket Conservation Foundation Location Number Fifteen (15) known as "the Moors and Tom Nevers Pond," and then in a southerly direction along such eastern boundary to the intersection with the dirt road which runs in a southeasterly direction and after merging with another dirt road intersects Ocean Avenue;

thence, along the eastern edge of this dirt road to the intersection of Ocean Avenue;

thence, in a straight line due south to a point on the mean low water line of the Atlantic Ocean near the Coast Guard Station known as the Loran Station;

thence, in a generally northerly direction along the mean low water line to a point due east of the beginning point;

thence, in a straight line in a westerly direction to the beginning point.

(B) Quidnet:

The area circumscribed by a line:

Beginning at a point at the intersection of the eastern edge of Squam Road and the southern edge of the first dirt road, which runs in a generally east-west direction north of the Village of Quidnet;

thence, in a southerly direction along the eastern edge of Squam Road to the northern edge of Sesachacha Pond;

thence, in a straight line in an easterly direction to the mean low water line of the Atlantic Ocean;

thence, in a northwesterly direction along the mean low water line to a point north of the village of Quidnet where the mean low water line intersects a line drawn from the beginning point through the point where the first dirt road north of the village of Quidnet which runs in a generally east/west direction ends near the Atlantic ocean;

thence, in a straight line to the southern edge of this dirt road;

thence, in a westerly direction along the southern boundary of this dirt road to the beginning point.

(C) Wauwinet:

The area circumscribed by a line:

Beginning at a point on the mean low water line of the Atlantic Ocean at a latitude of 41°20′;

thence, proceeding in a direction due east along a straight line to the mean low water line of Nantucket Harbor;

thence, in a southerly direction along the mean low water line of Nantucket Harbor to a point 2600 feet due south of latitude 41°20′;

thence, in line due east

to the mean low water line of the Atlantic Ocean;

thence, in a northerly direction along the mean low water line to the beginning point.

(D) Airport:

All land within a circle of radius 2000 feet whose center is the midpoint of the intersection of Old South Road and Macys Lane.

(E) Town of Nantucket:

The area circumscribed by a line: Beginning on the mean low water line of Nantucket Sound at a point due north of the intersection of Cliff Road and the western edge of Sherburne Turnpike;

thence, due south to the northern edge of Cliff Road;

thence, in a straight line in a generally southerly direction to the easternmost extremity of No Bottom Pond;

thence, in a straight line in a generally southerly direction to the center point of the intersection of New Milk Street, Vesper Lane, and Hummock Pond Road;

thence, in a straight line to the intersection of Bartlett Road and Atlantic Avenue;

thence, along the eastern edge of Atlantic Avenue to a point where it intersects with Fair Ground Road;

thence, along the eastern edge of Fair Ground Road approximately 3300 feet to the intersection with a dirt road;

thence, in a generally southeasterly direction along the southern edge of such dirt road until it intersects with Lovers Lane;

thence, in a straight line to the southwesternmost extremity of the circle described in clause (D) of paragraph (iv) of this subsection;

thence, along the circumference of this circle in a westerly and northerly direction to the northwesternmost point of such circle;

thence, in a straight line in a generally westerly and northerly direction to the intersection of Old South Road and Fair Ground Road;

thence, along the western edge of Old South Road to a point where it intersects with Milestone Road;

thence, in a straight line due north to a point where it intersects with the mean low water line on the shore of Nantucket Harbor;

thence, along the mean low-water line of Nantucket Harbor in a westerly and northerly direction, around Brant Point, around the point at the west jetty, to the point of beginning.

The area circumscribed by a line

Beginning at a point where the mean low water line on the South Shore intersects the longitude of 70°05;

thence, in a line, due north to a point where it intersects with the latitude of 41°15′; then along latitude 41°15′ in a westerly direction, across Surfside Road, to a point on such latitude 1000 feet west of Surfside Road;

thence, in a line due south to a point where it intersects the mean low-water of the South Shore;

thence, along the mean low-water line in an easterly direction to the point of the beginning.

(G) Madaket:

The area circumscribed by a line

Beginning at a point on the mean low-water line on the shore of Madaket Harbor where a continuation of Cambridge Street would intersect such mean low-water line;

thence, along the southern edge of Cambridge Street to a point where it meets Massasoit Bridge;

thence, in a line in a southwesterly direction along the western edge of the dirt road running along the eastern shore of Long Pond to a point where a continuation of such dirt road would intersect the mean low-water line of the Atlantic Ocean;

thence, in a line in westerly direction along the mean low-water line, around the point at Broad Crook, along the mean low-water line of Madaket Harbor to the point of beginning.

(H) Martha's Vineyard Island. The lands and waters of Martha's Vineyard Island shall be classified as follows:

(i) Class A Lands:

(A) South Shore:

The area circumscribed by a line:

Beginning at a point on the mean low-water line of the Atlantic Ocean at the easternmost extremity of the Atlantic Ocean beach of the lands known as Norton Point; thence, along the mean low-water line of the Atlantic Ocean in a westerly direction, along the southern beach of the land areas known as Norton Point, South Beach, and Scrubby Neck, to a point on the mean low-water line of the Atlantic Ocean due south of the westernmost extremity of Chilmark Pond;

thence, in a straight line due north to such westernmost extremity;

thence, in a line running along the northern waterline of Chilmark Pond to the northeastern extremity of Gilbert's Cove;

thence, in a straight line to the northernmost extremity of Queames Cove;

thence, in a straight line to the southwesternmost extremity of Black Point Pond;

thence, along the northern waterline of Black Point Pond and, further, along the northern waterline of the waterway connecting Black Point Pond and Tisbury Great Pond, to the point at which such northern waterline intersects the western waterline of Tisbury Great Pond;

thence, in a straight line running generally eastward to the westernmost point on the waterline of West Point in Edgartown Great Pond;

thence, along the southern waterline of West Point to the point on the waterline of Edgartown Great Pond nearest Crackatuxet Cove;

thence, in a straight line running due east to the point where it intersects the western waterline of Crackatuxet Cove;

thence, along the northern waterline of Crackatuxet Cove to the northern waterline of Mattakeset Herring Brook;

thence, along the northern waterline of Mattakeset Herring Brook until it reaches Mattakeset Bay;

thence, in a line along the mean low water line of Mattakeset Bay and Katama Bay in a southerly and easterly direction, along the northern beachline of Norton Point and around the eastermost extremity of Norton Point to the beginning point.

(B) Chappaquiddick:

The area circumscribed by a line:

Beginning at a point described as the westernmost extremity of Poucha Pond;

thence, in a straight line due south southwest to the mean low water line of the eastern shore of Katama Bay;

thence, along the mean low water line of Katama Bay in a generally south-easterly direction through the strait between Norton Point and Wasque Point;

thence, proceeding on the mean low water line around the southern tip of Chappaquiddick Island and along the mean low water line of the Atlantic Ocean and Nantucket Sound in a northerly direction along the eastern shore of Chippaquiddick Island to Cape Poge;

thence, along the mean low water line of Nantucket Sound around Cape Poge and continuing on the mean low water line of Nantucket Sound and the waters known as Edgartown Harbor along the beach area of the land known as Cape Poge Elbow to the point on the mean low water line of Edgartown Harbor at the southernmost extremity of Cape Poge Elbow;

thence, in a straight line due south to the mean low water line of the waters known as Edgartown Harbor on the northern shoreline of the land known as North Neck;

thence, along the mean low water line of North Neck in a northeasterly direction, around John Oliver Point;

thence, along the mean low water line of Cape Poge Bay in a southerly and easterly direction, following the contours of the land known as Tom's Neck, and along the mean low water line of the inlet to the east of the land known as Tom's Neck, to the point on the mean low water line of the western shore of this inlet where the unimproved dirt road which is a continuation of Chappaquiddick Road divides this inlet from the waters known as Poucha Pond;

thence, in a straight line due south across the strip of land which separates Poucha Pond from the inlet to the east of Tom's Neck to the point on the mean low water line of Poucha Pond which intersects this line;

thence, continuing along the mean low water line of the western shore of Poucha Pond in a westerly and southerly direction to a point on the mean low water line of Poucha Pond which is the beginning point.

(C) Gay Head:

The area circumscribed by a line: Beginning at a point on the easternmost waterline of Squibnocket Pond;

thence, in a straight line due east to where it intersects the mean low water line of the Atlantic Ocean;

thence, along the mean low water line of the Atlantic shore in a southwesterly direction, around Squibnocket Point and then in northwesterly direction, around Gay Head Cliffs;

thence, along the mean low water line of Vineyard Sound in an easterly direction, around the strait at Menemsha Inlet;

thence, along the mean low water line of the western shore of Menemsha Inlet in a southerly direction;

thence, along the mean low water line of the north shore of Menemsha Pond to where an extension of the eastern extremity of Lobsterville Road would intersect such mean low water line;

thence, along the eastern edge of Lobsterville Road in a northerly, then westerly direction to the point at which it intersects the improved dirt road that runs from Lobsterville Road to the intersection of State Highway and the western extremity of Moshub Trail, then along the northern edge of such improved dirt road to where it intersects State Highway and the western extremity of Moshub Trail;

thence, along the southern edge of Moshub Trail in a southeasterly direction to where its eastern extremity intersects State Highway;

thence, along the southern edge of State Highway in an easterly direction to the Gay Head-Chilmark town line;

thence, in a generally southerly direction along such line until it intersects the waterline of Squibnocket Pond;

thence, along such waterline in a generally easterly direction to the point of beginning.

(ii) Class B Lands:

(A) Chappaquiddick:

The area circumscribed by a line:

Beginning at a point described as the westermost extremity of Poucha Pond;

thence, in a straight line due south southwest to the mean low water line of the eastern shore of Katama Bay;

thence, along the mean low water line of Katama Bay in a northerly and westerly direction past Long Point, Snows Point to Chappaquiddick Point;

thence, along the mean low water line of Edgartown Harbor, around Chappaquiddick Point, to John Oliver Point;

thence, along the mean low water line of Cape Poge Bay in a southerly and easterly direction, following the contours of the land known as Tom's Neck, and along the mean low water line of the inlet to the east of the land known as Tom's Neck, to the point on the mean low water line of the western shore of this inlet where the unimproved dirt road which in a continuation of Chappaquiddick Road divides this inlet from the waters known as Poucha Pond;

thence, in a straight line due south across the strip of land which separates Poucha Pond from the inlet to the east of Tom's Neck to the point on the mean low water line of Poucha Pond which intersects this line;

thence, continuing along the mean low water line of the western shore of Poucha Pond in a westerly and southerly direction to a point on the mean low water line of Poucha Pond which is the beginning point.

(B) Mid-Island:

The area circumscribed by a line:

Beginning at a point on the eastern edge of State Highway which lies on the boundary between the towns of Chilmark and Gay Head;

thence, in a generally northerly and easterly direction along the eastern and southern edge of State Highway to the point of intersection of this edge of State Highway and the southern edge of South Road;

thence, along the southern edge of South Road in a generally easterly and then northerly direction to the point on this edge of South Road which intersects the circumference of the circle which describes the boundaries of the town area of West Tisbury, as described in clause (D) of paragraph (iv) of this section;

thence, in a line in an easterly direction along the circumference of this circle to the point where circumference intersects the southern edge of Edgartown-West Tisbury Road;

thence, along the southern edge of Edgartown-West Tisbury Road to the point of intersection with the western edge of Meeting House Road;

thence, along the western edge of Meeting House Road to the end of the road where Meeting House Road divides into several unimproved roads;

thence, in a straight line due south to a point due west of the eastern most extremity of Katama Point;

thence, in a straight line due east to the mean low water line of Katama Bay due east of the extremity of Katama Point;

thence, in a southerly and westerly direction along the mean low water line of Katama Bay and Mattakeset Bay to a point where the mean low water line of Mattakeset Bay intersects the northern waterline of Mattakeset Herring Brook;

thence, in a line in a generally westerly direction, which is the same line described in paragraph (A) of subsection (i) of this section, to the westernmost extremity of Chilmark Pond;

thence, in a line due south to the mean low water line of the Atlantic Ocean;

thence, along such mean low water line in a generally westerly direction to a point due east of the easternmost extremity of the waterline of Squibnocket Pond;

thence, in a line due west to such extremity of Squibnocket Pond;

thence, along the northern waterline of Squibnocket Pond in a generally northwesterly direction to the boundary between the towns of Chilmark and Gay Head;

thence, along such boundary to the point of beginning.

(C) Edgartown-Oak Bluffs:

The area circumscribed by a line:

Beginning at the point of intersection of the eastern edge of County Road and the northern edge of Wing Road;

thence, along the eastern edge of County Road to the intersection with the northern edge of Vineyard Haven Road;

thence, along the northern edge of Vineyard Haven Road to the point where the northern edge of the road intersects a line drawn from the center of Jernegan Pond to the northwesternmost corner of Eel Pond;

thence, along this line drawn from the center of Jernegan Pond to the northwesternmost corner of Eel Pond in a northwesterly direction to the northwesternmost corner of Eel Pond;

thence, continuing on this line in a straight line to the mean low water line of Nantucket Sound;

thence, along the mean low water line of Nantucket Sound in a generally northwesterly direction to a point due east of the southeastern extremity of Farm Pond;

thence, in a straight line due west through the waters of Hart's Haven Harbor to the southeastern extremity of Farm Pond;

thence, along the southern edge of the pond in a westerly direction to the southwestern extremity of Farm Pond;

thence, in a straight line in a generally northwesterly direction to a point on the northern edge of Wing Road one-half mile from the intersection of Wing Road and County Road;

thence, along the northern edge of Wing Road to the beginning point.

(D) Vineyard Sound Shore:

The area circumscribed by a line:

Beginning at a point on the mean low water line of the western shore of Vincyard Haven Harbor 2,200 feet south-southwest from the easternmost extremity of Husselton Head;

thence, in a straight line due west to a point where it intersects the eastern edge of Main Street;

thence, along the eastern edge of Main Street in a northerly direction for 3,300 feet;

thence, in a straight line to a point on the western edge of Franklin St. that is 7,800 feet north of the intersection of West Spring St. and Franklin St.;

thence, along the western edge of Franklin St. in a southerly direction to a point on the western edge of Franklin St. that is 3,700 feet north of the intersection of West Spring St. and Franklin St.;

thence, in a straight line in a westerly direction to a point on the mean low water line of the eastern shore of Lake Tashmoo that is 1,400 feet north-northwest of the intresection of such mean low water line and the latitude of 27'30'';

thence, along the mean low water line of the eastern shore of Lake Tashmoo in a northerly direction, then along the mean low water line of the western shore of Lake Tashmoo in a southerly direction to the southernmost extremely of Lake Tashmoo;

thence, in a straight line in a southerly direction to a point on the Vineyard Haven Road which is also the northernmost point on the boundary of the towns of Oak Bluff and Vineyard Haven which lies just south of the southern end of Lake Tashmoo;

thence, along the northern edge of Vineyard Haven Rd. in a westerly direction to the intersection of the eastern extremity of Lambert's Cove Rd. and Vineyard Haven Rd.;

thence, along the northern edge of Lambert's Cove Rd. in a westerly direction to the intersection of the western extremity of Lambert's Cove Rd. and Vineyard Haven Rd.;

thence, along the western edge of Vineyard Haven Rd. in a southerly direction to where it intersects with North Rd.;

thence, along the northern edge of North Rd. in a southwesterly direction to a point on the mean low water line of the eastern shore of Menemsha Inlet where an extension of North Rd. would intersect such mean low water line;

thence, along the mean low water line of the eastern shore of Menemsha Inlet in a northerly direction, through the strait;

thence, along the mean low water line of the Vineyard Sound shore in a northeasterly direction, around West Chop, along the mean low water line of the western shore of Vineyard Haven Harbor, to the point of beginning.

(E) Lagoon Pond shore:

The area circumscribed by a line:

Beginning at a point on the mean low water line of the eastern shore of Lagoon Pond where such mean low water line intersects a line that runs due west from the intersection of County Road and Wing Road;

thence, in a straight line due east to such intersection;

thence, in a line that runs in generally southwesterly direction to the intersection of Wing Road and the Edgartown-Vineyard Haven Road;

thence, in a line that runs in a northerly direction along the eastern edge of the Edgartown-Vineyard Haven Road until such edge intersects the Tisbury-Oak Bluffs town line;

thence, along such line in a generally northwesterly direction for 2000 feet;

thence, along a line due northeast to its point of intersection with the mean low water line of Lagoon Pond;

thence, along the mean low water line of Lagoon Pond in a northeasterly direction, around Cedar Neck, then in a southerly, then northerly direction to the point of beginning.

(iii) Class C lands:

A. All lands and waters on Martha's Vineyard which are not included in areas classified in this subsection as Class A, Class B or Class D, shall be Class C lands and waters.

(iv) Class D lands:

(A) Oak Bluffs:

The area circumscribed by a line:

Beginning at the point of intersection of the eastern edge of County Road and the northern edge of Wing Road;

thence, proceeding in a generally northeasterly direction along the northern edge of Wing Road for a distance of one-half mile;

thence, in a straight line in a southeasterly direction to the southwestern edge of Farm Pond;

thence, along the southern edge of Farm Pond in an easterly direction to the southeastern edge of the pond;

thence, in a straight line due east from the southwestern edge of Farm Pond, through the waters known as Hart's Harbor to the mean low water line of Nantucket Sound;

thence, in a generally northerly direction along the mean low water line of Nantucket Sound to and past the beach areas of East Chop and thence in a generally southerly and westerly direction along the mean low water line of Vineyard Haven Harbor under the bridge of Beach Road;

thence, proceeding along the mean low water line of the eastern shore of Lagoon Pond to a point due west of the beginning point on the mean low water line;

thence, in a straight line due east from this point to the beginning point.

(B) Edgartown:

The area circumscribed by a line:

Beginning at a point on the mean low water line of Katama Bay due east of the easternmost extremity of Katama Point;

thence, in a straight line due west to the eastern edge of Katama Road;

thence, in a generally northerly direction along the eastern edge of Katama Road to the intersection of the eastern edge of Katama Road and the northern edge of Clevelandtown Road;

thence, in a straight line from this point of intersection to the center of Jernegan Pond;

thence, in a straight line from the center of Jernegan Pond in a generally northeasterly direction to the northwesternmost corner of Eel Pond and thereafter proceeding on this line to the mean low water line of Nantucket Sound;

thence, proceeding in a generally easterly and then southerly direction along the mean low water line of Nantucket Sound past the beach area known as Little Beach and the Edgartown Lighthouse;

thence, proceeding along the mean low water line of Edgartown Harbor on the Edgartown side, passing through the strait near Chappaquiddick Point and along the mean low water line of Katama Bay past the beach area of Clevelandtown to the beginning point.

(C) Gay Head:

The area circumscribed by a line;

Beginning at the northernmost point of Occooch Pond;

thence, in a straight line in a generally northwesterly direction to the point at which it intersects the improved dirt road that runs from Lobsterville Road to the intersection of State Highway and the western extremity of Moshub Trail;

thence, in a straight line in a generally easterly direction to the intersection of the northern edge of the heavy duty road known as Lobsterville Road and the eastern edge of the light duty road which runs from the Gay Head Coast Guard Station to Lobsterville;

thence, in a generally southerly direction along the western edge of Lobsterville Road to the point at which it intersects the State Highway;

thence, in a straight line in a generally westerly direction to the point of beginning.

(D) West Tisbury:

The area circumscribed by a circle whose center is the midpoint of the intersection of South Road and Edgartown-West Tisbury Road, and whose radius is three-quarters of a mile.

(E) Vineyard Haven:

The area circumscribed by a line:

Beginning at a point on the mean low water line of the western shore of Vineyard Haven Harbor 2,200 feet south-southwest from the easternmost extremity of Husselton Head;

thence, in a straight line due west to a point where it intersects the western edge of Main St.;

thence, along the western edge of Main St. for 3,300 feet in a northerly direction;

thence, in a straight line to a point on the eastern edge of Franklin St. that is 7,800 feet north of the intersection of West Spring St. and Franklin St.;

thence, along the eastern edge of Franklin St. in a southerly direction to a point on the eastern edge of Franklin St. that is 3,700 feet north of the intersection of West Spring St. and Franklin St.;

thence, in a straight line in a westerly direction to a point on the mean low water line of the eastern shoreline of Lake Tashmoo that is 1,400 feet north-northwest of the intersection of such mean low water line and the latitude 27' 30'';

thence, along the mean low water line of the eastern shoreline of Lake Tashmoo in a southerly direction to the southermost extremity of Lake Tashmoo;

thence, in a straight line in a southerly direction to a point on Vineyard Haven Rd. that is also the northernmost point on the boundary of the towns of Oak Bluffs and Vineyard Haven, which lies just south of the southern end of Lake Tashmoo;

thence, along Oak Bluffs-Vineyard Haven town boundary in a south-southwesterly direction for 6,400 feet;

thence, in a line due northeast, to the intersection of the mean low water line of Lagoon Pond to the west of Cedar Neck;

thence, along the mean low water line of Lagoon Pond in a northwesterly, then northeasterly direction, around the point at Beach Rd., along the mean low water line of the western shore of Vineyard Haven Harbor to the point of beginning.

ACQUISITION OF LANDS

SEC. 7. (a) Within the boundaries of the Trust, the Secretary may acquire for fair market value but without the consent of the owner such privately owned lands, waters and interests therein which he shall designate as being presently or from time to time needed to carry out the purposes of this Act: *Provided,* That the Secretary may acquire a fee title only in cases where, in his judgement, the acquisition of scenic easements or other less-than-fee interests would not be adequate to carry out the purposes of this Act. The remaining privately owned property not so designated may not be acquired by the Secretary without the consent of the owner or owners (hereinafter referred to as "owner") for one year following the date of enactment of this Act, nor thereafter for so long as an appropriate local planning or zoning agency, or the Commission, shall have in force and applicable to such a property a duly adopted, valid planning or zoning ordinance approved by the Secretary. In order to carry out the provisions of this section, the Secretary shall issue regulations specifying standards that are consistent with the purposes of this Act. Such regulations, and any amendments thereto, must receive the approval of a majority of the Commission before issuance.

(b) The standards specified in such regulations shall have the object of:

(i) regulating new commercial and industrial or other uses of such property consistent with the purposes of this Act and in the public interest; and

(ii) promoting the preservation and conservation of such property by means of acre-

age, frontage, setback design, and subdivision controls and by prohibiting the cutting of timber, burning of undergrowth, quarrying, removing soil or other landfill, and dumping or storing refuse in such a manner that would detract from the natural or traditional islands scene: *Provided,* That such standards shall not discourage the constructive development and use of land for commercial and other uses which are consistent with the purposes of this Act and with the public interest.

(c) Following issuance of such regulations the Secretary and the Commission shall approve any planning or zoning ordinance or any amendment thereto submitted to them that conforms to the standards contained in the regulations in effect at the time of adoption of the ordinance or amendment. Such approval shall remain effective for so long as such ordinance or amendment remains in effect as approved, unless the regulations be changed thereafter in a substantial manner.

(d) No planning or zoning ordinance or amendment thereof shall be approved by the Secretary and the Commission which:

(i) contains any provisions that he considers adverse to the preservation and conservation and development of such property in accordance with the purposes of this Act; or

(ii) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under, or any exception or amendment made to, the application of such ordinance or amendment.

(e) If any property, with respect to which the Secretary's authority to acquire by condemnation has been suspended according to the provisions of this section, is made the subject of a variance under, or becomes for any reason an exception to, such planning or zoning ordinance, or is subject to any variance, exception, or use that fails to conform to any applicable standard contained in regulations of the Secretary issued pursuant to this section and in effect at the time of passage of such ordinance, the suspension of the Secretary's authority to acquire such property by condemnation is terminated: *Provided,* That the owner of such property shall have ninety days after written notification from the Secretary to discontinue the variance, exception, or use referred to in such notification.

(f) The Secretary shall furnish to any party in interest, upon request, a certificate indicating the property with respect to which the Secretary's authority to acquire by condemnation is suspended.

Sec. 8. (a) The Secretary is authorized to acquire the lands, waters, and interests therein (including scenic easements) within the Trust boundaries by donation, negotiated purchase with donated or appropriated or borrowed funds, transfer, exchange or condemnation except that such authority to acquire by condemnation shall be exercised only in the manner and to the extent specifically provided in Section 7 of this Act.

(b) With the exception of any lands which the Secretary determines are presently or from time to time needed to carry out the purposes of this Act, any owner of improved property on the date of its designation for acquisition by the Secretary may elect, as a condition to such acquisition to retain a right of use and occupancy of the improved property for noncommercial residential and agricultural purposes for a period ending at the death of the owner or his spouse, or for a fixed term not to exceed twenty-five years, whichever occurs later. The Secretary shall pay to the owner the fair market value of the property on the date of its acquisition less the fair market value on such date of any right retained by the owner. Any retained right of use and occupancy may be transferred or assigned, subject to the election specified in this subsection. Whenever the Secretary finds that the property or any portion thereof has ceased to be used for noncommercial residential purposes, he may terminate the right of use and occupancy upon tendering to the holder thereof an amount equal to the fair market value of the portion of said right which remains unexpired on the date of termination.

(c) As used herein, the term "improved property" shall mean a one-family dwelling the construction of which was begun before April 11, 1972, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling and land for noncommercial residential or agricultural purposes, together with any structures accessory to the dwelling which are situated on the land so designated: *Provided,* That the Secretary may exclude from the land so designated any water bodies together with so much of the adjacent land as he deems necessary for public access thereto.

(d) Any property or interests therein within the Trust which are owned by a State or by any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within the Trust may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary, without transfer of funds, for administration by him as part of the Trust.

EROSION CONTROL

Sec. 9. (a) The Secretary and the Secretary of the Army shall cooperate in the study and formulation of plans for beach and shoreline erosion control projects on the Nantucket Sound Islands, especially in those areas most immediately threatened; and any protective works for such control undertaken by the Chief of Engineers, Department of the Army, shall be carried out in accordance with a plan that is acceptable to the Secretary and is consistent with the purposes of this Act.

(b) The Secretary shall undertake a program of dune and headland erosion control beginning with those dunes and headlands most immediately in need thereof. Such erosion may be that caused by natural wind and water action, or by motor vehicle passage; and such programs may have the purpose of remedying both causes.

BEACHES

Sec. 10. (a) All beach lands in the boundaries of the Trust shall be designated Class A lands, notwithstanding that such beach lands may be otherwise classified by other provisions of this Act.

(b) As used in this section, the term "beach land" shall mean the wet and dry sand area lying between the mean low water line and the visible line of upland vegetation. The Secretary and the Commission shall determine which of the lands in the Trust area shall be defined as beach lands.

ADMINISTRATIVE PROVISIONS

Sec. 11. (a) The Secretary shall administer and protect the Trust with the primary aim of preserving and conserving the natural resources located within it and preserving the area in as nearly its natural state and condition as possible. No development or plan for the convenience of visitors shall be undertaken in the Trust which would be incompatible with the overall lifestyle of residents of the area, generally accepted ecological principles, the preservation of the physiographic conditions now prevailing, or with the preservation of such historic sites or structures as the Secretary may already have designated or may designate.

(b) The Trust shall be administered and protected by the Secretary in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), except that the Secretary may utilize any other statutory authority available to him for the conservation, preservation and management of natural resources to the extent he finds such authority will further the purposes of this Act.

(c) The Secretary shall permit hunting, fishing, and trapping, on lands and waters under his jurisdiction with the Trust in accordance with the applicable laws of the Commonwealth of Massachusetts and the United States, except that the Secretary may designate zones where, and establish periods when, no hunting, no fishing, and no trapping shall be permitted for reasons of public safety, fish or wildlife management, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary prescribing any such restrictions shall be issued only after consultation with the appropriate agency of said Commonwealth.

TRANSPORTATION AND GENERAL USES

Sec. 12. (a) The Secretary shall survey access to Trust lands, including that by private and public air and water carriers, and shall make such recommendations to the Congress and the Governor of the Commonwealth of Massachusetts as he deems consistent with the preservation and conservation purposes of this Act, and to carry out such purposes.

(b) The Secretary shall undertake no development or plan for the convenience of visitors to Trust lands which would be incompatible with the preservation and conservation of the unique scenic, ecological, scientific, and historic features thereof: *Provided,* That the Secretary may provide for the public enjoyment and understanding of such features by establishing such public transportation systems, trails, observation points, and exhibits, and by providing such services as he may deem desirable for such public enjoyment and understanding: *Providing further,* That the Secretary may develop such portions of Trust lands as he deems especially adaptable for public uses including but not limited to camping, swimming, boating, sailing, the appreciation of historic sites and structures and natural features of Trust lands, subject, however, to the limitations in this first clause of this subsection.

(c) In any development or plan for the convenience of visitors he undertakes, the Secretary shall not unreasonably diminish for its owners or occupants the value or enjoyment of any improved property within the Trust lands.

PRIVATE NONPROFIT ORGANIZATIONS

Sec. 13. (a) Notwithstanding the provisions of Section 8 and Section 9 herein, or any other provision herein or in any other provision of law, the Secretary's authority to acquire lands by condemnation shall be suspended when:

(i) lands or interests therein which he shall designate as being presently or from time to time needed to carry out the purposes of this Act are in the ownership of private nonprofit conservation, preservation, historic or other organizations or associations, and the restrictions against development of such lands meet the standards referred to in Section 7 herein; and

(ii) lands or interests therein which he shall designate as being presently or from time to time needed to carry out the purposes of this Act are, to his satisfaction and within twenty-four months after enactment of this Act, irrevocably committed to be sold, donated, demised or otherwise transferred to such organizations or associations.

(b) The Secretary is authorized to provide technical assistance to State and local governments, private organizations and associations, and individuals with respect to the preservation and conservation of Trust lands.

(c) The Secretary shall apply the provi-

sions of this section only to those organizations and associations which he determines are bona-fide and general purpose.

POLLUTION

SEC. 14. The Secretary shall cooperate with the appropriate State and local agencies to provide safeguards against pollution of the waters in and around Trust lands, and against unnecessary impairment of the scenery thereof.

NEW EMPLOYMENT OPPORTUNITIES

SEC. 15(a) The Secretary is directed to examine the Trust lands and waters forthwith for opportunities to experiment with, and to encourage development of, aquaculture of all kinds, including, but not limited to, fish and shellfish. Funds appropriated to the Department of the Interior under the authority of this or other laws of the United States may be used for this purpose without restriction.

(b) The Secretary, in consultation and cooperation with the Secretary of Labor, shall investigate, and where appropriate establish, training and retraining programs suitable for residents of Trust lands.

FREEZE DATE

SEC. 16(a) Beginning on April 11, 1972, no construction of any improvement, whether for residential, commercial, industrial or any other purpose, shall be permitted to commence on any lands classified herein as Forever Wild. Construction of improvements shall be permitted on any lands classified as County Planned Lands only upon the granting of specific approval therefor by the governing body of the particular county, after a showing of the need therefor. Construction of improvements shall be permitted on any lands classified as Town Planned Lands only upon the granting of specific approval therefor by the governing body of the particular town, after a showing of the need therefor. Construction of improvements shall be permitted on any lands classified as Scenic Preservation Lands only upon the granting of specific approval therefor by the appropriate governing body, after showing of the need therefor.

(b) In the case of any hardship caused by the provisions of subsection (a) of this section, the Secretary of the Commission shall, on the basis of rules and regulations developed and approved by the Secretary and the Commission, make a valuation thereof and shall award fair recompense to any individual for whom hardship is demonstrated.

APPROPRIATIONS

SEC. 17. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $20,000,000 for the acquisition of land and interests therein, and not to exceed $5,000,000 for development.

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

S.J. Res. 221. A joint resolution to designate Benjamin Franklin Memorial Hall at the Franklin Institute, Philadelphia, Pa., as the national memorial to Benjamin Franklin. Referred to the Committee on Rules and Administration.

Mr. SCOTT. Mr. President, I introduce for appropriate reference a joint resolution designating the Benjamin Franklin Institute of Philadelphia, Pa., as the national memorial for Benjamin Franklin.

In 1974, the world famous Franklin Institute of Philadelphia will be celebrating its 150th anniversary. It is one of America's oldest educational, scientific, and technological institutions, having been founded in 1824 by a small group of dedicated scientists and craftsmen.

Benjamin Franklin, for whom the institute is named, was an outstanding printer, statesman, and scientist. An enterprising young man who arrived in Philadelphia at the age of 17, Franklin immediately embarked upon the career of which he was the most proud—printer and publisher. Later on he was to become an inventor of sorts, bringing forth such items as the famous Franklin stove, which is still in use today. Of course, his experiments in electricity, including the flight of his electrical kite, are legendary.

Franklin's interest in the arts and sciences was manifested in his helping to found the University of Pennsylvania and the Pennsylvania Hospital, America's first charity hospital. Franklin is also credited with establishing the first fire insurance company in America. In addition, he introduced street cleaning, lighting, and paving to our earliest and fastest-growing cities.

As a governmental leader and statesman, Benjamin Franklin's record was unequaled. He proposed a plan for a union of the Colonies for security in defense, nearly 25 years before the Declaration of Independence was written. It was at that time that he published what appeared to be the first American political cartoon—a drawing of a snake in eight pieces marked with the initials of the first eight Colonies, footed by the caption, "Join or Die."

Franklin was appointed as an agent in England for several of the colonies and lobbied the monarch in their behalf. Returning to Philadelphia, he was elected to the Second Continental Congress and later was unanimously elected Postmaster General. He was appointed to a committee to draft a Declaration of Independence, and then signed it as a member of the Pennsylvania delegation. Later, he was chosen as a delegate from Pennsylvania to the Philadelphia Convention which framed the U.S. Constitution.

Mr. President, Benjamin Franklin was clearly a man of great wisdom and vision. Nearly 75 years before the Union and the Confederacy were to do battle on the question of slavery, Franklin served as president of the Abolitionist Society and signed a memorial to Congress asking for the discouragement of the slave trade in America. Seeing the need to memorialize Franklin, a group of leading Philadelphians, with the aid of 11,000 public-spirited citizens, formulated plans to build a memorial hall and museum in the Franklin Institute building.

Franklin Memorial Hall was dedicated in May 1938, and millions of visitors have come to see the large statute of Benjamin Franklin within it. The institute itself contains scientific exhibits and other activities which assures the unique living aspect of the memorial. Thus, for more than 30 years, a national shrine dedicated to an outstanding citizen has been maintained without cost to the Federal Government by a not-for-profit institution on behalf of a grateful Nation. It is entirely appropriate that this permanent memorial—which has already served, in fact although not formally in name, as the shrine to Benjamin Franklin for several decades—should be recognized now as the National Memorial to Franklin.

Mr. President, joining me today in sponsoring this resolution is the distinguished junior Senator from Pennsylvania (Mr. SCHWEIKER). I am also pleased to note that the entire Pennsylvania delegation in the House of Representatives is sponsoring an identical resolution. Our combined efforts, hopefully, will enable us to honor Benjamin Franklin well before our Nation's 200th anniversary observance.

Mr. SCHWEIKER. Mr. President, I am pleased to join Senator SCOTT in introducing legislation to designate Benjamin Franklin Memorial Hall at the Franklin Institute, Philadelphia, Pa., as a national memorial to Benjamin Franklin.

The Franklin Institute in Philadelphia has played a major role in promoting the development of science and technology since 1824. In 1934, the main building now occupied by the institute was completed. That building represented a substantial effort undertaken in the 1920's and early 1930's by Philadelphians to build a unique memorial to Benjamin Franklin which is not only impressive architecturally, but also houses a large science museum.

This memorial to Benjamin Franklin was planned over many years and the initial funding was provided by the Philadelphia Board of City Trusts, representing a bequest made by Benjamin Franklin and entrusted to the board, and an equivalent sum made available by the institute.

Following that, the Poor Richard Club of Philadelphia started a movement to develop a fitting memorial to Dr. Franklin. The Benjamin Franklin Memorial, Inc., was established, led by Mr. Cyrus H. K. Curtis and other leaders in industry, invention, civil affairs, and government. Over 11,000 public-spirited citizens worked with the Benjamin Franklin Memorial, Inc., in developing plans for this project.

In May 1938, Franklin Memorial Hall was dedicated. President Roosevelt sent a message to those gathered for the dedication ceremonies, which included delegates from 57 foreign countries.

This national shrine has been maintained without cost to the Federal Government by a not-for-profit institution for over 30 years.

It is certainly appropriate that this memorial be recognized formally as the National Memorial to Benjamin Franklin by the Congress of the United States.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2052

At the request of Mr. THURMOND, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 2052, a bill to establish a National Cemetery System within the Veterans' Administration.

S. 2579

At the request of Mr. HARRIS, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2579, the Ocean Mammal Protection Act of 1971.

S. 2863

At the request of Mr. HARRIS, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of S. 2863, the Reclamation Lands Authority Act.

S. 3070

At the request of Mr. THURMOND, the Senator from New Jersey (Mr. CASE) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3070, a bill to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations, to provide for such veterans a certain priority in entitlement to hospitialization and medical care; and for other purposes.

S. 3227

At the request of Mr. TUNNEY, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 3227, a bill to amend the Internal Revenue Code of 1954 to allow a business deduction under section 162 for certain ordinary and necessary expenses incurred to enable an individual to be gainfully employed.

S. 3357

At the request of Mr. MONDALE, the Senator from Idaho (Mr. CHURCH), the Senator from Nebraska (Mr. CURTIS), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 3357, a bill to provide price support for milk at not less than 85 percent of the parity price therefor.

S. 3455

At the request of Mr. INOUYE, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 3455, a bill to provide that time spent by individuals interned in places operated by the U.S. Government for U.S. citizens and nationals of Japanese ancestry shall be considered creditable service for purposes of civil service retirement.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 282

At the request of Mr. HARRIS, the Senator from Utah (Mr. Moss), the Senator from Minnesota (Mr. MONDALE), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of Senate Resolution 282, to provide American cooperation and assistance for minority populations in Bangladesh and Pakistan.

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT—AMENDMENT

AMENDMENT NO. 1116

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

Mr. GAMBRELL. Mr. President, the Senate is soon to consider S. 1819 which is a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, of which I am a cosponsor. This bill represents a tremendous effort on the part of Senators BAKER and BROCK and the entire Intergovernmental Operations Committee of the Government Operations Committee, to give some needed monetary relief to local public agencies.

Georgia, in particular, needs both the economic benefits provided here and effective date extension, because of certain State constitutional problems. As I considered S. 1819 and the accompanying committee report, I was impressed with how well the different needs of States had been met and in particular those of Georgia.

However, I feel that one change should be made in section 222(b) which would give the States an alternative method of paying to the United States that amount which the Federal agency had paid during that period when the State agency could not comply with all provisions of the Relocation Act.

I now submit an amendment to S. 1819 which would allow the United States to deduct amounts owed to it by the State agency from future grants, contracts or agreements in a way so as not to adversely affect the program where the Federal agency made payments that would otherwise be made and partially shared by State and local agencies. This would merely provide an alternative method to that provided in section 222(b).

ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1117

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. STEVENSON. Mr. President, the Economic Opportunity Act of 1964 declares it to be:

> The policy of the United States to eliminate the paradox of poverty in the midst of plenty in this Nation by opening to everyone the opportunity for education and training, the opportunity to work, and the opportunity to live in decency and dignity.

To this end, the Economic Opportunity Act establishes a number of programs—Headstart, Job Corps, Neighborhood Youth Corps, Legal Services, to name just a few—to combat the "paradox of poverty."

Whether they be administered by OEO, HEW, or the Department of Labor, programs authorized by the Economic Opportunity Act are restricted totally or partially to low-income persons.

The manner in which the administering agencies define "low-income persons" results in the inequitable treatment of nearly 2 million poor people. For reasons which have never been clearly articulated, the administering agencies do not use the official Government poverty line. Rather, they have seen fit to adopt their own arbitrary and unrealistic poverty lines, consistently below the official Government poverty line.

Mr. President, no one knows how many million poor people have over the years been shut out of EOA programs by these artificially depressed poverty lines. It is, however, possible to make a reasonable estimate of how many people will be adversely affected by the current OEO-HEW-DoL poverty line. In a document dated November 19, 1971, but issued in January 1972, OEO raised its poverty line for a nonfarm family of four to $4,000—the level reached by the official poverty line a year earlier. Shortly thereafter HEW and DoL followed suit. The official poverty line at the beginning of 1972 was $4,170—$170 higher than the OEO-HEW-DoL level. Based on the most recent Census Bureau figures, there are approximately 1,750,000 Americans whose incomes are above the OEO poverty line but below the official poverty line.

Under the Office of Management and Budget's Circular A–46—Revised Exhibit L, June 17, 1970—each Federal agency must treat these 1.75 million Americans as poor for all statistical purposes, yet OEO, HEW, and DoL persist in excluding them from programs designed expressly for them. In effect, the Federal Government is telling nearly 2 million low-income people, "You are poor. We have programs for poor people, but you cannot take part in those programs because the bureaucracy is a year behind in changing the poverty line." Far from being in the vanguard of the Federal effort to combat poverty, the agencies administering the Economic Opportunity Act are in this instance lagging behind the rest of the Federal Government in recognizing and responding to poverty.

Early this year, OEO published a document entitled "The Poor in 1970: A Chartbook." The document contains no less than 28 charts in which OEO presents a wealth of information about America's poor people. The charts are based, not on OEO's poverty line, but on the official Government poverty line which OEO fails to use in determining eligibility for its programs. In an introduction to the chartbook, OEO Director Sanchez states that:

> The charts in this book . . . are intended to do two things: to inform and to educate.

It is ironic and unfortunate that OEO itself needs to be informed and educated about the poverty line.

When Congress enacted the Economic Opportunity Act in 1964, it intended that all poor people be eligible to participate in EOA programs. It is now clear that the intent of Congress has been frustrated by bureaucratic inertia and nonfeasance.

The amendment I submit today refranchises the poor people who have fallen between the cracks. It requires that agencies administering EOA programs close the gap between the eligibility poverty line and the statistical poverty line. It requires that revisions in the poverty line be made at least annually, in accordance with the simple procedures prescribed by the Office of Management and Budget. In uniformity, in ease of administration, and above all in simple justice to poor people, this approach is better than the existing one.

Mr. President, I ask unanimous consent that the text of my amendment, the most recent OEO issuance defining the poverty line, and exhibit L—revised—of

OMB Circular A–46 be printed at this point in the RECORD.

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

AMENDMENT NO. 1117

On page 139, following line 19, add the following new section:

"SEC. 23. The Economic Opportunity Act of 1964 is amended by inserting the following new section immediately after section 622:

" 'SEC. 623. (a) Every agency administering programs authorized by this Act in which the poverty line is a criterion of eligibility shall revise the poverty line at annual intervals, or at any shorter interval it deems feasible and desirable.

" '(b) The revision required by subsection (a) of this section shall be accomplished by multiplying the official poverty line (as defined by the Office of Management and Budget) by the average percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the revision is made.

" '(c) Revisions required by subsection (a) of this section shall be made and issued not more than 30 days after the date on which the necessary Consumer Price Index data become available.' "

OEO INSTRUCTION—OEO INCOME POVERTY GUIDELINES (REVISED)

Effective date: Immediately.

Applicability: This Instruction applies to all programs financially assisted under Title II or III–B of the Economic Opportunity Act if such assistance is administered by the Office of Economic Opportunity.

1. BACKGROUND

In August 1967, OEO issued uniform income guidelines for all programs it funds which use income to determine program eligibility. These guidelines were based on poverty thresholds derived from a definition of poverty developed for statistical purposes by the Social Security Administration in 1964. In September 1968, in January 1970, and in December 1970, OEO issued new guidelines which reflected increases in consumer prices.

2. POLICY

In order that the level of poverty which is used to determine program eligibility does not change as a result of substantial increases in the cost of living as measured by the Consumer Price Index, OEO revises, from time to time, its income guidelines in order to reflect such increases. Attached are the latest revised income guidelines.

These new income guidelines are to be used for all those OEO-funded programs, whether administered by a grantee or delegate agency, which use OEO poverty income guidelines as admission standards. This revision of the income guidelines does not require current programs which have full enrollments to consider additional applicants. Agencies shall reflect the new income guidelines in reports required by OEO submitted after January 1971. The new income guidelines do not supersede alternative standards of eligibility approved by OEO, such as State Title XIX standards used in programs funded by the Office of Health Affairs.

These guidelines are also to be used in certain other instances where required by OEO as a definition of poverty, e.g., for purposes of data collection and for defining eligibility for allowances and reimbursements to board members. Agencies may wish to use these guidelines for other administrative and statistical purposes as appropriate.

WESLEY L. HJORNEVIK,
Deputy Director.

OEO POVERTY GUIDELINES FOR ALL STATES EXCEPT ALASKA AND HAWAII

	Nonfarm family	Farm family
Family size:		
1	$2,000	$1,700
2	2,600	2,100
3	3,300	2,800
4	4,000	3,400
5	4,700	4,000
6	5,300	4,500
7[1]	5,900	5,000

[1] For families with more than 7 members, add $600 for each additional member in a nonfarm family and $500 for each additional member in a farm family.

OEO POVERTY GUIDELINES FOR ALASKA

	Nonfarm family	Farm family
Family size:		
1	$2,500	$2,125
2	3,250	2,775
3	4,150	3,575
4	5,000	4,250
5	5,900	5,000
6	6,650	5,650
7[1]	7,400	6,300

[1] For families with more than 7 members, add $750 for each additional member in a nonfarm family and $650 for each additional member in a farm family.

OEO POVERTY GUIDELINES FOR HAWAII

	Nonfarm family	Farm family
Family size:		
1	$2,300	$1,975
2	3,000	2,550
3	3,650	3,100
4	4,400	3,750
5	5,200	4,425
6	5,850	4,975
7[1]	6,500	5,525

[1] For families with more than 7 members, add $650 for each additional member in a nonfarm family and $550 for each additional in a farm family.

BUREAU OF THE BUDGET,
Washington, D.C., June 17, 1970.

REVISION OF EXHIBIT L, CIRCULAR NO. A–46—DEFINITION OF POVERTY FOR STATISTICAL PURPOSES

(Circular No. A–46—Transmittal Memorandum No. 12)

To the Heads of Executive Departments and Establishments:

Attached is a revision of Exhibit L of Circular No. A–46. The purpose of this revision is to continue the use of poverty statistics released by the Bureau of the Census beyond the year 1968.

Transmittal Memorandum No. 9, dated August 29, 1969, and Exhibit L transmitted with it are hereby rescinded.

ROBERT P. MAY,
Director.

JUNE 17, 1970.

EXHIBIT L (REVISED) CIRCULAR NO. A–46

DEFINITION OF POVERTY FOR STATISTICAL PURPOSES

For the years 1959–1968 the statistics on poverty contained in the Census Bureau's Current Population Reports, Series P–60, No. 68, shall be used by all Executive departments and establishments for statistical purposes. For the years 1969 and thereafter, the statistics contained in subsequent applicable reports in this series shall be used.

A number of Federal agencies have been using statistical series on the numbers of persons and families in poverty, and their characteristics, in analytical and program planning work. The basis for these series has been the classification of income data collected by the Bureau of the Census in accordance with a definition of poverty developed by the Social Security Administration.

The Bureau of the Census series continues the Social Security Administration definition for the base year, 1963, except that the differential between poverty levels for farm and nonfarm families is reduced from 30 percent to 15 percent. Annual adjustments in the Census series are based on changes in the average annual total Consumer Price Index (CPI) instead of changes in the cost of the U.S. Department of Agriculture's Economy Food Plan.

The establishment of this standard data series does not preclude departments and agencies from more detailed analyses or from publication of tabulations for specialized needs although, where applicable, totals must agree with totals published by the Bureau of the Census. Other measures of poverty may be developed for particular research purposes, and published, so long as they are clearly distinguished from the standard data series.

The poverty levels used by the Bureau of the Census were developed as rough statistical measures to record changes in the numbers of persons and families in poverty, and their characteristics, over time. While they have relevance to a concept of poverty, these levels were not developed for administrative use in any specific program and nothing in this Circular should be construed as requiring that they should be applied for such a purpose.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 895

At the request of Mr. PEARSON, the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from New York (Mr. JAVITS) were added as cosponsors of amendment No. 895, intended to be offered to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 999

At the request of Mr. CHURCH, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of amendment No. 999, intended to be proposed to the bill (H.R. 1), to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assist-

ance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

NOTICE OF HEARING ON S. 3459

Mr. EASTLAND. Mr. President, I hereby announce the Subcommittee on Environment, Soil Conservation and Forestry of the Committee on Agriculture and Forestry will hold a hearing Monday, April 17, on S. 3459, to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation. The hearing will be in conjunction with S. 3105, the forestry Incentives Act, and will be in room 324 Old Senate Office Building, beginning at 10 a.m. Anyone wishing to testify should contact the committee clerk as soon as possible.

ADDITIONAL STATEMENTS

RESIGNATION OF UAW PRESIDENT LEONARD WOODCOCK FROM THE PAY BOARD

Mr. HARRIS. Mr. President, last week the representatives of the UAW and AFL–CIO resigned from the Pay Board. Throughout the Nation editorials denounced their decision as irresponsible.

I recently read the withdrawal statement of the UAW president, Leonard Woodcock, in which it is pointed out that the Nation's largest corporations scored a 76-percent gain in profits last year to a high plateau of $29.4 billion. Meanwhile, the administration remains relentless in its efforts to hold down pay increases.

Mr. Woodcock's statement raises a valid point. The wage and price control system set up by this administration serves big business interests. It is weighted against the consumer and the workingman.

I believe other Senators will want to read Mr. Woodcock's statement. Before we denounce someone, we ought to know what he is saying, particularly when it makes sense.

Mr. President, I ask unanimous consent that Mr. Woodcock's statement be printed in the RECORD.

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

STATEMENT OF LEONARD WOODCOCK

It is regrettable when one is forced to withdraw from any public service, but that is the position the actions of the Nixon Administration force me to take.

The administration of the Economic Stabilization Act, as amended, has been so scandalous and unfair that the UAW calls upon Congress for a prompt and full investigation.

When I was appointed to the Pay Board I determined, with the full support of the UAW membership and leadership, to bend every effort to make controls equitable and to make them work. After these many months, I am constrained to say that, despite the strenuous efforts of the Congress and of my labor colleagues on the Pay Board, the Nixon controls are neither equitable nor effective. In these circumstances, the UAW International Executive Board has unanimously agreed that I join other labor members of the Pay Board in resigning forthwith.

The UAW leadership reached this decision with great difficulty. As much as we regret the Pay Board decision to cut down the Longshoremen's pact, we do not leave because of that decision. In our view, the action of the Pay Board in the Aerospace cases was unlawful, unfair and unwise, but we did not leave then even though it was our own members who were being cheated of their just due.

We leave because the whole Nixon control system is an abomination, and the UAW cannot in good conscience maintain any connection whatsoever with that system.

The Pay Board was established—or so the Administration then announced—to control inflation and to stimulate jobs. Neither objective has been realized. The Board has been misused to rigidly control wages while prices and corporate profits soar. The nation's 100 largest corporations scored a 76 per cent gain in profits last year to a high plateau of $29.4 billion. As food prices accelerate their climb, the Administration's agriculture secretary applauds the trend and blames the bewildered housewife for inflation. Seventy-five per cent of retail stores are left free of controls. Dividends as well as profits are under no restriction.

Utilities have been given the green light by the Price Board to gouge the public.

The Administration has failed utterly to take the steps required by law to control finance charges and interest rates.

I am resigning for these reasons:

The Nixon game plan is to take worker money and place it in the pockets of employers through both action and inaction.

Contrary to the Congress' command to exempt the working poor from Pay Board controls, the Cost of Living Council has improperly construed the law so that those who earn below the poverty level are rigidly controlled.

Despite the President's personal written pledge of the Pay Board's autonomy, independence and freedom, the Administration has leaned on the Pay Board with a heavy hand.

The Pay Board has denied elemental due process to parties before it. Industry and so-called "public" members have prejudged cases before the Board began consideration of them; public hearings required by law have not been held; the Board's unholy coalition of big business and Administration puppets has decided actual cases on a political and public relations basis rather than on the facts; the Board has failed, as required by law, to set out discernible and reasonable grounds for its decisions.

The so-called "public members" of the Pay Board are in fact almost entirely representatives of big business and the Nixon Administration.

The control apparatus consistently operates against workers and for big business—in outright violations of the Economic Stabilization Act, as amended, and by one-sided interpretations. The Congress' concern for the encouragement of productivity is practically ignored and the congressional command to exempt certain fringe benefits has been flouted.

The day-to-day operation of wage controls has been largely delegated to the inexpert Internal Revenue Service which offers contradictory and confusing advice to workers and employers.

The Pay Board has already built a backlog of thousands of cases awaiting decision. Many of these cases have been pending for more than four months and some have been lost or mislaid by the Pay Board or the IRS. Collective bargaining is paralyzed. Employers profit while workers wait.

No UAW leader has ever been unprepared to accept the principle of equality of sacrifice. We have always agreed to cooperate in an equitable income policy and other fair controls. When I accepted the President's invitation to serve on the Pay Board, I took him at his word on his stated objectives. As long as I thought there was any chance that controls might become even-handed or that inflation might really be held in check, we were willing to go along. If the Administration had stepped up to its responsibility to check food price rises, to control interest, profits and dividends—to keep down the cost of living—I would have been willing to serve.

It is now plain that only labor is penalized and consumers continue to suffer. They are victims of Administration sabotage. If anyone has sabotaged controls, it is the controllers themselves. We will not be a party to it. We will not be a party to an effort to enrich the wealthy and swell corporate coffers at the price of lowered living standards for workers.

Never in our history have we seen an Administration so attuned to big business. As recent disclosures have shown, neither the White House nor the Justice Department is immune from the taint of big business. Neither is the Pay Board. I do not believe the American people will submit meekly to an economy controlled by big business and Richard Nixon. The ordinary people who trudge in and out of grocery stores are painfully aware that the Nixon economic program is a hoax and a sham.

Despite the dire threats of anti-labor legislation emanating from the White House and its supporters, the time has come when the UAW cannot permit itself to be used; we will not hoodwink our members and the rest of the public.

SUPPORT FOR RURAL DEVELOPMENT ACT OF 1972

Mr. TALMADGE. Mr. President, I am happy to report that there is tremendous interest in and support for the Rural Development Act of 1972, a bill reported to the Senate last Friday. This legislation, S. 3462, would provide a truly comprehensive approach to the development of rural America. It would provide the capital and the technical assistance that is needed to restrain the current ruinous trend of rural out-migration and restore some balance to the growth of this Nation.

The staff of the Committee on Agriculture and Forestry tells me that there is a tremendous demand for copies of the committee bill and report. Already I have begun to receive a number of letters expressing support for the committee's rural development bill. This comprehensive bill, which contains provisions cosponsored by 88 Members of the Senate, is a team effort. It incorporates the ideas of several Members of the Senate and of the President, as well.

Mr. President, I ask unanimous consent, to have printed in the RECORD a letter I have received from the Governor of Alaska expressing his support for S. 3462, the proposed Rural Development Act of 1972, and a letter I have received from the executive vice president of the Federal Land Bank Association in Rock Hill, S.C., expressing that association's preference for the committee's rural development bill.

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

STATE OF ALASKA,
April 4, 1972.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture and Forestry, U.S. Senate, Washington, D.C.

DEAR SENATOR TALMADGE: The "Rural Development Act of 1972" approved by the Senate Committee on Agriculture and Forestry looms as one of the most far reaching legislative acts yet conceived to respond to the problems and promises of rural America. Recognizing that the administration has submitted legislation and the House of Representatives has passed somewhat similar rural development legislation. I can express nothing short of enthusiasm for the rural development legislation of the Senate Agriculture Committee.

The cooperative credit system, revenue sharing provisions and the expanded capability of the Farmer's Home Administration significant to assist in the construction of rural housing and vital community facilities are proposals which, if enacted, could prove instrumental in stabilizing and redeveloping the rural areas of our Nation.

I believe strongly that responses to the problems which the states face are best developed at the state and local level with the Federal Government providing adequate funding and legislative guidance. The excellent provisions of this proposed legislation would allow such local and state initiative and flexibility.

I will appreciate very much being kept informed of the progress of this very important legislation.

Sincerely,

WILLIAM A. EGAN,
Governor.

FEDERAL LAND BANK ASSOCIATION OF ROCK HILL,
Rock Hill, S.C., April 6, 1972.

Re H.R. 12931, Rural Development Act of 1972.

Senator HERMAN E. TALMADGE,
Senator B. EVERETT JORDAN,
Senator LAWTON CHILES.

GENTLEMEN: On behalf of the Board of Directors of this Association and myself, I wish to express our views toward the above bill.

While we fully endorse and support the philosophy of rural development, we are concerned about the features of this bill which would be in competition with existing facilities through the Farm Credit System. We believe the Rural Development Act should be aimed primarily at the establishment of community facilities such as waterworks, sewer systems, recreational parks, and anti-pollution matters, and not for lending for individual needs and purposes with government money in competition with credit agencies who can finance qualified applicants.

It is our understanding that the Senate Agricultural Committee is ready to report out a Rural Development Bill deleting some of the features which we find objectionable in H.R. 12931 and, in effect, returning the Farmers Home Administration to its customary role of supplementary credit.

We urge your continued support of the Senate version of this legislation in the form reported and we are today writing the members of the House Agricultural Committee from the Third Farm Credit District, urging that they, too, support the Senate version when the differing provisions of the House and Senate bills are considered.

The Senate Agricultural Committee's approach to legislature concerning rural development is supported by our Association, and we hope that the House members involved in the final drafting of this bill can be persuaded to accept the Senate version. Your efforts in this direction will be appreciated.

Sincerely,

MELVIN B. CAUTHEN,
Executive Vice President.

ELECTORAL COLLEGE REFORM

Mr. BROOKE. Mr. President, many Americans have become increasingly concerned with the manner in which we select the President of the United States. Today, candidates are still forced to adjust their strategies to conform to a system that was established almost 200 years ago, when such inventions as the diesel engine and wireless telegraph had not even been conceived.

But, it is not only the candidates who suffer as a result of the present structure. The voters must also contend with such factors as a nominating process that has significant variations from one State to the next, with voter registration and balloting procedures that are subject to fraud and abuse, and with an electoral college system that has several times awarded the Presidency to a candidate with a minority of the popular votes.

Public-spirited groups throughout the Nation—including the American Bar Association, the Chamber of Commerce, the League of Women Voters, and the United Auto Workers—have given these problems thoughtful attention. One proposal, the abolition of the electoral college, was approved by the House of Representatives and came within a few votes of being approved by the Senate in 1970.

I am hopeful that, following this year's election, Congress will fully reexamine this vital matter, drawing on the many constructive proposals that have been discussed.

In this regard, Robert Finch, counselor to the President, offered an important discussion of the Presidential selection process in a lecture at Westminster College in Fulton, Mo. on April 4. Mr. Finch has drawn on his broad experience on both the local and national levels to make many progressive suggestions, including the enactment of a Federal uniform elections law.

Although I withhold comment at this time on each of the details of his plan, I do agree with his conclusion that:

It has fallen to our generation to confront the sobering fact that the struggle to achieve a meaningful representative government is an unending one . . . And we have to make everyone's vote mean something or else no-one's vote will mean anything.

I commend this speech to the attention of Senators and to all Americans who are interested in this vital issue. I ask unanimous consent that it be printed in the RECORD.

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

SELECTING THE PRESIDENT: A NATIONAL FRANCHISE—A CRITICAL STUDY OF THE AMERICAN ELECTORAL SYSTEM

(By the Hon. Robert H. Finch, Counsellor to the President, The John Findley Green Lecture, Westminster College, Fulton, Missouri, April 4, 1972)

NOTE: Counsellor Finch may depart from the prepared text, but it is authorized in its entirely

I want to talk tonight about what passes for our national electoral process.

Most Americans assume that the business of registering to vote, voting in Presidential primaries and general elections, and having their votes counted along with those of their fellow citizens is an orderly process which is carried out in an efficient and generally similar way area by area and state by state.

I am sorry to have to say that most Americans are wrong.

Most Americans are confident that once a Presidential election has been held on the first Tuesday in November, a Chief Executive reflecting the popular vote will be sworn in on the steps of the Capitol the following January.

But in fifteen out of the thirty-seven elections in our history, this has not been the case . . . and unless we do some serious thinking and legislating very soon, it may happen again.

Before going further, perhaps I should add a few words to your very generous citation, by way of qualifying myself to speak about the deficiencies in this critical process of election, and to be very precise about the role in which I address you.

For the 29 years of my adult life I have labored as a partisan volunteer for the party and candidates of my choice. I have done this as a student and teacher, and, for twenty years, as a practicing attorney. In this period I have been elected precinct and assembly delegate, County Chairman, Delegate to four National Conventions, Congressional nominee, and statewide official in California. I have been the hcairman of state and national Presidential campaigns, and have served as Federal Department head and Cabinet officer for over three years.

But I hasten to add that what I am going to urge tonight is not in any sense an Administration proposal.

My discussion, analysis, and proposals flow out of my own personal experience and observation, and I speak for myself and as an individual citizen.

It seems to me that as we approach another of the quadrennial encounter sessions we call Presidential elections that a dangerous anomaly undermines the whole structure of our American electoral institutions.

The whole course and thrust of our history during the last century and three-quarters has been to expand and extend the vote and the franchise of the people, but it is the dismal fact that the mechanisms by which that vote and power are expressed and reflected have either become or have remained unresponsive to the needs and forces of our people and of our times.

Today, with all the confusion and controversy surrounding our system of primary elections, voter registration qualifications, voting procedures, and the Electoral College, we are forced to ask whether the very integrity of the American ballot has not been compromised.

I want to begin by briefly tracing the historical development of the way we go about choosing Presidential candidates and then electing a Chief Executive. Then I shall attempt to show how unwieldy and unrepresentative the system has become today. And lastly, I would like to suggest a broad new approach to the solution of these problems.

1. THE PAST

Let us begin by turning back to see how the whole thing began.

Walter Bagehot wrote a classic glorifying the British Constitution because it *doesn't* exist, and General de Gaulle has harkened back to the *spirit* of France emerging from the mists of time.

There is no such mystery or mythology surrounding our own beginnings. Our nation has the very unique advantage of having been born in public.

Representatives of the thirteen American colonies met in Philadelphia in the spring of 1787 with their minds set on forming a more perfect union than the Articles of Confederation had been providing since 1781.

Madison's notes of the Constitutional Convention survive, as do numerous diaries and memoris of the people and the period. There are other unique resources such as *The*

Federalist Papers written by Alexander Hamilton, James Madison, and John Jay to persuade the people to ratify the proposed Constitution.

We know what the Founding Fathers had in mind when they discussed and debated and devised the Constitution; we know what they put in it, and we know why they left some things out. We know the courage and the compromise embodied in the finished document.

Then, as now, one of the most pressing and prickly problems, the Constitutional Convention had to face was that of a chief executive—the manner of his selection, and the parameters of his power.

One of the greatest weaknesses of the Articles of Confederation was their lack of provision for a strong central authority; but the natural colonial resistance to anything even remotely smacking of the monarchy they had just fought to overthrow made this a very testy area.

Partly because the whole question was so controversial, and also partly because there was little doubt that the trusted and beloved George Washington was going to be the first head of whatever form of government emerged from the Convention, the whole problem was, in a way, finessed.

Early on, as we all know, the Convention decided that there must be a strong national government comprised of three supreme, separate and co-equal branches. The Great Compromise between the large and small states settled the thorny question of population and power by arranging that every state would be equally represented in the Senate, but according to their population in the House of Representatives.

"The Executive Power," the Convention decided, "shall be vested in a President of the United States. . ." But that was as far as it got.

After considering and rejecting several plans for electing the President, the question was sent to a committee on postponed matters, which decided that the President should be elected by a group of Electors who would be chosen in each state as the legislature of the state should direct, and as numerous as the state's representation in the Federal Congress.

It was a frank compromise from start to finish in which, as one recent historian remarked, "everybody got a piece of the cake". Even at the time, there was a certain defensiveness about this kind of patchwork Presidency. As James Madison later confessed:

"The difficulty of finding an unexceptionable process for appointing the Executive Organ of a Government such as that of the U.S., was deeply felt by the Convention; and as the final arrangement took place in the later stages of the session, it was not exempt from a degree of the hurrying influence produced by fatigue and impatience in all such bodies . . ."

And James Wilson, one of Pennsylvania's delegates at the Convention, told his colleagues quite bluntly that: "This subject has greatly divided the house, and will also divide people out of doors. It is in truth the most difficult of all on which we have to decide."

When the ninth state ratified the Constitution in 1788, the United States of America officially began. As had been expected, George Washington was its first President. He was easily re-elected in 1792, but already by the end of his second term, an unforeseen division had appeared.

Differences of outlook and opinion in the Congress had led to the formation of solid partisan blocs which quickly formed into political parties . . . and since Presidential candidates were chosen by Congressional caucuses, Party lines had an immediate impact on national life.

By 1824, the partisan elements in the feuding between the Jeffersonians and the Jacksonians had become so heated that of the four presidential candidates that year, none received the majority of electoral votes required by the Constitution to become President.

So less than half a century after the Founders had hoped that time would smooth out the rough edges of the Electoral system they had devised, that system caused a crisis which endangered the very stability and survival of the nation itself.

In the election of 1824, Andrew Jackson, whose candidacy had opposed the power of the Congressional "King Caucus", had a plurality of 50,000 popular votes, but only received 99 electoral votes. John Quincy Adams received 84; William Crawford, 41, and Henry Clay, 37. The election was accordingly sent to the House of Representatives which voted along partisan lines. Adams won seven of the thirteen states and thus became President.

For the first time in our history—but not for the last time—a President of the United States received neither a majority of the popular votes nor of the electoral college.

In 1876 this unfortunate scene was played out again under rather less attractive and honorable circumstances, and with a rather less distinguished cast of characters. After a sordid dispute that dragged on until the morning of the inauguration five months later, Rutherford B. Hayes became President by a majority of one very questionable electoral vote even though his opponent Samuel B. Tilden received 50.9% of the popular votes against Haye's 47.9%.

Only a dozen years later, in 1888, Grover Cleveland lost the Presidency although the records show that almost 45,000 more people had voted for him than for Benjamin Harrison.

In the election of 1828, when Andrew Jackson was finally elected President, there was some experimentation with using state legislatures and state political party organizations and conventions for nominating Presidential candidates . . . and out of this, during the 1830s, emerged the national party conventions which we still have today, and which still do the formal selecting of Presidential nominees.

The convention system moved the power of Presidential selection away from the Federal establishment and out to the states. The evolving and developing thrust of popular democratic and governmental reform during the next century moved power in the states out even further among the people, as delegates to the party conventions were chosen by the party membership in small, local units, in the townships and precincts across the nation.

This was no easy accomplishment or certain course. The immense power and influence involved soon attracted those who would maneuver and manipulate it for their own advantage. The notorious Boss Tweed of Tammany Hall once remarked that "I don't care who does the electing just so I can do the nominating." And he did, for a number of years, as far as New York politics was concerned.

Someone did an analysis of the delegate list to the Chicago Cook County convention of 1896, and found that:

"Among the 723 delegates, 17 had been tried for homicide, 46 had served terms in the penitentiary for homicide or other felonies. 84 were identified by detectives as having criminal records. Considerably over a third of the delegates were saloon-keepers; two kept houses of ill-fame; several kept gambling resorts."

This kind of jobbery got completely out of hand, and around the *turn of the century*, a reform movement grew up, fed by the rising discontent of the growing middle-class of small businessmen, professional men, academics, and independent farmers. This movement finally crystallized into the Progressive Party.

The Progressive leaders increasingly looked to direct primaries for choosing local and state candidates as well as national candidates, as a way of getting the decisions out of the "smoke filled rooms" and back to the people out at the grass roots.

But from the very beginning, there was a problem over which kind of primary best served the peoples' interests and purposes.

The primary system was bedeviled by the dichotomy between being a beauty contest and being a meaningful political exercise.

That is the problem which is still unresolved today.

How do you strike the right balance between choosing a candidate who must be a popular and attractive figure, while at the same time assuring the equally important responsibility and accountability of our political parties? These first reformers were already aware of the potential conflicts of interest and function between popular primary elections and national party conventions. What they tried to find—and what we must still try to find today—is the balance which preserves the best of both ways.

The initial burst of enthusiasm for primaries was short-lived but intense. Florida passed a primary law in 1901 but it was not used for years. Wisconsin passed a law in 1905 calling for the popular election of national convention delegates, but without any provision for indicating the voter's Presidential preference. Pennsylvania passed a primary law in 1908, but did not use it for that year's elections.

So the real honors go to Oregon, which in 1910 passed the first real presidential primary law covering both the popular election of national convention delegates and a binding vote for the Presidential preferential winner.

The primaries were all in place just in time for an historic political watershed. In 1912, Theodore Roosevelt decided to oppose President Taft, his hand-picked successor of four before, for the Republican presidential nomination. T.R. took his case to the people via the newly-constructed primary route. The people responded, and he won 11 of the 13 primaries he entered, including a stunning victory in Taft's home state of Ohio, and thereby secured 278 convention delegates as opposed to Taft's 48.

When the convention chose Taft as the nominee, T.R. bolted and set up his own Bull Moose Party, thus throwing the election to the Democratic candidate Woodrow Wilson.

Wilson was enough of a sutdent of government to be upset by the shambles which had secured his election, and in his first message to Congress in 1913, he proposed a national primary as a way of redeeming the demeaning carnival which the primaries had suddenly become.

The Progressives and the reformers, however, had lost a lot of their heart and steam when T. R. was defeated, and little interest was aroused in trying to reform what they had thought would be instruments of reform. Wilson's proposal was ignored, and over the next twenty-five years, eight of the 25 states which had primary laws actually repealed them.

Until 1960, then, primaries were mainly notable for the hopes they dashed. Wendell Willkie's defeat in Wisconsin in 1944 ended his hopes and his chances for a political come-back.

The same thing happened to Harold Stassen in Oregon in 1948.

In 1952 Senator Estes Kefauver put on his famous coonskin cap and hit the primary trail. He entered 15 out of 16 primaries, won 12 of them, and then lost the Democratic nomination to President Truman's choice, Adlai Stevenson, who had not entered a single one. In the same year, the New Hampshire primary badly damaged Senator Robert Taft's Presidential hopes, just as West Virginia did

to Senator Humphrey's in 1960 and California did to Governor Rockefeller's in 1964.

The current state of primaries which besets us began in 1960 when Senator John F. Kennedy announced that he would take his case to the people in the primaries, to prove that his youth, his religion, and his lack of big city political support did not diminish his vote-getting ability.

Richard Nixon used the Republican primaries in 1960 to position himself, and in 1968 to re-establish himself, as the most popular Republican vote-getter.

In politics as in so much else in life, nothing succeeds like success. The primaries, which are now reported and interpreted by a vast and still-growing electronic media, can give nationwide visibility and publicity to the candidates who enter them. They have become, accordingly, more necessary for weak candidates and most attractive for strong candidates.

During the last decade, the main new interest and thrust surrounding the way we elect our President has been in the area of extension of the franchise. The great advances of the last century extending the vote to the former slaves, and of the early part of this century enfranchising women, have been notably built up and built upon by the recent 23rd Amendment of 1961 which extended the vote to the District of Columbia; the 24th Amendment of 1964 which banned the poll tax as a requirement for voting in Federal elections; and the 26th Amendment of last year which enfranchised voters between the ages of 18 and 21.

During this same period, Congress has passed the Civil Rights Acts of 1957, 1960, 1964, and 1965—which add up to a virtual Federal guarantee of the right of all citizens to vote. The Voting Rights Act of 1970 confirms this guarantee.

For all practical intents and purposes, the *quantitative* goal of universal suffrage has not been secured.

In the last decade, a new and important emphasis upon the *qualitative* aspects of suffrage has been accelerated by the sudden activity of the courts, and especially the U.S. Supreme Court.

Having once secured the right of judicial review, the Supreme Court exercised almost a century and a half of judicial restraint, keeping away from what Justice Frankfurter called this "political thicket." Now the courts have belatedly entered this area . . . indeed, some of the District courts seem intent upon making up the lost time!

By a whole string of germinal decisions, the Supreme Court has clearly indicated that it views the franchise in the widest and broadest terms.

In the Court's decision in *Gray* v. *Sanders*, in 1964, Justice Douglas wrote that "The concept of political equality can only mean one thing—one person, one vote." And in 1965 in *Wesberry* v. *Sanders*, the Court read the one-person-one-vote standard into Article I of the Constitution and applied it to elections for the National House of Representatives.

In some more recent decisions like *Carrington v. Rash* (1965), *Harper v. Virginia Board of Election Commissioners* (1966), and *Kramer v. Union Free School District* (1969), the Court has held that a state may neither deny a bona fide resident the opportunity to vote because he is a member of the armed forces; nor impose a poll tax; nor require citizens to own or lease taxable realty in order to vote in a local election.

In the case *Dunn v. Blumstein*, decided last month, the Court struck down even a minimal state residency requirement for voting. Other decisions and the Voting Rights Act of 1970 forbid literacy tests or even English-language requirements as requisite for voting.

Now, I have made this rather extended historical discussion by way of making several important points.

First, I wanted to show how the Electoral College system as it was written into our Constitution was a patchwork compromise made by men who could have no idea or inkling of the course our nation or our politics would suddenly be taking before even a generation had passed. Fortunately for our survival, the slowness of communications at the time and the good temper and patriotism of the men involved in the crises surrounding it, have saved our nation from civil war when the popular will and, at least in one case the public decency, were thwarted by the Electoral College system.

Second, I have shown how the primary system has been a relatively recent and haphazard development which arose as the result of a particular set of historical circumstances.

Third, I have pointed to what I suggest is a very significant trend involving the continual extension of the franchise—a trend which is constantly frustrated by our archaic election laws.

We can no longer send these problems to a "committee on postponed matters" . . . because they can no longer be postponed. The day of reckoning with the most basic problems of representative government—just how that government is chosen and elected—can no longer be left to chance. As America expanded in size and prosperity beyond the Founders' fondest expectations, rules were made as we went along. The result is that today, in 1972, our national politics depends on 50 different and inconsistent state systems which may or may not work well for local matters but which certainly wreak havoc with our Presidential elections.

2. THE PRESENT

We talk about primaries today, but in fact there are two very different kinds of primaries which mean very different things and which have very different results.

There are, first, delegate selection primaries where the voters pick slates of delegates for the national convention who are, depending upon the particular state's laws, either pledged to support a particular candidate at the convention, or who are unpledged to any candidate.

Then there are Presidential preference primaries where the voters get to choose from the candidates who have entered or campaigned. Many states have combinations of the two kinds.

At its best, the primary system is a way for the members of each political party to have their say and exercise their influence on their Party's choice of its nominee for President. At its worst, the primary system has become pretty much a hyped-up beauty contest with little or no inhering political influence or consequence.

And after all this expenditure of time and money and stamina, what does the winner of the primaries have to show for it? Not a lot. For example, this year the primaries represent a total of 2,007 out of 3,016 votes at the Democratic Convention, and 802 out of 1,346 at the Republican Convention.

The problem is that in only 13 states and the District of Columbia do the primaries bind the delegates to follow the results of the Presidential preference vote.

In New Hampshire, Nebraska, and Pennsylvania the delegates are only partially bound—usually for two convention ballots. In some of the biggest and most important states—like New York, Illinois, Ohio, and New Jersey—the delegates are not bound at all. In the biggest state, in California, a winner-take-all rule applies. This means that instead of reflecting the composition of the popular vote by dividing the delegates, all of California's convention votes will be cast for the simple numerical winner, no matter how small his margin may be.

That narrows the number of sure convention votes winnable in the primaries down to 1,001 for the Democrats and 395 for the Republicans, not nearly enough even for one candidate to win either nomination.

In today's primary in Wisconsin, we shall see what I consider the most obvious and ludicrous inconsistency of all the cross-over vote. Wisconsin allows people of either party to vote in the Presidential preference primary of the other party. This allows the practice known as "raiding", where partisans cross over party lines to help elect—or embarrass—the candidates of another party that they consider the easiest to defeat in the general election.

A recent and, I think, very ill-advised District Court ruling upheld the right of cross-over voting in primaries, and we have already seen the effects of that decision in the Illinois primary results.

In Illinois there were at least other state and local offices on the ballot to keep partisan lines and interests intact; but in Wisconsin there are no such constraints on what amounts to a Presidential free-for-all.

Another problem with primaries is their astronomical cost in dollars and other resources. The prenomination primary spending record so far belongs to the Democrats in 1968: $25 million was reportedly spent before the Convention in Chicago was even called to order. It has been estimated that this year the various Democratic candidates had already spent $6 million *before* the New Hampshire polls began to open up.

One commentator has quipped that to run the primary gauntlet today a candidate needs the wallet of a Harriman and the stamina of a Hereford. Why, then, do candidates bother? What keeps the primaries going?

The answer lies in recent history. John F. Kennedy's successful primary strategy led many aspirants to believe that with enough money and "charisma" they could become nationwide household words overnight—or at least in time to win their party's Presidential nomination.

Then came Senator Eugene McCarthy's stunning performance in the 1968 New Hampshire primary. I'm sure that many of you recall that amazing day, as the results poured in showing how Senator McCarthy's antiwar, grass roots, youth-oriented campaign had actually managed to topple an incumbent President in a conservative state.

Well, if that is how those events of just four years ago in the snows of New Hampshire are remembered . . . we'd better refresh our memories.

Because Senator McCarthy *did not win* the New Hampshire primary in 1968. He lost it. He lost it to Lyndon B. Johnson whose name was not even on the ballot. 49½% of New Hampshire's Democratic voters wrote in President Johnson's name—4,257 more of them than actually pulled the lever or marked the ballot for Senator McCarthy.

It was the batteries of TV and press reporters; the tremendous glaring, blaring focus brought to bear on that first challenge to the Vietnam War which served to produce what has been called, or at least interpreted, as a "moral victory" for Senator McCarthy.

It is this important visibility and the symbolic significance now read into primary victories and defeats which compels candidates to run in primaries, often despite their best judgments and against their better interests.

In 1960 there were 18 primaries; this year there are 24, including the District of Columbia and the Virgin Islands. It won't take the mathematicians among you to see that there is some kind of "primary progression" at work here, and we must do some serious thinking about the reform of the present in-

consistent system before we rush ahead and add still more to it.

What we have now amounts to twenty-four different sets of rules, players, and stakes. But what can the candidate do but play when they are the only games in town.

Another crucial area of our electoral mechanism is voter registration. I know that this is of particular interest and concern to this audience. Here again, however, our system has become crotchety and unresponsive, especially in terms of the great new constituencies of young people, Spanish-speaking Americans, blacks, and women.

As with primaries, the inconsistencies of voter registration are confusing and overwhelming. If you go out to register here in Missouri, for example, you will find that while registration is not required in rural areas, some counties have permanent registration, some have periodic registration, and some have none at all; while in cities of 10,000 or more, registration exists and is permanent.

If your area has it, it closes 28 days before the primary, and depending upon the local election officials you may or may not be able to register in your precinct as well as at a central office, and you may or may not be able to register on evenings or Saturdays. If the registration is required and is not permanent, you will generally lose it unless you vote every four years.

Again at the discretion of local officials, citizens may be deputized to register voters, and an official canvass is suposed to be made no more than twenty days before the election to purge outdated voting lists. Election day will be a holiday with no liquor sold during voting hours, and depending upon where you vote, you may have a machine or a paper ballot.

Now one thing can be said for sure: this exact list of voting characteristics and qualifications would not be duplicated in any one of the other states or territories. They are all totally different in provision, and equal only in their confusion. If you believe in positive thinking, I guess that you could see some merit in the fact that in North Dakota there is no registration at all, nor are there any state wide provisions for checking vote frauds.

So we have a daunting, demanding disparity of complicated rules and regulations for registration. It is not difficult to see how many votes are wasted, voided, or fixed amidst this confusion, especially when the different—and in some cases exotic—forms of ballots in different areas are taken into account.

In some jurisdictions, people have been able to vote a whole straight party ticket under a symbol—like a rooster or a lightning bolt or a camel—rather than for a particular set of candidates.

While many people today say that individual votes cannot make any difference, it is in fact fair to say that with the unit rule in the Electoral College, individual votes per precinct do literally win or lose our modern Russian roulette elections.

As Tom Wicker of *The New York Times* wrote in 1968 about the 1960 Kennedy-Nixon election:

"All history books record that Kennedy received 303 electoral votes to 219 for Richard M. Nixon. But electoral votes are determined by the popular votes . . . and in 1960, a shift of only 4,480 popular votes from Kennedy to Nixon in Illinois, where there were highly plausible charges of fraud, and 4,491 in Missouri, would have given neither man an electoral majority and thrown the decision into the House of Representatives. If an additional 1,148 votes had been counted for Nixon in New Mexico, 58 in Hawaii, and 1,247 in Nevada, he would have won an ouright majority in the electoral college.

"Any experienced reporter or politician knows that few votes can easily be "swung" in any state by fraud or honest error."

In 1960, in the 50th Precinct of Chicago's 2nd Ward, there were 22 legitimate voters, 82 applications for ballots, and 77 recorded votes cast. And in Precinct 27 of Anglia County, Texas, there were 86 voters who turned out and somehow managed to cast 171 votes according to the supervisor's tally. In Fannin County, Texas, 4,895 eligible voters somehow managed to cast 6,138 votes.

Such vagaries may appear minor, even humorous, pecadilloes in terms of the total national vote, but when a plurality of one could move a whole state's electoral vote into one column or another, there is compelling evidence, it seems to me, for bringing some kind of reform and order to the whole system.

If this nation had been able to have an honest recount on the occasions where the popular vote was challenged, our history might have been different. But even if there was no question of fraud involved, the archaic and inconsistent state laws make it simply impossible in America today to have a recount for the Office of President of the United States. Our system of government is based, as it should be, upon the orderly transfer of power from one Administration to the next. But how can we pretend to do that when, for example, an Arkansas law provides that a Federal recount can only be held after an affirmative vote of the state legislature—which does not meet until the February of the year following the election? Are we to leave the White House vacant or a Presidency of the United States in doubt because of the partisan whims of a one-party state legislature?

If accountability is the keystone of responsibility, then our registration, balloting systems, and state recount laws conspire to limit the voter's intelligent and properly counted vote.

The recent trend in American politics away from the large majorities of the Roosevelt and Eisenhower elections, and toward smaller pluralities of votes in fields which may well include strong Third Party candidates as a permanent fixture for some time, has made it imperative that we address the whole question of the Electoral College.

Governor George Wallace's candidacy in the 1968 Presidential election prodded much thinking and writing about Electoral College reforms, but as is too often the way with such things, once the crisis failed to materialize, a comfortable inertia returned.

As long as the Electoral College remains as it is, however, a sword of Damocles is hanging over the head of American popular democracy.

Americans today do not actually vote directly for the President of the United States, but for a number of *Electors* who get together after the popular election, certify the results, and then cast their electoral votes for President. We the people choose the electors and then they elect our President.

The first structural defect of the Electoral College system is the "unit rule." According to the unit rule, the numerical winner in each state is credited with *all* the votes in that state, *even those that were cast against him.* At a time when, as we have seen, the Congress and the Courts have made one-person-one-vote their operative axiom, the unit rule in the Electoral College still makes Presidential elections a kind of winner-take-all gamble.

The second defect of the Electoral College system is that because of geographic distribution, it makes possible a situation where the candidate with the most popular votes receives the least electoral votes. I shudder to think of the popular discontent and dismay with the results of some future election in which the popular vote winner is not chosen President because of an Electoral College deficiency. Our whole new "Presidential constituency" and electorate which has grown up with the media and been encouraged by the Courts and the Congress, might literally be up in arms at such a seemingly paradoxical and incomprehensible event.

Another defect is the archaic role of the "electors" themselves. At best, they are inaccurate rubber stamps; at worst, they can be spoiling mavericks.

Since the whole system *is* inconsistent and troublesome, we should forestall such future tribulations by acting now to bring it into line with common sense and the common experience and perception.

The sum total of our present procedures for getting a President chosen, elected, and inaugurated, is pretty bleak. Somehow we have managed to muddle through so far, but as the election of 1968 dramatically underscored, we are living on borrowed time.

3. THE FUTURE

So now we have come full circle. We have survived almost 200 years as a nation by guess and by God.

With almost two hundred years of successful nationhood under our national belt, we can now, we must now, address these very basic defects in our representative government.

The problems I have been discussing tonight have been the subject of long and sophisticated discussion and debate. There have been countless proposals, but they have dealt with the problem piecemeal. If I make no other point tonight, it is that the election of our President must be a unified national process; a single procedure embraced by Federal law from registration to inauguration.

I would like to propose a Federal Uniform Elections Law which would address across the board the problems of primary elections, voter registration, ballot uniformity, Congressional accountability, and Electoral College reform.

But I am totally opposed to the idea of a National Presidential Primary. And I do not think that the way to reform the problems posed by twenty-four primaries in 1972 is to add twenty-eight more for 1976. In effect, a National Primary would create a second and equally expensive and cumbersome national election just three months before the real one in November. Indeed, if the results of the national primary required a run-off, that would mean a third national election; and that is just too much to ask or expect.

At the same time, a national primary would serve to eliminate the positive aspects of the visibility function of primaries. I think that there is an important role played by primaries in getting the politicians and the issues out among the people, in different settings, and under different pressures.

I propose a system of Uniform Federal Presidential Preference Primary Elections as part of the Federal Uniform Law. Such Federally-supported uniform primaries could run in sequence, beginning perhaps on the first Tuesday in March, and the states could opt in or not as they choose. Candidates too, would enter voluntarily, and contesting one primary would not require contesting any or all others held on the same day. No one other than the candidate himself would have the power to place his name on any ballot, and there would be no cross-over voting allowed from party to party.

Registration for the uniform primary would be the same as that for the general election, which would be simplified and streamlined, and there would be the same kind of simplified uniform ballot. The distribution of convention delegates would be based on Congressional distribution, and the delegates chosen would be bound to cast their convention

ballots in a manner reflective of the outcome of the popular vote, for, say, at least two ballots.

It would be a positive development if several primaries were eventually held on the same day and if those primaries included a representative national cross-section of states. Probably the main inducement to the states to join the uniform Federal primary would be the fact that the Federal Government would be picking up a big chunk of the election tab.

Another key provision in the Federal Uniform Election Law would be a uniform and streamlined Federal Ballot.

The Federal Ballot would separate the Presidential Congressional election from all the other state and constitutional offices up in the Presidential year. Voters would fill in a separate, simple, uniform ballot which would be cast in a separate box or machine under Federal authority to insure the honesty of polling, the immediacy of impounding and counting, and the possibility of recounting the votes if necessary.

This uniform Federal ballot might also have a very important impact in the area of Congressional responsibility.

As David Broder has pointed out in his new book, *The Party's Over*, in only four of the 26 elections from 1900 until 1952 did the Party opposing the President have a majority in either house of Congress. But in 5 of the 10 elections since Eisenhower was elected in 1952, the voters have sent opposition majorities to *both* houses of Congress.

The early days of a new administration should be the time of great and purposeful accomplishment under the impetus of the recent national mandate. I am confident that by including Congressional offices on the Uniform ballot, we would add to the cohesion and responsiveness of our entire system, as every voter would be able to see—quite literally, to see on his uniform ballot—the pattern and relation between the Federal executive and legislative branches.

The uniform Federal ballot would also cover an important question which I am not certain was really addressed in the recent Supreme Court decision invalidating the 30-day residency requirement for voting for Federal officials. That is the question of absentee or floating constituency voting on local issues. I personally believe that local jurisdictions should be able, within the equal protection of the laws, to set some reasonable requirements for voting on issues and candidates of concern only to the local community. I do not think that local taxpayers, life-long residents, should have to live out their lives paying off debts incurred or pledges made by voters who will move on and will not have to live with the effect of their actions.

Every American should be able to cast that Federal ballot wherever he or she is—in school, in the military, or simply traveling in America or around the world. I think that the separate and uniform Federal ballot could solve this problem very neatly and conclusively.

The Federal Uniform Election Law would also include a comprehensive reform of the Electoral College as it has existed for the last century. This would require a Constitutional amendment to modify the Electoral College itself while keeping the electoral system as an automatic counting device. As at present, each state would be entitled to a number of electoral votes equal to its representation in Congress.

Each candidate would be credited with exactly the same proportion of the electoral votes as he received popular votes, and the person with the greatest number would be President.

Under this kind of a procedure, every American would have an active voice in choosing his or her President instead of the mere expression of preference they have right now. Under this new proposal, each vote would count for the candidate the voter voted for, and not, as now happens, for the man he opposed.

The problems are great, but they are not insurmountable; they are daunting but they should not be depressing.

What *is* depressing to me, however, is the apparent lack of interest or concern on the part of so many Americans about their nation or its leadership. The latest Gallup Poll shows that voting registration has not increased measurably during the five months since the last survey, and *as of March 1st, 1972, 40 million eligible Americans over the age of 18 years have still not registered to vote.* Less than half of the eligible voters under 30 years of age are registered.

This may partly be the fault of the political parties which have failed in too many cases, and especially in the cases of the new constituencies I have been talking about, to make themselves meaningful or relevant. I believe that one of the results of the Federal Uniform Election Law I have proposed would be to restore the vitality and integrity of the political parties by forcing them to reorganize and become responsive if they still want to attract the American voter to their ranks. Well, we have covered a lot of ground together tonight: from 1787 to 1972—and beyond.

But we have had one sure and certain focus: the vote.

In his dissenting opinion in the Illinois primary cross-over vote case I mentioned earlier, Judge Abraham Lincoln Marovitz affirmed that:

"Indisputably the right to vote lies at the very heart of the democratic process and is a fundamental element in the principles by which this Nation is governed. Although the manifestation of this right has gone through vast political, social, demographic and geographic transformations over the years assuming the various shapes and forms suitable to the practicalities and exigencies of a particular era, its essential core stripped of historical and periodical gloss—the right of all citizens to choose freely without governmental interference—has always remained the same."

Perhaps because they are so familiar to us, we take our electoral institutions for granted. But more than a century ago, the English writer and economist John Bright expressed an envy which can still be heard around the world. Bright wrote that:

"We know what an election is in the United States for President of the Republic. . . . Every four years there springs from the vote created by the whole people a President over that great nation. I think the whole world offers no finer object of ambition on the political stage on which men are permitted to move. You may point, if you will, to hereditary rulers, to crowns coming down through successive generations of the same family, to thrones based on prescription and conquest, to sceptres wielded over veteran legions and subject realms—but to my mind there is nothing more worthy of reverence and obedience, and nothing more sacred, than the authority of the freely chosen magistrate of a great and free people; and if there be on earth and amongst men any divine right to govern, surely it rests with a ruler so chosen and appointed."

I wonder whether an astute observer such as John Bright would be able to write with such conviction today . . .

I believe that we are on the brink of great trouble in America unless we face the fact that the most basic of our national institutions is no longer working for America in the last third of the 20th century.

We have labored and sacrificed imperfectly but nobly to achieve a universal suffrage. But now that all Americans can vote, we are beginning to discover that the vote itself does not do what we want it to do.

It has fallen to our generation to confront the sobering fact that the struggle to achieve a meaningful representative government is an unending one.

We do have a long way to go. And the place to start is right here right now. We all have to work at our institutions if they are going to work for us. And we have to make everyone's vote mean something or else no-one's vote will mean anything.

We should make our leaders . . . and our candidates . . . and our friends talk and think about making the necessary reforms in our electoral system and mechanism. No issue is more timely or important; indeed, no issue is more urgent.

The first step is to recognize and define the problem. I hope that my remarks here tonight may have done some good in that direction.

The second and most important step is to make a commitment to solving the problem. And unless we all do that—and do it soon—we will not be worthy of the heritage or the faith of our fathers. And, indeed, we may not keep them much longer.

As one observer has aptly noted:

"A nation is never finished.
You can't build it and then leave it standing as the pharoahs did the pyramids.
It has to be recreated in each generation by believing, caring men and women.
It is now our turn.
If we don't believe or care, nothing can save the nation.
If we do believe and care, nothing can stop us."

ITT'S ACTIVITIES IN CHILE

Mr. HARRIS. Mr. President, on March 30 I sent to Acting Attorney General Kleindienst a letter requesting information on the steps which the Department of Justice is taking to determine whether or not ITT's activities in Chile, as revealed in the documents released by Columnist Jack Anderson, violate sections 953 and 956 of the title 18 of the U.S. criminal code. I believe that other Senators will be interested in the background of this issue. I therefore ask unanimous consent that my letter to the Acting Attorney General be printed 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., March 30, 1972.

Hon. RICHARD G. KLEINDIENST,
Acting Attorney General of the U.S., Department of Justice, Washington, D.C.

DEAR MR. ACTING ATTORNEY GENERAL: In reviewing ITT documents relating to its investments in Chile, I am concerned that ITT may be in violation of the U.S. criminal code, Title 18, sections 953 and 956. These statutes provide for penalties up to 3 years in prison, monetary fines or both.

Section 953 concerns private correspondence with foreign governments. It states: "Any citizen of the United States, wherever he may be, who without the authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than $5,000 or imprisoned not more than three years, or both."

In the ITT memoranda which columnist Jack Anderson has obtained and now released, it is not clear that ITT did carry out correspondence with a foreign government or

its agents with the intent to defeat "the measures of the United States." But the tone of the memoranda strongly suggest that this could have happened and that the purpose was to influence political events in Chile. If so, this attempt to interfere in Chilean affairs was taking place at a time when the U.S. was declaring publicly and repeatedly that it remained neutral with respect to internal political developments in Chile. In short, ITT appears to have been working against a clearly enunciated diplomatic policy of the United States Government.

Section 956 states: "If two or more persons within the jurisdiction of the United States conspire to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal bridge, or other public utility so situated, and if one or more such persons commits an act within the jurisdiction of the United States to effect the object of the conspiracy, each of the parties to the conspiracy shall be fined not more than $5,000 or imprisoned not more than three years or both."

An ITT memorandum dated September 14, 1970, states that ITT had been "trying unsuccessfully to get other American companies aroused over the fate of their investments, and join us (ITT) in pre-election efforts." A memorandum dated October 9, 1970, confirms that such plans were serious when it notes that "practically no progress has been made in trying to get American business to cooperate in some way so as to bring on economic chaos."

No specific property is mentioned in the memoranda but in their plans to "create economic chaos," ITT officials surely had specific targets in mind. In particular, full investigation might disclose what ITT planned to do to "injure or destroy" its own properties in Chile, which are a public utility as mentioned in Section 956, with a view to creating "economic chaos." That there may have been a "conspiracy" reaching all the way to the office of the ITT President is suggested in virtually every memorandum released by columnist Anderson.

In light of the foregoing, I wish urgently to request information on the precise steps which the Justice Department has taken to determine whether or not ITT has broken the law. As chief legal officer of the United States Government, you will agree that respect for the law is only upheld when our citizens believe that the rich and the powerful must bow to it as well as the poor and helpless.

It will reassure our citizens if they see that the political dispute over ITT's activities within the United States notwithstanding, the Jusice Deparment is moving vigorously to determine whether ITT has broken the law in its activities abroad.

I look forward to your early reply.

Sincerely,

FRED R. HARRIS,
U.S. Senate.

RADIO LIBERTY

Mr. SCOTT. Mr. President, the Sunday Washington Post published an interesting letter to the chairman of the Committee on Foreign Relations. It was not a letter to the editor. It was a letter from a distinguished journalist, Chalmers Roberts.

Mr. Roberts makes the point, quoting Nobel Prize winning Soviet writer, Alexander I. Solzhenitsyn, that "if we learn anything about events in our country, it is from there," meaning Radio Liberty.

Mr. President, this quotation and the entire letter to the chairman of the Foreign Relations Committee emphasizes for each of us in this Chamber the need to continue financing Radio Liberty because of its successful contact with the people of the Soviet Union.

I ask unanimous consent that the letter be printed in the RECORD.

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

LETTER TO FULBRIGHT: IS RADIO LIBERTY A COLD WAR RELIC?

Senator J. WILLIAM FULBRIGHT,
Foreign Relations Committee,
The Capitol, Washington.

DEAR BILL: I see by the papers that you are persevering in your efforts to sink Radio Free Europe and Radio Liberty on the grounds that they are "remnants of the Cold War." What causes me to write you this open letter is Robert Kaiser's recent interview in Moscow with Alexander I. Solzhenitsyn, the Nobel Prize winning Soviet writer.

I was intrigued by this paragraph in Kaiser's account of the interview and I wonder if you spotted it:

"He criticized the Soviet press for its lack of fairness and completeness, and had a good word for Radio Liberty, the station financed by the U.S. government which broadcasts in Russian from West Germany. 'If we learn anything about events in our own country,' he said, 'it's from there.' "

There are a number of passages in the partial text of the interview, as printed in The Washington Post, that also should interest you. For instance, Solzhenitsyn said that "you Westerners cannot imagine my situation." And: "No one dares to stand up and object to a party propagandist, because if he does, the next day he may lose his job and even his freedom." And: "In general, in our country we seem to bait people not with arguments, but with the most primitive labels, the coarsest names, and also the simplest, designed, as they say, to arouse the fury of the masses." And, finally: "It really never occurs to them [those directing the campaign against Solzhenitsyn] that a writer who thinks differently from the majority of society represents an asset to that society, and not a disgrace or a defect."

The day this interview was printed you were quoted as saying your committee intends to have hearings covering "the critical early period of the Cold War" in order to get at the origins of American involvement in the Vietnam war. A great deal of material is now on the public record and it can serve a useful purpose to go back and examine it with perspective. You may have noted that Solzhenitsyn also is trying to do some historical research, into Russian history, but that he had been blocked from many documents and sources and that he complained in the interview that his defamers "refuse to acknowledge the complexity and richness of history in its diversity."

It seems to me, Bill, that you and he are both trying to probe the origins of national attitudes though from different perspectives and that that is all to the good. Fortunately, as the interview shows, it is much easier for you to do than it is for him. He has no congressional committee to help, for one thing. In terms of contemporary affairs and their bearing on future problems in Soviet-American relations he must depend on word of mouth, underground publications and Radio Liberty. But you want to deprive him of Radio Liberty and deprive others like him in Eastern Europe of what they likewise can learn of their own nations from Radio Free Europe.

Of course I realize that you believe the Cold War is over or at least is an anachronism. But wishing does not make it true. What Solzhenitsyn says to me is that he is caught up in the Soviet Union in the internal part of Moscow's own Cold War attitude. The worst phase of the American version of the Cold War was the period of McCarthyism and Solzhenitsyn seems to be fighting a Kremlin version of McCarthyism.

You may respond that what goes on inside the Soviet Union is none of our business; let Solzhenitsyn fight his own battles. He is doing that, of course, but why deny him the help of the American radio stations? Many Americans are exercised about the Soviet government's treatment of its Jews and of its many other minorities. This seems to me a valid concern and the evidence is that the expressions of such concern, short of the extremists here who carry it to the point of violence, have had an effect on Soviet policies.

That does not seem to me to be a Cold War exercise but rather a valid expression of human concern for mankind anywhere and everywhere. You object that such concern has turned the United States into the world's policeman and led us into Vietnam, the Dominican venture and so on. But isn't that because we failed to draw a sensible line, that we crossed over from the mental to the physical form of activity?

I don't have much faith in the theory that American and Soviet policies are moving toward convergence. On the other hand, I do think that what Moscow and Washington do affects the other's actions, internally as well as externally, to some degree.

There is a paragraph in the Solzhenitsyn interview that seems to express your own philosophy:

The study of Russian history, which has now led me back to the end of the last century, has shown me how valuable peaceful outlets are for a country, and how important it is that authority—no matter how autocratic and unlimited—should listen, with good will to society, and that society should assume the real position of power; how important it would be to have righteousness, not strength and violence, guide the country."

Isn't this what you, too, are working for? The Iron Curtain of Churchill's time may be shot full of holes but it has not disappeared. The Cold War has been mitigated but it is not ended. How many Russians come here as Fulbright fellows? How many Americans study in the Soviet Union?

I have been a long-time believer in East-West contacts, as you have. I cannot see the logic of your wanting to end the contact provided by Radio Liberty and Radio Free Europe. They are not calling for revolution; we are long since past John Foster Dulles' "liberation." But they do provide contact, as Solzhenitsyn is my witness.

CHALMERS M. ROBERTS.

DEATH OF FORMER GOV. JOHN S. BATTLE, OF VIRGINIA

Mr. TALMADGE. Mr. President, I was very much saddened by the passing of John S. Battle, former Governor of the State of Virginia.

Governor Battle served his State and Nation with distinction, and he was particularly instrumental in improving the quality of education in Virginia at a time when southern schools were going through a period of social and economic crisis.

John Battle was Governor of Virginia during the time that I served as Governor of the State of Georgia. It became my pleasure to get to know Governor Battle and to work with him on matters affecting our States and region and at Governors' conferences.

Mrs. Talmadge joins me in extending our sympathies to the Battle family.

BANGLADESH

Mr. HARRIS. Mr. President, today in many newspapers there are reports of an impending food crisis in the new nation of Bangladesh. This is yet another example of the callous and indefensible policy which the United States has followed in South Asia since March 1971.

According to the New York Times report of March 30, the $350 million pledged to the U.N. operation so far—the appeal for this year is for about $600 million—the U.S. has offered about $100 million, but almost none of this, which includes $60 million in food, has arrived.

I do not understand why the Congress must continue to read such reports in the press. There is no excuse for the continued delays in the delivery of U.S. supplies to Bangladesh. The U.S. Government seems able to assure the supply pipeline for the war in Southeast Asia. Why cannot it operate with similar efficiency in a relief effort to feed hungry people? I do not believe the Congress should fall silent until an answer is provided.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

[From the New York Times, Mar. 30, 1972]

WITH ECONOMY IN RUINS, BANGLADESH FACES FOOD CRISIS

(By Sydney H. Schanberg)

DACCA, BANGLADESH, March 29.—As a column of horsecarts carrying bagged rice plods along a dirt track on the edge of Faridpur, ragged children scramble in the dust for a few kernels that have escaped from a hole in a bag.

In Khulna 20 United Nations relief trucks sit idle outside a Government office—either for lack of anything to carry or because the Government cannot pay for drivers and maintenance crews.

Disturbances—some observers have called them small riots—have broken out in several areas where shortages of rice and wheat have driven prices far beyond the reach of any but the well-to-do.

Many factories, shops and businesses have not reopened since the December war and unemployment has rocketed. Beggars are multiplying at an unusual rate as the rural poor pour into the cities in the futile hope of finding work or at least a subsistence dole of food.

A FLATTENED ECONOMY

In short, the food situation and the economic picture in general are bleak and worsening in the new Bengali nation of Bangladesh, formerly East Pakistan, which won independence from Pakistan after an eight-month guerrilla struggle and a two-week Indian-Pakistani war that destroyed hundreds of thousands of homes, damaged most roads and bridges and left the economy flattened.

Just about everything is wrecked, and trying to repair the wreckage is like trying to plug a sieve.

By Western standards the situation seems desperate and to some newcomers hopeless. Even by Bengali standards it is a serious crisis. Long-time Western relief workers—always reluctant to predict famine or other cataclysms in a land where the resilient Bengalis have survived chronic floods, epidemics, tidal waves and, lately, widespread slaughter and a civil war—are nevertheless describing the situation as dangerous.

"Even the most inventive and most resilient destitute people," Toni Hagen, the Swiss who heads the United Nations relief operation, wrote in a recent report, "have no chance to survive if they are not given a minimum standby to start with."

The United Nations relief effort, the largest ever attempted, has not really gotten off the ground.

MONEY JUST ONE PROBLEM

One big reason is lack of money, but there are others: appalling bureaucratic delays in both the Government and the United Nations Headquarters in New York; corruption; the failure of the United Nations, the Government and the myriad of foreign private relief agencies to coordinate their programs. Confusion and infighting are rife.

"The Prime Minister has asked how long this mess is going to continue," a Government official told a meeting of relief agencies earlier this month, referring to Sheik Mujibur Rahman.

With things gone sour, at least so far, everyone is blaming everyone else—and there is some truth in all the charges.

The private agencies, most of which have meager funds and can undertake only small projects, say the United Nations is inefficient and incompetent. United Nations officials, hamstrung by their slow-moving bureauracy in New York, say the private agencies have a "short-timer" relief mentality—just dumping charity goods here and moving on to the next disaster without addressing themselves to the real problem, which is rehabilitating the economy and the people.

And the Bangladesh Government, itself debilitated by confusion and delay, accuses them all on occasion of acting like sovereign fiefdoms and not consulting on their activities.

GOVERNMENT GETS BLAME

The Government says further that the wide publicity surrounding the private agencies has "led people to believe that if adequate relief was not reaching them, this must somehow be the fault of the Government."

So far the Government has conveyed no sense of urgency or crisis to the people. There are no signs of mobilization for what may be a famine emergency—no efforts to commandeer river boats and vehicles, no campaign in the interior to organize the conveys of bullock carts and coolie crews that will be the only means of moving the food in remote areas when the rains come.

"Any foreigner who visits Dacca," a disgusted Bengali official commented, "would not have the faintest notion that we are in the middle of what amounts to a wartime emergency. The hotels are full, the girls are dancing, the movie houses are thriving, people are politicking and the Government has imposed no special taxes or issued any special orders."

Observers who are not quite so pessimistic point out that the Government is really less than three months old—dating from Sheik Mujib's return Jan. 10 after more than nine months in West Pakistani prisons—and that it is too soon to make any definitive judgments.

The conventional wisdom about the food situation—in Washington, for example—is the problem is not so much getting supplies to Bangladesh as it is distributing them to the interior. Experts here agree with this, but at the same time they note that for the moment there is virually no food in the ports to distribute.

BIG FOOD GAP FORESEEN

With the food gap for this year estimated at two million tons or more, less than 100,000 tons of food grains have been brought in through the United Nations program so far, and the next substantial shipment—66,000 tons—is not due until the last half of May.

"The dangerous time is the next six weeks, before the food begins to arrive," a food expert here said. "Stocks are very low and the rice price is getting dangerously high. In many cases it has doubled. People can't afford it. There could be trouble, maybe riots, and this could have political implications."

Of the $350-million pledged to the United Nations operation so far—the appeal for this year is about $600-million—the United States has offered about $100-million, but almost none of this, which includes nearly $60-million in food, has arrived.

Many Bengalis and some foreigners contend that the relief situation would not be half so bad if the United States—the only country, they feel, with the resources to make a real dent—had moved in sooner. They feel that President Nixon allowed his foreign policy to get in the way of a humanitarian relief effort. The Nixon Administration adopted an anti-India pro-Pakistan policy during the Bangladesh struggle, and it has still not recognized the new nation of about 75 million.

INDIA HOLDS THE KEY

The Russians, though their relief commitment is much smaller, have moved in quickly to take advantage of the poltical vacuum. They got a salvage contract to clear mines and sunken hulks from the China and Chittagong ports which some observers think will give them a naval foothold here. The United Nations had first option on the contract, but when headquarters dragged its feet for over two months, the Bangladesh Government got fed up.

Whatever the results of either Western, or Soviet aid, the key to the relief crisis for the next few months and perhaps longer will be India, which has the largest stake in keeping Bangladesh not only afloat but reasonably stable.

Enjoying a food surplus for the first time as a result of the "green revolution" in wheat, the Indians have promised to pump at least 500,000 tons of grain into Bangladesh by the end of June.

Yet relief officials here concede that even if all the food promised by India and the United Nations arrives on schedule, there will still be pockets of severe shortage and some people will die—if not of outright starvation then of such diseases as cholera and pneumonia as a consequence of hunger.

Mr. Hagen, the United Nations relief official, whose bluntness about the situation has brought him an admonition from New York to stop talking with the press, wrote in a widely circulated report last month:

"The situation in Bangladesh is desperate. Practically no food grains are in the pipeline. Entirely insufficient measures have been taken so far to restore the transport system. Blankets won't do. Baby food won't do. Midwifery kits won't do. Charity won't do. Cash is required for employment and reconstruction. Plain cash."

UNITED STATES TRAVELING EXHIBITS TO SOVIET UNION AND EASTERN EUROPE

Mr. BELLMON. Mr. President, the United States for several years has been sending large traveling exhibits to the Soviet Union and Eastern Europe under the cultural exchanges program. These exhibits, which include several young bilingual Americans as guides, reach approximately a million Soviet citizens every 2 years and provide them with personal contact with people of this country.

I personally visited a similar exhibit in Plovdiv, Bulgaria, in 1970, on Education in the United States and had the personal experience of seeing the United States reach out and talk through American guides and an outstanding exhibit to the people of Bulgaria—one of the several countries which for political reasons

is unable to have the natural, easy, free exchange with us which we all would favor. My own personal experience convinces me of the tremendous value of these exhibits.

Miss Charlotte Saikowski, writing in the Christian Science Monitor, has described our latest exhibit now in Moscow on Research and Development in the United States in a way which illustrates the value of this program most clearly. I ask unanimous consent that Miss Saikowski's article be printed in the RECORD.

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

SOVIETS ENTHUSIASTIC OVER U.S. EXHIBIT

(By Charlotte Saikowski)

Moscow.—The youthful American with long sideburns and moustache was surrounded by a throng of Russians like some matinee idol.

"Olya, it's he," an auburn-haired girl whispered in excited tones, nudging a friend. "It's Nikita Barsky. I recognized him by his voice." The girls giggled and pressed closer into the crowd.

The scene at the American research and development exhibit at Sokolniki Park, was vivid proof that Russians listen to the Voice of America, for Nikita Barsky is a broadcaster for VOA and one of 22 American guides working at the fair. Far from evidencing any hostility, crowds burst into knowing smiles when they learn who he is.

There is enthusiasm generally for the American show, which is the 12th to be held in the Soviet Union, and an anniversary of sorts. It was at the first U.S. exhibit in 1959 that then Vice-President Richard M. Nixon and Soviet leader Nikita S. Khrushchev made world headlines with their "kitchen debate."

Mr. Nixon is to come soon to Moscow again, this time as President. And while it is unlikely there will be a kitchen debate (no kitchen, for one thing), Americans here wonder if the "debater" might not fly to Volgograd, where the exhibit will be running during his Soviet visit.

In any case, a visit to Sokolniki Park provides some insights into how informed Soviet citizens have or have not become in the intervening 13 years.

True, perhaps 80 percent of the thousands of questions fired at the Russian-speaking guides still concern the U.S. standard of living. At the General Electric stand, within a few short minutes one hears Russians ask, "How does an unemployed worker live?" "Is he allowed to keep his car?" "How long do benefits last?" "What does a teacher earn?" "What do you pay for a higher education?"

"How much does a chicken cost?" a man asked.

But the remaining 20 percent disclose a higher level of sophistication and a greater awareness of the world outside than in 1959, a fact probably attributable to the Khrushchev thaw, repeated exhibits, the growing number of tourists, and foreign broadcasts.

It is standard, for instance, to hear: "Why is Angela Davis being persecuted?" But one knowledgeable Russian asked, "We understand that Angela Davis belongs to the American Communist Party, which adheres to the Soviet line. Yet she is a follower of Marcuse and he does not accept the Soviet position. How do you explain that?"

Levels of sophistication vary from city to city, of course. In Tbilisi, the Georgian capital where the exhibit opened in January, the questions tended to be simpler and focused on the gadgetry.

"The Georgians seldom asked about the United States," says Carolyn Smith, a guide from Washington, D.C. "Mostly they wanted to know about the products and what they cost. And tell them about the Lincoln Continental and they were ready to give you rubles for it!"

Not surprisingly, the young Americans are getting many questions about the President's visit to Peking, which clearly overshadows his upcoming trip here. There is no hiding Russians' disappointment that the President will not have touched down in Moscow first, and their suspicion that deals were struck in Peking.

Aside from the popular guides, Muscovites are enjoying such attractions as the Univac 9300 computer, laser devices, consumer appliances, and other items in the exhibit. The racy Javelin, one of three cars on display, has been stripped of its windshield wipers and chrome fittings—by "zealous souvenior hunters," as exhibit officials put it.

Except for a few posters about town, the Soviet Government has given little publicity to the exhibit. Muscovites hear by word of mouth, however. Attendance is strong, and the questions keep pouring forth.

"How did you learn Russian?" a stout, elderly gentleman asked Nikita Barsky.

"A little in the kitchen, a little at the university," he replied. "You see, my grandparents were from Kiev . . ."

A smile crept over the faces of the listeners.

LICENSING OF VACCINES

Mr. RIBICOFF. Mr. President, on Thursday, March 30, I released a GAO report concerning the licensing and regulation of vaccines by the Division of Biologics Standards in the Department of Health, Education, and Welfare. The report revealed that the Division had for years permitted many ineffective vaccines to remain on the market and that it had allowed manufacturers to sell millions of doses of subpotent influenza vaccine.

On April 7 and 8, two articles by Nicholas Wade in Science magazine and by Morton Mintz in the Washington Post reported that a committee had been formed to find a successor to the present Director of the Division of Biological Standards, who has served in that position since 1956. Once a new Director has been chosen, he will reportedly take office immediately.

If these reports are accurate, HEW will have taken an important first step toward the development of a vaccine program that adequately protects the health of the American people. Much more needs to be done, however, before we can have such a program. Just as no single person is responsible for all the problems that have arisen in the Division of Biologics Standards, no single appointment will solve them. What is needed is a thorough and critical reorientation of vaccine regulation so that in all decisions concern for public health will take precedence over a solicitude for commercial interests or a bureaucrat's jurisdiction. Structural change may be needed in order to accomplish this goal.

The Subcommittee on Executive Reorganization and Government Research, which I Chair, has before it legislation that would combine the functions of the Division with those of the Food and Drug Administration in a single agency responsible for regulation of all drugs. We are trying to develop an organizational plan that will best promote effective vaccine regulation. In addition, creation of an independent Consumer Protection Agency, as provided in S. 1177 which I am sponsoring, would go a long way toward improving the protection the public receives from all our regulatory agencies.

I welcome the decision to give the Division of Biologics Standards new leadership and I hope that this decision will be a prelude to solving the multitude of problems that this agency has experienced. Through the subcommittee, I intend to monitor HEW's actions in this area closely. In this connection, I am hoping to receive soon a copy of the important and long-awaited study of the Division of Biologics Standards management prepared by an NIH committee chaired by Dr. James Schriver.

I ask unanimous consent that the article by Nicholas Wade, in the April 7 issue of Science, and the article by Morton Mintz, in the April 8 Washington Post, be printed in the RECORD.

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

DBS: AGENCY CONTRAVENES ITS OWN REGULATIONS

A major deviation from rules by a federal regulatory agency has been documented by the General Accounting Office (GAO), the investigatory arm of Congress. According to an 8-month GAO study released last week, more than half of the influenza vaccine lots certified by the Division of Biologics Standards (DBS) over a 3-year period were known to be less potent than the agency's own prescribed standard. The GAO study also indicates that the DBS director failed to order ineffective and potentially harmful vaccines off the market for fear that his bureaucratic domain would be threatened.

The GAO report is the first detached and independent study of the DBS since the agency was publicly criticized last September. DBS scientist J. Anthony Morris and consumer advocate James S. Turner charged that a major breakdown had occurred in the scientific integrity of the division (*Science*, 3 March). Robert Q. Marston, director of the National Institutes of Health (NIH), appointed a committee of vaccine experts to examine the indictment and announced on the basis of the committee's findings that "the Morris/Turner charges of scientific mismanagement are without merit." The GAO report confirms that in 2 of the 12 specific issues raised by Morris and Turner—influenza vaccine potency testing and the DBS's authority to require efficacy in the vaccines it licensed—the DBS was considerably at fault, although not precisely in the way described by Morris and Turner. The GAO report tends to corroborate the general theme of the Morris/Turner indictment, that the scientific management of the DBS has been less than outstanding. However, NIH officials contend that the GAO report seriously misrepresents the DBS's role in certifying influenza vaccines.

The GAO report was initiated last June at the request of Senator Abraham Ribicoff (D–Conn.), chairman of the subcommittee on executive reorganization. The GAO investigators discovered that on the evidence of the DBS's own records, 130 of the 221 lots of influenza vaccine released by the DBS in 1966–68 failed to meet the standards of potency required by the agency's own regulations. One hundred and fifteen of these lots were subpotent according to the test results submitted to the DBS by the manufacturers themselves. Another 15 lots were potent according to the manufacturers' tests and failed the tests conducted by DBS scientists, yet were released for public use by the DBS management.

Asked by *Science* on 2 March whether

manufacturers had been submitting subpotent vaccines and why a manufacturer was given the benefit of the doubt with a particular lot that had failed the DBS's own tests, DBS director Roderick Murray stated in a written reply: "No lot of vaccine of low potency was knowingly released. . . . The suggestion that benefit of the doubt was given to manufacturers is untrue and is, in fact, reprehensible. The GAO study of the same question concludes: "We found, however, that DBS was releasing lots of influenza virus vaccines during 1966, 1967 and 1968 even when its tests showed the potency of the vaccines to be as low as 1 percent of the established standards."

A second area studied in the GAO report is the legal authority of the DBS to require that the products it licenses be effective. The GAO report states that according to Murray himself, 75 of the 263 products licensed by the DBS are generally not recognized as effective by most of the medical profession. Only 32 of these products are currently on sale to the public. Until recently the DBS claimed it had no legal authority to order these ineffective vaccines off the market (*Science,* 10 March). In November 1971 the Secretary of Health, Education, and Welfare (HEW) accepted an argument by Turner that the DBS did possess such authority under the Federal Food, Drug, and Cosmetic Act of 1962. The GAO report reveals that Murray was advised by HEW counsel in February 1969 that the DBS possessed authority under the 1962 act to enforce vaccine efficacy. Murray refused to use the act—which is the chief legal weapon of the Food and Drug Administration (FDA)—on the grounds that to do so would strengthen the argument of those who wished to merge the DBS with the FDA into a single control agency. As a result, the DBS has allowed to remain on the market vaccines which are not only ineffective but also potentially harmful. The GAO report notes that according to the package label on one of the ineffective vaccines, "there have been reports of children who have developed systemic reactions—consisting of fever, rash, abdominal cramps, and diarrhea—4 to 8 hours after injection."

Murray's memorandum declining to use the efficacy authority of the 1962 act was routed through the front office of the NIH. But until November 1971 the public position of the DBS and the NIH was that such authority did not exist. For example, the NIH committee of outside experts (the Benenson committee) stated in its report, which was endorsed by NIH director Marston, that "there is no legislative requirement that these products [licensed by DBS] be effective." This statement was based on a memorandum prepared by DBS assistant director Sam T. Gibson which, however, neglected to mention that HEW counsel had advised the DBS in 1969 that authority did exist to rule ineffective vaccines off the market.

According to Robert W. Berliner, NIH deputy director for science, the GAO report fails to make allowance for the variability of the test used to assess influenza vaccine potency. The vaccines the GAO describes as subpotent, Berliner told *Science,* were those that fell in the lower half of the statistical scatter about the mean and which may in fact have been potent. If the DBS had raised its potency standards significantly, the stronger vaccines in the statistical scatter would have caused unpleasant side effects. The DBS policy was thus reasonable scientifically, even though it contradicted the precise letter of the DBS's regulations. Asked why the GAO report should misrepresent the situation, Berliner said, "They're out to make a splash."

Morton A. Myers, an assistant GAO director who supervised the study, declined to comment on this remark but stated that Berliner's views had been considered earlier when the NIH was shown a draft copy of the report. The GAO position is that the DBS's own regulations required—and presumably for good reason—that all vaccines should equal or exceed the standard potency, hence vaccines which fell below this precisely defined cut-off point should not have been released.

The precise effect of the DBS policy of releasing subpotent vaccines is hard to estimate but probably some 67 million doses of influenza vaccine were used in the United States during the 3 years covered by the GAO report. If half of these vaccines failed the DBS's own standards, and the cost to each recipient was $1 a head (a conservative estimate), then the DBS has allowed citizens to spend more than $30 million on subpotent vaccines.

On the question of efficacy of influenza vaccine, the GAO report records a difference of opinion between DBS officials, who estimate the vaccine is 50 to 60 percent effective, and studies conducted by the Center for Disease Control, one of which concluded the vaccine had "little if any effectiveness" and another that its efficacy was "20 to 25 percent at best."

The GAO auditors recommend in their report that the Secretary of HEW should require the NIH to establish milestones for implementing the efficacy provisions of the 1962 act and should monitor the NIH's progress in doing so. The report also advocates that the DBS should revise its philosophy of relying on the manufacturer to do the necessary tests. HEW should require the DBS to prevent vaccines from being released if either the manufacturers or the DBS shows the vaccines to be subpotent, the GAO report advises.

The fact that the GAO, not the NIH, discovered how the DBS went about certifying influenza vaccines raises the question of whether the NIH has exercised adequate supervision over the DBS. Not until last August, some 5 months after the DBS management had been crushingly overruled in a grievance hearing brought by Morris, formerly the DBS influenza control officer, did the NIH launch a formal inquiry to ascertain if all was well within the DBS. Despite the GAO report, however, NIH officials continue to maintain, as reported in *Science* (17 March), that Murray has a good record as a regulatory official.

Be this as it may, a committee chaired by NIH deputy director John F. Sherman has been appointed to search for a successor to Murray. The successor will assume office immediately rather than when Murray reaches mandatory retirement age in August 1973. NIH officials indicate that personnel problems in the DBS rather than any regulatory failing are the reason for this change.

UNITED STATES SEEKS SUCCESSOR FOR VACCINE DIRECTOR

The government said yesterday that it has begun a search for a successor to the director of the much-criticized agency responsible for the safety, potency and efficacy of vaccines.

Dr. Roderick Murray has headed the Division of Biologics Standards, a unit of the National Institutes of Health for 16 years, Now 62, Murray will reach mandatory retirement in August 1973.

The NIH, in a statement, said that Dr. Murray's approaching retirement, along with "newly defined enforcement responsibilities" and unspecified "internal problems" in the standards unit "all point to a special need to provide an orderly and appropriate transition of leadership."

Accordingly, the statement said, NIH has set up a seven-member search committee for a successor to Dr. Murray. This procedure has Dr. Murray's full concurrence," the statement said.

The committee chairman is Dr. John F. Sherman, deputy director of the NIH. Five of the members are officials of the NIH, and the sixth is the general counsel of the Food and Drug Administration.

The NIH statement praised Dr. Murray as "a man of outstanding scientific ability and a dedicated public servant." A different thrust came out of a report made last week by the General Accounting Office, the investigating arm of Congress.

The DBS knowingly allowed 65 million Americans to receive influenza vaccine, some of which was only 1 per cent as potent as required under the agency's own standards, the GAO said.

REMARKS BY REV. DANIEL BERRIGAN

Mr. HARRIS. Mr. President, the internal history of this country during the mid- and late-1960's is scarred with a series of ugly and violent disorders in our cities and on our college campuses.

In most cases, these disruptions stemmed directly from the growing frustrations of millions of Americans with their country's involvement in the war in Vietnam.

As this tragic conflict continued, accompanied by the increasing insensitivity of Government to the rising popular opposition, many young activists escalated their dissent to the level of violence.

During this same period, as violent domestic protest grew, a small number of religious activists began speaking out against the destruction here at home and for a form of nonviolent dissent to the killing abroad.

One of the leaders in this movement for nonviolent reform was the Reverend Daniel Berrigan. In equally convincing terms, he argued for an end to destruction at home and on the battlefields of Southeast Asia.

While many disagreed with his tactics, most saw him as a courageous man, responding to the dictates of his conscience.

Mr. President, because of this man's unique record of nonviolent opposition to this continuing war, I ask unanimous consent that his remarks during a recent appearance on "Meet the Press" be inserted in the RECORD.

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

MEET THE PRESS, FEBRUARY 2, 1972

Guest: The Reverend Daniel J. Berrigan.

Moderator: Lawrence E. Spivak.

Panel: Edward B. Fiske, The New York Times; Marquis Childs, St. Louis Post-Dispatch; James Finn, Worldview Magazine; and Edwin Newman, NBC News.

Mr. SPIVAK. Our guest today on Meet the Press is Reverend Daniel J. Berrigan who was paroled this week from a federal prison. Father Berrigan, a Jesuit priest, was convicted for destroying draft records in an anti-war protest in 1968. He received a three-year sentence in April 1970 but hid for four months before he was captured and sent to prison.

Mr. NEWMAN. Father Berrigan, when you came out of prison on Thursday you said that your life would be directed towards "survival and resistance". Is there something threatening your survival?

Reverend BERRIGAN. I think what is referred to in the sentence had a very deep meaning for me at the time, and still does. I think to survive as a human being in America is quite a task these days, and that task grows more intense as far as I am concerned as my life goes forward.

The two words are almost hyphenated in my mind. I don't see how I could survive in another way than a resistive posture as long

as the war continues. It seems to me if I were to step backward from that style, I would cease really to survive as a human being. I see the two as one.

Mr. NEWMAN. You propose then to continue resisting the war. By what means will you do it?

Reverend BERRIGAN. In the main, the means are going to be, I would think, in a continuum with what I was doing before. That is to say, non-violent resistance for me is a tradition that belongs to me and that I wish belonged to America. I can't be any more precise than that.

Mr. NEWMAN. What about breaking the law, Father Berrigan, which you have done in the past as part of the resistance?

Reverend BERRIGAN. Right. Right. I first of all had to pledge before the parole board that I wouldn't break the law. I wish that question were being asked a little more frequently of those in power instead of those who are powerless, but since you put it to me straight, I have no conscientious objection to breaking the law in a non-violent way, as I think I made clear in Catonsville. I think probably the time for the kind of actions that we did then is past, and I think the main task for those coming out of jail now is the building of the community. That is the way I tend to see it now.

Mr. FINN. I have read enough of what you have written and attended enough to what you have said to know that in your own phrase you are always "moving on." But I would like to ask you about something, a kind of weakness in that conglomerative group of events and people which we call the Movement, to which I think you have sometimes contributed instead of criticizing, that is, there has been a kind of absolutism which is endemic to radical left groups in this country, and I think the Movement has been strengthened by a kind of absolutism we used to locate in the Catholic Church in some areas—not in terms of international affairs, usually. Now that movement has been——

Mr. SPIVAK. May I have your question, please.

Mr. FINN. Yes. I am sorry.

Let me ask you where the confidence comes, where lies the confidence that declares the major institutions of our country illegitimate but the movement itself highly legitimate to question those institutions?

Reverend BERRIGAN. I would limit at the question of legitimacy in government to the decision of those who pretend to have life and death power over others. That is to say the power to make limited or unlimited war without even constitutional guaranty, or constitutional approval. And, as far as my own absolutism goes, my tradition teaches me to be absolute about death and life, and these are the questions that we are trying to deal with.

Obviously there are going to be clumsy mistakes in tactic and in language from time to time, but I feel and I would confess publicly that the main direction of what we have tried to do was right. That direction sustained me, that thought sustained me throughout prison, and I retain it undamaged by a very damaging prison experience.

There are a few things that we had better be absolute about.

Mr. CHILDS. Father Berrigan, when you came out of prison you said "half of me is still captive in the courtroom at Harrisburg."

Of course, you were not named as a co-defendant in the second indictment in Harrisburg. Do you expect to go to Harrisburg—

Reverend BERRIGAN. Yes.

Mr. CHILDS.—and demonstrate?

Reverend BERRIGAN. To demonstrate?

Mr. CHILDS. To do what you can for your brother, Father Phil.

Reverend BERRIGAN. I will go down there and visit Philip and listen to people and find out a way in which I can be of help. But I am not about to hand down a formula of what I am going to do now. I don't know.

Mr. CHILDS. Are you allowed to do that under the terms of your parole?

Reverend BERRIGAN. I am allowed to exercise my constitutional rights.

Mr. CHILDS. But aren't you restricted to the southern district of New York?

Reverend BERRIGAN. Yes, geographically, but I can sort of put in for permission to travel.

Mr. CHILDS. Do you think this will help your brother and do you think that under our system of justice he will receive a fair trial?

Reverend BERRIGAN. Can we take those one at a time?

Mr. CHILDS. Please.

Reverend BERRIGAN. Okay. Number one, I will find out what to do to help my brother. Number two, I would say that the chances of a fair trial in Harrisburg are about the chances that Angela Davis has in California, and I don't rate that very high.

Mr. FISKE. Father Berrigan, earlier you indicated that you plan to continue resisting the war in a non-violent fashion but in an interview almost a year ago from prison you indicated that you are willing to excuse the violence of the Weathermen.

I wonder, does this indicate that you are having some second thoughts about the effectiveness of non-violence, either philosophically or tactically?

Reverend BERRIGAN. I'd like to get back to the circumstances of that interview. It is almost two years now actually. I found it profoundly unuseful to stand in judgment on the violence of the Weathermen in those days. My objections in principle were well known and always have been.

I like in discussions like this, as far as I can, to shift the emphasis from what I call strictly limited violence against property and the unlimited violence against human life wielded by our government, you know, not that I am trying to use that as an excuse for small people to do small, evil things. I think I tried to make that clear too in many, many ways, but there is some difference, if we can use an analogy, between the violence of the Viet Cong and the violence of the United States Air Force. There is some analogy between those kinds of qualitative differences and the violence that the Weathermen at one point exercised and have not done in quite a while.

Mr. FISKE. What do you think would be the most effective tactics under the current situation for resisting the war?

Reverend BERRIGAN. Again, I am coming into a very new scene. If I had a one-year plan, even, for changing, let's say the kind of ethical feelings of Americans, I would probably be some sort of genius and, even if I had that kind of formula, I would hesitate to give it out to you.

Mr. FISKE. There seems to be some fairly general acknowledgement, Father Berrigan, among members of the peace movement that the administration's Vietnamization program has thrown them into disarray by pursuing the war but making it a lot less visible to the American public. Do you think this is true and is there anything that can be done to bring the peace movement back together again?

Reverend BERRIGAN. Again it seems to me you are bringing up questions that I could answer tentatively within a month or two. I still have to get a very acute sense of what has happened in the two years since I have been out of the ordinary public functioning. I don't have that sense yet, except from reading, and that is a poor substitute for being with people.

Of course the Vietnamization program is a big word for a big outrage and the kind of transfer of the public responsibility for continuing murder that this administration is quite skilled in performing, as a trick before the public. What can I do except deplore it, and express my outrage about it? What is to be done about it I have to find out.

Mr. SPIVAK. Father, may I ask you a question. You have had considerable time to think over the whole question of what you did and what you accomplished by breaking the law and the burning of draft records. What do you think that you accomplished of significance by your act?

Reverend BERRIGAN. Those questions are always very difficult, I guess because I would consider them irrelevant now.

Mr. SPIVAK. But you must have some thoughts——

Reverend BERRIGAN. I don't know how to evaluate the changes that have occurred in people since I have been in jail, for instance. I suspect or I hope—maybe I could put it that way—that what we offered might become viable for others; not as a kind of strict pattern for action, but as a kind of general tendency expressing moral concern. That is to say we tried to dramatize our respect and our love for human life, and our disrespect and our disdain for the kind of property—draft records—that was an active enemy, and obstacle to human life.

Mr. SPIVAK. But now—

Reverend BERRIGAN. We are hoping that principle got over.

Mr. SPIVAK. But now the Washington Post quotes you as saying "I would like to affirm here my respect for the law of the land and my habitual and firm determination henceforth to obey the law."

Why did you agree to that, just to get out?

Reverend BERRIGAN. No. I agreed to that because that is the way I have always lived.

Mr. SPIVAK. But you did break the law.

Reverend BERRIGAN. I broke the law on one occasion when I was forced to it by the lawlessness of our President. For 50 years prior to that I had kept the law as a matter of concern, as a matter of kind of ethical stance, decency, justice, in public. If those in power would keep the law, we would have no difficulty in keeping the law, even with them exercising the kind of disdain for the law that we have. I was very late in breaking it—maybe too late. If I am ever to be judged it is probable that I would be judged for being retarded, and being cowardly and being too late in what I did.

Mr. SPIVAK. But why did you affirm your respect for the law which you broke and now you affirm determination to obey the law?

Reverend BERRIGAN. I have already said that this is the way I have lived, this is the way I habitually regard the law of the land, as long as it is not in opposition to the law of humanity and the law of God, and I am willing to reaffirm that once more. I wish those in power would come out with a parallel statement expressing the same terms, but of course they can't and they won't.

Mr. NEWMAN. On that point, Father Berrigan, actions you took may have provided a model or inspiration for actions by others, and particularly young people, which led them into conflict with the law and which may have led them into prison and conceivably into ruined lives. What do you think about that now as you look back on it?

Reverend BERRIGAN. First of all, I think that is a very heated-up overstatement of anything that actually occurred in my experience. Between the two of us, Philip and I had a rather extended jail experience, rather extended, at least for this society. We never really met inside a jail or heard anyone who had been ruined by our actions. We met a great many young people who had been, as they say, turned on by them and helped by them, and for whom prison was becoming a very tough and firm and quick way of growth. As I say, the idea that a young person would go into serious resistance and then be broken by a jail experience would

argue to something very faulty in his understanding of things from the beginning, and I am happy to say that I never found anyone like that.

Mr. NEWMAN. What form would that growth take in jail?

Reverend BERRIGAN. I think the toughest thing for a prisoner was getting any sense of himself or any sense of his society, which is another way of putting the same thing.

The toughest thing is the discovery of others in jail, because there is a kind of written or unwritten agreement on the part of the authorities that prisoners are not to enter into any sort of let's say, "community," or any sort of mutual understanding or discussion about serious things, and in most of the prisons a very serious effort is made to keep that from happening. So part of that growth, without getting complicated about it was, on our part, a serious discipline about reading and about discussions and about mediation, and an attempt really to bridge the myths that were keeping people apart on the outside and to make that so-called hard time into a very good and human time for ourselves.

Mr. NEWMAN. You said when you came out of Danbury on Thursday that you were sorry to leave prison in the sense that your fellow prisoners could not come with you.

Reverend BERRIGAN. Right.

Mr. NEWMAN. Did that mean you thought that nobody in that prison belonged there?

Reverend BERRIGAN. Right. Exactly. Exactly.

Mr. FINN. Father Berrigan, at one point you wrote that maybe man at the peak of his manhood is most revolutionary. Now, "revolutionary" is the kind of term that even President Nixon has borrowed. What do you mean by it and what does it mean to be revolutionary in our society today?

Reverend BERRIGAN. This could be translated in all sorts of ways. It seems to me that—I was very affected by reading Sam Melville's letters from Attica recently and very struck by an expression that he used that I am still trying to understand. He said that he thought revolution, properly understood, was ecstasy, which is very deep stuff.

I think it had something to do with his conviction that one could so grow under the pressures of adversity and crisis that he could literally stand outside, extol, stand outside his own skin, regard himself with a very lucid, objective and critical view of where his life has been and where it was going and could move into that new self.

Mr. FINN. You can be a revolutionary in this country and habitually obey the law though?

Reverend BERRIGAN. I don't see how.

Mr. CHILDS. I would like to pursue this a little further, Father Berrigan. You have been quoted as saying that "the University, as we have known it, just as the church as we have known it, is not going to survive." Do you consider yourself a revolutionary, feeling that you must bring down the whole structure of our society?

Reverend BERRIGAN. No, the society is doing quite well at that little project itself.

Mr. CHILDS. You are helping, aren't you?

Reverend BERRIGAN. Oh, I am more or less at the edge, trying to help interpret the debacle and trying to save what I can from it in human terms, and trying to help others prepare for the alternatives that lie ahead. They are very obscure and very difficult, and ridden with temptations to violence because of its exercise as a habitual matter of course in public, in the structure. So that is the way I'd put it.

Mr. CHILDS. We have seen a lot of Peking just now on television. We saw that scene of everyone turned out to chip away at the snow. Would you regard that as a more desirable kind of society, Father Berrigan?

Reverend BERRIGAN. The Chinese?

Mr. CHILDS. Yes.

Reverend BERRIGAN. I don't know enough about it. I got out a week too late to be invited on the trip. I thought maybe it would be a toss-up between Billy and myself as to who would go as Court Chaplain, but I don't know who made it.

Mr. CHILDS. It is completely an egalitarian society.

Reverend BERRIGAN. Right.

Mr. CHILDS. In which from high to low, they were all turned out in the streets. Do you feel that that is a more desirable kind of society, Father?

Reverend BERRIGAN. This is asking a huge question about one little incident. What I read about China and like about China is what I take to be the opportunities of the poor to lead a decent life and I think this is something that we have not, by any means, come up to.

What I dislike and fear and have an obscure dread of is the tremendous levelling off of human differences and of diversity and freedom in many ways. But, as I say, I have never been there, and I would have to be very tentative about this.

Mr. FISKE. During the Catonsville trial you and your fellow defendants seemed to be as much interested in using the court as a platform to state your opposition to the war as you were in trying to win the case.

Reverend BERRIGAN. Right.

Mr. FISKE. In the Harrisburg trial now going on there seems to be a shift in strategy, of trying to win the legal case.

Do you approve of this shift, which seems to be from one of standing as a witness against something and taking punishment, to one of trying to win within the rules of the system?

Reverend BERRIGAN. That still has to be shown, that they are going to try to win within the rules. I think they are going to try and they have tried already to expand the rules in a creative direction. The alleged crimes, the defendants, the times, everything is so different in the two instances that one can't argue, it seems to me, to any parallel except one of very profound principle, that is to say, the principle of non-violent resistance offered in both cases. But the fact is that those women and men down there are confronted with charges which are not outrageous, but are heavily laden with punishment, not only absurd, but vindictive because of their great stature, moral stature in the community. So they are facing something entirely different with a different tactic for different times. We could pursue it, but it is a very lengthy topic.

Mr. FISKE. One of the things that you have been quoted on as saying is that what was happening on the campus two or three years ago is now happening in the prisons. Could you elaborate on what you meant by that?

Reverend BERRIGAN. I am half scared of the statement because there is blood on it but I have, again, an obscure feeling that, let's say the center of gravity, of action and change is shifting very rapidly to the prison scene and Danbury, of course, wouldn't be typical in any sense of that kind of change, except in the case of the small community of resisters and their friends there. But when you get into a scene like Attica, of course, you have something that is not only very clear about the necessity of change and survival, really, and resistance, but you also have the price tag attached to it that Governor Rockefeller put upon it and that was a bloody price indeed. So it is not going to be fun because it is not involving the privileged sons of the middle-class such as we had on campuses in the last decade and a fairly careful treatment of them because of public reaction. But a great deal is going to be coming down, as they say, on it in the prisons. It has already started, and I am just wondering why you gentlemen haven't done a little bit more to tell us what is happening in the prisons. We were getting in the underground, on sort of a grapevine at Danbury, that there were at least four federal prisons on serious strike at present and the only notice I ever saw of it was at Lewisburg at the end of an article about something else. If I could just say this, we had a kind of a suffocated feeling up there that unless there were violence involved, the press was not interested in us. And when a non-violent thing came down in prison, and we tried to our last breath to keep it non-violent, the press stayed away and the press stayed cool. They could only smell blood and that's when they come running. That is a little homily for you.

Mr. FISKE. Can you tell us where those four prisons are?

Reverend BERRIGAN. I can't because I don't know their names.

Mr. SPIVAK. Gentlemen, we have less than three minutes.

Father Berrigan, an article in the New Republic last year reported you as saying that "American civilization is ugly, menacing and corrupt beyond remedy." Did you say that? Do you believe that?

Reverend BERRIGAN. Could you repeat it? The adjectives?

Mr. SPIVAK. "American civilization is ugly, menacing and corrupt beyond remedy."

Reverend BERRIGAN. That is pretty good.

Mr. SPIVAK. Did you say that, and do you believe that?

Reverend BERRIGAN. Yes. I would like to qualify it a little bit. I think that the remedy, the only remedy that we can offer is the kind of remedy we are trying to offer which is to save the quality of our lives, you know. And whether or not that public thing endures—I don't think it is going to endure much longer—the way into the future is going to be it seems to me the kind of building we are trying to do.

Mr. SPIVAK. May I follow it up with what you said to Dr. Robert Coles in the New York Review of Books. You said to him "I believe it is entirely possible that the first instance of a really great breakthrough is going to take place in America."

How do you reconcile those things and what kind of a breakthrough do you expect?

Reverend BERRIGAN. Our hopes have to be in the young people, it seems to me, and they have to be in the kinds of young people that are ready for the millenial, long haul of change, that will not be engineered and cannot be technologically performed and brought about. Our cue is not General Motors, in this, or President Nixon. Our cue is, it seems to me, the Vietnamese people.

Mr. SPIVAK. Do you see a complete overthrow of our government, a complete change that way?

Reverend BERRIGAN. Oh, this makes no sense. The government is going to overthrow itself. We don't have to worry about that.

Mr. NEWMAN. Father Berrigan, you have said that the Church right now is not recognizable now as Christ's Church. What do you mean by that?

Reverend BERRIGAN. I wish Cardinal Cooke were here to help me with that one. It seems to me that the most grievious instance of what I am talking about is the long, long support, support of silence, of the war, by the American Church. And I really cannot recognize in that kind of leadership the figure of Christ.

Mr. FISKE. Father Berrigan, the tradition of martyrdom is a long and honorable one in Christianity. Do you see yourself as a martyr?

Reverend BERRIGAN. No, not really.

Mr. SPIVAK. I think you have taken just about the time available to us to answer that one, Father. I am sorry to interrupt but our time is up.

Thank you, Father Berrigan for being with us today on Meet the Press.

WYOMING—DESTINATION SUMMER

Mr. HANSEN. Mr. President, one of the most distinctive magazines, Town & Country, known as "The Dependable Guide to Good Living," has once more brought solid evidence of this dependability.

The April issue, in an article entitled "Destination Summer, Wyoming," guides the wise American to the Equality State for his 1972 vacation. The article is an excellent synopsis of the many delights my State has to offer all Americans and provide a special outline of the attractions at Yellowstone National Park in Wyoming.

Mr. President, 1972 is the centennial of the national park system's establishment, and Yellowstone—the first and greatest national park—is the major focus point for observation of the centennial celebration this year.

Yellowstone recently has conducted an experimental project to broadcast information through automobile radios to park visitors. This has proved successful and is expected to be widely utilized in the national park system. This innovation by the Park Service has improved efficiency of park operations and added to visitor enjoyment.

Mr. President, I ask unanimous consent that the Town & Country article and the Interior Department's explanation of the broadcast information project be printed in the RECORD.

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

WYOMING—DESTINATION SUMMER

(By Robert L. Sammons)

Because the present-day concern over environment has stirred the ecological conscience of the nation to the point where everybody wants to do at least "something" about it, travelers more than ever are turning their attention toward the great outdoors. And this summer a great deal of that attention will be focused on Wyoming, whose very name is thought to derive from a Delaware Indian word meaning "at the big plains." These big plains (and their surrounding mountains) will be hosting the biggest birthday bash in the nation this summer, and they are inviting everybody to come on out and celebrate the 100th anniversary of Yellowstone National Park.

Although Wyoming's early explorers found the going difficult and dangerous, they were no less enthralled by its natural wonders than travelers are today. The West, fortunately, is still the West: the main difference being that the traders, trappers, and desperadoes that flocked there in former days have been replaced by visiting dudes who become "instant cowboys" almost from the moment of arrival. In summer everyone "goes native." Newcomers head for a Western-apparel store, to emerge a few minutes later in plaid shirt, blue jeans, high-heeled boots, and wide-brimmed hat. Since rodeos and ranch life are staples of local life, cowboys and bucking broncos naturally are much in evidence. Everyone affects a rolling gait, and it soon becomes difficult to tell the authentics from the synthetics. If you spot anyone in a ten-gallon hat, you can almost bet he is a tourist—and, more often than not, you'll be right. But that's only because the itinerants outnumber the indigenes by a very healthy majority.

Even though days are long and active, at night everyone has the energy to gather at one of the local saloons for a dust cutter or two. While evenings can be as active as you wish to make them, you probably will find that you'll get more use out of your riding boots than your dancing shoes. Be sure to pack both, however. Bars are ordinarily open from 6 a.m. to 2 a.m. Monday through Saturday; Sunday, 1 to 8 p.m. But during festivals, fairs, jubilees, rodeos, and other galas (and there is almost always one on during summer), drinking hours are usually extended.

High camp. A great open state that is ideal for outdoor living, Wyoming lies at an average elevation of between five and seven thousand feet; so count on rarefied air and rare, rare views. More than 9,000 campsites dot its countryside, and many are located in remote wilderness areas. For those who wish to waken to the song of birds or the sound of rushing waters, camping represents the ideal way to experience a one-to-one encounter with nature. And it should not be imagined for a moment that you will be "roughing it" in any but a positively princely manner! Recreational vehicles now are being designed as totally equipped homes on wheels: complete with water supply, baths, kitchens, comfortable beds, and picture windows. You can retrace the routes of the fur traders, follow in the footsteps of rough-riding Teddy Roosevelt, or steer a course along the immigrant trails. And you may live as luxuriously as you like! But don't get too carried away! Wyoming state law prohibits pulling any trailer that has an outside width of more than eight feet; and the maximum length of vehicle and trailer may not exceed 65 feet. Speed limit; 65 mph on two-lane, and 75 mph on four-lane highways.

Although Wyoming's two national parks (Yellowstone and Grand Teton) and its eight state parks remain open year round, they are fully staffed only from June through August. Camping in state parks is free, but federal recreational areas charge a fee (usually around $2.50 per night).

Space is allotted on a first-come, first-served basis, and there is usually a two-week limit. Camping occasionally is permitted outside designated grounds, but you must obtain a permit at the nearest ranger station. Dogs and cats are admitted to parks and camping areas if they are leashed. They are not allowed on trails or in boats, however. Park life proceeds at a leisurely pace, and the only time you won't be able to set your own speed will be when you hit a traffic jam. And you will! During the high season highways can be clogged, campgrounds and hotels filled to capacity. Remember to be a good conservationist. Don't pick the daisies and confine your rock hunting to areas where it is permitted. Most important: Do not build a campfire. Fires are forbidden except in certain areas. Get your permit from a ranger station.

Dude ranches. If you happen not to sing along to the song of the open road and prefer to settle in one spot, a dude ranch may be tailor-made to your taste. Although ranches usually maintain requirements for a minimum length of stay and do not accept short-term guests, that should present no problem. Chances are you will want to stick around, anyway. While no two ranches are ever quite the same, the ultimate out-door experience (riding, rodeos, cookouts, pack trips, swimming—the water will be cold—fishing, and hunting) and warm Western hospitality usually are included in their offerings. You might also climb a mountain, join a roundup, or just revel in the informal way of life and the family-style meals. Ranches, usually located in areas that offer easy access to national forests and wilderness areas, literally line the approaches to both Yellowstone and Grand Teton. Ranch life is informal. Days are warm, nights can be cold, so dress for comfort. A single price usually includes lodging, food, and your own horse—which is presented to you on arrival and remains yours for the duration of your visit. Don't expect anything for less than $25 per person per day. A tip: Bring along your fishing rod, rifle, camera, and guitar; and bear in mind that reservations are required during the high season.

Hunting and fishing. Big game means big sport in Wyoming, and hunters are free to roam 63 million acres of mountain and meadow. The world's largest herds of pronghorn antelope and elk call Wyoming home, but they're not the only game in town. Black bear, mouse, bighorn sheep, and white-tail and mule deer also rate high on the list of trophy animals, while bird shooters set their sights on chukar, Hungarian partridge, duck, goose, pheasant, and sage grouse.

A tip: If you plan to hunt in Wyoming, make your plans early. Many licenses are issued on a quota basis, and the quotas are always filled long before the season begins. During midsummer the animals scatter to the high country, so they are most in evidence in early autumn, when snows force them into more accessible areas.

Wyoming issues about 5,500 non-resident elk hunting licenses and more than 1,000 moose and 350 bighorn sheep permits each year. Deer and antelope licenses, which are issued on an unlimited basis, number nearly 15,000 nonresident permits annually. Warning: Non-resident hunters *must* be accompanied by a guide, a rule that becomes quite understandable when you consider the number of hunters that hit the trail. While deer and antelope are plentiful everywhere, elk are found primarily in the national forests. A nonresident elk license, which allows one elk (bull), also entitles you to one deer, one black bear, and a daily limit of game birds and fish. Cost: $125. A bighorn sheep (one male) permit costs $75.; a moose (one bull) permit is the same. A two-black-bear permit is $25; a grizzly bear permit, $75; mountain goat, $75; antelope, $35; deer, $30. A bird license costs $20.

Any angler who likes a challenge will find it waiting in 5,000 lakes and more than 20,000 miles of streams. There are twenty-one varieties of game fish among the eighty-nine species that inhabit Wyoming's waters—and, while trout are the Number One target, walleye, bass, and perch also are abundant. General fishing season runs from May 1 to October 31. A fishing license costs $12 (a five-day license is $4). No license is required in Yellowstone.

The skills of even the most experienced fisherman are tested by Wyoming's six varieties of trout: brook; rainbow (23 pounds is the local record); Mackinaw (record catch, 44 pounds); golden (a high-altitude species usually found above 10,000 feet. World's record—caught in Wyoming—11 pounds); brown (found at low altitudes, but not easy to catch—17½ pounds, the record); and cutthroat (Wyoming's only indigenous trout—record catch, 15 pounds).

OUT FROM CHEYENNE

Since Yellowstone's birthday party will be observed throughout the state, the traveler with time to spend will want to take in as much of the celebration as possible; and Cheyenne's three railways, three transcontinental highways, and its airport make it the ideal jumping-off spot. Cheyenne has come a long way since the Union Pacific's first iron horse opened it to development in 1867. A lively assortment of gamblers, gunmen, hunters, and harlots soon gave the town the reptuation of a "hell on wheels," but Cheyenne long ago went straight and has successfully lived down its once-hairy reputation.

Today it is populated principally by ranchers, miners, and lumbermen—and, except for a few days in late July when *Frontier Days* takes over, it is a peaceful place indeed. Celebrated annually since 1897, *Frontier Days* has won a reputation as the rodeo to end rodeos. Immodestly proclaiming itself "Daddy of 'em all," this rousing show has branched out to include Indian dances

square dances, carnivals, parades, rodeo queens and their courts, chuck-wagon races, and antique-carriage displays. None of the best riders in the West would dream of missing it. Neither should you! Holding's Little America (Phone: 307–634–2771) is the best address in town. Suites cost from $22 to $36 per day. The hotel boasts a heated Olympic-size pool and a landscaped garden. Advance reservations are essential during *Frontier Days*. For dining out, try The Hitching Post. Trout, prime ribs, and steaks are your best bets.

CASPER TO CODY

If Cheyenne's *Frontier Days* whets your appetite for more, you will find plenty of it almost everywhere. A mere 180 miles distant, Casper's *Central Wyoming Fair and Rodeo* is that town's own way of telling it how it was. Although oil, agriculture, and mining are Casper's principal industries, the town doesn't overlook its touristic possibilities completely. It still retains many reminders of frontier days, but nearby Hell's Half Acre wins the day as its principal attention-getter. Fantastic rock formations eroded into uncanny ghostlike canyons present a landscape as "lunar" as any you are likely to find in the West. You'll know the meaning of "badlands" once you view this. Ramada Inn (phone 307–235–5713) and Holiday Inn (307–235–2531) offer optimum accommodations. Rates for both run to about $20 per night for a double. The Ramada has suites up to $45. Both hotels have heated pools and air conditioning—much appreciated features both for, even at the 5,000-foot elevation, days can be very warm.

Thermopolis (Greek for "Hot City") earns its name. Lying 4,236 feet up in the Big Horn Basin (130 miles from Casper), it is home to the world's largest hot springs. Canyons, buttes, and towering peaks provide scenic distractions. Hot Springs State Park offers campgrounds, bathhouses, and outdoor sports. *The Rodeo* and the *Hot Springs County Fair and Fiesta Days*, both in August, are highlights on the summer social calendar. Big Spring, which pours out 18½ million gallons of hot (135° F) mineral water every 24 hours, is Thermopolis's big attraction. A tip: The public baths are free. The Californian (307–864–2321) and The Moonlighter (307–864–2321) are the places to stay if you happen not to be traveling in your camper.

Founded in 1901 by cowboy, showman, Indian scout, pony-express-rider William F. Cody (known to the world as Buffalo Bill), the town of Cody lies near (53 miles) the eastern entrance (one of five) to Yellowstone, 83 miles from Thermopolis. It's still a frontier town, and its nearness to the park naturally makes it the capital of dude ranch country. Everybody goes into town early in July for the wild and wooly extravaganza known as *The Cody Stampede*, and throughout the summer visitors stampede the *Buffalo Bill Historical Center*, which houses an assemblage of its namesake's personal possessions as well as a collection of Indian artifacts. *The Buffalo Bill Village and Western Exhibits* encompass several buildings: one a re-creation of Bill's boyhood home. A saloon, a blacksmith shop, ancient wagons, and every other prop you've been seeing in Western movies for years further enliven the reconstruction. At nearby Buffalo Bill State Park and the Shoshone National Forest (where you may visit Bill's Wapiti hunting lodge) you can camp, sail, and fish—or simply be dazzled by an encyclopedia of scenic wonders. The Colonial Inn (phone: 307–587–4208) and the Sunset Motor Inn (307–587–4266) offer air-conditioned doubles in the $15 to $26 bracket. The Bronze Boot, which specializes in steak and lobster dinners and Western décor, features dancing and entertainment until midnight every evening except Sunday.

YELLOWSTONE

The bighorn sheep browse, the buffalo roam, and the deer and the antelope play in Yellowstone. And they're joined by moose, elk, bear (black and grizzly), and other fascinating quadrupeds. Yellowstone's wildlife vies with plant life, glass mountains, gushing geysers, luminous lakes and steaming fumaroles for the visitor's attention. It was the members of the Washburn-Langford-Doane Expedition of 1870 who first hit on the idea of preserving this wilderness wonderland as "a public park or pleasuring ground for the benefit and enjoyment of the people."

Established while the West was still being won (President Ulysses S. Grant signed the bill that created the park in 1872). Yellowstone has remained largely in its natural unspoiled state. Not only was it the first national park ever created; it remains the largest. (At 3,500 square miles in area, it checks in at 2½ times the size of the state of Rhode Island.) And most of its scenic splendors are accessible from its 142-mile Grand Loop road.

The road (U.S. 20) from Cody joins the Grand Loop at Lake, where Fishing Bridge spans the Yellowstone River as it flows out of Yellowstone Lake. The bridge, which lives up to its name, comes alive each day with fishermen who jostle each other for a position as they try to snag the cutthroat trout that are their objectives. (If you make a catch, the chef at your hotel will prepare it to your order.) If you would like to explore the 110-mile shoreline by water (at 7,731 feet above sea level, Yellowstone Lake is the highest large lake in the U.S.), boats can be rented at the Great Village and Bridge Bay Marinas.

At Canyon Village (sixteen miles to the north), where the Yellowstone becomes turbulent, its rushing waters cut a 25-mile-long canyon that averages a thousand feet in depth. Super views can be enjoyed from Inspiration, Grand View, and other aptly named points. Red, yellow, and ocher comprise the color scheme of the canyon walls, and they can be seen in all their brilliance from trails along the rim above. The Upper Falls (109-foot drop) and Lower Falls (308-foot drop—twice the height of Niagara) spill their ribbons of water over their pinnacled brinks, adding to the spectacle that is truly Wyoming's greatest wonder: The Grand Canyon of the Yellowstone. About three miles north of Canyon Junction, the road begins its ascent of Mount Washburn; and at Dunraven Pass it reaches an elevation of 8,859 feet—the highest point on the Grand Loop. At Tower Junction, where Tower Falls (132-foot drop) draws the lion's share of attention, you can rest at Roosevelt Lodge—near the spot where President Teddy Roosevelt camped when he visited Yellowstone.

MAMMOTH HOT SPRINGS

Twenty miles to the west (on U.S. 89, near the park's north entrance) lies Yellowstone's headquarters, Mammoth Hot Springs. Many of its buildings were once part of Fort Yellowstone, which played a significant role in Wyoming's early history. The Mammoth Hot Springs cascade over a series of multicolored terraces, which rise like stairs from the valley floor. The colors (imparted by tiny algae) range from white to brown, with shades of orange, yellow, beige, green, and blue to further brighten the landscape.

Norris Junction, twenty-one miles to the south, numbers steam vents and geysers among its thermal phenomena. The sound effects you hear are provided by the roaring steam vents in the Porcelain Basin. At Madison Junction, 14 miles farther to the southwest, Yellowstone's west entrance (U.S. 20) joins the Grand Loop. Next comes the hissing, sizzling, and bubbling of the thermal wonders of Lower Geyser Basin.

OLD FAITHFUL

Immediately to the south lies The Upper Geyser Basin, home of Old Faithful, Yellowstone's Number One thermal oddity and the most renowned remnant of its bygone volcanic age. Old Faithful is but one of almost 200 among Yellowstone's geysers, and it is neither the most stratospheric nor the most spectacular. It is merely the most faithful obligingly erupting pretty much on shedule—about once every 65 minutes. Since it hasn't missed a scheduled performance in almost a century, Old Faithful has earned its name. A tip: Old Faithful is so popular that you just may have a better view of the people who come to see it perform than you will have of its performance. If that is the case, check in at the adjacent Old Faithful Inn, a relic of olden days and surely the world's largest log cabin. Not all rooms have baths, but some do boast views of the geyser. Be sure to state your preference.

Seventeen miles to the east of Old Faithful lies West Thumb, which is (as its name implies) a thumb of water extending from the west side of Yellowstone Lake. Walking tours of the area lead you to brightly colored, bottomless pools of blue and green known as paint pots. You are now back at Yellowstone Lake (and astride the Continental Divide), whose waters drain into both the Atlantic and the Pacific oceans.

OFF-TRACK TRAVEL

The Grand Loop, for all its grandeur, really merely skims Yellowstone's scenic surface. It shows the park's highlights, to be sure, but it is off the Loop that Yellowstone shows its true self by revealing its endless miles of unspoiled wilderness. A one-thousand-mile network of well-marked foot and bridle trails laces its back country and offers diversion for the hale and hearty. Waterfalls and waterfowl, wild flowers and wildlife can be examined close at hand. Horses may be rented at Mammoth Hot Springs, Roosevelt Lodge, and Canyon Village Motor Lodge. But since trails can be dangerous, riders must be accompanied by a guide.

BEARING UP

Yellowstone's wildlife seems much more accustomed to visitors than visitors are to the wildlife. The black bear population, which throngs the roads in summer, has contributed almost as much renown to the park as has Old Faithful. In addition to the traffic jams caused by cars, you also will be likely to run into a "bear jam." Bears love nothing more than to stop a car and beg for a handout. Be smart: Keep your hand in! Although the bears appear unafraid, they are far from tame. So exercise extreme caution.

Photograph them from inside your car. No matter how sweet they may look or how charmed you may be, do not (repeat, do not) feed them. When they come near, stay in your car with the windows up. Bears are unpredictable in the extreme—and if you should happen to be so unfortunate as to place yourself between a mother and her cubs, you will learn in short order the real meaning of the term "cross as a bear."

OVERNIGHT PARKING

Camps, trailer grounds, hotels, and lodges, spaced throughout Yellowstone, offer overnight accommodations for 9,000 guests. There are seventeen areas for campers and trailers that hold from merely a few to as many as 400. Hotels and lodges are operated by the Yellowstone Park Company under concession to the Department of the Interior. While they cannot all be classed as luxe, even the more rustic usually can provide the expected comforts. Call 307–344–7311 for reservations.

Best Bets: Canyon Village Motor Lodge: In the park at the Loop Road and Canyon Junction. Open: June 4–September 7. Rates for 60 rooms and 100 cabins, $12–$19 for singles; $15.50–$22 for doubles. Lake Hotel and Cabins: Two miles south of Lake Junction, on Loop Road. Open: June 4–August 30. Not all rooms have baths. Rooms: $8.50–$16.50. Cabins: $12.00–$18.50. Mammoth Mo-

tor Inn and Cabins: Five miles south of north entrance on Loop Road. There are 108 rooms and 128 cabins. Open: May 14–October 8. Not all have baths. Rooms: $8.50–$16.50. Cabins: $10–$18.50. Old Faithful Inn: On Loop Road overlooking the geyser. Host to Presidents since 1904. 360 rooms. Open: May 22–September 25. Singles: $8.50–$12. Doubles: $11.50–$16.

GETTING THERE

The best bet is to get yourself to Denver first. From there on it is easy. Frontier Airlines provides frequent service between Denver and Cheyenne. Once there the only rushing is on the part of the waters of the mountain streams. Despite summer crowds, peace reigns in the Yellowstone. Life goes on for its animal population almost as it always has. Man flocks in ever increasing numbers to view, to marvel, and—one suspects—perhaps to envy just a little.

DEPARTMENT OF THE INTERIOR NEWS RELEASE: BROADCASTS TO CAR RADIOS CUE YELLOWSTONE VISITORS

An experimental project to broadcast information through car radios to Yellowstone National Park visitors is so successful that it is expected to be widely utilized in the Department of the Interior's National Park System.

Signs at Yellowstone's five entrances read: "Entrance Info./Tune Radio to 650". Tuning in, a motorist hears a message, usually about a minute in length, conveying information of immediate use—the entrance fee, where to go in the park for more information, and the current state of accommodations. For example, if the campgrounds are filled, he is advised of that fact and counseled to stay outside the park for the night.

The radio transmitters are located not only at entrances, but also at such strategic points as campgrounds, scenic overlooks and developed areas. Each message is tailored for its area use, and may draw on a variety of subjects—from the exercise of caution to the taking of a scenic walk.

Yellowstone Superintendent Jack N. Anderson reports use of the system has improved the efficiency of park operations while adding to visitor enjoyment.

"On busy days, we can move cars through our entrances nearly twice as fast as we could before these transmitters were in operation", Anderson said.

"Where there are notable features within walking distance, we urge motorists to get out of their cars, stretch their legs, and take a closer look at nature's beauty," he added.

George B. Hartzog, Jr., Director, National Park Service, points out that the broadcasts are most helpful in implementing the Service's increased emphasis on safety.

At Yellowstone, for example, motorists will be warned not to approach bears, and reminded that it is unlawful to feed them. In a thermal area, they will be advised of the necessity of keeping the family on the trails so no one will break through the thin crust.

Recorded on magnetic tape, messages can be quickly changed with conditions. The notices are prepared by park naturalists, and both men's and women's voices are used for the recordings.

Twenty-five transmitters are now in operation at Yellowstone, but more have been ordered. This year is the hundredth anniversary of the establishment by Congress of Yellowstone, the world's first national park, and President Nixon has proclaimed 1972 the National Parks Centennial Year. For the Centennial summer, the park expects to have 33 transmitters in operation.

Pointing out that surveys show more than half the visitors listening, the naturalists of Yellowstone Park are enthusiastic about use of the broadcasts for park "interpretation"—explanations of an area's geology, archeology, plant life, animal life, and history.

An example they cite is Lake Butte, an overlook from which visitors look down upon a significant expanse of Yellowstone Lake. The radio message there points out that the view includes a vast sweep of one of America's greatest wildernesses, the real back country of the park.

At Norris Geyser Basin, travellers are informed of a system of trails—leading to outstanding scenic features and a museum—which can be traversed during a walking tour which lasts about 45 minutes.

The informational broadcast system was pioneered at the park—by park personnel cooperating with the Yellowstone Library and Museum Association, a group of citizens who advise on, and supply support for, a variety of park activities.

A few transmitters have been installed in other U.S. national parks; still others have put them on order. Soon, visitors approaching many areas of the National Park System will be tuning to 650 "For Info.".

DEATH OF FORMER SENATOR AND SUPREME COURT JUSTICE JAMES F. BYRNES

Mr. TALMADGE, Mr. President, I join the Senate in mourning the passing of James F. Byrnes, a man of exceptional ability, distinction, and service to the United States.

Jimmy Byrnes was a proud South Carolinian who brought great credit to his native beloved State. He was an American statesman whose duties took him all over the world in a most critical time in our history. From humble beginnings, Jimmy Byrnes rose to national and international respect and prominence. President Nixon appropriately paid tribute to this great man when he said in 1969:

> Never in American history has one man held more high offices with more distinction than has Governor Byrnes.

Virtually self-educated in law, young Byrnes began his career as an attorney in Charleston and won election as circuit solicitor. In 1911, the people of his district sent him to the U.S. House of Representatives, where he served an outstanding seven terms. He was elected to the U.S. Senate in 1930. Assuming responsibility and winning the respect of his colleagues, Byrnes served in the Senate until 1941 when President Franklin D. Roosevelt appointed him to the Supreme Court of the United States. He was on the High Court only a year, being called upon by the President to manage programs to insure economic stability during the turbulent years of World War II.

Following President Roosevelt's untimely death in 1945 and Harry Truman's accession to the Presidency, Byrnes was appointed Secretary of State—a post of overwhelming responsibility in the years after the war. He pursued a firm policy and with foresight warned against Communist expansion in Western Europe. He resigned in 1947, and returned to his home State.

He was elected Governor of South Carolina and served from 1951 to 1955. I was Governor of Georgia at that time, and it was my great pleasure and privilege to work with Governor Byrnes, as the chief executive of a neighboring State and at Governors' conferences.

A distinguished statesman has passed from the American scene. Mrs. Talmadge joins me in expressing our deep regret and sympathy.

PLATFORM 1972

Mr. HARRIS. Mr. President, this morning I participated in a news conference with members of the New Democratic Coalition and leaders of other national organizations to introduce "Platform 1972," prepared by the NE Region of the New Democratic Coalition.

The NDC's "Platform 1972" is a well prepared and thoughtful document outlining some very fundamental problems in America and offering what I believe are sound and reasonable solutions.

Although the NDC prepared "Platform 1972" for consideration and adoption by the National Democratic Party, I commend it to all Senators for their consideration and ask unanimous consent that the statement and "Platform 1972" be printed in the RECORD.

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

STATEMENT OF SENATOR FRED R. HARRIS, NEW DEMOCRATIC COALITION PRESS CONFERENCE, APRIL 11, 1972

The New Democratic Coalition's Northeast Region has prepared a "Platform 1972" which speaks clearly and forthrightly to basic and fundamental issues. I join with them today in encouraging the National Democratic Party to consider this New Populist platform and adopt its recommendations during the convention in Miami.

To the ordinary American, the problems are all too clear: the telephone service is shoddy while the rates go up; it costs more to go to the hospital for a week than it does to vacation in Europe for a month; taxes on a yearly salary of $10,000 are two thousand five hundred dollars, while some millionaires pay nothing; supermarket prices are higher for poorer quality food, increasingly produced by agribusiness conglomerates which drive people off the land while collecting millions in government subsidies.

The underlying reason for these and similar problems in America are equally clear. There is a maldistribution of power and income in this country. Unless this imbalance is corrected, we will continue merely to treat symptoms.

Americans want fundamental change. They want a better distribution of income and wealth and power in America. The NDC's "Platform 1972" is an outline of how this can be brought about.

I commend the NDC and the members of the Northeast Region's Platform Committee for their diligent work. I applaud their finished platform document, and I join with them in presenting it to our fellow Democrats for consideration.

NEW DEMOCRATIC COALITION NORTHEAST REGIONAL CONFERENCE, PLATFORM 1972

The platform of the New Democratic Coalition is based on one simple thesis: the institutions in this country are so structured that some people have too much money and power, most people have too little. Therefore, in essence, we offer only one platform recommendation—that the power imbalances between people and groups be eliminated. The fight against the concentration of power and groups be eliminated. The fight against the concentration of power and privilege—open and covert, legal and illegal—is the most important political question of our time. Our goal is a more equitable distribu-

tion of wealth and power. This fight for fairness is political; it can be won only by organizing a new political majority in America.

Our present institutions and policies which guarantee power and money to a few, force the rest of Americans to struggle with each other for the little that is left. We must understand that such a struggle between underprivileged groups, fighting over crumbs for minimal survival, will solve no problems, and as we have seen is counter-productive. The purpose of this platform is to focus attention on the solution—a joining together of those without power and adequate resources to change our institutions to bring about a rebalance.

We feel that the best advocates of people's needs and aspirations are the people themselves, acting from positions of equal power. This is so whatever the group—be they Vietnamese or African, labor or the poor, neighborhood or ethnic, Chicanos or the aged.

Our platform deals first with *corporate power*, the underlying source of the unjust concentration of wealth and power, and then with *labor*. Next we consider *campaign financing* and other devices by which the powerful control government and make it impossible for government to deal with corporate power and other basic problems. The *redistribution of wealth and income* is the next major topic. It has two parts: the inequitable manner in which the government raises its revenues through taxation and in which such monies are then spent by the government. This is followed by sections dealing with the rights of *women*, institutional *racism* and the *governmental abuse of citizens*. We conclude with a section on *foreign policy*, which illustrates how the imbalance of power manifests itself in this critical area.

This platform is a serious effort to state the intrinsic problems facing our society and to outline a method of dealing with them. This platform can be a basis of the campaign for the presidency in 1972 and a blueprint for the solution of our society's problems.

This platform was prepared by the Platform Committee of the Northeast Regional Conference of the New Democratic Coalition, following a series of hearings held on: September 14—Washington, D.C.; September 21—Philadelphia; October 6—New York; October 8—Boston; October 12—Washington.

It was adopted by a Convention of Northeast Regional NDC on February 25–26, 1972, in New York City.

ACKNOWLEDGEMENTS

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Marvin Gross, Mass. PAX
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Libby Moroff, NDC–NY
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Senator Fred Harris
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Jane Benedict, Metropolitan Council on Housing
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Joseph A. Ruskay, National Board, ADA
Leon Davis, Local 1199, Drug and Hospital Employees Union
A. N. Harris, author
Victor Gotbaum, District Council 37, American Federation of State, County, and Municipal Employees
Senator Edmund Muskie
Senator George McGovern
Maria Lopez, South Bronx Community Corporation
Dr. Thomas Hartmann, Rutgers University
Mel Rivers and Fran Christman, Fortune Society

SLUMS AND SUBURBS: PHILADELPHIA, SEPTEMBER 21, 1971

Paul D'Ortona, City Council President
Drayton S. Bryant, Planning and Housing Consultant
William Taylor, Center for National Policy Review
Yale Rabin, Urban Planning Consultant
Michael Davidson, NAACP Legal Defense and Education Fund
Augustus Baxter, Architects Workshop
Professor William Grigsby, University of Pennsylvania
Gordon Cavanaugh, Philadelphia Housing Authority
Nate Smith, Community Action, Pittsburgh
Glenn Claytor, National Urban League
Rose Wylie, National Tenants Organization
Paul Rie, Housing Authority of Chester County
W. Roy Newsome, Department of Community Affairs, Commonwealth of Pennsylvania
W. Wilson Goode, Philadelphia Council for Community Advancement
Richard Wade, urban historian, CCNY
Damon Childs, Philadelphia City Planning Commission
Louis Waldman, Department of Environmental Resources, Commonwealth of Pennsylvania
Annette Altschuler, Homeowners Association of Philadelphia
Fred Drudding, Whitman Park Civic Association, Philadelphia
Denise Venturi, architect and planner, Venturi & Rauch
Leon Weiner, Leon Weiner Associates, housing developers
David H. Moskowitz, Bucks County Legal Aid Society
Stephen C. Miller, Community Advocates Unit, Commonwealth of Pennsylvania
W. Thacher Longstreth, Republican Candidate for Mayor of Philadelphia
Frank Weise, architect
Albert Letson, Commission on Human Relations, Philadelphia
George Gould, Community Legal Services

THE GOVERNMENT AND ITS CITIZENS: BOSTON, OCTOBER 8, 1971

Stanley Jones, Governor's Citizens Committee on Corrections
Russell Carmichael, former Camp Chairman, Norfolk M.C.I.
David Spinney, American Friends Service Committee
Hiller Zobel, Hill & Barlow
Scott Harshbarger, Lawyer's Committee for Civil Rights
Bob Gustafson, Native American Community of New England
Byron Rushing, Community Fellow, M.I.T. Whitney Young Program
Laurence Sidman, student, Boston College Law School
Kathy Segal, Boston Women's Legal Group
Margery Rosenthal, Massachusetts Committee Against Repressive Legislation
Christopher H. Pyle, former Captain, U.S. Army Intelligence
James Ahern, former Chief of Police, New Haven, Connecticut
Ken Bode, Center for Political Reform
Syd Hanlon, author
Alix Smullen, U.N.A.F. Voter Registration Project

HARNESSING THE POWER OF THE CORPORATIONS: WASHINGTON, OCTOBER 12

Mark Green, Corporate Accountability Research Group
Philip C. Sorensen, Project on Corporate Responsibility
Goeffrey Cowan, Center for Law and Social Policy
Jason Newman, Georgetown Law School
Pierce O'Donnell, Nader Task Force
James L. Phelan, student, Yale Law School
Jerry S. Cohen, co-author, *America, Inc.*
James Hightower, Agribusiness Accountability Project
Dr. Jerolyn Lyle, Department of Economics, American University
Frank Mankiewicz
Tom Riddell, Union of Radical Political Economists
Joel F. Henning
Eugene J. McCarthy
Richard L. Ottinger, Grassroots Action, Inc.

FOREIGN POLICY: WASHINGTON, SEPTEMBER 14, 1971

Senator Birch Bayh
Eugene J. McCarthy
Gloria Steinem, writer, feminist
David Dellinger, antiwar activist, author
Marcus Raskin, author
Sanford Gottlieb, National SANE
Shirley Chisholm, Congresswoman
Marcus Raskin, Institute for Policy Studies
Peter Weiss
David Calleo, author, European scholar
Charles Hightower, American Committee on Africa
Allan Solomon, Committee for new Alternatives in the Middle East
Dr. Betty Lall, faculty of Metropolitan District of N.Y. State School of Industry and Labor Relations of Cornell University
Brenda Feigen Fasteau, Member of steering committee of Women's Political Caucus
Congressman Ron Dellums
Congressman Les Aspin
Congresswoman Bella Abzug

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REDISTRIBUTING CORPORATE POWER

Through its enormous size, its control of wealth and power, and its concentration in relatively few hands, the corporate sector has achieved full domination of all "countervailing forces," including government, labor and consumers. Corporate self-interest, which disregards society's urgent needs, has been substantially dictating the economic, political, social and moral direction of this nation. Although the question of whether this power has been exercised reasonably or properly is important, it is only secondary to the basic questions: should this power be exercised by so few, and why are they accountable to virtually no one. We reject the concept of noblesse oblige. It is clear that the unrestricted power exercised by the corporate elite must be shifted to, and shared by, those whose lives are affected by it.

Size and Concentration

The size of the Corporate Monster is mind-boggling. A single example should suffice: total General Motors sales exceed the total budget of any country in the world, save the United States, Russia and Great Britain.

Most alarming, this movement of concentration of economic power into fewer and fewer hands is increasing at a geometric pace.

In 1950, the largest 200 corporations controlled 47% of the total manufacturing assets in the nation. In 1965, these 200 firms controlled 55% of the total assets, and by 1969, they controlled two-thirds of the nation's total manufacturing assets. The top six firms included in "Fortune's 500" earned 25% of all industrial profits!

The obvious danger of corporate size is further magnified by the emergence of the "shared monopoly" as a pattern of corporate behavior. When a group of three or four corporations which together control more than 50% of an industry act in concert the effect is clearly inimical to competition of any sort. "Shared monopoly" is not an isolated phenomenon. It exists in virtually every major U.S. industry.

Furthermore, corporate power has been increased in countless ways—interlocking directorates, joint ventures and, of course, conglomerates run wild.

Consequences of the use of concentrated corporate power

When corporate power is concentrated our society has seen an unimpeded policy of pushing price increases, lagging technical innovation, unemployment and decreased production. It is often suggested that corporate decisions which may lead to these results are justified because millions of shareholders will share in the profits of corporate America. This myth which is basic to the corporate philosophy must be exploded. A 1963 study pointed out that only 1.6% of the country's adult population owned 82.4% of all publicly held stock. The bulk of large corporate profits goes to very few, contributing to the imbalanced income distribution in this nation, and certainly supplying no justification for the grievous injury corporate decisions aimed at increasing profits does to the economy.

Probably the most destructive effect of corporate power concentration is little realized by the American people. It results from the ability of corporations to determine the use of approximately 80% of the productive capacity of this nation (the portion of the GNP which passes through the private sector). Those whose lives are significantly affected by these decisions are excluded from the decision whether the nation's GNP shall be used for schools or for cosmetics, for hospitals or for high-styled automobiles. In this context, the endless debate about re-ordering priorities becomes almost meaningless, since that debate refers only to the remaining 20% of GNP which passes through the public sector. There is absolutely no way in which this 20% can be spread so as to finance the massive social programs so desperately needed.

Even the assumption that the remaining 20% is spent in the public interest is inaccurate.

By use of devices such as campaign contributions, corporate America has gained virtual control of governmental officials. Hence we see the government spending billions of dollars of public funds for highways which help Detroit sell cars but refusing to help urban centers such as Detroit, New York, Philadelphia, with money for mass transit. Similarly, we see the government spending huge sums for military research and development and then spending billions to purchase these armaments from the same corporation it subsidized to develop them, instead of for such essential public services as schools, hospitals, health care, corporate control of the government.

The urgent needs in America for more school, hospitals and mass transit can only be realized significantly if more of the productive resources, both public and private, now controlled by corporations are directed toward these areas. This can be accomplished only when a significant portion of the power to determine how national resources are to be made is placed in the hands of the people.

Social consequences of corporate control

The social consequences of corporate domination have been disastrous. Continued corporate growth depends on an ever-increasing growth of sales. Through persistent bombardment of the public, corporations not only brainwash the public into buying a particular product, but have inculcated into our society the compulsion to buy, buy, buy! The kinds of products, glittering automobiles and exotic cosmetics, rather than schools or health services—linked with intensive advertising which emphasizes constant acquisition, has undermined the national moral fabric. Everything is measured in terms of numbers and quantity, and not by life, love or quality. Materialism pervades every aspect of our lives.

Corporations and war

The health of corporate America demands constant growth. This means that corporations must produce more and more and more goods, and the consumers must purchase more and more of what the corporations produce. Unmatched as the best market in the world today is the United States military establishment. Hence, those with a profound power to set our nation's direction have an enormous vested interest in maintaining and, indeed, in expanding the American military establishment. In this context a 20 year "cold war," a Viet Nam and all of the other foreign adventures become more comprehensible.

The monopoly power achieved by corporate America has left individuals with little power over their lives. Corporations decide the types of people they want us to be, mould the educational system to prepare us for their needs, manipulate the media and thus regulate the most minute details of how we live. Small wonder so many feel frustrated, alienated and powerless.

The basic ideals of a corporate society are technological advance for the sake of technological advance and growth for the sale of growth. In the process of technological advance social cost is not considered. Profits are realized by the corporations and society is left to pick up the social costs of environmental and human destruction.

Moreover, in defining growth as the increase in unevaluated GNP, corporations force our society to produce mindlessly, rather than to choose a better quality of life—to choose two cars in the garage, rather than more leisure or better air. We are not even aware that this choice—between hyper-increasing GNP and leisure—which should be ours, is being made for us.

Corporations and crime

Crime and violence is a terrifying problem in our society. Much of the problem is directly traceable to Corporate America. Given an economic system which dictates that its resources shall go to cosmetics and cars rather than schools and hospitals; which dictates an ever-increasing disparity of income distribution and then blatantly flaunts the disparity of wealth to the have-nots on TV, daily; which is bedrocked on fierce competition; which worships material values and acquisition over all else; which seizes all power and leaves our masses alienated and frustrated; which promotes its government, in its own economic interests, to set an example of senseless and brutal violence—given all this, the result is predictable—crime and criminals attempting to close the distribution gap.

There is yet another face of crime and violence in America—corporate crime and violence. More Americans die from automobile accidents in this nation annually, than in Vietnam. A major portion of such death and violence is clearly avoidable given a responsible automobile industry. The misery of miners in West Virginia; farm workers in California, is a direct result of corporate greed. The massive deception practiced upon the American consumer by the corporate empire is all too well known. It would not be difficult to state that corporations are the worst criminals in our nation.

Corporations on the farms

Rural America is, according to the myth, a heartland of small independent farmers free from corporate spectre. This image, too, is false. The corporation has moved into agriculture with the same avarice it exhibited in industry. By 1964, small independent farmers totalled 56.5% of all farms, but only 7.8% of farm sales. Less than one percent of U.S. farms accounted for 24.3% of all farm sales in 1964. By 1969, this percentage was up to ⅓ of all sales. Such familiar conglomerate names as Boeing, Goodyear, Royal Crown Cola, Tenneco, American Brands, Dow Chemical, Bank of America, and Prudential Life— have moved in and taken control of all aspects of product processing and distribution of farm products. The results are predictable.

In the last 30 years, 100,000 small farms have been lost. By 1980 it is estimated one million of these farms will have vanished. With the loss of the small farms, town and communities which services them also, disappeared. 75% to 80% of farm workers are employed by major food and industrial corporations, which are responsible for the low pay and humiliating working conditions brought to national attention by Caesar Chavez and the United Farm Workers Organizing Committee.

The net results of such "agri-business" are well known. Cities are choked by migration of displaced farm workers who, in turn, are choked by the cities. And back in rural America, 14 million are left in abject poverty.

PART II

There are really two questions involved in assessing corporate power. The focus has almost always been upon the question of whether this power is being used reasonably. This platform rejects such an analysis. We accept the premise of Lord Action that "Power tends to Corrupt" and address our recommendations to programs designed to shift decision-making power from the corporate world to the people.

1. *Deconcentrate corporate power*

Anti-trust laws have been on the books for many years. They have never been seriously enforced. As a result, corporate concentration increases. Moreover, the minimal anti-trust activity to date has primarily been directed against acquisitions rather than for divestiture. The result is the elimination of competition. Big companies stay big and small companies stay small or disappear. While we recognize that anti-trust activity alone is not the solution to overconcentration, we nevertheless urge that as a first step we must use the weapons we already have.

The problem of "shared monopolies" must be met by new legislation—vigorously enforced—which would require corporate divestiture when fewer than four corporations produce more than 50 percent of the goods or services for a particular market.

Federal corporate chartering must be instituted. Charters should include provisions limiting the size and scope of permissible business activities of corporations. Such charter limitations should significantly limit corporate concentration of all types—be it vertical, horizontal or conglomerate.

2. *Enactment of a strict federal chartering law*

The benefits of corporate status, particularly limited liability, are enormous. Like a liquor license or a driver's license, these benefits must be conditioned upon socially desired conduct.

Compelling such corporate responsibility is impossible in the present context wherein states are in frenzied competition to induce local corporate chartering (and the resultant taxes and business activity) by requiring

lesser and lesser corporate responsibility. A strict, uniform federal chartering law is the only solution.

Such legislation would not only be used to prohibit corporate concentration. It would also require full corporate disclosure of all financial, non-personal employment, and stockholder records, as well as records of transactions with government and other institutions. It would require a comprehensive annual social and environmental report, a report on minority group assistance and employment, and also would require socially beneficial activity and expenditure in these areas. A federal chartering law would guarantee representation on the board of directors representatives of minority groups, women, consumer and local community in designated percentages. It would prohibit interlocking directorates; require consumer protection in the form of adequate product labeling, warning of dangerous products, reasonable guaranties, free service for unfit products.

Charters should be subject to periodic renewal. A broad range of sanctions, including loss of corporate status and limited liability, should be available.

3. Shift a significant portion of the power to determine the use of national resources from the private to public sector

Every year about one hundred billion dollars of public funds are placed in commercial banks throughout the nation, much of it interest-free. Legislation should be enacted allowing the deposits of such public monies only in banks with substantial investments in programs carefully designed to assist minority enterprises, consumer borrowing, education, ghetto redevelopment and other high priority domestic social programs. Such investment programs should be administered jointly by government and by consumer and other socially oriented interests. Tax incentives, higher interest rates and other devices should be utilized to induce other institutional groups and individuals with investment cash to help by depositing their money in cooperating banks. The net effect would be to shift a massive amount of money away from current corporate control and into socially beneficial programs now starving for funds.

Another vehicle for moving funds from the private to the public sector is the creation of a massive Federal bond program similar to Liberty, Defense or War Bonds. The Government could borrow substantial amounts of money from its citizens and, rather than investing in war, could use the money for social programs. These bonds would be designed and marketed not only as a "patriotic" investment but also would be competitive with securities in the corporate market.

Yet another method of shifting substantial capital from the corporate sector to social purposes would result if the Federal Reserve Board selectively lowered the discount rate in "poverty" areas, requiring that deposits thus freed be used in the community for designated social purposes.

4. Fix more realistic responsibilities and accountability for corporations and their officers

One reason corporate crime continues unbated is that it is considered "merely white collar crime" for which corporate officers and directors generally escape prosecution and penalty. Civil and criminal statutes must be tightened and new ones enacted which require strict accountability for such crimes by corporate principals.

In addition, a flexible array of civil and criminal sanctions should be enacted which will allow suspension of corporate principals in appropriate cases; impose temporary bans on corporate advertising; make public details of corporate violations and misconduct; provide for an end to limited corporate liability and for suspension and revocation of the corporate charter itself where appropriate.

Although middle and upper management corporate personnel are frequently aware of such corporate misconduct as false advertising and harmful products, fear of retribution has discouraged such personnel from exposing or challenging such corporate misconduct. Statutes similar to those protecting union members against management retribution for legitimate union activity must be enacted.

5. Termination of favored treatment of corporations

Tax loopholes favoring corporations must be closed. They are too numerous to describe in full. A few examples should suffice: special tax priveleges for the oil and gas industry, during the years 1963 through 1967, enabled that industry to pay an average tax of 4.9% on before-tax net profits of 21 billion dollars—far less than the percentage paid by the U.S. taxpayer. Corporate advertising is tax-exempt; we must prohibit government subsidy of clearly political advertising such as the insurance industry lobbying against no-fault insurance through its ads, or the trucking industry advertising for more highways in its advertisements.

Other forms of special treatment enjoyed by corporations are found in the recent Lockheed loan (the corner grocery does not get such welfare assistance), and in huge amounts of free research and development done by government for big business.

6. Shifting power to employees and committees

Corporations are unchecked in their power to make decisions which directly, continuously and massively affect the lives of employees and the communities where plants are located. Such powers must be shared. Internal machinery must be created to permit joint decisions in certain areas currently exclusively in the corporate domain. For example, when a corporation decides to relocate, thousands of employees may be affected. Their choice is to uproot themselves or to risk unemployment. They must be allowed to share in the decision to move. Similarly, when a proposed corporate activity will affect the environment of a community, that community's consultation and consent should be required.

7. Encouraging strengthening consumer and community groups

The emergence of community groups advocating corporate responsibility is encouraging. They are, however, at a serious economic disadvantage when compared to a well-financed corporation.

They should be given tax advantages and meaningful access to the media. In addition, all media should be required to carry responsible citizens' reaction to advertisements which they believe involve matters of health, safety, environmental protection or consumer deception.

A federal fund should be created to assist individuals or consumer groups in legal and research costs where they make a prima facie showing of the government's failure to protect consumers.

In addition, bounties should be provided for the successful prosecution of such lawsuits.

8. Public ownership

Public ownership through nationalization, or the use of the TVA model, should be employed in the following situations: When private corporations will not engage in activities necessary for the public meal; or refuse to locate in certain localities because they anticipate little profit; or when corporations particularly in a monopoly situation abuse their advantage by changing too high prices, or are providing inferior and inadequate services.

9. Compel corporations to pay the social costs of their operations

Environmental and human decay resulting from corporate operation must be stopped. But, if such injury occurs, the corporations must pay substantially all of the costs—out of profits and not by passed-on increased prices.

10. Save rural America

What appears as a blatant government effort to supplant the independent farmer with agri-corporations must cease.

Land grant colleges must be forced to reverse their preoccupation with agri-business efficiency and growth. The enormous public resources invested in these institutions must be redirected toward the needs and survival of the small farmer, farm workers and rural communities.

Federal procurement preferences, tax incentives and subsidies must be given to small farmers, and to industries which locate in rural areas offering employment at fair wages and under decent working conditions.

Immigration laws and their enforcement must be strengthened so that profit-hungry corporations can no longer play off poor Mexican workers against poor American workers.

Legislation must be enacted to make the beneficiaries of mechanization responsible to the displaced worker or the community in the name of modernization.

PART III—THE LABOR MOVEMENT

It is urgent that the labor movement play a major role in reshaping America. Rather than acting as a "partner" of big business, labor must constitute the means by which workers can share corporate decision-making, and thereby serve their own essential interests as well as those of society at large.

The labor movement in the past has served to improve dramatically the economic status of working men and women and their families, through collective bargaining and through enactment of responsible labor laws.

The labor movement has emerged as the chief focus of opposition to Nixon's three-phased economic program: wage freeze, continuing inflation with unemployment, and inequitable taxation.

Yet despite its past accomplishments, and despite the presence in its ranks of outstanding unions and union leaders, the labor movement as a whole does not provide, and has not for some time provided, national leadership in the battle to end race, sex, and class injustice. The AFL–CIO Executive Council's continued support of a war that its own rank and file and the rest of society long ago abandoned, is tragic. Labor's record of achieving equal opportunity in its own ranks for all workers regardless of race or sex, has been spotty. Within the labor movement there has too often been concentration of power, that serves its own ends at the expense of working men and women.

RECOMMENDATIONS

1. The labor movement should be—but is not—vitally concerned with the need to broaden workers' participation in the decision-making processes of the firms in which they work. Product priorities, production methods, plant location, and major financial decisions are the legitimate concern or workers in a plant, and a major goal of the labor movement should be the creation of new structures to bring workers into the decision making process.

2. Every effort must be made to insure the existence of a healthy and democratic union movement. The National Labor Relations Act must be strengthened and extended. Farm workers, domestics, the Gulf Coast wood pulpworkers, and others must quickly be brought within the protection of that law.

3. We oppose intimidation as a means of encouraging union membership and we op-

pose discrimination in unions, but we believe that progressivism should be encouraged from within the unions themselves. Therefore we oppose right-to-work laws, state and federal.

4. Public employees must be afforded the same rights as their fellow workers in private industry.

5. Federal and state laws to protect employees' safety and health must be greatly amplified and enforced.

6. Long-overdue national legislation must be passed to protect and make transferable between jobs, workers' rights to pensions and insurance. The disappointed expectations of thousands of American wage earners to honorable and self-supporting retirement constitutes a national scandal.

7. Workmen's compensation and unemployment benefits must be expanded and increased.

8. The labor movement, which has long espoused a policy of full employment, must broaden its identification with the unemployed and the unemployable poor. The policies of corporate America that are antithetic to the interests of laboring men and women are the same policies that condemn those on welfare to lives of hopelessness and poverty.

CAMPAIGN SPENDING: CORPORATE CONTROL OVER PUBLIC OFFICIALS

Corporate freedom to proceed unhindered in the private sector, and its domination of the public sector, have largely resulted from skillful use of economic power to "buy" government's cooperation and assistance. The main tool utilized has been campaign financing. Under the present system, escalating campaign costs make substantial corporate money support an essential element of the electoral process. Unless this system of campaign financing is radically revised, there seems little hope that corporate domination of our society will be ended, and little hope, therefore, that we can deal with the vast array of social problems and inequities.

Corporate domination of the public sector becomes possible because the costs of campaigns are so astronomical. The various local and national campaigns of 1968 were estimated to have cost between $300 million and $900 million. Although the Federal Corrupt Practices Act prevents direct corporate political contributions, it has long been easily evaded. A United States Senator has estimated that 95% of the contributions at the Congressional level comes from business (80% from those whose net worth is over $250,000). These direct contributions from corporate executives are frequently reimbursed by their companies through special bonuses or other benefits.

In view of the deep dependency many elected officials have on corporate financial support, it is not surprising that proposed legislation seeking to cope with the problem of financing campaigns has been so inadequate.

It is equally obvious why there had been no meaningful effort by our nation's public officials to challenge the power of the corporations to reverse the clear direction toward socialism for the rich and "benign neglect" for all others.

The relationship between corporations and the regulatory agencies constitutes a second major aspect of the problem. These "independent" regulatory agencies were the New Deal's answer to corporate greed and irresponsibility. The effort has failed completely. As one witness put it: the "independent" regulatory agencies have become victims of the "law of aerodynamics," that is, "weaker bodies (the regulatory agencies) becoming satellites of the stronger bodies (the corporate giants)."

One reason for this total abdication of responsibility is the absence of meaningful consumer roles within and before the agencies. Equally important is the co-opting of regulatory agency personnel by the same corporations those personnel are supposed to regulate. These "regulators," who are sympathetic to the regulated industry while they are in office, are assured lush jobs with those regulated corporations when they leave the government agency. Promises of private employment to public employees are not limited to individual regulatory agencies. They are also used by contractors at all levels and branches of government. For example, in 1967, 2,072 retired military officers were employed by the top 95 government contractors. Each of the top ten contractors had an average of 106 former military officers on its payroll.

In light of this accepted practice, it is no surprise that the I.C.C. provides two billion dollars annually in railroad subsidies; or that the C.A.B. in effect grants airlines two to four billion dollars a year in excess revenue by restrictions on competition. It also explains why final costs in military weapons contracts average 320% of original cost estimates; a recent study of 13 major aircraft and missile programs totalling 40 billion dollars showed only four of these contractors (with $5 billion in contracts) performed at as much as 75% of design specifications. Similarly, it is clear why the companies with the poorest performance records reported the highest profits, and, nevertheless, continued to receive the lion's share of government contracts.

II

1. The only workable solution to the problem of campaign financing lies in substantial federal assumption of campaign expenditures at all levels, including primaries. Although campaign costs are staggering when viewed from the standpoint of an individual candidate's resources, they are minimal in terms of governmental resources. Certainly they are minimal as an absolute prerequisite to any meaningful progress toward equality in this nation. And tax check-offs or similar programs encouraging small contributions from a broad cross-section of the electorate could be helpful in helping to meet the expense.

In addition, the federal government could certainly help to reduce the cost of seeking elective office by requiring the television, postal and telephone industries to contribute their services to candidates so that the tools these three industries provide for reaching the voter are available on an equal basis to all viable candidates. Legislation must be formulated which readily allows candidates to mount campaigns regardless of personal wealth, or access to the corporate world. It must include appropriate guidelines protecting minority parties and insurgents, including reasonable campaign funding and precluding the use of television commercials as a vehicle for "selling" candidates, without reference to merit or position.

2. *Reconstitute regulatory agencies.* We have seen how the so-called regulatory agencies have been substantially co-opted by the industries they are supposed to regulate. We must have legislation which prohibits those who served on a regulatory agency from obtaining employment in related industries for a period of five years after leaving the agency. Similar legislation is required to assure that a corporate employee do more than superficially change hats when he or she starts to work for a regulatory agency. Agency jurisdiction must be restricted so that no agency is involved in both regulating and promoting a given activity.

In addition, we must have stronger legislation requiring effective institutional representation of consumer interests before regulatory agencies. Such broadening of these bodies should aid in insuring that control over these agencies does not again become vested in the regulated industries. Public hearings on matters affecting a local area should be held in the area concerned at a time and place that will assure the public an opportunity to be heard.

REDISTRIBUTION OF WEALTH AND INCOME

The United States is the wealthiest nation in the history of the world. It is unconscionable that approximately 20% of our people live in poverty, while a few live in princely luxury. This incredible disparity results because of our economic system. In 1968, for example, we distributed 5.7% of the nation's income to the bottom fifth of our country's families and 40.6% to the top fifth. More alarming is the fact that this maldistribution has been getting worse instead of better.

The bottom fifth of our nation is not the only victim of the system. The great working and middle class are also penalized. Although they earn more than the lowest fifth, inflation has bitten massively into their "increased" earnings. They may have more tangible assets now than 20 years ago, but these assets are not luxuries—they are necessities. For example, a factory worker requires an automobile to get to and from work which is far from where he can find housing; twenty years ago he could get to his job by a short ride on a mass transit system which was then safer, cleaner and less expensive. The so-called middle class finds itself barely able to stay afloat. It lives in fear of being unable to pay the medical costs of a serious illness, for example. There is an illusion of being well off, but there is an underlying chronic insecurity.

Government affects the distribution of wealth and income in two fundamental ways—the manner in which it collects revenue from its people and the manner in which it spends such revenues. In both cases, the present structures are heavily weighted in favor of the powerful and against the powerless.

It is clear that a realignment is necessary. The wealth of this country must be more evenly spread. Taxes should be levied in accordance with the ability to pay. Revenue must be spent on the basis of need.

I. TAX REFORM

The lower, working and middle classes shoulder far too much of the tax burden.

Fair and progressive income tax

A steeply progressive income tax, coupled with a minimum guaranteed income above the level of the Bureau of Labor Statistics Lower Living Budget, must be enacted both to insure a fair tax burden according to ability to pay and to pursue a long-run policy of redistribution of wealth. One advantage of insuring a minimum income is that aggregate demand will be sustained above recession levels. There should be no reliance on regressive taxes. We particularly oppose the so-called value-added tax (a disguised national sales tax) which the Nixon administration is considering, because the lower one's income, the greater the burden.

Abolition of favored tax treatment

All income, including capital gains, should be taxed at the same rate. The present income-averaging provisions should apply to such gains in the same way they relate to ordinary income.

The revenue laws are riddled with exemptions and allowances for deductions which favor special interests. They must be substantially eliminated. For example, we must do away with the fiction that mineral or oil depletion or capital gains are so important to economic progress that they deserve special treatment. We must eliminate all existing depletion allowances once the actual cost of the property has been recovered. The privilege of taking immediate deductions for intangible drilling and development costs should be terminated.

Interest on State and local bonds

Interest earned on state, municipal and other local bonds should be taxed at regular income tax rates.

The federal government should ensure marketability of such bonds by guaranteeing and subsidizing them in part.

Similarly, the present exemption under which local governments may issue up to $5 million tax free industrial development bonds should be abolished.

Real estate depreciation

Accelerated depreciation on real estate should be abolished. The only exception should be the more favorable depreciation allowances retained in order to encourage investments in new housing by low and moderate income families. Preferential tax treatment for depreciation on resale should be ended.

Estate and gift taxes

The entire estate and gift tax structure should be revised. A single comprehensive and integrated tax should be placed on all transfers whether made during lifetime or at death. Inheritance tax rates should be significantly increased. We should not permit fortunes to be passed over intact from generation to generation when so many are unable even to achieve a survival-level income.

Special benefits for corporations

Favoritism toward corporations under our tax structure is pervasive. Expense account living can only be ended by stringent enforcement of regulations and the imposition of maximum limitations. The recently enacted investment credit tax will benefit corporations and their wealthy stockholders by 4 to 5 billion dollars. Yet in the view of most economists it will have little stimulating effect on the economy. The Administration has recently given a 3 to 4 billion dollar annual windfall to business through liberalized methods for calculating depreciation.

Favored tax treatment for savings and loan associations and other banking institutions should be ended, eliminating completely their use of excessive bad debt reserves to reduce their tax liabilities, and by ending other special immunities granted them and not to other corporate taxpayers.

Defense industry tax

There should be an excess profits tax on all corporations or departments of large corporations whose primary business is production for defense.

II. GOVERNMENT SPENDING

Revenue spending should be part of the general policy of closing the economic gap. We must put greater emphasis on spending programs that help rebuild the urban environment, eliminate poverty, provide a broader distribution of service in the areas of health, justice, housing, education, and mass transit, and help secure and maintain healthy environment.

This redirection of spending policies can only be accomplished when the Southeast Asian War has ended; we have succeded in stopping the subsidies of redundant weapons systems, extravagant space explorations, loan guarantees for large bankrupt businesses, or the agricultural subsidies that only aid wealthy businessmen farmers; and when we have succeded in placing under public control significant portions of the wealth now controlled by the private sector.

Poverty

The status of the poor in America is the most tragic and convincing example of the inequities within our society.

Statistics, studies, data and reports on poverty are legion. The poor have literally been studied to death. What we need is not more good will studies but more will to make institutional changes. In every aspect of human life, the poor have demonstrably more difficulties than the affluent. We will cite just one example, the area of health care. All diseases afflict the poor far more severely than the rich—except diseases peculiarly associated with old age. Life expectancy among the poor is substantially lower than it is for the rest of the nation.

Infant mortality among the poor is shockingly higher among the affluent and in most other industrial countries.

Race, class, and poverty are interrelated and are closely aligned with malnutrition and ill health. While 47 percent of all nonwhites are poor, only 14 percent of whites fall below the poverty line. Lack of access to good housing sustains poverty.

Approximately 25 million Americans live below the poverty line of $3,900 for a family of four and nearly 50 million below the Department of Labor's poverty line. This large group of poor citizens, many of them Blacks, Indians, Mexicans and Latins, low wage earners in service and domestic industries, the pool of unemployed and underemployed workers, and, finally, the nearly nine million persons consigned to the welfare rolls, represent that segment of the population sacrificed to maintained profit margins within the corporate state. Among them, drug addiction and delinquency are rampant, and illiteracy rates the highest.

We have failed to recognize the social and economic costs to society of such poverty in its midst. If the poor were given a decent life and a stake in society, a good portion of the costs of crime and ill-health would be eliminated.

The aged

Hardly recognized is the fact that poverty is a major problem affecting the aged. Approximately 25 percent of all poor are over 65 or, put another way, about ⅓ of all persons over 65 are poor. It is appalling that this nation, with its work ethic, allows so many of its people to be cast aside when their productivity is gone.

For too long the American ethic of individualism, competition, work and success have conditioned our response to the existence of poverty. The problem, it was assumed, was with the individual. If one could only educate him, train him, employ him, rehabilitate him, everything would be set right. It is time to recognize that the fault is rather with an economic and political power structure that sacrifices people to profits.

RECOMMENDATIONS

1. A federally subsidized full employment program

We must guarantee a job for every American, with government as the employer of last resort. A federally financed program aimed especially at our urban areas where poverty is most heavily concentrated must be instituted. Persons should be employed at decent wages to build and staff the hospitals, neighborhood health clinics, schools, playgrounds and housing which are so desperately needed. Training, education or day care for children should be provided as an integral element of such a full-employment program.

2. New concept of social security

All senior citizens or those who are unable to work should be the beneficiaries of a new concept of social security. This includes a guaranteed minimum income, a pension for all over 65, and a national health insurance program. Such a program should no longer be funded by employer and employees, but by the Federal government. All payments from these programs must be tied to rises in the cost of living.

3. We support a guaranteed minimum income for all Americans above the standard of the Bureau of Labor Statistics Lower Living Budget.

a. Total family income, where more than one member earns income, should be permitted to rise to a reasonable level without forfeit of maintenance payments.

b. Job requirement provisions of income maintenance programs should not interfere with the bargaining efforts of labor unions, nor should they undercut the prevailing wage structure in a particular type of employment; nor should they undercut minimum wage standards.

c. Under no circumstances should a mother be required to be separated from her young children under penalty of losing maintenance payments.

4. We support the resolution of the recent White House Conference on Aging calling for a minimum Social Security payment to support a level of living which is currently at $4,500 annually for a couple and 75% of this for an individual (in line with the Bureau of Labor Statistics standard for an intermediate budget for the elderly), with automatic increases to meet the rising cost of living.

EDUCATION

Recommendations

1. Quality education must be a guaranteed right and therefore must be free for all citizens starting from pre-kindergarten through college and/or career training.

Although raising adequate revenues for education is a serious problem in all areas of the nation, it is most threatening to the larger cities. The population shift has left them with a less affluent population and a resource base which is not growing at a rate sufficient to meet increasing needs. Because large urban areas have higher and more diverse public service needs, a much lower proportion of their expenditures can be devoted to education than in suburban areas. Unfortunately, urban education is also more expensive: expenses are higher in big cities and more children are in need of expensive supplementary educational techniques.

State regulations and state aid rather than compensating for these urban disadvantages more often than not act to exacerbate them.

The federal government has done only a little better. Federal aid to education in the aggregate has at best a barely discernible equalizing effect. With the exception of Title I of the Elementary and Secondary Education Act, federal programs frequently provide more funds to suburban school districts than to central cities.

Although Title I funds tend to go to urban areas, the programs for which Title I funds are used appear to be largely ancillary and not aimed at improving the central portion of the curriculum available to disadvantaged children.

In addition, the total financial commitment of the federal government is simply too small to be of more than marginal help to financially imperiled education systems.

2. The federal government must not only restructure its aid program along more rigidly enforced categorical lines, so that federal money get directly to specific programs, it must put massive new resources into the educational system.

3. The Federal Government should earmark funds to subsidize research and development in colleges and universities to improve knowledge and technology in areas of consumer and social goods, such as pollution control, mass transit, medicine, and housing.

4. It should use the "carrot" of aid to force state governments to redesign their own aid programs and begin to pick up a larger portion of educational costs on a more equitable basis.

5. De jure and de facto school segregation must be ended. All available evidence indicates that quality education for all children requires integration. Artificial geographic boundaries which operate to maintain segregated schools, must be eliminated. We support all efforts to achieve equal educational opportunity and to further integration, including busing.

6. The property tax as the means of financing education has already been judicially recognized as inequitable. Each state, with feedral aid, must assume the full cost of public education in the state.

However, such assumption of cost should not carry with it an increase of state control of curriculum nor an increase in state regulation in educational practices. State assumption of costs should be designed to insure equal educational results.

7. Public funds should not be diverted to non-public primary or secondary general education systems.

8. Urban grant institutions to deal with urban problems should be established and funded at least to the same level as the state land grant agricultural institutions.

9. Federal and state aid to community and junior colleges, wtih their potential for serving the needs of local communities, should receive high priority.

HEALTH CARE

Our society is obligated to provide the best possible health care to all its citizens on the basis of their need for such care and not on their ability to pay.

Fragmented organization, inadequate number and location of personnel and facilities, poor financing arrangements and a narrow outlook make the present system of delivering health care incapable of delivering such services. Simply pumping more money and medical manpower into the present chaotic health delivery system won't solve the problem.

Additional money by itself is not enough. The U.S. spends almost $70 billion a year for health services, a higher percentage of its GNP than any other country in the world. Yet we rank 15th in infant mortality and 18th in male life expectancy.

Additional manpower alone is not enough. New York City, as an example, has 4% of the nation's population but 9% of its physicians. Yet there is a steady and critical decline of physicians available to treat patients in Brooklyn and the Bronx. Increasing the numbers of doctors does not assure that they will practice in the Mississippi delta or in Bedford-Stuyvesant.

Medical thought and practice must also change, from the present crisis-disease-focused orientation to a preventive, comprehensive approach capable both of averting disease and fostering the achievement of mental and physical health. The question of health is related to many broader issues such as adequate diet, clean and safe housing, decent sanitation services, health education, clean air and water, safe working conditions, safe means of transit, and adequate recreational facilities.

Recommendations

Until we recognize that health care is a natural, inalienable human right rather than a commodity to be bought and sold, and act accordingly, we cannot fundamentally change the situation.

Fee for service, in any form, is antithetical to health as a human right.

All health insurance proposals so far advanced would perpetuate fee for service and merely shift the burden of payment. A rational, socialized health care system must be a basic political objective; our ultimate goal is free health service for all.

1. We must have *a program of national health insurance* for all, financed by the federal government. This program cannot be diluted by the availability of any form of alternate insurance sponsored by commercial insurance companies. A broadly representative board should control the cost of drugs, hospital supplies, equipment, and institutional services. National health insurance should include preventive, diagnostic, curative, and rehabilitation services.

2. There should be a major program for training of physicians' assistants. Such personnel should be tested and licensed to assure consistent, quality care to the population. Their training should be conducted under the auspices of existing medical education facilities, with the curriculum standardized on a national basis. Under the supervision of a physician, these assistants can perform many of the routine tasks now unnecessarily burdening the doctor.

3. We must have a *massive increase in enrollment and training programs in the health professions*. It is unconscionable that the present system has deliberately encouraged an influx of physicians from underdeveloped areas of the world to remedy our own failure to train sufficient doctors.

One sixth of he active medical manpower pool in the U.S. consists of foreign-trained M.D.'s.

4. Incentives must be created to encourage medical services in undertended areas, such as forgiveness of student loans, formation of an expanded public health service, or draft exemptions. The maldistribution of physicians is more than geographical. Within the medical profession isself, the tendency toward specialization has greatly reduced the supply of physicians available as family doctors. Although it is generally agreed that at least 30% of our illnesses can be effectively cared for by a well-trained famly physician, almost 85% of today's medical graduates are trained as specialists, and therefore reluctant to practice family medicine. We need legislation to encourage the training of physicians who are capable of delivering comprehensive primary medical care with the family as a focus. Those broadly trained physicians, who might specialize either in pediatrics, or adult medicine would be knowledgeable in psychiatry, minor surgery and in the case of adult medicine, office gynecology. They would also be skilled in working with a health team utilizing to the fullest extent the services of such allied health personnel as social workers, nurses, psychologists, physical therapists, physicians' assistants, and community health workers.

5. The government should require the creation of local and regional community controlled health boards, with necessary technical advice provided by professionals. Such boards should plan for comprehensive health services in their areas.

6. Prepaid group practice offers an economical alternative to the physician as a solo practitioner, who charges a fee for each service rendered. Prepaid salaried group practice can lower costs both because it reduces the need for hospitalization through its focus on preventive care and because overhead expenses are shared by members of the group. However, every legislative means available should be used to prevent profit-making group practice corporations from using health to make money for their stockholders.

7. Until National Health Insurance is a reality there can be no full-scale program of preventive medicine. However, schools can provide vaccination programs and multiphasic screening (hearing, dental, vision, blood and other tests) for all children. Physical examinations should be provided for those children referred by teachers.

8. Nursing homes: federal law should require all nursing homes and similar institutions for the aged to have resident medical staff.

9. Present government programs dealing with mental health are totally unsatisfactory. We need a full commitment to the cure of the mentally ill, from patient care during hospitalization to rehabilitation services following hospitalization, to enable people to return to an accepting community and lead full and productive lives.

MASS TRANSIT

For many years, huge federal and state subsidies have been a basic taxpayers' contribution to the automobile and trucking industries. Continuing these subsidies at this time increases pollution and the paralysis of our overcrowded cities. This funding of highways has been at the expense of mass transit which is disintegrating across the country. Yet mass transit is the only feasible method of transportation for many of our citizens. The almost complete absence of it and its high cost make it impossible for many to reach jobs which are now in the suburbs.

1. We recommend federal funding of mass transit. In particular, the practice of holding up funds which have been appropriated by Congress, must be ended.

2. It is also essential that funds provided by the federal government be made available for whatever transit needs the state and/or local community finds the most pressing. The present restriction of such funds to capital use must be eliminated.

3. Massive transfer of accumulated highway funds to mass transit requirements must begin promptly.

4. Mass transit should be free, a right of citizens.

HOUSING

In 1948 this nation made a commitment to provide decent housing for every family. Twenty-five years later we find housing conditions have worsened. Despite claims of record-breaking numbers of new housing units built in 1971, the nation is currently producing at a rate of about 70% of what it produced in 1950 in terms of numbers of housing units per 1,000 population. The nation's production of housing falls far below the rates of many Western European nations.

The housing supply is not only insufficient, much of what exists is substandard. Most of the substandard housing is concentrated in cities. Escape from these ghettoes is prevented by economics and racism.

Experience has taught us what happens to low-income housing concentrations. As the more fortunate families work their way up the income ladder and out of low-income neighborhoods, their places are taken by the outcasts of the social-economic system. Before long these projects become the victims of crime, drugs, and illness. Those who, in a different social environment, might have realized great potential, are overpowered by the defeatist attitude all around them.

Fifty-six percent of this country's black and minority group families live in cities, and of these nearly two-thirds live in neighborhoods marked by substandard housing. But the problem is not only that of minority groups. In 1966 over 4 million of the nearly 6 million occupied substandard units were inhabited by whites.

We must defeat the atmosphere of alienation which physical concentration in urban ghettoes of low-income citizens creates by pursuing a housing policy that resists it.

A large proportion of the needed moderate-density, moderate and low-cost housing must be built in the suburban parts of metropolitan areas. We are no longer a rural nation; our industrial pattern requires that the housing be built in metropolitan areas. But the city centers are already overcrowded; only the suburbs can provide the large amounts of land needed to build new housing, at land costs low enough to permit housing to be built at decent densities and at low cost per unit. The suburbs also contain the overwhelming majority of the nation's new jobs. Over three quarters of the new jobs developed annually in the metropolitan regions of the nation are in the suburbs.

Not only people with low income are victimized by the housing situation. Middle-income families also suffer from insufficient housing, restrictive zoning practices, escalating rents, and high property taxes.

Recommendations

1. The Federal Government must supply the funds and pursue a policy that will insure the construction of enough housing units each year to meet the needs of a growing population and to replace the housing units worn out each year from age.

2. So-called low income housing should be abolished and replaced in all instances by middle-income housing supplemented by a subsidy where necessary. In addition sub-

sidies must help low income families to buy homes in both urban and suburban areas.

3. We propose a national housing policy which requires that at least 10% to 15% of the units in all housing receiving any kind of public subsidy—federal, state or local—whether hidden or visible—be allocated to low income people who will receive rent subsidies. The policy would apply to high rise apartment construction as well as tract development in the suburbs. It would apply whether the subsidies stem from financing, such as FHA loans, or from governmental assistance for sewers, streets, and/or utilities.

4. States and local communities must be required to alter zoning regulations to allow for scattered-site construction of new moderate income housing, with some low-income residents receiving rent subsidies. This new construction must blend architecturally with the surrounding community and must not be restricted to any one segment of any community.

5. To break down restrictive suburban zoning and other exclusionary practices, the federal government should:

cut off all federal funds for communities which prevent the construction of moderate-cost housing through local laws.

grant incentive funds and impact-aid to communities which do accept new moderate-cost and low-cost housing.

6. To remove the incentive for local communities to zone out or otherwise exclude low- and moderate-income families, the federal government should move, through appropriate agencies, to urge the States to take on the full burden of financing public education, rather than leaving the cost to be raised by local communities through the real property tax.

7. The Federal Government must also legislate strict rent controls to prevent exorbitant profits in highly congested areas.

8. The veterans' housing loan program must be amended to authorize loans for cooperative and condominium apartments at the same interest rate and terms as those applying to single-family homes, including direct federal loans where banks refuse government-guaranteed loans.

The advantages of these programs would be substantial. Low-income families would live throughout a metropolitan area. In these new neighborhoods would be the effective social infrastructure which sustains communities. Those previously consigned to ghettoes would benefit from better schools, competitive buying, good health facilities, extensive social organization, and safer streets and homes. The broader community would be saved the spiraling costs of welfare. Such a housing policy would quite literally "bring us together," closing the dangerous gap which now strains our national fabric.

WOMEN'S RIGHTS

While recognizing the particular problems of women in our society, magnified if not created by the imbalance of financial, political and corporate power, we feel that as long as any group is oppressed all people are oppressed. The women's liberation movement has as its goal the liberation of our entire society from the chains of past traditions, practices and prejudices which deny all our humanity and sisterhood.

To correct the imbalance in power, we must first move in the direction of recognizing that all options that come with being a citizen must be open to women, so they may be able to choose a life-style instead of having one foisted on them. Thus, we urge the elimination of sex roles which lead people into stereotyped behavior and deny them freedom to live in ways which are a personal expression of their individual humanity.

We support a challenge to hierarchical structures. We oppose dictatorships in political parties, schools, business and unions and urge instead the development of new forms of organization which recognize the contribution of the individual. We seek to create new programs and new methods of organizing group activity based on cooperative decision making rather than authoritarian super-structures.

We sadly reflect that a women's platform is necessary in 1972. Yet, close study of other sections of this draft platform reveals that discrimination against women in federal statute and policy has been largely neglected as a subject for protest. While we reject the separation of women's issues and the isolation of women's concerns as a special category, we urge the following recommendations be endorsed so that glaring inequities that remain in our federal statutes be immediately focussed on and eliminated.

1. *Equal Employment Opportunity:* Prompt enforcement of all federal statutes and executive orders barring job discrimination is necessary. All companies subject to federal law in regard to hiring practices should be required to begin creating immediately affirmative action programs to employ women where they are not adequately represented in the work force—especially in management, professional and technical positions. Deadlines for affirmative action programs should be imposed without delay. The federal government should withhold contracts and deposits from firms guilty of discrimination.

The Equal Opportunity Commission should be strengthened to give it "cease and desist" powers. Title VII of the Civil Rights Act should be extended to cover instrumentalities of government, religious institutions and other employers now exempted. The Equal Pay Act of 1963 should cover all workers, including professionals, administrators and executives. The Fair Labor Standards Act should be extended to grant minimum wage protection and overtime pay standards to domestic and service workers, farm laborers and employees of non-profit institutions.

Congressional hearings should be held to examine the nature and extent of job bias against women in industry and government.

2. *Abortion and Contraception:* We affirm a woman's right to control her own body and to decide whether or not to bear a child and call for the elimination of any laws in regard to abortion other than those already governing suits for malpractice.

The federal government should make low cost contraceptives available to women who want them and initiate a liberally financed public education campaign on contraceptives.

3. *Housing and Public Accommodations:* The Civil Rights Act of 1964 should be amended to eliminate discrimination against women in public accommodations, public facilities and all federally-assisted housing programs.

4. *Child Care:* The federal government should provide child care centers as a matter of right to all children whose mothers want it. These centers should be educational or recreational or a combination of both in accordance with the mothers' choice. Existing child care facilities should be expanded with priorities for admission given to children of mothers who work, are looking for work, or who are enrolled in schools, colleges or training programs.

5. The Internal Revenue Law must be amended to allow mothers who work, widowers, and divorced or separated men with responsibility for children to deduct all child care expenses.

6. *Equality in Education:* Federal legislation is needed to bar discrimination in education against women. The federal government should withhold funds or grants to schools found guilty of discrimination.

7. *Women's Rights Amendment:* The Equal Rights Amendment to the Constitution should be passed without any weakening clauses or amendments.

8. *Women in Party and Government Office:* The Democratic Party should pledge to encourage more women to seek nomination for public and party office. Whenever and wherever possible women should be placed in major administrative and policy-making positions. To this end, we support a talent search for women.

9. *National Convention:* We support and endorse guaranteeing women representation as 50% of the delegates to the national party conventions based on their percentage of the population.

10. *Financial Discrimination:* All inequities in tax and social securities must be corrected. All companies subject to federal law in regard to hiring practices should be barred from discriminating on the basis of sex or marital status in fringe benefits, pension, health insurance and life insurance. Health insurance programs should cover abortions and maternity benefits regardless of a woman's marital status. Women should not be required to take maternity leave against their wishes, nor should women be prevented from utilizing any paid accumulated sick leave in lieu of maternity leave; nor should women be permitted to lose jobs because they take maternity leave.

Discrimination on the basis of sex or marital status in the granting of credit by either businesses subject to federal regulation or by government agencies (e.g., the Federal Housing Authority) must be ended.

11. We support government funding for developing of agencies at the executive level of states and territories to enforce equality and justice for women.

INSTITUTIONAL RACISM

For most in this nation whose skins are black, brown, yellow or red, the "American Dream" is a cruel joke. The reality for these Americans is the highest rate of unemployment, the lowest wages, the most dilapidated housing, the worst education, the highest infant mortality rate and the shortest life expectancy. They have been the victims of the most irreparable damage physically, psychologically and economically.

In recent years, although our society has recognized this shameful situation, its efforts have been inadequate and paternalistic. They have been directed towards treating the *symptoms* of economic, social and moral dislocation as the *causes* of our ills. They have defined the victims rather than the victimizers as the problem.

In 1968 the Kerner Commission Report made a significant statement about the problem:

"What white Americans have never fully understood but what the Negro can never forget is that white society is deeply implicated in the ghetto. White institutions created it, white institutions maintain it, and white society condones it . . . Race prejudice has shaped our history decisively in the past. It now threatens to do so again. . . ."

It is well that we have finally acknowledged the institutional aspect of racism, and that we can eliminate it only by changing these institutions. It's equally important to realize that for those who reap the benefits of our imbalanced society, these institutional structures are absolutely critical. For example, prior portions of this platform have revealed structures devised by the corporate sector to assure that more of the nation's resources go into high profit ventures such as highways, bombers and spaceships, rather than into health and housing.

Many segments of our society are geared and fixed to maintaining lucrative use of our institutions at the expense of any change in the status of our have-not citizens. Our educational system assures a large number of inadequately educated available to perform menial work. The constant high level of unemployment, considered a norm, assures labor peace. The use of corporate devices for pensions and medical care together with inadequate government programs in these areas assures labor discipline.

There are two parts to institutional racism,

the institutions mentioned above and the racism itself, which is the vehicle for assigning non-whites to the subservient position in the institutional structure. This assignment is achieved by convincing the nation that these people are inferior and deserve no better; that they are in their plight because they are inadequate and lack motivation; that they, the victims, and not the victimizers are the problem. Racism is also used as a tool to pit poor non-whites against poor whites. While these groups fight among themselves for the crumbs assigned to them, their attention is skillfully diverted from the fact that the wealth of the nation is being drained off at the top.

Racist ideas produce the basis for legal, extra legal and violent repression of non-whites. This repression, in turn, reinforces racist thinking and provides the opening for repression of all dissension in our society.

Our nation has talked about meeting the problem of racism by creating equal opportunities for all. This approach is deceptive and inadequate. Those who have been denied an equal education and an equal family life, cannot compete equally, even with similar opportunity. It is clear, therefore, that to meet the problem the focus must be shifted from equal *opportunities* to the concept of equal *results*.

We must reject the concept that the only route for black, brown, yellow or red people to participate in the "American Dream" is to sell themselves, their heritage, their culture, their differences, and, in effect, to become carbon copies of white middle class society.

This pressure for conformity is unhealthy for the nation, as well as for the minority groups. We must reject the melting pot concept and move toward a pluralistic society in which all groups can develop in their own ways, thereby enriching us all.

II

1. The structures upon which institutional racism is grounded must be replaced. These structures have been dealt with at length in this platform. They include a grossly imbalanced distribution of wealth and power, and structures calculated to maintain and expand such imbalance. The power and wealth must be shifted and redistributed so that non-whites have an equal share.

2. The government apparatus must be forced to affirmative challenge racism and the institutions upon which it is based. As one example only, federal grants to states must be conditioned upon their using significant designated portions to aid minorities; assured neighborhood participation in the use of funds; enforcement of civil right laws in the use of such funds; and incentives for the states, as a condition to receive the funds, to alter their tax structures in a progressive direction.

3. We must accept and fully utilize the concept of assuring equal results, rather than equal opportunities.

4. Racism as a component of our foreign policy must be eliminated. We deal with this use of racism in our foreign policy plank.

5. The second system in our two systems of justice, which is reserved for the powerless, must be eliminated as set forth elsewhere in this platform. All must be treated fairly, equally and humanly under the law.

6. The organized, devoted and consistent protection of the constitutional rights of racial minorities is essential to maintain the civil liberties of every one of us.

7. To end institutionalized racism requires the public and, in particular, political figures to offer open and creative leadership in opposition to racist ideas and practices. Mere acknowledgement of the existence of such ideas and practices is not enough and is an abdication of responsibility.

GOVERNMENT AND THE PEOPLE

Misuse of government power has become increasingly apparent in recent years. A society whose structure is premised upon the consent of the governed has become one in which manipulation, deceit, intimidation, and outright repression has become the tools by which government controls its people.

All too often, the executive branch of our government fails even to make a pretense of dealing with society's problems within the framework of Constitutional safeguards.

Crime and violence in this nation are serious problems. There are steps which can be taken to deal with them. However, rather than viewing a rising crime rate as a symptom of our country's deeper ills, while yet dealing with it as it occurs, this Administration has sought to curb it through repression, force, and the substantial curtailment of civil liberties. In the name of "law and order" it has applauded the bestiality of the slaughter at Attica; it has sponsored and fought for such repressive measures as preventive detention and unrestricted power to spy on citizens through wiretapping and other electronic devices; and it has attempted to destroy the integrity of the Supreme Court by seeking to appoint to it men whose devotion to the sanctity of "law and order" seems far greater than their reverence for the Constitution in general and the Bill of Rights in particular.

The government's quest for law and order has extended far beyond the concept of "safety in the streets." It has included policies aimed at discouraging all who would dissent, or whose unorthodoxy appears to indicate they might not live according to "accepted" standards. These policies have been of a wide variety. We have seen outright political persecution as epitomized by the Berrigan indictment and the incarceration of Angela Davis; we have learned of the widespread use of political surveillance techniques to infiltrate, and entrap into criminal behavior, groups seeking what appears to be drastic social or political change. We have learned that many agencies of our government are busy compiling political dossiers on Congressmen, political and social leaders of minority groups, and upon thousands of us who have marched for peace and against injustice so often in the last decade. Another aspect of this repression of those who differ, or who are different, in which our government has wholeheartedly participated, in the long-standing deprivation of the most basic civil rights to homosexuals.

It is clear that our courts and District Attorneys have turned their greatest attention to prosecuting political dissenters and those without wealth or power. Those who possess wealth or power have been treated far too favorably by courts, prosecutors, and the laws themselves. Hence we see only the most minimal action against those who, in the pursuit of profit, have caused the death and disability of thousands of miners; who have allowed unsafe cars to be driven on our highways; who have manufactured and distributed food and goods which they know to be potentially injurious to users; who have avoided paying taxes.

We cannot comfort ourselves and exonerate our government by accepting its contention that the rights of political dissidents have been vindicated in the courts. While it is true, largely because of the jury system, such dissenters as Dr. Spock, the Chicago Seven, Bobby Seale, and others have been acquitted, the huge expenditures of time, money and energy required to obtain these acquittals tend to sap not only the will of those on trial but also those who would otherwise have been carrying on the same work for which their leaders were being tried. The effect of this inappropriate use of our judicial structure to strike at those who express dissent is that the dissenters are discouraged and debilitated and their dissension effectively stilled.

Another type of government abuse appears to stem largely from the misguided motive that, if government is to be effective, it must utilize the tools technology has made available. Such proliferation of centralized data banks makes potentially available a vast amount of personal data on individual citizens. This is an unwarranted incursion on the individual's right of privacy and may inflict incalculable harm in the event they are inaccurate or misused.

It is not surprising that government has developed such a callous attitude toward those it governs. It has grown so far apart from the people it is inevitable that it should treat so many of them as adversaries and outcasts.

The very procedures under which government operates are calculated to keep the power away from the people and concentrated in the hands of the few. In the name of "national security," the Executive Branch has withheld essential information not only from its citizens, but also from the Congress.

Just as "law and order" has become an excuse for repression and persecution, "national security" has become the Executive Branch's justification for hiding, manipulating, and distorting information. Congress is kept in ignorance through excessive and unwarranted use of "executive privilege"; the press and television are intimidated by scarcely veiled threats of reprisal; and the people in general are subjected to such a continued series of blatant untruths and half-truths that we no longer know what to believe.

Congressional procedures have made it cumbersome for that body to assert itself over the Executive Branch or even to speak out on issues where the majority's will is clear. The seniority and the committee system under which Congress operates keep the power structure within the Congress untouched. They have the additional effect of dooming efforts to stop the unprecedented abuse of power by the Executive and of allowing the handful of men from one section of the country to determine the laws and direction for the entire nation.

Finally, the structure of our own Party is a mirror of the imbalances implicit throughout government and society. In 1968, the Democratic Party demonstrated for all to see that its procedures on both the national and state levels made it impossible to hold an open or democratic convention. The spectacle of that convention, and the deception and unfairness which it revealed, must be acknowledged as a significant cause for the election of a Republican President. 1968 revealed clearly the extent to which our Party has allowed itself in most states to fall into the hands of a small group who manipulated the rules of delegate selection to thwart democracy in order to safeguard their own power.

The McGovern (now Fraser) Commission created by the 1968 Convention to assure "all Democratic voters . . . a full, meaningful, and timely opportunity to participate" in the selection of delegates and thus in the decisions of the 1972 Convention itself, has mandated admirable guidelines for state parties to follow in preparing for the 1972 convention. While some state Parties have acted to comply substantially with the Guidelines, many state Parties have not. Moreover, in some states where legislatures are dominated by Republicans, the fundamental changes required by the Guidelines have been blocked.

RECOMMENDATIONS

The imbalance in power between government and its citizens requires sweeping reforms. The following recommendations are intended, as are most of the recommendations in this platform, to be illustrative of the total change in approach and focus which is required.

CRIME AND THE COURTS

1. The fundamental cause of crime is the disparity in wealth and power between the

rich and the poor, the black and the white, the rulers and the ruled. Until power is shifted and shared crime will remain an almost insoluble problem.

2. A large majority of those accused and convicted of crimes are black, Puerto Ricans, and Chicano. In contrast, the overwhelming number of those who administer justice—police, judges, District Attorneys, and parole officers—are white and do not speak the language of those accused and convicted. This ratio must be reversed immediately.

3. The criminal law must no longer be used primarily against the powerless and the dissenters. Crimes of the powerful—tax evasion, embezzlement, crimes against ecology, and consumer crimes—must be prosecuted with equal vigor.

4. The relationship between handguns and crime must be recognized. National legislation must be passed immediately requiring the registration and licensing of every handgun and strictly limiting the sale of guns and ammunition.

5. Too many people are unnecessarily and improperly incarcerated in our prisons for too long a time. Inadequate and insufficient courtrooms, out-moded and time-consuming procedures, and too few judges result in crowded dockets with long months and sometimes years of incarceration for the poor before trial. Regulations should be adopted in all courts whereby charges must be dismissed if a speedy trial is not granted. The bail system should be revised so as to assure that those without means are not singled out for lengthy incarceration, and so that excessive bail is no longer required.

6. We must have an end to political trials in which the organizations are put on trial under vaguely drawn indictments based on vague, unconstitutional laws. So-called "conspiracy" prosecutions, against political dissenters, should be eliminated.

7. Laws allowing such practices as "preventive detention," "no knock entry," mass arrests without charges and arrest warrants and government surveillance, must be ended.

8. A re-examination of such behavior as marijuana use, homosexuality, gambling, and drinking as constituting "criminal" acts is required. Modern medical and social thought dictate that such acts are not inimical to society.

A redefinition of these acts to be matters of private concern, not subject to control by society, would be a saner reading of Constitutional intent, and would free the courts and the police for more necessary and effective crime control.

9. The heroin problem, the cause of much vicious street crime, must be treated as a medical problem. Funds and personnel must be provided to treat addicts, in a four-pronged attack involving a) therapeutic communities, b) methadone maintenance; c) non-addictive, and d) if the addict does not respond to any of these, a program of strictly controlled heroin maintenance, to remove the motive for theft and violence.

HOMOSEXUALS' RIGHTS

Millions of women and men in this country are subject to severe social, economic, psychological, and legal oppression because of their sexual orientation.

We affirm the right of all persons to define and express their own sensibility, emotionality, and sexuality, and to choose their own style of life, so long as they do not infringe upon the rights of others. We pledge an end to all social, economic, and legal oppression of homosexual men and women.

Laws prohibiting loitering for the purpose of soliciting for a homosexual liaison are vague and unconstitutional. Nevertheless, they are frequently used as the legal cover for police entrapment of homosexual men and women. Prejudice and myth have led to widespread discrimination against homosexuals.

RECOMMENDATIONS

1. Federal laws must prohibit discrimination in housing, employment, public accommodations, and public services because of sexual orientation.

2. The President should issue an executive order prohibiting the military from excluding, for reasons of sexual orientation, persons who wish to join the Armed Services; and from issuing less-than-honorable discharges for homosexuality; and requiring the upgrading to fully honorable of all such discharges previously issued, with retroactive benefits.

3. The President should issue an executive order prohibiting discrimination in the federal civil service because of sexual orientation.

4. Tax inequities victimizing single persons and same-sex couples should be eliminated.

5. Bars to the entry, immigration, and naturalization of homosexuals should be ended.

6. Where federal money is made available for sex education courses, these courses should include information about homosexuality.

7. The compiling, maintenance, and dissemination of information about an individual's sexual behavior for dossiers and data banks should be prohibited, and existing data of this nature should be destroyed.

8. Persons now incarcerated in detention centers, prisons, and mental institutions, charged with sexual offenses relating to victimless crimes or sexual orientation should be released, and adequate compensation made for the physical and mental duress encountered. Existing records relating to the incarceration should be expunged.

9. State laws prohibiting private sexual acts involving consenting persons should be repealed, as should laws prohibiting solicitation for private voluntary sexual liaisons and laws prohibiting transvestitism and cross dressing. Insurance companies and other state-regulated enterprises should be prohibited from discriminating against applicants because of sexual orientation.

10. Child custody, adoption, visitation rights, foster parenthood and the like should not be denied because of sexual orientation or marital status.

PRISON REFORM

Three out of every four crimes are committed by recidivists—people who have been in jail as convicted criminals. This should be sufficient evidence that our prisons are not performing their role as "correctional" institutions.

1. Our sentencing and incarceration procedures must be changed so that prisoners are protected from one another and are able to spend their time in prison in meaningful ways, geared toward re-entering society as self-sufficient persons.

2. The concept of rehabilitation, rather than punishment, must be fully recognized, funded, and implemented. First, this means substantially more funds to prisons. Second, it means that prisoners are first of all, human beings, and should be treated as such. Third, it means that rehabilitation personnel and techniques and facilities, in substantial amounts, should be introduced into the prisons.

3. The basic demands of prisoners all over the country include an end to overcrowding; relevant vocational training; adequate pay for their work; an end to such inhumane practices as solitary confinement; and religious and political freedom. Substantially all of the 28 demands of the Attica inmates should be accepted as a starting point for prison reform. Essentially, they are all aimed at the goal of treating prisoners as human beings. A reassessment of our attitudes toward those in prison is essential.

4. Steps must be taken to assure that a former prisoner, once a sentence has been served, does not carry the stigma of having been a convict for ever. This must include assuring the right to vote; and government aid in finding employment and decent housing.

5. Parole Reform: instead of political hacks, psychologists and other professionals committed to the rehabilitation of prisoners must be appointed to parole boards. Parole must no longer be conditioned on breaking the will of the prisoner, but on restoring him to a useful role in society.

6. Any state or local penal institution receiving federal aid should be required to meet minimum federal standards.

7. Juvenile prisons have proved totally inadequate. They should be closed and replaced with small-group residences or placement in foster homes. Such placement would be less costly and more effective than institutionalization.

CONGRESSIONAL REFORM

Central to, and symptomatic of the federal government's failure to fulfill its role in a democracy, has been the growing abdication by Congress of its function as a responsible representative of the people. To assure the effectiveness of Congress we recommend:

1. An end to the seniority system and to the diminution of Congress' ability to act because of the grip which aged and conservative committee chairmen have on Congressional procedures.

2. Congress should have access to information in order to legislate responsibility. To this end, it is essential that the procedures for classifying and declassifying information be revised so that they really relate to national security, and not, as recent events have shown, to protecting government from embarrassment. To start, we recommend that all information presently classified be declassified and then reclassified. A blue-ribbon commission should be appointed to make the decisions about reclassification; the commission should include members of all three branches of the government, and citizen representatives.

3. "Executive privilege" should be reserved to the President alone so, that employees or representatives of the Executive Branch can no longer refuse to testify or produce documents before Congress because of "executive privilege."

4. Congress needs an independent analytical arm apart from the General Accounting Office, which as an integral part of the Executive Branch, is inadequate. Such a structure could provide members of Congress with access to information and an independent mechanism for analyzing it.

5. Congress must have a more effective role in long-range planning. This has become apparent particularly in recent floor fights over defense appropriations. If Congress is to be more than a rubber stamp for the President's budgetary requests, it must be supplied with long-term planning information which shows the future impact of current programs.

6. Congress must play a more active role in defending the nation's military policy. It will not detract from the President's need to act in an emergency, if explicit Congressional approval is required, within thirty days of a Presidential decision to commit troops. This approval could be renewed periodically, perhaps every six months so long as the troops remained in use. Even under its present limited options, Congress can and should make more imaginative use of so-called blanket authorization legislation. Congress can condition the authorization of defense funds so that the Executive Branch is required to make visible expenditures for which it will be accountable.

7. The people's access to information concerning the legislative process must be expanded. Members of Congress should not be permitted to "bargain" over questions of national support in "closed" committee meetings.

SURVEILLANCE

1. Electronic snooping instruments must be brought under strict judicial control.

2. Legislation should be enacted to prohibit political surveillance and the maintenance of data banks. Violation of such provisions should be punished by immediate dismissal from, and liability for, government jobs for a period of time.

3. Where the government or private industry maintains legitimate records about private citizens, these citizens must be appraised of their existence and have an opportunity to examine and rebut them.

Executive Reform: the Executive Branch should include a Department of Peace.

PARTY REFORM

The 1972 Democratic Convention must be a representative one. The delegation of any state which the evidence indicates does not represent the freely expressed will of Democratic voters from that state should not be seated. It should be replaced with another delegation which has genuinely tried to be chosen in accordance with the McGovern/Fraser Guidelines.

THE PRESS AND MEDIA

The concept of a free press as envisioned in the Bill of Rights has been grossly impaired by corporate control and governmental restriction. Through mergers and acquisition, large media empires have been amassed. These news cartels seriously endanger independent, competitive news reporting. Just as unhealthy is the increasingly frequent acquisition of newspapers, radio and television stations, and publishing companies by corporate conglomerates who are free to manipulate news coverage to their own business advantage. Most alarming is the general control of the media which corporations exert by virtue of their financial control through advertising expenditures. The use of this power to make us a super-acquisitive society has been dealt with earlier. The general censorship of the ideas and expressions which are and are not permitted to be carried over the airwaves is equally destructive.

Government's efforts to curb a free press have been most recently experienced in the case of the Pentagon Papers. Veiled threats to the media and the press from the White House have been all too frequent.

RECOMMENDATIONS

1. Vigorous antitrust action should be undertaken to break up concentration of media and the press.

2. Commercial corporations should be prohibited from owning broadcasting and publishing companies.

3. Television and radio should be required to give more time to the presentation of issues, with reasonable amounts of time reserved for minority viewpoints.

4. Government intimidation of the press must cease. The concept of the press as a free and equal countervailing force to government must be established in law.

THE DRAFT

As part of the effort to end the excessive influence of the military-industrial complex over our society,

The United States should not maintain the military draft in time of peace. Peacetime is defined as including a time of undeclared war.

RECOMMENDATIONS

1. We oppose any compulsory military reserve system in peacetime.

2. Compulsory participation in civil defense exercises must end.

3. We oppose any form of compulsory civilian national service.

FOREIGN POLICY

Foreign policy is typically the first plank of a political platform. In the context of this platform, however, we have chosen to place it last, because we see our nation's foreign policy as a product of the imbalances and inequities in our society which we have earlier discussed.

For example, the same gap between the powerful and the powerless which we have noted on the domestic scene is quite internationally. So are the related factors of racism and poverty. Accordingly, our approach internationally as well as domestically should be to support the needs and aspirations of the people in New York and in Saigon, the farmers of Kansas and of India, the disenfranchised of Mississippi and of South Africa, and the dislocated migrants of California and the dislocated refugees of the Middle East.

As we ask our government domestically to end its oppressive relationship to many of our citizens, so we must do the same in relation to other peoples and lands. America must not be the oppressor or identify with oppressive governments.

Hence, while it is essential that we compel this nation to remove its armies and navies from southeast Asia, it is far more critical that we confront the active forces, attitudes and institutions which got us into Vietnam.

These deeply ingrained forces, attitudes and institutions are responsible not only for the death and destruction meted out by American troops, but they have also set an example for violence by the rest of the world.

Analysis of the underlying causes of our aggressive foreign policy must start with the nation's economic system. The health of corporate America demands constant growth. This means the corporations must produce more and more goods. It means that consumers must purchase more and more of what the corporations produce. The United States military establishment is unmatched as the best market in the world today. Hence, those with a profound power to set our nation's direction have an enormous vested interest in maintaining and, indeed, in expanding the American military establishment.

One should not be deluded into believing that this interest is limited to a small clique of corporate executives and generals. To the contrary, the broad span of the corporate structure in the nation depends heavily upon military consumption for its health. For example, a 1964 study established that at least 205 of the 500 largest manufacturing corporations were significantly involved in military contracts. This statistic reveals only the direct impact of the military budget upon the corporate sector. Given our highly interdependent economy—the indirect impact of military spending of subcontractors, upon manufacturers of intermediate goods and parts and upon supplies of raw materials reveals that the large direct miltiary contracts are only the tip of the iceberg.

Since such a great cross-section of business has so great a dependency upon military spending, it is obvious that the huge number of employees of such businesses has an equally great stake in military consumption.

Moreover, it should be noted that the more skilled and affluent portion of the labor force has the greatest stake in military spending. For example, a 1962 Department of Labor study of the electronics industry revealed that at the military-space oriented plants of that industry, about 60% of the work force were highly paid engineers, executives or skilled blue collar craftsmen. In sharp contrast, at the consumer-oriented plants in the dustry, 70% of the employees were semi-skilled or unskilled blue and white collar workers.

In passing, it is also significant to note a study which reveals that one dollar of military spending generates one half as many jobs but 20% more in salaries than does one dollar of civilian spending. Not only does this demonstrate that miltiary spending is a factor which adds to the mal-distribution of wealth and income, but it further shows that the more skilled and affluent—and therefore more powerful—members of the labor force will support military spending and ventures against the interests of the more powerless members of the labor force.

In addition, we have recently been made quite aware that a large portion of the university population has also become deeply dependent upon defense studies and grants. Of course, the military establishment which has a direct need to perpetuate itself and to grow has a similar dependency.

Given the basic "needs" of this large cross-section of America, an ever expanding, giant sized military establishment is inevitable, and the aggression and violence that spring from it are predictable.

But the market provided by the military is insufficient in and of itself to satisfy the insatiable corporate need to produce more and more goods. Accordingly, vital corporate interests become located in foreign countries because of the need for natural resources and cheap labor. These incursions on foreign soil have been massive. The might of this nation, political and often military, is then used by these corporations to coerce foreign governments to do their will. In this process our government creates and maintains reactionary puppet regimes which carry out corporate economic missions while depriving their own citizens of the most basic economic and political freedoms.

Our deeply ingrained national racist attitudes makes it easier for us to accept the corporate national oppression in other lands and contributes to our failure to back any condemnation of apartheid in Rhodesia, Angola, South Africa with meaningful sanctions. An especially ugly example of American partnership with racism abroad is the fact that the racial classification, population registry and personal identity passbook system by which South Africa's police state controls and exploits its black and colored people is all computerized by IMB equipment.

Another contributing factor is our deep-seated national machismo, now being popularly referred to as the "Masculine Mystique." All of our institutions and attitudes teach us that we must be clear-cut victors in every conflict situation. Applied to foreign powers, this attitude must and does result in burning and bloodshed. In addition those in our nation least affected by the racist tendencies and the "masculine mystique"—the nation's women and minorities—have been essentially kept out of the foreign policy making apparatus.

The needs of the corporate state in America which have constituted the basis for our foreign policy are duplicated in other advanced industrial countries, East or West, and in a similar way comprise the basic motivation for their foreign relations. The secret competition among nations, including wars, hot or cold, has been the nationalist expression of this corporate competition. This competition is too dangerous, self-defeating and self-limiting and represents the needs of a small minority of the peoples of the world. A saner and more productive basis for peoples and nations relating to each other would be a global concern and commitment to the needs of the oppressed have-nots everywhere.

Obviously, since other nations are militarily prepared as part of the corporate competition, we must have a military establishment, but one that is strictly limited to a self-defense posture.

The history of the cold war reads like a tragic, make-believe, self-perpetuating rationalization. It was complete with slogans, labels and fears, some pure fantasy and some with a real component that seemed to give validity to the whole cold war concept.

Convinced by our leaders following World War II that the world was divided between the forces of freedom and the forces of ag-

gressive communism, the American people have willingly supported a foreign policy geared to the containment of communism, and implemented primarily by military means. Since 1946, through the cold war and two hot wars, the United States has invested over one trillion dollars in its military establishment.

In the process we have created and maintained a network of military alliances and bases around the world, produced nuclear weapons and delivery systems far in excess of rational needs in a costly and self-defeating nuclear arms race with the Soviet Union, kept the People's Republic of China out of the community of nations for a generation, subsidized an unsuccessful invasion of Cuba, and intervened militarily in Lebanon, the Dominican Republic, Indo-China and Guatemala.

Through the painful experience of the war in Indo-China, the American people have finally begun to learn that even in a democracy the government lies to the people, that American armed might cannot always change the politics of other countries, that communism is not monolithic and may be animated by nationalism, that even the richest nation cannot simultaneously wage war and meet the needs of its people.

II

It is clear that before the direction of our foreign policy can be effectively changed, corporate domination, racism and the "masculine mystique" orientation must be terminated. These are, of course, some concrete changes in policy that we can effectuate while we make the long-range effort to correct these basic imbalances.

1. A key method of reducing the power of the military-industrial complex is the transfer of federal and corporate resources from the military to urgently needed civilian programs. Major reductions in the military budget are warranted now. Military cost overruns, duplication of weapons systems, overextended military commitments, and the existence of a nuclear arsenal capable of annihilating any combination of potential enemies several times over, are all areas for potential vast savings that can immediately be directed to civilian needs in the public sector.

2. Presidential power in foreign policy-making must be curbed and the congressional role reasserted. To this end changes indicated in our section on government and the people should be effected. These include an end of concealment by the Executive Branch of information needed by Congress to legislate and appropriate intellingently.

3. Vietnam and Amnesty:

a. The war in Indochina must be ended by the immediate withdrawal of all American forces and weapons from Indochina.

b. Those who fought against this immoral war by going to prison, fleeing the country or the armed forces, should be free from the threat of any criminal or military penalties.

4. Since there is general agreement in the scientific community, (with the exception of the Atomic Energy Commission and the Pentagon) that effective supervision of a comprehensive nuclear test ban treaty is possible without on-site inspection, there can be no justification for further delay in negotiating an agreement for a ban on all nuclear testing.

5. Our country should lead the way for the world to find an effective peace-keeping body to which all nations must cede significantly more of their individual power. In view of the admission of the People's Republic of China to the U.N., a strengthened and restructured United Nations whose ability to function cannot, by agreement, be threatened by any one large and powerful nation, might be the vehicle.

a. It should be the major forum for negotiation, mediation, or arbitration of all international disputes.

b. From it could come international agreements such as halt to *all* nuclear testing; a substantial reduction in both nuclear and conventional arms; a disengagement of most opposing military forces in Central Europe and elsewhere; and in general to take all steps necessary to bring about general and complete disarmament, with the use of the resources thus released for domestic and social purposes both here and abroad.

c. While seeking this ultimate goal, and in order to enforce it, our country should lead in the struggle to secure and maintain a small all-volunteer army, committed only to international peacekeeping under the United Nations.

d. In order to bolster the U.N.'s preeminence as chief negotiator and peacekeeper, our country should refrain from giving any military aid, except in those rare instances when an ally's security cannot be assured by any alternate means.

e. As a minimal first and immediate step, Congress should repeal the Connolly Reservation which permits the United States to decide whether it will submit in each case to the jurisdiction of the International Court of Justice.

6. We must bend every effort toward achieving a peaceful settlement of the conflict in the Middle East, guaranteeing the security of the State of Israel, a homeland for the Palestinian Arabs, and free access to all waterways of the region.

7. We condemn the United States government's position in the India-Pakistan war. We urge the immediate recognition of Bangladesh and financial aid to those refugees returning to Bangladesh.

8. To raise living standards in all parts of the world:

a. We must make a vigorous commitment to multilateral economic and social aid programs, without strings attached, to replace the perilous bilateral arrangements for foreign aid we now have.

b. We should move toward freer trade and offer trade preference to those nations whose per capita income or gross national product is beneath a realistically designated living level.

c. We should legislate that American businesses which operate in underdeveloped countries must give control to local leadership as soon as possible, under the provisions of the Federal Chartering concept previously mentioned.

9. Discriminating trade restrictions or boycotts must not be used as a political weapon, except such as are approved by a world body like the United Nations or the GATT.

NUTRITIONAL LABELING—FDA ISSUES STANDARDS

Mr. SCHWEIKER. Mr. President, on Thursday, March 30, 1972, the Food and Drug Administration issued proposed criteria for a nutritional labeling program.

I am pleased to say that FDA's new proposal is very similar to the recommendations I made for legislation in a bill I introduced October 21, 1971, the Nutritional Labeling Act of 1971.

The materials published in the Federal Register regarding this proposal contained some interesting background information which confirms my own belief that consumers want this kind of labeling and that they will use it when it is available. Interestingly, a survey conducted by the Consumer Research Institute concluded that products containing nutritional labeling sell better also. Although no effort was made in the CRI study to evaluate the educational benefits of nutritional labeling, I am convinced that consumer education on nutrition is an important byproduct of nutritional labeling programs.

Mr. President, in order to give broader distribution to the proposals published by FDA, I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

I should point out that although my bill calls for mandatory nutritional labeling, the FDA program is voluntary. The original printing of this proposal in the Federal Register contained an important typographical error in section 1.16(a) as a result of erroneously substituting the word "must" for the word "may." I have, however, corrected this in the copy I am submitting for the RECORD. I am certainly hopeful that everyone interested in nutritional labeling will respond to FDA's request for comments on its proposal.

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

[From the Federal Register, Mar. 30, 1972]

NUTRITION LABELING: PROPOSED CRITERIA FOR FOOD LABEL INFORMATION PANEL

(Department of Health, Education, and Welfare, Food and Drug Administration [21 CFR Part 1])

The increasing number of processed and formulated foods makes it difficult for consumers to identify the nutritional qualities of the products they purchase. The White House Conference of Food, Nutrition, and Health recommended that the Food and Drug Administration consider the development of a system for identifying the nutritional qualities of food: "Every manufacturer should be encouraged to provide truthful nutritional information to consumers about his products to enable them to follow recommended dietary regimens." Many consumer groups have also requested that uniform nutrition labeling be placed on all foods.

The Food and Drug Administration has accepted the recommendation to develop nutrition labeling for packaged food. Initial activities have been directed toward the development of formats of nutrition labeling which could be evaluated by appropriate consumer testing.

Prior to the White House Conference little had been done on evaluating nutrition labeling as a means of consumer education and information on nutrition and good diet. Improved labeling of foods for special dietary use had been generally recommended by dietitians, and the medical profession had called for fat labeling as an aid to persons on modified fat diets. However, no consumer data were available on the format or detail of nutrition labels or on food classes to be covered.

In 1970, Dr. David Call of Cornell University produced a study report based on questionnaires sent to all members of the American Institute of Nutrition. His report indicated that these professional nutritionists had no specific preference for systems of listing nutrients, but a majority felt that vitamins and minerals should be based on a standard such as the Recommended Daily Allowances (RDA) of the National Academy of Sciences-National Research Council (NAS-NRC). Dr. Call concluded generally that the majority (over 80 percent) of the professional nutritionists think that there should be more nutrition information on food labels, but the group was divided as to what information and what format should be used.

In October 1970, the "Chain Store Age" (a trade magazine) published the results of

a study in which consumers were exposed to products with full disclosure of nutrition content. Control groups were exposed to products without nutrition information. In this study the nutrition information was presented in percentages for both major and minor nutrients and calories were also listed. This study indicated that "the type of full disclosure labeling investigated does have an effect of moving customers in the direction of greater purchasing of the full disclosure brands." It was pointed out that the shifts were small. However, in some cases and in certain age groups, the purchase of labeled brands increased by over 10 percent, and brands without nutrition labeling decreased in sales. Younger customers and those with annual incomes under $10,000 were more responsive to the labeling.

Based on the limited information provided by these studies, the Food and Drug Administration developed a working draft outlining various approaches to nutrition labeling. In June 1970, the preliminary drafts were evaluated for scientific correctness by members of the Food and Nutrition Board of the NAS–NRC, representatives selected from the American Dietetic Association, and professional nutritionists selected from the American Institute of Nutrition. The comments from these individuals were carefully evaluated, and a new working draft suggesting six alternate approaches to nutrition labeling was prepared. In August 1970, these alternative labeling systems were sent to a number of professional nutrition groups, consumer groups, food industry associations, home economists, and dietitians. In October 1970 comments on the various labeling systems had been received from all of the individuals and groups contacted by the agency. A trade association requested that the Consumer Research Institute, a private nonprofit research group, assist by carrying out consumer testing of labeling systems which the agency determined were suitable for further study. The agency accepted this support, as it provided a means for immediately beginning to evaluate nutrition labeling.

On the basis of the comments received and of the information available from the few earlier studies, the agency prepared a final working paper including the three basic labeling alternatives which had received the strongest support from the various groups and which appeared to be technically feasible. These three labeling systems had several common features. All nutrition information was presented in terms of a portion, expressed as a household measure, or in units easily identified as a usual serving. All nutrition statements were based on the Recommended Dietary Allowances (RDA) established by the Food and Nutrition Board, National Academy of Sciences-National Research Council. Information on the amount of caloric, fat, protein, and carbohydrate content was presented in all systems. Protein content was also expressed in terms of the percentage contributed toward the RDA protein allowances, and, for the purpose of labeling, the adult protein level of 65 grams was selected as the standard. For practical purposes, a single set of values for the vitamins and minerals to be stated on the labels was compiled from the extensive list of values established by the Food and Nutrition Board, and the following seven nutrients were selected to appear on nutrition labeling: Vitamin A, vitamin C, thiamin (vitamin B), riboflavin (vitamin B_2), niacin, calcium, and iron. As a means of telling the consumer the nutritional value of the product, the vitamin and mineral content was presented as a percentage of the RDA.

The three labeling alternatives differed in the format used for presenting the percentage of RDA for the seven nutrients. The three formats proposed for testing were: A numerical statement of the percent of the RDA, the percent of the RDA expressed as adjectives, and the percent of the RDA expressed as units with 10 units equal to 100 percent of the RDA. The units in the third format could be represented numerically or pictorially.

The testing was designed to answer the basic questions of how to present the information on (1) vitamins, minerals, and protein in relation to nutrient allowances, and (2) whether to provide a complete labeling format on every labeled product or only information on the nutrients present in the product. The testing also sought an indication of consumer support for nutrition labeling and understanding and use of nutrition labeling. The specific questions addressed were as follows:

1. Is there strong consumer support for nutrition labeling when examples of labels are actually available for review?

2. What type of labeling format is most acceptable to consumers and results in changing consumer performance?

3. What aspects of nutrition labeling (calories, protein, fat and carbohydrates, and vitamins and minerals) raises maximum consumer response? Is the combination most effective?

4. Do consumers react better to complete listing of nutrients or to listings which include only those nutrients present in significant amounts?

Consumer Research Institute (CRI) carried out its test in two phases. They developed a protocol for studying the three labeling alternatives in terms of consumer understanding and use. The final protocol was completed in May 1971, and field studies with an independent research group were started in June 1971 and completed in September 1971. CRI also developed a large consumer questionnaire study which was initiated in January 1972 and completed in February 1972. The questionnaires were sent to three population groups: 2,000 consumers selected to represent the American population (U.S. probability sample), 2,000 consumers identified as low income, and 600 consumers identified as "under educated" (having no high school education).

During the development of the alternatives, a number of food chains expressed interest in studying consumer reaction to nutrition labeling. Following a series of preliminary discussions, five chains agreed to carry out in-store tests involving one of the labeling alternatives developed by FDA. These in-store tests included not only evaluation of the consumer response to individual labeling but also consumer acceptance of nutrition labeling.

The evaluation of the food chain tests has been divided into two parts: (1) The store evaluation composed of consumer responses, and (2) a formal consumer evaluation being conducted in each area by Drs. Daniel Padberg and David Call of Cornell University, Ithaca, N.Y., under contract to the Food and Drug Administration. This evaluation has attempted to identify the consumers' response and understanding of nutrition labeling to evaluate the consumer interest in nutrition factors, and to obtain some measure of nonuse benefits expressed by consumers. A second phase of the contract with Cornell University was designed to provide more detailed information on the specific formats for nutrition labeling and on consumer understanding of how nutrition labeling relates to developing a good diet.

At the present time most, but not all, of the evaluation studies are complete. Preliminary results have been sent to the Food and Drug Administration. The results of the tests completed and evaluated provide strong support for the concept of nutrition labeling.

The first phase of the CRI activities was designed to answer questions on how nutrition labeling affected purchasing patterns and which labeling format had the greatest effect. In addition, a questionnaire was developed to evaluate changes in consumers attitude toward nutrition, and their understanding of nutrition before and after the labeling study. The study was conducted in 950 educated middleclass households in Connecticut and Georgia who, as part of the panel, did grocery shopping at home using a catalog of food items. The preliminiary results were presented at a public meeting on December 7, 1971. The conclusions stated by CRI were as follows:

1. Nutrient information was used by the consumers observed in this study. This is demonstrated by the fact that their purchase patterns changed after the introduction of nutrient labeling.

2. In situations where a product or brand has a real nutritional advantage over its competitors, there was a major change in that product's share of the market.

3. The consumers' attitudes toward nutrition were found to be rather high before the introduction of nutrition labeling. The changes in attitude were positive but small, since the consumers in the test panel already had very positive attitudes about nutrition.

4. There was a considerable increase in the consumers' knowledge of nutrition, especially in their awareness of vitamins and minerals.

5. All three formats for communicating the amount of RDA (numerical percent, adjective representation, and numerically or pictorially represented units) are understood and used equally well. It would not appear that any of the three has a major advantage over the others among the educated and affluent in our society.

6. No differences in consumer reaction were found between listing all nutrients and listing only those nutrients present.

7. The fact that listing of protein, fat, and carbohydrates in percent composition is useful to the consumer was indicated by changes in purchase behavior.

The second phase of the CRI studies was completed in early February 1972, and a preliminary report was provided to FDA on February 25, 1972. This phase of the study sought to determine (1) whether the quantity of nutrients should be communicated by numerical percent, adjectives, or numerical or pictorial representation of units and (2) whether all key nutrients or only those present in the food should be listed. (The phrase "all key nutrients" refers to the five vitamins and two minerals included as the basic information in all labeling formats.) Questionnaires sent through the mail were used to determine the answers to both of these questions. In addition face-to-face interviews were conducted in studying the first question.

With reference to the first question, the questionnaires were evaluated to determine which nutrient labeling format was most intelligible to the consumer. Attention focused on the consumers' ability to detect differences between two products as well as to select the more nutritious of these products. Over 80 percent of those in the national sample were able to perceive differences between products with each of the three formats, and almost 80 percent could select the more nutritious product with each of the formats. In the lower income groups, approximately 77 percent perceived differences with the numerical percent and numerically or pictorially represented units, but only 70 percent perceived differences with the adjectives. In selecting the more nutritious product, the lower income group did best with the numerical percent and numerical or pictorial units (about 70 percent correct). Only 66 percent of the lower income group was able to select correctly on the basis of adjectives.

In a face-to-face survey of 600 low income consumers with no high school education, approximately 90 percent of all those surveyed were able to perceive differences and to make the correct choice of a more nutri-

tious product using any of the formats. The higher percent of positive responses is associated with the abilities of the interviewer to motivate the person being questioned. As the low income, less educated groups were considered most likely to be confused by nutrition labeling, they were asked to indicate which labeling format they felt they would be able to use best. Approximately 50 percent of the sample indicated that the numerical percent was best, about 33 percent preferred adjectives, and about 16 percent selected pictorial units. (Numerical representation of units was not used in the face-to-face interviews.) Expression in numerical percent was preferred by the majority, because it was considered more exact and easier to use. Adjectives were considered vague and confusing, and pictorial units were considered too silly or childish. Thirty people conducted the interviews. Of these, 24 felt the numerical percent was the easiest for consumers to use.

The questionnaires were also evaluated to determine whether all nutrients or only those present should be listed. The percent of persons making the correct choice and perceiving differences between products was slightly better when the label contained only the nutrients present instead of when all seven nutrients in the labeling format were listed with zero content indicated for those nutrients not in the product. Among the low income group, 77 percent perceived differences when only nutrients present were listed, and about 73 percent perceived differences when all nutrients were listed. In the national sample, a similar difference was observed, with almost 86 percent perceiving a difference with only nutrients present listed and about 82 percent when all nutrients were listed. No attempt was made to evaluate the educational benefit which might be associated with the more complete disclosure.

In considering whether information on the fat, protein, and carbohydrate content should be listed, consumer purchase patterns from the first phase of the CRI study were evaluated to see if presenting this information would improve consumer understanding. In two product classes where fat and caloric differences between products were significant (imitation cheese spread (6 percent fat) versus cheese spread (20–25 percent fat) and salad dressing (65 calories per portion) versus mayonnaise (180 calories per portion)), consumers began purchasing more of the products with lower fat and caloric content.

Two of the five food chains conducting nutrition labeling tests have submitted preliminary reports. In both cases the results were primarily based on consumer interest and response via mail and telephone, although one chain also completed a general questionnaire among consumers in their stores. In one of these two tests the majority of consumers who responded in the first 2 months of the labeling test (approximately 800 letters) asked that nutrition labeling be continued. Of 3,000 consumers questioned in that test, 62.4 percent were aware of the test and over 75 percent were interestd in having nutrition labeling. The second food chain's report shows that the consumer letter response during the early stages of the test was more limited than the response to the first chain's test. This may be because the second test involved much less total promotion, concentrated on in-store activities, and involved fewer labeled products. Out of several hundred letters from consumers, only three opposed nutrition labeling. Those objected because of anticipated price increases resulting from the labeling. Most consumers expressed strong support for the nutrition labeling. The other three chains did not start their studies until after December 1971 and no reports are available. Each of these chains plans some evaluation.

The preliminary report from the Cornell University evaluation covered only the two completed chain tests. The questionnaires were carried out in the stores. Demographic information was obtained so that the relationship of education, income, and racial group to perception and understanding of the purpose of nutrition labeling could be determined. Preliminary results indicate that perception of the labels was correlated to education and income. In the test by the first food chain, 35.7 percent of those interviewed were aware of the labels after 2 weeks. In the second chain test which involved few labeled products and less promotion, only 20 percent of the persons questioned had seen the label. Almost 90 percent of those questioned in the first test understood the purpose of nutrition labeling. A preliminary test was given to a random sample of customers before the labeling study started. Seventy percent of the persons tested gave correct answers when asked specific questions concerning which of several products provided the most of specific nutrients. Twenty weeks later, 80 percent of the persons asked were able to give correct answers to the identical questions. The 10-percent increase in correct answers is significant.

Of particular interest was the consumers' concern with nonuse benefits associated with nutrition labels. Consumers were asked if they felt the following benefits would result from nutrition labeling.

1. Nutrition information for food products will increase consumer confidence in the food industry.

2. If manufacturers have to show nutrition information, they will try harder to make their products nutritious.

3. Nutrition labels encourage advertising that will promote consumer education.

4. More information indicates a greater concern for consumer welfare.

5. Consumers have the right to know the nutrition value of food products on the market.

The results averaged from the two tests studied thus far indicate that 87.9 percent of all persons interviewed agreed that these nonuse benefits would occur with the use of nutrition labeling. In addition, 97.6 percent of all those interviewed agreed that it was the consumers' right to have nutrition information on food products on the market.

The information produced from the tests of nutrition labeling, comments from consumers and nutritionists, and the limited data available before the current programs were initiated strongly supports the consumers' interest in nutrition labeling. The information provided in the various labeling formats was used by consumers. The questionnaire studies indicated that consumers, including those with low incomes and with less than a high school education, were able to understand and use nutrition labeling. The studies also indicated that the numerical percent format is more acceptable to the low-income segment of the population, even though all three formats used in the studies were understood and used by consumers.

In relation to the use of complete listing of the seven nutrients on each label, the slight reduction in the number of persons able to understand and use the labeling has been considered in relation to the education benefits associated with the more complete labeling. It has been suggested that, when a complete listing of nutrients is required, products that do not contain any of the vitamins or minerals or protein are made to appear very inferior. It does not appear reasonable to require the complete listing on products such as vegetable oils and fruits like apples and pears. These products would not have nutrients added under usual circumstances and thus can not have the nutrient levels improved like most formulated products. However, it is possible that some consumers may falsely believe that products with no information on vitamins and minerals are good sources. In order to prevent such misunderstanding, manufacturers would be offered the option of listing the vitamins and minerals which shall be required as part of nutrition information or of stating that the food contains no significant quantities of the vitamins and minerals. After evaluating the information available at the present time, the Commissioner proposes to establish regulations governing nutrition labeling for packaged food products. While all of the issues associated with nutrition labeling have not been definitively resolved, the completed studies have provided the answers to the basic questions. The strong consumer interest in nutrition labeling and the evidence that consumers are able to understand and use nutrition labeling indicate that such a proposal is timely.

While the information obtained thus far in the tests suggests that consumers can utilize the individual nutrient labeling systems, there is no evidence supporting the view that each food company should develop its own nutrition labeling procedure. It is important that a single nutrition labeling guide be established and followed by the food industry. A proliferation of different approaches would lead to consumer confusion and reduce the potential educational benefits of nutrition labeling. As indicated in the notice on nutrition labeling in the FEDERAL REGISTER of November 19, 1971 (36 F.R. 22078), if different types of nutrition labeling resulting in consumer confusion are used, FDA will be obligated to take regulatory action or to seek new statutory authority to control nutrition labeling.

The Commissioner has concluded, on the basis of the information available at the present time, that nutrition labeling should be based on the following general criteria:

1. Vitamins and minerals should be expressed as a proportion of the Recommended Daily Allowances (RDA) modified to provide a single RDA level for all ages and sexes.

2. The labeling should indicate the caloric content and the amounts of protein, carbohydrate, and fat in the product.

3. The nutrition content should be related to a portion or serving of the food expressed in common household terms or in easily identified units.

4. A complete listing of the seven important vitamins and minerals should appear on all products unless the product contains essentially none of those vitamins or minerals.

5. A listing of protein content should appear on all products unless the product contains no protein.

Listing protein in terms of both the amount present in the product and a percent of the RDA offers consumers maximum information. Concern has been expressed that protein quality should be incorporated into this statement. Such a protein quality factor could be established by requiring that any protein with a quality less than that of casein must reduce the claimed contribution by the factor obtained by dividing 100 into the protein quality of the protein expressed as a percent of the quality of casein as determined in standard protein evaluation tests and then multiplying the actual protein content by this factor. This calculation would give the amount of protein to be used in determining the percent DRA for the protein. A lower limit could also be set for any statement relating to protein quality; for example, no protein with a quality less than 50 percent of casein could be stated on the label in terms of the percent RDA. This approach offers maximum information but is complicated both for the manufacturer and for the consumer. Comment is particularly requested on this question.

The Commissioner also requests that comments be provided by interested groups and individuals on whether it would be most useful to consumers for protein, carbohydrate,

and fat content to be stated by percent, by weight, or by grams per portion.

The Commissioner is aware that there is variation in the natural nutrient content of food products. In developing a nutrition labeling system, it is therefore important that the manufacturer be permitted a sufficient tolerance so that he may provide useful nutrition information on the label without incurring excess costs for quality control which will result in a significant increase in prices to the consumer. However, consumers will expect that the nutrition labels will honestly represent the product. By using a percentage of the RDA expressed in increments of 5 to 10 percent, some of the variation in products can be accommodated. In addition, for the purposes of nutrition labeling, the statement will be considered in compliance if at least 80 percent of the product in the package meets or exceeds the claimed nutrient levels, and if no sample of the product will have a nutrient content less than 80 percent of the nutrient claim.

Finally, manufacturers frequently ask where to print nutrition labeling and other related information which is not required on the principal display panel. It is important that such information appear in a uniform location so that consumers will have it readily available. Uniformity in displaying such information will make it more easily found and read by consumers under normal conditions of purchase and use. For a number of years canners have utilized an information panel for serving sizes and other pertinent information concerning the contents of a can. Breakfast cereal manufacturers have primarily utilized one panel for nutrition information. An information panel, as well as the principal display panel, is a suitable location for nutrition information. The Commissioner therefore proposes to define the information panel as that part of the label immediately to the right of the principal display panel. If the package has alternate display panels the information panel may appear to the right of either. If the top of the container is the principal display panel, and there is no alternate principal display panel, the information panel is any part of the label adjacent to the top.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701, 52 Stat. 1040–42 as amended, 1047–48 as amended, 1055–56 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 321, 343, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 1 by adding the following two new sections:

§ 1.8d. Food labeling; information panel.

(a) The term "information panel" as it applies to packaged food means that part of the label immediately to the right of the principal display panel. If the package has for alternate principal display panel, the information panel is immediately to the right of either principal display panel. If the top of the container is a principal display panel and the package has no alternate principal display panel, the information panel is any panel adjacent to the principal display panel.

(b) All information required to appear on the label of any package of food pursuant to §§ 1.8a, 1.8c, 1.10, or Part 125 of this chapter shall appear either on the principal display panel or on the information panel unless otherwise specified by regulations in this chapter.

(c) All nutrition information appearing on the label of any package of food shall comply with § 1.16 and shall appear either on the principal display or on the information panel unless otherwise specified by regulations in this chapter.

(d) All information required on the principal display panel or the information panel pursuant to this section must appear on the label with the prominence and conspicuousness required by section 403(f) of the Federal Food, Drug, and Cosmetic Act and § 1.9, but in no case may the letters be less than 1/16 inch in height. The requirements for conspicuousness and legibility shall include the specifications of § 1.8b(h) (1) and (2).

(e) All information required on the principal display panel or on the information panel pursuant to this section shall appear on the same panel unless there is insufficient space. If there is insufficient space for all of this information to appear on a single panel it may be divided between these two panels, except that the information required pursuant to any given section or part must all appear on the same panel.

§ 1.16 Food; nutrition labeling.

(a) Nutrition information relating to a packaged food may be included on the label of the product provided that it conforms to the requirements of this section.

(b) All nutrient quantities including vitamins, minerals, calories, protein, fats, and carbohydrates shall be declared in relation to the average or usual serving expressed in common household measurements or in terms of a unit which is easily identified as an average or usual serving. The weight of the serving may also be expressed in grams. The declaration shall contain the following items:

(1) The heading shall be "Nutrition Information."

(2) A statement of the serving size shall be given.

(3) A statement of the caloric content per serving shall be exprsesed to the nearest 5-calorie increment.

(4) A statement of the number of grams of protein, fat, and available carbohydrates per serving shall be expressed to the nearest gram.

(5) A statement of the amounts per serving of the vitamins and minerals listed in paragraph (c) of this section shall be expressed in percentages of the Recommended Dietary Allowances (RDA) as stated in paragraph (d) of this section. The percentages are expressed in 10-percent increments, except that 5-percent increments may be used up to the 20-percent level. Nutrients present in an amount comprising les than 5 percent of the RDA shall be considered insignificant and will be so listed under the RDA percentage. However, if a product does not contain at least 5 percent of the RDA for any of the vitamins or minerals listed in paragrah (c) of this section, the statement, "Contains no significant quantities of vitamins and minerals," may be used in place of the complete listing of the vitamins and minerals required in paragraph (c) of this section. The listing shall follow the order given in paragraph (c) of this section.

(6) A statement of the amount of protein present per serving shall be expressed as a percentage of the 65-gram RDA. The percentages are expressed in 10 percent increments, except that 5-percent increments may be used up to the 20-percent level. Protein present in an amount less than 5 percent of the RDA shall be considered insignificant. In such cases, the amount of protein will be represented either as 0 percent of the RDA or by the words "none" or "insignificant," whichever is appropriate. However, if a product contains no protein, the protein expressed as a precent of the RDA need not be listed.

(c) In the case of vitamins and minerals, the label declaration must contain information on vitamin A, vitamin C, thiamin, riboflavin, niacin, calcium, and iron and may contain information on any of the other vitamins and minerals listed in paragraph (d) of this section.

(d) For the purposes of nutrition labeling, the following daily amounts of vitamins and minerals are the standard Recommended Daily Allowances (RDA):

Vitamin A, 5,000 International Units.
Vitamin D, 400 International Units.
Vitamin E, 30 International Units.
Ascorbic Acid (Vitamin C), 60 milligrams.
Thiamin (Vitamin B_1), 1.5 milligrams.
Riboflavin (Vitamin B_2), 1.7 milligrams.
Niacin, 20 milligrams.
Vitamin B_6, 2 milligrams.
Folacin (Folic acid), 0.4 milligram.
Vitamin B_{12}, 6 micrograms.
Biotin, 0.3 milligram.
Pantothenic Acid, 10 milligrams.
Calcium, 1,000 milligrams.
Phosphorus, 1,000 milligrams.
Iron, 18 milligrams.
Iodine, 0.15 milligram.
Zinc, 15 milligrams.
Magnesium, 400 milligrams.
Copper, 2 milligrams.

These nutrient levels have been adopted by the Food and Drug Administration from information in a report of the Food and Nutrition Board, National Academy of Sciences-National Research Council, "Recommended Dietary Allowances," Seventh Edition, 1968.

(e) A statement may be included offering additional information upon written request to a specified address. Any such additional labeling shall comply with all the requirements of Part 1 and, if applicable, Part 125 of this chapter.

(f) The location of the nutrition information on the label shall be in compliance with § 1.8d.

Interested persons may, within 90 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: March 27, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc. 72–4948 Filed 3–29–72; 8:53 am]

SLEMCO'S COMMENDABLE RECORD

Mr. ELLENDER. Mr. President, Louisiana is indeed fortunate in having the largest rural electric membership cooperative in the Nation located within our borders. As a long time sponsor and supporter of REA legislation, the record compiled by the Southwest Louisiana Electric Membership Corp. is a source of pride to me. It should be a source of pride to other REA supporters and to the citizens of Louisiana and the Nation.

The members of Slemco are good businessmen. They have formulated and pursued policies which led to rational growth, and their actions have been vindicated many times over. The electric consumers of the southwest part of our States have benefited from their good judgment and I compliment the board of directors and its management.

Because of the policies followed, Slemco has not found it necessary to borrow any funds from the Rural Electrification Administration in the last 4 years. The membership corporation has independently conducted and financed its construction, operations, and maintenance program from funds generated through the sale of electricity.

In addition to maintaining low electric rates for the Southwest Louisiana area, Slemco refunds annually to its 39,000 member-owners $900,000 in capi-

tal credits. It is one of the outstanding REA operations in the Nation.

Recently I requested of the Slemco management a short résumé of Slemco's current operations. Mr. U. J. Gajan, general manager, responded to my request with a letter providing a summary of the pertinent facts and figures. I ask unanimous consent that the letter be printed in the RECORD.

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

SOUTHWEST LOUISIANA ELECTRIC MEMBERSHIP CORPORATION,
Lafayette, La., March 24, 1972.

Hon. ALLEN J. ELLENDER,
President pro tempore, U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR ELLENDER: First, let me say it was indeed a pleasure having you down in Lafayette this past weekend, and also the opportunity of visiting with you. During our conversation you expressed an interest in SLEMCO's operation and would be interested in a brief summary of facts and figures.

Accordingly, I will give you a brief outline through our fiscal year ending December 31, 1971.

As of that date we were serving 39,005 member-consumers with transmission and distribution facilities totaling 5,277.9 miles in 8 parishes of Southwest Louisiana.

Our total assets and other debts amount to $23,725,504.00 for which we owe the government $4,555,951.96. Our total allocation from the Rural Electrification Administration amounts to $16,562,000.00. Total advance from the REA amounted to $15,316,155.80.

We have not borrowed any funds from the Rural Electrification Administration in the past four years and have independently conducted and financed our construction, operations and maintenance program from funds generated through the sale of electricity. We spend an average of approximately $2 million annually to construct new transmission distribution lines, which includes system improvements, and to serve new consumers. We feel that our area is now one hundred percent electrified.

We have generated sufficient funds and have placed these funds in temporary investments which total $3,704,766.00. Our operating margins, or profits, for the year 1971 amounted to $2,600,108.00.

We employ 135 employees full time, and operate 55 transportation units, including heavy construction equipment, a marsh buggy which is used in constructing lines throughout the marshes of Southwest Louisiana.

As you know, we are a non-profit corporation and all profits earned by the corporation are credited to the member-consumer account in accordance to his usage. Total margins, or profits, and equities, accumulated by our member-consumers amounts to $18,188,952.00. Annually we refund 5% of this member equity in the form of cash payments to our member-consumers. To date we have refunded $7,329,732.29.

In the year 1971 we purchased 485,233,177 kilowatt hours from Gulf States Utilities and CLECO. Our average cost per kilowatt hour purchased amounted to 6.1 mils per kilowatt hour.

Senator, we are proud of the fact that in addition to maintaining the lowest electric rate in the area, we refund annually to our member-owners $900 thousand in capital credits. These refunds stimulate the economy and makes available to our member-consumers more spendable funds. We are proud of the fact that SLEMCO is recognized nationally as one of the outstanding corporations in the nation.

With sincere best wishes and warm personal regards, I am

Sincerely yours,

U. J. GAJAN, P.E.,
General Manager.

CRISIS IN HEALTH CARE

Mr. STEVENS. Mr. President, there seems to be little doubt that the Nation is facing a crisis in health care. The cost of medical care in the United States is soaring far beyond that of other nations, twice as fast as other costs in family budgets. There are not enough physicians to meet the demand. Our entire medical system is badly strained and fails to serve the needs of most Americans. President Nixon has stated that the consequences of our health-care crises could be a breakdown affecting millions of people and has called for legislative action.

An article by Henry Hedberg, an official of the Alaska State Federation of Labor, AFL–CIO, published by the Anchorage Daily News, states the problem clearly and offers a proposal for solution of this critical problem. 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:

LABOR'S GOAL: NATIONAL HEALTH INSURANCE

(By Henry Hedberg)

National Health Insurance is labor's number one legislative goal in 1972. The crisis in medical care has become a major domestic issue. The crisis cannot be denied.

Medical treatment is the doctor's business. But health is everybody's business. And the nation is concerned. People are talking about the problem. For example, here are three recent statements:

"American medicine, the pride of the nation for many years, stands now on the brink of chaos—much of U.S. medical care, particularly the everyday business of preventing and treating routine illnesses, is inferior in quality, wastefully dispensed and inequitably financed—whether poor or not, most Americans are badly served by the obsolete, overstrained medical system that has grown up helterskelter, without accommodating very well to changing technology, expanding population, rising costs or rising expectations."

"(we have) bluntly stated that there is a health care crisis—that there aren't enough physicians and other health workers to meet the demand, that the increasing cost of care is necessitating development of a universal health insurance program, that something has to be done to improve delivery of care to people in ghettos and rural areas."

"We face a massive crisis in (health care) and unless action is taken both administratively and legislatively to meet the crisis within the next year or two we will have a breakdown in our medical care system which would have consequences affecting millions of people throughout the country."

Those are three pretty tough descriptions of what is wrong with health care in America. They don't come from the AFL–CIO or other liberal organizations. In order, they were from Fortune magazine, the American Medical Association and President Nixon.

Under the present system, America is not coming close to achieving any of these health care goals. Instead, America is falling farther and farther behind other countries, while medical costs are soaring far ahead of all other nations.

America is not number one in health care. Far from it. Think of this:

"In 35 other nations, 10-year-old boys can expect to live longer. Ten-year-old girls can expect to live longer in 10 other nations.

"New-born babies would have a better chance of surviving if they were born in one of the 13 other nations with lower infant mortality rates than the U.S."

As poor as this record is for white, middle class America, it is far worse for the nonwhites, the poverty stricken, the residents of ghettos or rural shacks. These Americans have a life expectancy seven years shorter than the average. Their infant mortality rate is about the same as that of Ecuador. Young mothers in this group would have a better chance of surviving childbirth if they lived in Costa Rica.

Why is America lagging behind every other developed nation in the area of human health? Why do we continue to fall farther behind every day?

The answer is simple: The United States is the only industrialized nation that does not have a national health program. We pay a heavy price—in terms of dollars and human lives—for that dubious distinction.

The health care crisis came about in three major areas: costs, delivery and financing.

The cost of medical care is rising twice as fast as other costs in family budgets. Hospital charges are rising an average of 15 per cent a year. The average cost of a hospital bed in 1969 was $70 a day, but in some cities the costs were as high as $100 a day.

There are some who blame rising hospital costs on increased wages for hospital workers. The facts don't back up their argument. Hospital workers, as a result of organizing activity and minimum coverage, have recently received long needed pay increases. But the American Hospital Association reports that wages are increasing at only half the pace of the total hospital costs.

While there has been criticism of hospital workers breaking out of the poverty level wages, little attention has been focused on physicians' incomes. In 1965 doctors averaged $29,000; now their income is conservatively estimated at $43,000. In other words, physicians' incomes have risen three times as fast as workers' earnings.

The second area is the breakdown in delivery. The medical economy is still tied to the outmoded solo practice, fee-for-services way of doing business. Doctors exercise about the same amount of control over the medical economy as the military does over the defense budget in time of war.

Physicians receive only 10 cents of every medical dollar, but are the kingpins of the medical economy. They not only supply services but they largely create the demand for those services. For example, the physicians decide where a patient is to be treated—on an in-patient basis, with its necessarily higher costs, or an out-patient basis, which is less expensive.

The financing of health care—the third area of crisis—is grossly inadequate, inequitable, fragmented and provides no incentives for costs and controls.

While most people have some insurance coverage for hospitals and surgical care, the gaps are unbelievable.

Organized labor believes America must have a comprehensive National Health Insurance system to provide the American people with quality health care. National health insurance must replace the existing fragmented, inadequate system of financing health care.

The AFL–CIO has said there are six principles that must be contained in national health insurance. They are:

Every man, women and child—rich or poor, working or unemployed, young or old—should be eligible for the full range of services.

Benefits should be comprehensive, including preventive, outpatient, in-patient and

rehabilitative care in every appropriate setting so that the physician may select the exact type of treatment necessary for the patient's need, regardless of the cost factor.

The program should be financed like Social Security, with contributions by employers and employees with an additional contribution from general revenues. National health insurance would absorb Medicare and Medicaid, making access to health care equal for all Americans regardless of income.

Contracting for medical services should be on a prepayment basis. Hospitals, medical and dental societies, or groups of doctors would be suitable contractors.

Patients should have free choice of physicians and health delivery systems. Physicians should not have to practice within the system if they choose not to.

Financial assistance should be provided for planning development and initial staffing of comprehensive health delivery systems.

STUDENT TRUSTEE AMENDMENT TO HIGHER EDUCATION ACT

Mr. HARRIS. Mr. President, the Washington Post, on March 9, published a story by Eric Wentworth analyzing the efforts of the National Student Lobby in support of the Student Trustee Amendment to the Higher Education Act.

The Student Lobby is a new group formed to involve students directly in the legislative process on issues which affect them directly. The Post article describes well the success of one of their first major efforts.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, Mar 9, 1972]

STUDENT POWER WINS SENATE SUPPORT

(By Eric Wentworth)

During its debate on the controversial busing issue last week, the Senate took time to pass a "sense of the Congress" amendment calling for student membership in college and university governing boards.

Passage of that amendment, sponsored by Sen. Fred H. Harris (D-Okla.), was overshadowed by the far more dramatic roll calls in which the lawmakers narrowly rejected strong busing curbs.

And, since the Harris amendment would require no new federal funding, it seemed a minor addition to the multibillion-dollar higher education-school desegregation aid bill which the Senate later cleared for conference with the House.

To the three happy leaders of the National Student Lobby who gathered afterward for a glass of champagne with Harris and his aides, however, the Senate's 66V28 vote February 29 for "Amendment No. 953" was most important.

It marked the first real Capitol Hill success for the fledgling operation which they hope will become a continuing, effective voice for student interests in the nation's capital.

The Indochina War, has brought large numbers of student protesters to Washington from time to time. After news of the Cambodia invasion, hundreds lobbied for peace in the halls of Congress. Some vowed to stay in town till the war was over. Others set out to campaign for peace candidates in the 1970 congressional elections. But, as frustrations mounted, enthusiasms waned.

Peter Coye and three young colleagues from the University of California came to Washington last summer with something more enduring in mind. Inspired by accomplishments of the California Student Lobby in Sacramento, they set up the national organization, registered as lobbyists, found office space at 1835 K Street NW and—in October—sent out membership invitations to student governments throughout the nation.

"This permanent mechanism," they wrote, "will make students a constituency to which Congressmen will listen, for it will disappear in the summer, nor will its memory be only one to four years long."

Moreover, while the war issue ranks high on its list, the National Student Lobby is concerned with a wide range of subjects including the federal budget, environmental protection, equal rights for women, voter registration procedures and, last but not least, higher education programs.

The Harris amendment, as originally drafted, would have required colleges and universities to put students on their governing boards or face loss of federal aid. Coye, onetime San Francisco State student Bill Mitchell, and Layton Olson, a 29-year-old lawyer who has become the National Student Lobby's executive director, took the draft amendment around to other senatorial offices to get reaction from legislative aides.

They found support for the general principle of having students as college trustees but objections to making this a federal requirement. They compared notes with Harris aides Steve Risto and Bill Maynes, and it was agreed to go with the "sense of the Congress" approach instead.

As Harris unveiled it at a press conference Feb. 24, the amendment said student participation on college governing boards "should be encouraged."

It proposed that every board have at least one student, with full membership rights, who would be chosen by the student body. And it called on the Secretary of Health, Education, and Welfare to give Congress a national status report one year after enactment. As things stood, Harris reported, students were voting members on only 3 per cent of the nation's college and university governing boards.

Joining Harris at the press conference were Olson from the National Student Lobby, President Marjorie Tabankin of the National Student Association, and students government leaders from several local campuses.

When Harris introduced his measure on the Senate floor February 28, he could announce that the National Student Lobby "strongly support the amendment . . . So do student leaders throughout the country."

By then, the student lobbyists with help from NSA were in high gear. They assisted Harris' staff with a mass mailing to student government leaders on some 2,500 campuses, made scores of telephone calls, and went to work on other senators.

"They really picked up the ball and ran with it," Maynes recalled.

Mitchell had talked with Dan Borne, a legislative aide with Sen. Allen J. Ellender (D-La.). At Borne's suggestion, he got in touch with Nicholls State University in Louisiana where the student body president's membership on the campus administrative council had worked out well.

When Mitchell went back to see Borne on February 28, Ellender's office had already received an enthusiastic joint letter from the president and student body president of Nicholls State. Borne proceeded to write Ellender a memo on the amendment, and the senator, as well as several other Southerners, voted for it the next day.

"They did an outstanding job in presenting their case," Borne said of the National Student Lobby.

One of the more skeptical lawmakers was Sen. Gaylord Nelson (D-Wis.). While he supported the general idea of student board members, Nelson told Harris, he was inclined to oppose an amendment that smacked of government interference.

But Coye, a 22-year-old native of Madison, Wisc., where his father was a medical school administrator, had a special tie with the Wisconsin senator. Back in 1968, he had flown in from California one night to Chicago's O'Hare Airport with a pack on his back and several days' whiskers on his chin. Short of cash, he sought to share a taxi which could drop him off at a nearby truck stop where he could hitch a ride up to Madison.

The passenger inside the taxi Coye entered was Gaylord Nelson. They struck up a conversation. And Nelson, concerned about Coye's hitchhiking late at night, invited the youth to go with him instead to the O'Hare Inn where he was spending the night and had a spare room reserved for an aide who wouldn't be there. Coye happily accepted, and the two spent a pleasant evening.

Coye wasn't able to see Nelson before the Senate vote, but he left a note in the senator's office. Nelson got the note in time and, he recalled later, it was a factor in his decision to vote for the amendment after all.

Some observers saw the Senate's 66–28 approval of the Harris amendment as a bid for the "youth vote" in an election year with the voting age lowered to 18. Coye himself noted that a large majority of lawmakers up for reelection had favored the measure.

But while the National Student Lobby is well aware that there are millions of newly enfranchised voters, it is interested in the substantive detail of legislation, including appropriations, and not just in political recognition for youth.

THE INADEQUATE WELFARE SYSTEM

Mr. HUGHES. Mr. President, before long the Senate will be considering legislation which is intended to reform our inadequate welfare system. One of the aims of the reform is to establish a means whereby more people can get out of the welfare cycle into the productive wage-earning mainstream of society. President Nixon has stressed this aspect of his proposal over and over again whenever the troublesome problems involved with welfare have been raised. And if we can succeed in enacting such a program, the benefits will be felt by every man, woman, and child in our country.

I submit, however, that such a program is doomed to failure if governmental agencies work at cross purposes—if one department helps while another denies. Yet this is exactly the situation that has arisen with respect to the work incentive program and the food stamp program as they operate in Iowa.

Iowa has developed a work incentive program of which it is justifiably proud. Its success rate is 51 percent—the highest in the Nation. It presently enrolls over 1,300 participants—persons who now see some hope for the future for themselves and their dependents.

But as a result of food stamp regulations which went into effect on March 1, 1972, most of these participants now see their hopes and dreams falling by the wayside. The new regulations require that payments received from Government-sponsored programs such as the work incentive program must be counted as income in the computation of food stamps, and the result is that they must pay more for their food stamps than previously.

The old regulation stated:

The amount of incentive payments and training allowances made to enrollees under the second priority of the Work Incentive

Program, i.e., enrollees in institutional or work-experience training, shall be disregarded to determine eligibility and the basis of coupon issuance under the Food Stamp Program.

The new regulations which are being protested state that in defining income, the following must be considered:

Payments received from Government-sponsored programs such as Agricultural Stabilization and Conservation Service programs, the Work Incentive Program, or Manpower Training Program.

On March 10, 1972, I wrote to Secretary of Agriculture Butz urging an immediate revision of the new regulations. Some 19 days later—almost 3 weeks—I received a reply, not from Secretary Butz, but from his assistant, Mr. Lyng, contending that a disregard of WIN benefits would be unfair to participants in the food stamp program who are not participating in the WIN program.

The Department of Agriculture seems to be working under the theory that work incentive allowances and payments amount to real income. The fact is that they would not be made unless one was enrolled in the WIN program and they are designed specifically to take care of necessary expenses incurred because of such enrollment. The actual incentive bonus amounts to about $6 a week, and most of this is also being used to defray necessary expenses and not for any extra or luxury items.

A letter I have received from the Polk County Department of Social Services states:

ADC grants which are barely sufficient to cover the costs of basic needs at home cannot pay transportation costs and daily personal expenses at school or on work experience sites. With the above-mentioned WIN payments considered as income, the WIN enrollee loses more than he gains. Thus his plan for becoming employable and hence self-supporting is thwarted.

The truth of the above statement is borne out over and over again in the letters I have received from the WIN participants themselves. They have told me of the high hopes they had when they enrolled in the program, of how they had regained pride and self-respect, of how eagerly they were looking forward to the time when they would no longer be welfare recipients. And they have told me how, with one stroke of the pen, the Department of Agriculture has dashed those hopes by telling them that the one very basic need of us all—food—would no longer be available as before. Because of this, many have told me that they fear they will have to drop out of the program because they will not deny food to their dependents.

The Department of Agriculture's new regulations could easily wreck the work incentive program in Iowa. Moreover, they represent to my mind a direct denial of the administration's professed commitment to helping people get off the welfare rolls. Simple arithmetic will show the Department what is happening as a result of the new regulations. And a simple revision can correct the Department's error. I urge in the strongest possible terms that this be done without delay.

Mr. President, I ask unanimous consent to have printed in the RECORD various newspaper articles and correspondence I have had on this matter.

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

U.S. SENATE,
COMMITTEE ON LABOR AND
PUBLIC WELFARE,
Washington, D.C., March 10, 1972.

The Honorable EARL L. BUTZ,
Secretary of Agriculture, Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: It has come to my attention that the food stamp regulations which went into effect on March 1, 1972, may have severe consequences for Iowa's Work Incentive Program.

Under the Iowa program, a WIN participant receives $44 a month from the Department of Social Services as a training allowance to cover such things as travel, lunch, and clothing expenses, plus an additional $30 a month as a work incentive. Until March 1, none of this $74 a month was counted as income in the computation of food stamps. Under the new regulations of the Department of Agriculture, all but $30 must now be counted as income. This will inevitably mean that families with one or more WIN participants will have to pay more for their food stamps, which will in turn mean drop-outs from the WIN program, for it cannot be doubted which will be the winner in a battle between food and school.

How in good conscience can we urge people to go to school to get the proper training so as to obtain decent employment and then penalize them for doing so through the denial of food? Such a policy can only result in a "What's the use?" attitude on the part of many who have for the first time seen a glimmer of hope for their future.

I urge you to take immediate action to revise the food stamp regulations so as to delete the provision requiring that payments received from Work Incentive Programs be counted as income in the computation of food stamps.

Sincerely,

HAROLD E. HUGHES.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 29, 1972.

Hon. HAROLD E. HUGHES,
U.S. Senate.

DEAR SENATOR HUGHES: Secretary Butz has asked me to thank you for your letter concerning the treatment of income received from the Work Incentive Program under the revised regulations of the Food Stamp Program.

The Food Stamp Program is designed to increase food purchasing power beyond the amount normally available to low-income families. Because of this, the family's actual purchasing power must be considered when determining the purchase price of the stamps. The fact remains that the WIN payment does increase the family's ability to purchase food and, as you state, is partially intended to purchase food. The payment must, therefore, be counted as income.

As a partial compensation for monies received in WIN type programs, our new regulations were written to allow a deduction of 10 percent of the income up to $30 to defray costs incurred in traveling to and from the training site and for other incidental expenses. Moreover, the Food Stamp Program allows deductions for expenses such as excessive shelter costs (including all utilities) and medical and dental expenses of more than $10 a month when figuring the household's purchase price.

In the end, the primary question is one of fairness. If we allowed a total disregard of WIN houses, the households participating in this program would receive benefits not available to other low-income families who are also participating in the Food Stamp Program and trying to improve their existence.

If we can be of further assistance, please let us know.

Sincerely,

RICHARD LYNG,
Assistant Secretary.

POLK COUNTY DEPARTMENT OF
SOCIAL SERVICES,
Des Moines, Iowa, March 29, 1972.

The Honorable HAROLD HUGHES,
The U.S. Senate,
Washington, D.C.

DEAR SIR: As you know, the Work Incentive Program (WIN) under Aid to Dependent Children has been very successful in Iowa. We are first in the nation. We do not want to see potential clients discouraged from enrolling in WIN; more important, we do not want to see those already enrolled forced to discontinue their training. We feel certain that the Department of Agriculture, by its interpretation of Public Laws 88–525 and 91–671, has distorted the intent of Congress.

Members of the Polk County WIN team, Des Moines, Iowa, both Employment Service and Department of Social Services staff wish to register their concern regarding the hardship imposed upon WIN clients by the new Food Stamp regulations which became effective March 1, 1972. The inclusion of WIN work allowance, incentive payment and vendor payments in behalf of WIN enrollees as income in determining the cost of food stamps has an effect of negating WIN benefits.

ADC grants which are barely sufficient to cover the costs of basic needs at home cannot pay transportation costs and daily personal expenses at school or on work experience sites. With the above mentioned WIN payments considered as income, the WIN enrollee loses more than he gains. Thus his plan for becoming employable and hence self supporting is thwarted.

We ask for your assistance in rescinding those regulations enacted by the Department of Agriculture and affecting the WIN program, thus aiding the WIN client's goal of returning to his former role as taxpayer with no further need of ADC.

Sincerely yours,

QUENTEN L. EMERY, *Director.*

STATE OF IOWA,
DEPARTMENT OF SOCIAL SERVICES,
Des Moines, Iowa, April 3, 1972.

Hon. HAROLD E. HUGHES,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: This is a follow-up of information in relationship to requests for reconsideration of not having to count WIN Program payments in order that you may know what is being done by us in the Food Programs in working with the Commissioner's Office and Mr. Poore, the Director of the WIN Program for the State Department of Social Services.

The basic concern in our request for a reconsideration of this point is because it so definitely affects the amount of cash that recipients and persons under this training program have to pay for the stamps that they receive.

In our old material we had a specific paragraph which related to Work Incentive Programs and this paragraph read as follows:

"The amount of incentive payments and training allowances made to enrollees under the second priority of the Work Incentive Program; i.e., enrollees in institutional or work-experience training, shall be disregarded to determine eligibility and the basis

of coupon issuance under the Food Stamp Program."

In the new regulations, as pointed out in the attached letter of February 14, 1972, 271.3 (1) (i) (h) of the Federal Register specifically states under Definition of Income that income from the Work Incentive Program must be considered:

"Payments received from Government-sponsored programs such as Agricultural Stabilization and Conservation Service programs, the Work Incentive Program, or Manpower Training Program."

It seems that this identification of the problem in Iowa is reflected in the attachment and the quotations made because our concern as of July 1 will be in reference to the WIN Program being available to all counties in the state and the conflict which is reflected because all counties are in the Food Stamp Program.

This can be corrected by the Department of Agriculture by removing from this identified paragraph the words "Work Incentive Program".

Very truly yours,

GEORGE W. SHOVE,
Director, Food Programs.

STATE OF IOWA,
DEPARTMENT OF SOCIAL SERVICES,
Des Moines, Iowa, February 14, 1972.

Mr. DENNIS M. DOYLE,
Director, Midwest Region, U.S. Department of Agriculture, Food and Nutrition Service, Chicago, Ill.

Attention: Mr. Bernard J. Franta

DEAR MR. FRANTA: We spent the month of January meeting with county and area staff for interpretation of the new Food Stamp Regulations. We had a total of 17 meetings and feel that we covered the state completely in relationship to the interpretation of our revised manual. However, during this period of time we have received many questions regarding policy regulations and the law and feel that we are now in a position to make requests in relationship to the areas in question as well as to define where the question should be submitted for clarification or reconsideration.

We have reviewed and have submitted to you certain things that we feel at this point could be handled on interpretation and reviewed a good many of them when you were in Des Moines the first and second of February.

The points that we are listing at this time we are requesting that they be reviewed by you and sent on to the Secretary of Agriculture for reconsideration because of the concern that staff in general has in relationship to the restrictive application of these points in the areas in which we feel the Secretary had been given responsibility of setting standards and regulations.

1. Tax Dependency—Ref. Federal Register 271.3(4) (iii) (d).

That the exception to the rule on tax dependency be broadened to also exclude those persons who may be struggling to maintain a subsistence, such as an unwed mother or young married couple.

2. Payments received from Work Training Program—Ref. Federal Register 271.3 Definition of Income (1) (i) (h).

The Secretary review and reconsider the income received from the work training programs permitting the total amount received from that source to be excluded as income.

3. Payments for Medical Expenses—Ref. Federal Register 271.3 Definition of Income (1) (iii) (c).

Consideration be made to include the amount of medical costs under $10.00 as a medical expense. Any expense, no matter how small, creates a hardship on persons in the low income category.

4. Income Deductions—Ref. Federal Register 271.3(1) (iii) (a).

That court ordered child care payments be regarded as an income deduction since this is a hardship in the true sense of the word.

We hope that this can be reviewed at both the Regional and Federal levels at the earliest possible date and that additional information will be forthcoming which may help the states and counties in the carrying out of the Food Stamp Program.

Very truly yours,

GEORGE SHOVE,
Director, Food Programs.

DES MOINES, IOWA,
March 8, 1972.

Senator HAROLD HUGHES,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: This is a letter of protest, concerning the new procedure involving WIN participants. Mainly, the raise in cost of our food stamps.

This additional money will be taken from the forty-four dollars allotted for expenses which occur while attending school.

I enrolled in the WIN program with the goal of becoming self-supporting. Now I have many disillusions, perhaps I should have remained in my home and spent my time with my two sons.

Don't you think my sons and I would be better off, if I could finish school? I do. You will notice I said if! This will be very difficult since I now must meet new expenses.

The WIN program is a wonderful chance for us. We need your help and support.

Sincerely yours,

CATHY KARNES.

FEBRUARY 29, 1972.

DEAR SIRS: We participants in the WIN program are writing to plead our case in connection with the new rise in the cost of food stamps. Each of us have our individual problems. As it is, most of us are only scrimping along with our present financial situations. Many feel we cannot handle the increase and will have to forego the food stamps and cut back on our families food. Obviously our diet will become less than adequate, but one can exist on soups and pastas. Are we to be penalized because we're in the WIN program and trying to better our situations? Please don't force us to drop out of WIN to get menial jobs in order to properly feed our families.

LIST OF SIGNATURES

Sarah Porter, Dawson, Iowa.
Patsy Anderson, Boone, Iowa.
Carol Cook, Perry, Iowa.
Connie Sturtz, Boone, Iowa.
Karen Rusher, Ames, Iowa.
Sandra Robinson, Ames, Iowa.
Mary Larsson, Ames, Iowa.
Linda O'Malley, Boone, Iowa.
Linda Launderville, Ogden, Iowa.

DES MOINES, IOWA,
March 27, 1972.

Senator HAROLD HUGHES,
New Senate Office Building,
Washington, D.C.

DEAR MR. SENATOR: May I make a plea for your help and support?

Changes that were made March 1, 1972 in the food stamp program is an injustice to the people who are participating in the WIN program. I will feel the change right along with all other enrollees.

The $44.00 work allowance and $30.00 work incentive is stretched over the expenses of transportation to school, transportation of my children to the babysitter's, clothes, school supplies, and lunches. $74.00 is being counted as income with $30.00 being returned for covering expenses. $74.00 was barely enough to pay the cost of going to school. $30.00 will not cover expenses of going to school. Tuition and books of approximately $54.00 monthly is being counted as income. Now I am told that there is a possibility of my babysitter's pay to be counted as income to me (I never see this money) which is $100.00 monthly.

I am told that I can expect my food stamps to cost me almost double the cost now.

I am trying my hardest to become self-sufficient and get off welfare, but if some action can't be taken to return the WIN program to its prior status then I will be forced to discontinue school. I won't let my children go hungry. It appears that the Department of Agriculture would rather see me and my children dependent on them for food rather then let me become the "breadwinner." I can't do this without school. On top of that the money that has been invested in my education will be wasted if I must quit.

Do you realize that people on welfare who are not working or in training are getting their food stamps reduced!

The action that has been taken by Secretary Butz has discouraged me from having any hope for a new start. Many others have been discouraged also.

Please, Mr. Senator, help us WIN instead of LOSE.

Sincerely Yours

Mrs. KATHY COBB.

KEOKUK, IOWA,
March, 1972.

Senator HAROLD HUGHES,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: I am a WIN participant and I think the increase in the price of food stamps is unfair due to the fact, the incentive pay that WIN provides are for the extra costs for going to school, such as transportation, clothing, and other expenses we otherwise wouldn't have if we weren't going to school.

I have to pay an extra $13 for $4 extra dollars worth of food stamps. Why?

I would really use that $13 for clothing which I really need!

I have had to move to this town in order to go to school. I do not know anybody, and therefore have to make due on my own.

I think the WIN program is one of the finest things thats ever happened to me, it is enabling me too finish my education, and also to be self-supporting in the future. But when you have to pay out extra-money in order to participate, it kinda takes something out of it.

Thank you very much for hearing my views

Sincerely,

Mrs. KAREN SCHUTTER.

MARCH 27, 1972.

Hon. HAROLD HUGHES,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: I am a student attending the Des Moines Area Community College under the WIN program. The March 1, 1972, decision by the Department of Agriculture will double the cost of food stamps for me and my two pre-school children.

The new rules for computing the cost of food stamps will add the $30 incentive pay, the $44 allowance, and the cost of tuition, books, and supplies as income. This means that my income will be computed at $313 a month. Additional money for child care that is paid directly to the babysitter by the welfare department may also be counted as income in the future. This would bring my so-called income up to $413 a month!

This new policy will completely negate the $74 incentive and allowance pay I receive to help with transportation and extra expenses. When I started the WIN program, I set up a budget that allowed me to meet my monthly expenses. There is no possible way that I could strain my actual income of $273 ($199 ADC, $74 allowance) to include the doubled cost of food.

I have been attending Area XI for seven

quarters and have worked very hard to earn a 3.87 grade point. By participating in the WIN program, I am trying to become self sufficient and get off the welfare roles completely. I cannot understand why WIN students should be punished for their effort while ADC mothers who stay at home are being rewarded with a reduction in the cost of their food stamps.

The increased cost of food stamps may force me to give up my participation in the WIN program. The welfare of my children is more important to me than anything in the world. I cannot afford to feed them under the new food stamp policy if I continue to go to school. The only alternative is to stay at home and remain on welfare indefinitely. This will cost the taxpayer a great deal more than the cost of my WIN participation.

The children are the ones who are being hurt by the new policy of the Agriculture Department. The children will *lose* either way a *WIN* student decides to go. If she remains in school, her children will not receive the proper nutrition that food stamps have provided for them in the past. If she stays home in order to be eligible for food stamps, the children will be condemned to a life of poverty on the welfare roles.

Please, Senator Hughes, don't allow this bureaucratic decision to threaten the welfare of all the children of WIN participants. I hope that you will use your influence as a member of the Senate to change this unfair and punitive ruling.

Hopefully,

Mrs. DOROTHY E. CAIN.

COLUMBUS JCT., IOWA,
March 3, 1972.

Senator HAROLD HUGHES,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: I wish to express my concern over the change in the "Food Stamp Programs" for "Win" people. I, myself, just received my first "Win" checks, which will certainly help, but if the food stamps are cut down it takes it away.

I applied for aid and "Win" early in Oct., when my Soc. Sec. check for the children did not come and had been stopped. My income dropped to $120 per month and I swallowed my pride and went to Wapello for aid.

I couldn't get help from "Win" till the 2nd semester so have just received my first check. In Oct. I went into debt (have a $300 bank note) that paid my tuition and books, not covered by my grants. In Nov. I received food stamps and a check of $69 from A.D.C. It is now $79—due to an error.

My rent for a 4 room house is $65—Water & Sewer $10—Utilities $38—Phone $5.40. Plus car expenses for going to Mt. P.

I have a 15 yr. old son 6 ft. 200 lb—a pair of shoes size 11½ triple E are a must tomorrow—$25—His clothes cost me a lot—My 13 yr old girl and I wear the same clothes which we make.

I started to Muscatine C.C. at age 36 & have transferred to Wesleyan & will finish at Thanksgiving this year—2½ yrs—and have been on Honor Roll's each time—Expect to teach in "Special Ed" with Retarded or slow learners.

Feeding a 15 and 13 yr old on $20 per wk. takes planning. Seems as if they can eat around the clock—I use lots of rice and chicken combinations. Any help you can give the "Win" folks on Food Stamp Program will be appreciated.

Sincerely,

Mrs. ROSE BROWN.

EVANSDALE, IOWA,
February 26, 1972.

DEAR MR. HUGHES: I'm a Win participant. I have just received a letter from Social Services informing us of an increase in our food stamps because of our incentive pay.

It probably won't be more than $10.00 increase which is merely a guess as I haven't spoken to them yet, this being a Saturday.

I'm wondering if the one's that passed this realize what a hardship this makes on most of us.

First let me explain, I have been on ADC for some time. I have only the highest regard for this organization. They have been very good to my family.

They have helped in every possible way they can. I appreciate this beyond words. I know God is working for myself and others in the same position through their hands.

In my case, I have always done hard manual labor till my back gave out on me. Now Win have given me an opportunity to support my family by giving me an education for a better job. I plan to finish my G.E.D. then take Business Clerical.

When completed, I will be able to get a job which should allow me to get off ADC. This is my goal.

Now the issue is this, they had told us the incentive pay was for gas, lunches, and clothes (as most schools have dress codes) etc.

I have been trying, since receiving the notice, that this will increase our food stamps, to figure the least I can go on.

If you have ever checked you'd find just a simple cotton blouse costs $5.00. This is an example of the cost of clothes.

I can only say it is cutting it so close I wouldn't be surprised to see several dropouts.

I am lucky, I have two wonderful children who want this for me and with God's help I'll complete my education.

I realize it won't be easily done. I don't expect to have things handed to me.

If there is anyway you can help to stop this increase in the food stamps, I know everyone in the program would be grateful.

If after reading this you think I'm right in this request, please try to help and God be your guide.

If you think I'm wrong. Thank you for taking time to read my letter and God Bless You.

Sincerely,

BARBARA J. DALL.

EVANSDALE, IOWA,
March 27, 1972.

DEAR SENATOR HUGHES: I want to personally thank you for your reply.

I took your letter to school with me and showed the girls. Everyone was very pleased to know you cared what happens to us.

Since I wrote you I have passed 4 of the 5 G.E.D. tests and started my clerical training. Each time something seems a little hard I think of the people like yourself who care, really care about me as an individual and I try that much harder. We all need to know someone cares. Thank you Senator Hughes for caring.

Sincerely,

BARBARA F. BALL.

P.S.—I'm enclosing a list of names.

These people desire the same as I and wish to express it in this way.

LIST OF NAMES

Sharon Vaughn, Joyce Lennie, Michelle Buehner, Karen Moe, Judy Peterson, Cleone Moehl Instructor, Wayne Sallis, Shirley Vaughn, Pauline Harris, Lottie Oden, Mildred Eckert, Joann P. Moore, Mary Zwanziger.

JoAnn Qualls, Donald Edward Taylor, Dick Finch, Linda P. Kaufman, Edna Mae McDonald, Sally Anderson, Mike Small, Marlene O'Neal, Marilyn King, Marion Barnes, Ardie L. Proctor.

DES MOINES, IOWA.

Senator HAROLD HUGHES,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: It has come to my attention recently that mothers involved in the W.I.N. Program, who are on A.D.C. have become merciless victims of this unjust society. These are women attempting to get an education in order to better the future for themselves and their children. This government has found it necessary to count the money these women spend on their tuition as part of their income. While these women are paying for something very much essential, the government ironically views it as income. As a result their food stamps cost much more.

The government has put these women in an unjust position of forfeiting their education, which could better the future of their children, in order to feed their children adequately. Don't these women have the right to feed their children adequately now, as a reward and incentive for their attempting to better their family's future? Why should they be forced to forfeit one for the other?

I ask you to think about the inequity of this situation, and to think about the value of "democracy", which is being abridged here. These mothers need your help, and more importantly, your support on this issue.

Sincerely,

WENDY RUSH,
Student, Drake University.

DES MOINES AREA
COMMUNITY COLLEGE,
Ankeny, Iowa, March 8, 1972.

Senator HAROLD HUGHES,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR HUGHES: Since you hail from my part of the country (I grew up in Mapleton in Monona County) I have watched your career with interest and pride and have given my support at the polls and in individual and group political action. I have always felt that you could be counted on for rational and just action when support might be needed on a specific issue that affected "little" people adversely. An issue has arisen that needs to be tackled by someone of your caliber who has a real concern for intelligent and compassionate treatment of undereducated and underprivileged people. I am writing to share what knowledge and insight I have of the situation, hopefully to help to influence you to intervene in the recent policy change affecting certification for food stamps.

You are no doubt aware of the technical aspects of the directive recently issued by the Department of Agriculture concerning readjustment of personal income of ADC clients in regards to food stamp certification. My technical knowledge of the policy is nil, but my personal experience with the WIN (Work Incentive Program) clients who are being caught in a bureaucratic squeeze is extensive. I have been working with these people as a parttime instructor in the area of G.E.D. testing preparation, high school completion, college preparatory study, and pre-career training since August of 1970. Prior to this I worked with low income people who were pursuing additional education on their own or under O.E.O. guidelines. I believe I am in a position to say with some certainty that it is an extreme hardship for low income people to make continuous and satisfactory progress in upgrading their skills without supportive help from government agencies. Babysitting, transportation, clothing, lunch money, incidentals: all these people like you and me can easily manage. To low income people these expenses and scheduling details become mountainous obstacles which, when coupled with the daily problems and crises which are inevitable when one is living on a marginal income, eventually destroy their desire to make a better life for themselves and their dependents. I can document, from my files alone, innumerable cases of high motivation-low income-frustration-defeat syndrome. What these people need and have always needed is sensitive and intelligent support of their goals backed up by just a little financial support.

It doesn't take a great deal of money; these people are quite adept at stretching pennies to the utmost.

WIN has provided both sympathetic, intelligent guidance and a stipend. In Polk County it is viewed as a lifeline for those who refuse to accept ADC as a way of life but are temporarily reduced to this necessary means of support. The new policy on food stamp certification directly penalizes WIN clients because it includes their $44 transportation allowance, $30 satisfactory progress bonus, tuition costs, job training costs, and materials expense as part of their personal income. Again, I do not thoroughly understand the system of deductions and allowances before final certification is granted, (but neither do the I.M.U. workers, apparently, for much confusion reigns in the food stamp offices, according to my students) but I do know how my students have been affected, and I know this to be unfair by all standards of moral and ethical conduct. I will give you one example and hope that you consider it representative, which I am sure it is. One of my students with 2 children has been paying $30 per month for $84 worth of food stamps. She recently completed her high school requirements and was enrolled in training to become a cosmetologist. Because her tuition costs, among other items listed above, were included as part of her personal income, she was forced to pay $70 for $84 worth of food stamps this month. Because she must drive her children to a day care center and then park downtown in a high cost area, her transportation expenses have increased while her actual cash-in-the-pocket is appreciably decreased. Yet she never sees a cent of the tuition, training, and materials fees, and the $74 addition to her ADC grant is minimal to cover necessary additional expenses incurred by leaving the home 5 days a week.

Such a result from a policy designed to aid dependent children can only be an example of gross misinterpretation of policy or an incomprehensible lack of awareness of basic facts of survival on the part of policy makers. I am inclined to believe that the latter is true, since this case is only one of many in Polk County alone. All WIN clients will be affected between March 1st and May 1st as this policy is implemented. Every day I must face the frightened and disillusioned faces of my students who were beginning to believe in the possibility of attaining respectable and honorable self-sufficiency. I beg of you as a compassionate human being and demand of you as my representative in the Senate to use your knowledge and influence to make rapid and just changes in this ridiculously unjust policy.

Sincerely yours,

SHIRLEY F. BERTIN,
Instructor, Adult Education.

IOWANS TELL PLIGHT UNDER NEW CURBS ON FOOD STAMPS

(By Janet Bowers)

Iowans who have been cut off from the federal food stamp program as a result of new regulations began voicing protests in hearings Wednesday.

About 40 low-income Polk County residents have filed complants with the State Department of Social Services. Appeals were being heard by Henry Gering, chief hearing officer for the Department.

Wednesday's hearings are just the beginning, Gering said in an interview.

110 APPEALS

In March alone—when the new food stamp rules went into effect—110 persons in Iowa, including the 40 persons from Polk County, filed appeals.

The revised food stamp system is supposed to give more poor people a chance to buy food as less cost.

For instance, a four-member family now can qualify for stamps if its monthly income is less than $360. Before, it couldn't make more than $305 to be eligible.

But the side effects of the new regulations have resulted in many other persons who were receiving stamps being cut off or forced to pay considerably more money for the same amount of food-buying power.

The state hearings being held now probably won't help those persons who need food stamps right away to keep going.

"They might come en masse or march on the Statehouse," Gering said, "but it's not the state rules that are to blame. It's the federal regulations."

FRUSTRATED

Gering added that he is "very distrubed" and "frustrated" because in many cases he would like to defy the federal regulations but can't.

"I'm going to document everything we hear in these appeals and then turn over the information to Washington where the change must come."

Gering suspects that the new rules eventually may be challenged in court for being "discriminatory or unconstitutional."

An aid-to-dependent-children (ADC) recipient, Mrs. Judy Marquardt of 3927 Richmond Ave., declared Wednesday, "I don't think the politicians in Washington knew what they were doing.

"They passed this new food stamp law to get at people who might be cheating, but they're hurting those of us who are trying to get ahead and don't like being on welfare."

Mrs. Marquardt is one of 230 ADC mothers in Polk County participating in the Work Incentive Program (WIN) in which they go to school to train for better jobs so they can get off the welfare rolls.

PAYING MORE

Before the new food stamp regulations were implemented Mar. 1, Mrs. Marquardt paid $10 a month for $84 worth of stamps to feed herself and two children.

Now she must dish out $46 for $88 worth of stamps because the financial benefits she receives from WIN must be counted as part of her "income."

"I just can't scrape up $46 a month for food and still have money enough money to go to school," Mrs. Marquardt said.

Others protesting the new food stamp rates have been cut off entirely, including ADC mothers who are living together so they can save on rent and baby-sitting costs. The new law states that unrelated persons cannot live together and qualify for stamps.

Young adults who have been claimed by their parents as tax deductions also are now ineligible for food stamps for the year they were claimed and for one full year after.

INTENT

The basic problem is "legislative intent" versus "what the U.S. Department of Agriculture is actually doing with those intentions," said Quenten L. Emery, director of the Polk County Department of Social Services.

"Over-all, the new food stamp law is an improvement," he said.

"Congress tried to crack down on middle-class, hippie-type college students who were getting food stamps, but the Agriculture Department went beyond that in carrying out legislative intent," he conceded.

It might take some time, Emery concedes, "but if the public raises enough hassle about this I think Congress will make the Agriculture Department change some of its ways."

CUT IN FOOD FUNDS IMPERILS ADC MOTHERS' JOB TRAINING

(By Janet Bowers)

New federal food stamp regulations hinder rather than help welfare mothers who are going to school in an attempt to get off welfare, a top official of the program here said Tuesday.

Since last Wednesday some 1,300 Aid to Dependent Children (ADC) families in the Work Incentive Program (WIN), in which the mothers are training for better jobs, have had to pay considerably more for food stamps.

The total includes 230 ADC families in Polk County.

Because the food stamps will cost more, "many will be forced to quit school," the WIN supervisor in Polk County, Marion Kieft, said in an interview.

"PENALIZED FOR TRYING"

Example: Before Mar. 1, one ADC family of three—mother and two children—paid $33 cash each month and got $84 worth of food stamps.

Now, that same mother going to school under the WIN program has to dish out $52 for $88 worth of food stamps.

But if she stayed home, she would have to pay only $27 for $88 worth of food stamps.

"She's being penalized for trying to better herself by going to school and learning a trade, while a mother who sits at home is getting more food stamp benefits than ever before," WIN caseworker Robert Lipman told The Tribune.

The reason for this change has to do with new federal rules for determining "adjusted income."

MUST DEDUCT

In an attempt to close up food stamp loopholes, the U.S. Agriculture Department requires welfare recipients to deduct a portion of all their "assets" or "resources," including financial benefits from WIN even though they never see the money.

"It looks like WIN is an innocent victim" of the federal government's attempt to tighten those gaps, said Mrs. Kieft.

WIN is a job-training program financed with 80 per cent federal money and 20 per cent state funds. It is administered jointly by the Iowa Employment Security Commission and the county Department of Social Services.

It works this way:

An ADC mother can go to school free. Many take one-year courses at Des Moines Area Community College Vocational School where tuition, fees, and books cost about $100 a month. In addition to paying these fees, the WIN program takes care of her child-care costs, usually about $100 a month.

NEVER SEES MONEY

The WIN mother never sees the $200 a month which goes for school and baby-sitting expenses. That bill is paid directly by the employment commission.

The student mother also receives $44 a month in pocket money for travel and school extras, plus $30 as a work incentive.

"That $74 barely covers the cost of transportation to and from school, lunches and clothes for school," said WIN caseworker Judy Ballinger. "She's got to have more clothes when she's going to school than when she's just sitting at home watching the children."

Before the new regulations went into effect, the $74 and the $100 tuition were not included in figuring her "adjected income" to determine how much money she had to pay for food stamps.

Now they are: so the AIA-WIN mother finds herself in a higher "income" bracket getting fewer food stamps for every dollar.

THIN MARGINS

The food stamp pinch will hurt WIN women who already are living on thin margins, said director Kieft.

She speculates that many mothers "for a while at least will try to stay in school but "eventually will have to start dipping into their $74 school money" to come up with enough dollars to buy food stamps every month.

"A family needs to eat, but a mother doesn't need to go to school," added caseworker Ballinger. "You know which is going to go first when there's not enough money for both."

None of the three WIN administrators interviewed by The Tribune sees any easy, speedy solution.

"The federal law has to be changed so that a woman's WIN benefits are not considered part of her income," said caseworker Lipman. "We are encouraging our people to file appeals, and the state office already has complained."

DISCOURAGING

But how much weight the Iowa WIN program will carry in Washington is rather dim and discouraging, admits Mrs. Kieft.

Nationally, the four-year-old Work Incentive Program has not been particularly successful. In 1971 four out of every five WIN participants dropped out.

Iowa's WIN program, however, is rated No. 1 in the country.

State records show a 46 per cent "success" rate. Almost one of every two women in Iowa who started school under WIN, Mrs. Kieft said, completed their courses, found jobs they would have otherwise not been qualified for, and reduced their dependency for public assistance.

PROTEST NEW FOOD STAMP RULES

To the Editor:

We are a representative group of WIN (Work Incentive Program) clients who are adversely affected by the recent Department of Agriculture directive on certification for food stamps. ADC is not a way of life for us; it is a necessary means of survival for a temporary period, we hope. The WIN program represents the most realistic and hopeful route for us to upgrade our skills so that we can become self-supporting and return to our former roles of average taxpaying citizens.

In addition to ADC grants, WIN clients receive $44 per month for transportation expenses, etc., and $30 per month as an incentive bonus. This small stipend enables us to meet the additional expenses incurred by attending school or getting on-the-job training five days a week—the education or experience we need to upgrade our skills to become employable at a level that will enable us to get off ADC.

The new regulation includes this $74, our tuition or job-training costs, and the cost of books or other materials as part of our personal income. (Only the $74 is received by us as actual income; other expenses are paid directly to the agency involved.) This readjustment of our declared income results in our paying a higher price for food stamps. For example, one of our group is required to pay $40 per month more, or $70 for $88 worth of stamps.

This recent food stamp directive which penalizes those who make an effort to work their ways to self-sufficiency is unjust. We are writing to Senator Harold Hughes, Senator Jack Miller, Congressman Neal Smith, Governor Robert Ray, and State Commissioner of Social Services James Gillman, seeking their support to have this policy rescinded. We need the help of all who sympathize with our efforts.—Violet Moore, Karen Fister, Viola Brown, Betty Edginton, Noreen Thompson and Theresa Perez, WIN Students in the Area XI High School Completion Center, 105 E. Grand Ave., Des Moines.

THE SPRING OFFENSIVE

Mr. BROOKE. Mr. President, all of us know how distressing it can be to drive along the highway in the spring and see blooming fields of beer cans, and running rivulets of rubbish, where flowers and fresh streams ought to be.

I am pleased to say that Massachusetts, which is one of the foremost tourist States in the Union, is doing something about the problem. Several departments and agencies of State government, under the direction of the regional Environmental Protection Agency, have banded together to enlist community and citizen support for "The Spring Offensive."

Every Massachusetts citizen is being asked to participate in a four-part program, aimed at cleaning up communities and highways, parks and rivers, beaches and lakes throughout the Commonwealth. In the culmination of the program, local communities will be encouraged to set up pilot recycling programs to resolve, on a continuing basis, the problems of pollution.

Mr. President, waste disposal is everybody's business. But I know of no State in the Union where the people have been mobilized to such an extent to combat it.

I commend the imaginative regional administrator of the Environmental Protection Agency, Mr. John McGlennon, as well as the Governor, the Lieutenant Governor, and other members of the State government who have conceived and are cooperating in this massive and constructive project. I call their initiative to the attention of Senators and ask unanimous consent that a small brochure outlining "The Spring Offensive" in more detail be printed in the RECORD.

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

THE SPRING OFFENSIVE

WHAT IS THE SPRING OFFENSIVE?

The Spring Offensive is an all-out attack against litter, rubbish and debris that pollute our rivers, destroy our beaches and ruin our parks and forests.

The Spring Offensive is an educational program designed to promote a greater concern, a greater awareness, a greater appreciation of our living environment.

The Spring Offensive is a community action program in which all are urged to participate.

WHO ARE THE ORGANIZERS?

The Spring Offensive is a joint effort between the Environmental Protection Agency, Governor's office, Lieutenant Governor's office, Metropolitan District Commission, Department of Natural Resources, Youth Task Force and numerous citizens' groups throughout the State.

WHAT PROGRAMS WILL BE UNDERTAKEN?

The Spring Offensive will be carried out in four phases, April 22 through May 13.

April 22—Community Cleanup: Local projects will be encouraged. Cities and towns are asked to set up some type of cleanup program and to seek community support for this project.

April 29—Park and Reservation Cleanup: Four areas have been targeted for cleanup during this phase: Pittsfield State Forest; Wachusetts Reservation (Princeton area); Middlesex Falls Reservation (Stoneham-Winchester area); and Stonybrook Reservation Dedham-Hyde Park area).

May 6—River and Beach Cleanup: Selected cleanup areas are: Charles River (both upper and lower); Housatonic River (from Lee to Pittsfield); Revere Beach and Wollaston Beach.

May 13—Recycling Campaign: Local communities will be asked to set up pilot recycling programs. This could involve tin cans, newspapers, aluminum, glass, etc. The programs will work on a trial basis and, if successful, could become permanent. A recycling Committee will work with local communities in helping organize a project.

HOW CAN I HELP?

The success of this effort will depend on the type of community support it receives. We need volunteers. We need trucks. We need *you*.

This is the most ambitious environmental restoration project ever attempted in Massachusetts. It is worthy of support. It will serve as a pilot program for future efforts of this type.

If you don't mind getting your hands a little dirty; if you are interested in working for a cleaner and healthier environment and can spare a few hours for a most worthwhile project, then please fill out the enclosed card and just drop it in a mailbox—no postage is required. Or, you can call our Spring Offensive Hotline at (617) 727-3699 between 9 a.m. and 5 p.m. Monday through Friday.

Remember . . . It is up to us to make this program a success.

SUPPORT THE SPRING OFFENSIVE!

BANGLADESH AND PAKISTAN

Mr. HARRIS. Mr. President, on March 21, the junior Senator from Minnesota (Mr. HUMPHREY) and I introduced a resolution which asked the administration to report to Congress within 30 days on measures that could be taken by the United States and the international community to assist endangered minorities in Bangladesh and Pakistan. Since that date six Senators—Mr. BURDICK, Mr. MAGNUSON, Mr. MCGOVERN, Mr. MONDALE, Mr. Moss, and Mr. MUSKIE—have agreed to cosponsor the resolution.

This was a first step. Yet, despite this initial show of concern by Congress, the general reaction throughout the world for this problem has been one of silence. It is difficult even to obtain information on the living conditions, which are known to be difficult, of the Biharis in Bangladesh or the Bengalis in Pakistan.

An April 3, Washington Post article by Lee Lescaze entitled "Biharis—People Without Future" is, therefore, of special interest. Mr. Lescaze reports that although the killing of non-Bengalis has ceased in Dacca, the "Biharis, non-Bengali Moslems clustered in their enclaves, remains a people without a future." Mr. Lescaze states that the Bihari camps, into which the non-Bengali population has fled in fear, are "staggeringly crowded," that because of the hatreds engendered by the civil war in 1971 Bengali employers refuse to hire Biharis, and that Bangladesh officials have refused to allow the International Red Cross or any foreign organization to inspect its jails where Bihari and other prisoners are held.

This is what is apparently happening in Bangladesh. What is happening to the Bengali minority in Pakistan?

There is no way to know. Press attention to the plight of the Biharis in Bangladesh has been minimal. But press coverage of the conditions in which Bengalis find themselves in Pakistan has been virtually nonexistent. All we know is that some Bengalis also are being forced to live in camps and that Pakistani officials have raised the specter of retaliation

against Bengalis in Pakistan if the Biharis in Bangladesh are not better treated.

Mr. President, in a press interview carried in Newsweek for April 3, Pakistan President Bhutto stated that Pakistan would agree to exchange its Bengali minority for Biharis in Bangladesh on a 1-to-1 basis. Long before Bangladesh officials expressed willingness to engage in a limited population exchange.

Certainly no one in either government wishes precipitously to plunge into the enormous problems entailed in a massive population exchange until every alternative has been exhausted. But both sides clearly are ready to work together to ease the plight of minority populations if they can only receive adequate assistance and support from the international community. I therefore urge other Members of the Congress as well as the administration not to ignore this issue until we read of new repression or violence in either Pakistan or Bangladesh.

Mr. President, I ask unanimous consent that the Washington Post article of Mr. Lescaze and the Newsweek interview of President Bhutto be printed in the RECORD.

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

[From the Washington Post, Apr. 3, 1972]

BIHARIS—PEOPLE WITHOUT FUTURE

(By Lee Lescaze)

DACCA, April 1.—Dacca's minority population is being squeezed into smaller and smaller areas as their homes are appropriated by Bengalis.

Killing of non-Bengalis which took place sporadically in the first months after Bangladesh's independence has ceased in Dacca, but Biharis, non-Bengali Moslems clustered in their enclaves, remain a people without a future.

In Mohammedpur, a Dacca suburb, 38,000 Biharis are crowded into five camps where the lucky families live in tents provided by the Red Cross and others have erected flimsy homes of blankets and cotton sheets.

The camps are staggeringly crowded. In one, 16,000 people live within a walled compound about 50 yards square. Their tents cover the roofs of the compound buildings as well as the courtyard. Ten people are assigned to each tent. The community has 23 latrines, four pumps at which people line up for hours to draw water, and their only source of food is the International Red Cross. Small fights broke out today at two of the camps between families which felt they were not getting a fair share of food. An official of one camp said that the community used to receive four times as much grain as the roughly 9,500 pound ration they now receive daily for 16,000 people.

FOOD FIGHTS

Outside the camps are the relatively comfortable houses where Biharis lived before independence. Most of these are now being turned over to Bengali families, and the Biharis have to move into the camps or attempt to find friends who will take them in.

A college teacher who, according to residents of Mohammedpur, is an example of one who chose not to enter the camps is paying a small rent to stay with a friend in Dacca's Old City. He is living on the money he got by selling his Honda, and when that runs out he will sell his clothes, he said.

"When they are all gone I will beg on the street," he added.

BETTER CONDITIONS

In Mirpur, another Dacca suburb, the Bihari residents have been cleared out of roughly half the houses. Conditions are far better than at the Mohammedpur camps because there is considerable open land, there are ponds for bathing, and there are not as many people. But as in all Bihari communities, the people have almost no money. They have not worked since independence, and even if they could leave their community without fear of being beaten or kidnapped and held for ransom, no one would go.

Bengali employers refuse to hire them because of the animosity toward Biharis, many of whom collaborated with the Pakistan army regime here, before Bangladesh won its independence. The official language of Bangladesh is Bengali, and the Bihari clerical workers can only write English and Urdu, the main language of Pakistan. Several Biharis in Mohammedpur and Mipur say they have been arrested, and were freed only after posting bail. They say that the amount of bail is fixed according to how much the jailer believes he can get from them. Bangladesh has refused to allow the International Red Cross or any foreign organization to inspect its jails. The Bihari former prisoners tell stories of overcrowding, lack of food and arbitrary arrests.

In Dacca Jail, one Bihari said, 300 men were kept in a room in which there was not enough room for them to lie down. They stood or sat hugging their knees with their arms all day, he said. For one hour each day the prisoners were allowed to leave the room to go to the toilet. Some days they were given rice twice, and other days only once.

The Bihari, clerk before independence, said he was arrested by police who picked him and other men arbitrarily from a crowd of men in Mirpur and that he and 70 others of the 300 in his room were released equally arbitrarily after being held for 10 days.

The Dacca prison was built for about 2,000 prisoners, according to the government. Bangladesh officials announced recently that there are more than 10,000 prisoners there now.

Most Biharis continue to hope that they will eventually be able to leave Bangladesh. The Red Cross is working to arrange an initial exchange which would fly 1,000 Biharis from here to Pakistan, and 1,000 Bengalis from Pakistan to Bangladesh.

But the numbers of people involved in a total exchange would be huge, and there are almost three times as many Biharis in Bangladesh as there are Bengalis in Pakistan. All statistics are unreliable, but officials estimate 1.5 million Biharis live here now.

Originally the Biharis lived in India, but as Moslems they came to what was East Pakistan after the partition of British India after independence into Hindu India and Moslem Pakistan. Many of them express a preference to return to India rather than going to Pakistan, but Indian Prime Minister Indira Gandhi has said her nation will not accept them.

[From Newsweek, Apr. 3, 1972]

A TALK WITH PAKISTAN'S PRESIDENT BHUTTO

As a result of his country's crushing defeat at the hands of India last December, Pakistan's President Zulfikar Ali Bhutto is faced with the unenviable job of repairing the damage wrought by the military regime that preceded him. Last week, Bhutto discussed some of his major problems with NEWSWEEK Senior Editor Arnaud de Borchgrave. Below, a sampler of Bhutto's remarks:

ON NEGOTIATING WITH INDIA

We recognize the realities of the postwar situation. But it's hard to figure out what [the Indians] really want. Already, hostile propaganda has resumed on their radio. Border incidents, too. Isn't half our country enough? The 93,000 Pakistani prisoners of war [in Indian hands] have to come back sooner at later. They are a wasting asset for India. The international community will demand their return. As for Kashmir, the people must have the right of self-determination . . . [In talks with India] we must start with smaller problems. First one must ease tensions—much the way Willy Brandt did with Ostpolitik. We could restore trade, diplomatic relations, air services, official visits, sports events, etc. We cannot clear the deck of history in one fell swoop, but with evolutionary processes.

ON TIES WITH BANGLADESH

First I released Mujib [Prime Minister Sheikh Mujibur Rahman of Bangladesh] unconditionally. I thought this would be a happy augury for a new era. I was wrong. Well, now I have less birds in the cage. My nightingale has gone. You can't expect me to follow up one unilateral concession with another. If India releases our prisoners [first], then I could take the next step. I am quite prepared to recognize Bangladesh, but there must be a quid for my quo.

ON THE BIHARIS

The status of the Biharis [the 1.5 million non-Bengali Moslems in Bangladesh] is an atrocious nightmare. We can take some—one for every Bengali who wants to leave our side. Mujib says he exercises control. Then he is answerable for the Biharis' safety just as we are for the 400,000 Bengalis on this side.

ON WAR CRIME TRIALS

I am not apologizing for what our generals did in East Pakistan. I repeatedly spoke out against their excesses. But you should remember that it was a vital question of protecting our territorial integrity and sovereignty as a nation. All civil wars are bloody. If Mujib wants to try some of the people who went berserk, we are prepared to oblige. But not another Nuremberg. Heaven forbid. It would only heighten tension.

ON WAR WITH INDIA

Does India want to dismember what is left of Pakistan? Subjectively speaking, I say yes. Obviously speaking, I say she will not . . . We must take a leaf or two out of North Vietnam's military textbook. A people's army rather than a conventional army. That is the philosophy that will guide us in our defense policy. It will require a great deal of indoctrination. Every village will have to be self-sufficient for its own defense.

ON RELATIONS WITH CHINA

I can't go into details [about reports that China has agreed to reequip several Pakistani divisions]. They are helping us. That's undeniable. But it doesn't begin to compare with Russia's military aid to India and with India's own capacity to produce modern weaponry . . . China is now Moscow's obsession. Before, it was the U.S. In any event, we're not interested [in a Moscow-sponsored Asian security pact] and I told the Soviet leaders as much in Moscow recently. I said we were too small to be of harm to Russia or of help to China. Russia had already concluded a far-reaching treaty with India and India a similar one with Bangladesh. It does not require too much of an imagination to understand what is going on. We've had our fill of pacts. But I do not want to leave myself completely naked. In the light of the Indo-Soviet treaty and how it was used to dismember Pakistan, it would be madness for me to abandon old commitments [to the U.S.-sponsored Central Treaty Organization]. I am merely opposed to entering into new ones.

NO-FAULT AUTOMOBILE INSURANCE

Mr. STEVENSON. Mr. President, like many other Senators I am concerned about the uneven coverage and rising costs of automobile insurance. In an attempt to correct the inefficient and costly operation of the present fault system in the District of Columbia, I introduced the District of Columbia Automobile Insurance Reform Act which would provide for a compulsory no-fault auto insurance system in the Nation's Capital where Congress retains legislative jurisdiction. The proposed legislation for the district is not incompatible with a congressional approach to national reform.

Today, I should like to place in the RECORD an article from the New York Times Magazine of April 9. The article was written by Michael S. Dukakis and Stephen Kinzer. The title of the article is "If Your House Burns, You're Covered No Matter Whose Fault Is Was. And If Your Car Crashes?" The article outlines the progress and success of the Massachusetts plan of no-fault reform. Although it emphasizes the feasibility of reform within the States, it also stresses the need for the Congress to move in a manner which will encourage a coordinated national approach toward much needed reform.

Mr. President, I ask unanimous consent that the article by Mr. Dukakis and Mr. Kinzer be printed in the RECORD.

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

IF YOUR HOUSE BURNS, YOU'RE COVERED NO MATTER WHOSE FAULT IT WAS. AND IF YOUR CAR CRASHES?

(By Michael S. Dukakis and Stephen Kinzer*)

BOSTON.—Since its adoption in Massachusets in 1970, no-fault automobile insurance has become the nation's most talked-about consumer issue. Florida has already enacted a plan similar to the one in Massachusetts, and three other states have made small steps toward no-fault. More than a dozen state legislatures—New York's among them—are seriously considering the reform, and a proposal for national no-fault insurance was introduced in Congress last year. Massachusetts itself, which first approved no-fault insurance for personal injuries only, has now extended the new system to property damage as well.

No-fault insurance in Massachusetts, the first reform in this complicated field since the days of Henry Ford got off to a very confusing start. Only now, more than a year after the system went into effect, is the smoke beginning to clear. Needless to say, approval of no-fault in Massachusetts is not unanimous, although the insurance companies have, somewhat belatedly, become supporters of it. Unforeseen gaps in the plan have also arisen along the way. Nevertheless, a few of the figures so far are heartening, indeed dramatic.

Before the no-fault plan started, actuaries in Massachusetts were predicting a 25-to-30 per cent increase in bodily injury premiums under the system, rates for all bodily injury coverage went down 15 per cent in 1971. Moreover, rates for the basic compulsory coverage went down *another* 27 per cent in 1972.

There has also been a substantial drop in insurance claims and in reported accidents. The Registry of Motor Vehicles recorded a drop of 30 per cent in reported personal injuries in 1971, down by 58,000 from 1970. The number of accidents alleging personal injury or property damage of more than $200 has dropped by 16,000, or about 10 per cent. Apparently, motorists are beginning to realize that a fabricated accident or exaggerated claim of personal injury no longer pays the dividends it used to. And while the decline in reported accidents doesn't necessarily prove the state's motorists are driving more carefully, neither does it support the contention of those who opposed the plan that no-fault would encourage reckless driving by failing to hold anyone responsible for a collision.

The problems that Massachusetts faced under is old system of auto insurance are essentially those that face every state in the union. The traditional system of compensating victims of two-party automobile accidents consists of two main parts: First, it requires the victim of an accident to prove that the other party was at fault and that he, the victim, was blameless. Second, it provides that if the victim can win the fight over fault, he is entitled not only to his actual losses (medical expenses, lost wages, and so forth) but compensation for his pain and suffering—that is, for the emotional distress that presumably goes along with the injury.

The system's gaping holes are obvious. In the vast majority of auto accidents, it is impossible to prove definitively which party was at fault. Poor highway design, weather conditions, lighting and a host of other factors play a role in many accidents. Furthermore, trying to determine what pain and suffering are worth is often impossible. What for example, is a prolonged backache worth? Three dollars a week? Thirty? Three hundred? Nobody can really say, but today in the states that retain the fault system, judges, juries, lawyers, investigators, claims adjusters, doctors and other members of the tort fraternity spend thousands of hours and millions of dollars each year fighting over that very question.

The result of this inefficient and wasteful system is that a staggering amount of money is paid by policyholders simply for the expense of running the system. In Massachusetts, fully 55 cents of every premium dollar was never returned to the consumer in the form of payments for injuries suffered in accidents. Instead, it was paid to all of the people required by the system to "prove" who was at fault and to argue over the dollars-and-cents value of pain and suffering. The 55-per-cent overhead figure compares with 3 per cent for the Social Security and 7 per cent for Blue Cross-Blue Shield. In other words, it is eight times more expensive to settle auto insurance claims under the tort system than it is to handle a payment under common forms of health insurance.

But the huge overhead expense is not the only factor contributing to the spiraling cost of auto insurance in America. A study completed in 1968 by the American Insurance Association revealed that the tort system can be extremely profitable for the trivially injured victim. According to A.I.A., a person injured in an auto accident who sustains actual losses of less than $100—and these are the great majority of claimants—will on the average receive more than seven times his dollar losses.

Conversely, the A.I.A. found that the more serious one's injury, the less one receives relatively. In fact, those persons whose medical expenses and lost wages exceed $10,000 because of very serious injuries do not on the average even receive their out-of-pocket losses, let alone something for pain and suffering.

Because the tort system requires an injured victim to prove that the driver of the other car was at fault, there are many cases in which a seriously injured or crippled victim of an automobile accident receives little or nothing. He may have been perfectly innocent; his injuries may have been severe. But since he cannot prove in court that the driver of the car that hit him was negligent, he receives absolutely nothing from that driver or his insurance company.

The need for reform is obvious. It was even more obvious in Massachusetts than in most states. Here, a 1927 law had made auto insurance compulsory. With motorists in the state spurred on by the knowledge that every car involved in an accident was covered by some insurance company, Massachusetts achieved the unenviable distinction of having the highest claims frequency in the country—twice the national average. This resulted in a lucrative free-for-all in claims settlements, in which a backache or a "whiplash neck" could prove to be a financial bonanza for a driver with minor injuries, who was often healed by a generous settlement.

Progressive lawyers, legislators and consumer spokesmen around the country have been aware of this problem for years. Insurance rates were skyrocketing, and no end was in sight. But until 1966, no serious and feasible alternative had been proposed. In that year, the first real breakthrough in the fight to reform auto insurance was made. Professors Robert Keeton of Harvard Law School and Jeffrey O'Connell of the University of Illinois College of Law, after a three-year study of the problem, presented a blueprint for change in a book entitled "Basic Protection for the Traffic Victim."

Keeton and O'Connell are both specialists in insurance and personal-injury law. Both had tried cases at the bar before beginning their teaching careers. Their recommendations urged the complete scrapping of the existing tort-liability system in all but the most serious cases. In its place they proposed the adoption of a new system of motor-vehicle insurance under which, as in the case of health-and-accident or homeowners insurance, an injured victim would be paid by his own company for his actual medical expenses, lost wages, and out-of-pocket losses, without regard to fault. The same policy would pay his passenger or a pedestrian injured by him.

Each motorist, under what Keeton and O'Connell called the "basic-protection plan," would be required to carry a policy which provided up to $10,000 for any one person and $100,000 for any one accident in this no-fault, economic-loss coverage. Suits between parties would be prohibited except in cases of serious injury that had caused a loss of more than $10,000 or pain and suffering of more than $5,000. In these cases—and they are only a tiny fraction of the total claim volume—the injured person could sue the operator of the other vehicle in the hope of receiving a court award, just as he would under the tort system.

The advantages of the Keeton-O'Connell plan seemed obvious to many Massachusetts legislators. The vast majority of accident victims would be paid promptly by their own insurance companies for their actual losses. Court congestion would probably be reduced, exaggerated and nuisance claims would be largely eliminated, and the cost of premiums would be drastically cut as a result of administrative savings and the elimination of payments for pain and suffering in small cases. Innocent victims who sustained serious injuries and could not collect because they were unable to prove fault under the existing system would be entitled to compensation up to the no-fault limit, and seriously injured persons who were able to prove fault could sue the wrongdoer and still collect their

* Michael S. Dukakis is a lawyer who served in the Massachusetts Legislature from 1962 to 1970 and was the original sponsor of the no-fault insurance bill. Stephen Kinzer, his legislative assistant then, is now a freelance journalist.

basic-protection benefits promptly, while awaiting the outcome of their lawsuits.

In Massachusetts, where the system was even further out of control than in most states, complaints about auto insurance were deafening. Legislators were constantly asked about their failure to come up with a better auto-insurance system—and at times berated for not doing so. Yet, until Keeton and O'Connell produced their plan, no legislator in Massachusetts or any other state could really give irate constituents a suitable alternative.

Keeton himself was deeply involved in the planning of the Massachusetts drive for no-fault insurance. He met frequently with the original legislative sponsors of the bill and helped put it in a form suitable for Massachusetts. Both he and O'Connell testified at length before the Insurance Committee of the Massachusetts Legislature. Their willingness to iron out problems which arose during the debate over the bill and their ability to work with an increasingly interested Legislature were critical in the effort to win passage of the new plan.

In March, 1967, the Insurance Committee reported out the basic-protection bill (later to become known as the "Keeton-O'Connell," or "no-fault" bill) with a recommendation that it be killed. The bill had not attracted widespread attention, and it was expected to die a quiet death in the Legislature. On Aug. 16, 1967, however, its sponsors moved on the House floor to substitute the basic-protection bill for the unfavorable committee recommendation. To everyone's surprise—and to the consternation of insurance executives and trial lawyers—the House passed the bill by the overwhelming vote of 130–85. In an unprecedented display, the House membership broke into loud cheering and applause upon passage of the measure.

While it is probably fair to say that many of the legislators at that first vote were unfamiliar with the details of the bill, they were under pressure from their constituents to do something to lower auto-insurance rates. The basic-protection bill seemed like the answer. Public reaction to its passage of the bill was overwhelmingly favorable. But three weeks after House passage, Gov. John Volpe announced that he would veto the measure if it came to his desk. All the forces that had not taken the bill seriously until its surprising House passage jumped into action to kill it in the State Senate. After massive lobbying by the trial bar, some segments of the insurance industry and Governor Volpe, the bill was defeated by a vote of 27–8.

In 1968, the measure once again died in the Senate. In its place was substituted legislation authorizing a study of the basic-protection system. By the time the Study Commission released its findings in 1970, political realities in Massachusetts had changed. Governor Volpe had joined the Nixon Cabinet. He had been replaced by Republican Lieut. Gov. Francis Sargent, who had no announced position on the plan. Lobbyists fighting the plan were beginning to show signs of battle fatigue, some going so far as to label it a Communist-inspired plan to undermine the Bill of Rights by taking away the citizen's right to sue. The Study Commission finally recommended that no-fault be applied to property-damage insurance only, and thus did not offer any substantial relief to the state's motorists.

The issue had become a political hot potato. By April, 1970, Governor Sargent, then a candidate for a full term, endorsed the idea of no-fault by saying that he would support a reasonable bill and by directing his staff to work with key legislators to produce a sound compromise. The Democratic Senate President, also a candidate for Governor, announced his support of the bill. Beginning to get frantic, lobbyists had their pet Senators try during late-night sessions to amend the bill to death and to introduce meaningless substitute plans.

Finally, a compromise plan was passed, with only minimal tampering by the Senate. In the election year's greatest political coup, Sargent signed the bill on statewide television, declaring that he wasn't frightened by insurance company threats to leave Massachusetts if the bill was approved. He has since agreed with many Democrats that that TV appearance played a significant part in his successful campaign for election.

As finally passed, the Massachusetts bill is solid and workable. It provides for payment of up to $2,000 in medical benefits and lost wages by the victim's own company without regard to fault. It provides the same benefits for pedestrians injured by the insured or passengers riding with him. Only if the victim's medical bills exceed $500, or if the accident results in death, loss of a body member, permanent and serious disfigurement, loss of sight or hearing, or a fracture, can he sue the other driver.

As in the past, auto insurance is compulsory. Each motorist *must* insure his car with the basic no-fault coverage. In addition, he is required to carry a minimum liability coverage of $5,000 for any one person and $10,000 for any one accident to cover seriously injured victims, and he may carry more liability insurance to protect himself against large claims, just as he did under the old system. He may also decide that he and his family are already well insured under their own health-insurance policy and that he therefore needs no-fault coverage only for injuries that he causes to others. In that case he gets a substantial premium reduction over the basic rate.

Let's see how the new system would work in a particular case. Suppose, for example, that Mr. X is in an intersection collision, that he is bruised and shaken up but not severely injured, that he misses part of a week's work and loses $50 in pay not covered by sick leave or salary, and that he sees his doctor immediately after the accident, incurring medical expenses of $35.

Under the Massachusetts law, Mr. X can expect to be paid the amount of his medical bill ($35) by his own insurance company within days after he submits the bill. He gets this payment even if his medical bill is actually paid under other medical insurance such as Blue Cross-Blue Shield, unless he has elected not to receive his no-fault benefits. Also, Mr. X can expect to be paid promptly by his own company for 75 per cent of his wage loss. (Since insurance benefits are tax free, 75 per cent of wage loss should be roughly equal to take-home pay in most cases.) If he later has any additional lost time from work or medical expense resulting from the accident, he can expect payment in the same way from his own company, soon after he submits his bills.

In a case such as this, not involving serious injury, he does not have any claim against the other driver or the other driver's insurance company. He handles the entire matter with his own company and does not need a lawyer.

In contrast, under the old system his own company would have had no responsibility for his wage loss, and none for his medical expense. Mr. X would have to make his claim against the other driver and the other driver's company. To collect, he would have to show that the other driver was at fault. If Mr. X succeeded, however, he would be able to get something for his pain and suffering in addition to the reimbursement of his medical and wage loss. If he had a lawyer to represent him, he would have to pay the lawyer about one-third of whatever he recovered.

Now let's assume that Mr. X is seriously injured, incurs medical bills of more than $500 and is out of work for several weeks. He may proceed to collect all of his medical and hospital bills and 75 per cent of his lost wages—up to a maximum of $2,000—from his own company, without a lawyer. He may, however, sue the other driver as well, just as he did under the old system. If he collects in that suit, the money he recovers will be reduced by the amount he has already collected from his own company.

The new plan not only spares the victim long delays in recovering some of his costs but also makes a striking difference in auto-insurance premiums for the average motorist. In 1970, before the coming of no-fault, the average Boston car owner paid $117 for his basic coverage; if the no-fault system had not gone into effect, he would have been paying $150 for the same coverage in 1971. Instead, he paid $99.50 in 1971 for his basic coverage and $74 in 1972. If he has good health insurance and wage security and chooses not to receive benefits for himself and his family, he will pay only $52.

There have been additional savings on other kinds of personal injury coverage which many motorists ordinarily buy. Medical-payments insurance, for example, which pays a motorist and members of his family for their medical expenses in the event of an automobile accident, is no longer necessary. Furthermore, "extra-limits" liability coverage above the $5,000-$10,000 amount contained in the new Massachusetts basic coverage is 15 per cent cheaper than it was in 1970. (Under both the old and new systems, this fuller liability coverage was optional.)

Property and physical damage were not included in the final no-fault bill largely because of the political clout of certain insurance companies which wrote large amounts of property damage coverage for assigned (high) risks and made money by refusing to pay claims brought against their insureds by motorists whose cars had been damaged by them. Since the new plan required insurers to pay damages to their own policyholders, these companies felt—probably correctly—that they would lose customers if they continued to play their traditional game with property-damage claims.

As a result, rates for property-damage insurance rose 38 per cent in 1971. Physical-damage insurance (fire, theft and collision) rose 27 per cent. Yet, even taking those increases into consideration, most motorists in Massachusetts are paying less for their auto insurance today than they paid in 1970.

One of the mistakes of the original drafters of the bill, in fact was to underestimate the savings that no-fault would bring to the public. Insurance rates for 1971 were set on the assumption that claims would rise slightly; in practice, they have dropped sharply. The number of bodily injury claims dropped 13,000 (48 per cent) during the first nine months of the system's operation. The average settlement per claim dropped 61 per cent, from $419 to $165.

It is possible, then, that the insurance companies will walk away from 1971 with a multimillion dollar windfall in excess profits, although attempts are being made to force the companies to refund at least a portion of the unexpected largess. In 1971, the Legislature acted to prevent this from happening again. New legislation was enacted which permits the Insurance Commissioner to recoup excess profits by slashing rates in any year which follows a year in which he finds that the earnings of the companies have been unreasonable.

"Even if the companies prevail in all the court cases and walk away with $30-million or whatever it is," the Insurance Commissioner John Ryan explains, "it won't happen again, and it shouldn't happen in other states. There's no reason constitutionally why rates for the first year under a new no-fault system can't be set provisionally."

Ryan, a young lawyer who was appointed soon after Sargent's election, had before that lobbied for passage of the no-fault bill as counsel to the Massachusetts Association of Independent Insurance Agents and Brokers. Like most analysts, he now views the new

system as a success. "The amazing thing about the bodily injury bill," he says, "is that after all that fighting, it's pretty damn good."

He is hesitant to place much stress on the drop in claims, however. "We still don't know about claims. Here in Massachusetts the number of claims is down substantially, but we aren't sure whether that will hold or whether it should hold. The theory of no-fault is that people are entitled to compensation, that they shouldn't be discouraged from making legitimate claims. We're still projecting a 20 per cent increase in claims, and if the decrease holds, we can get it back. As the plan becomes better understood, you can't expect any decrease in claims unless in particular states there has been very serious abuse of the old system."

Ryan is also impressed that "there is no indication of any trouble with insufficient payment or slow payment. We get an awful lot of complaints in this office. But we haven't had one about payment problems under no-fault. The companies have set up a very efficient uniform system for making payments—about the only worthwhile thing they have come up with on their own," Ryan says, remembering the industry's attempts in the early days to sabotage no-fault.

One of the concerns expressed by some of the proponents of no-fault was that a pattern of $501 medical bills would emerge because victims were looking for the chance to bring the other guy into court to make some money. It hasn't happened, says Ryan. "Our fraudulent claims bureau is picking up indications of padding by certain doctor-lawyer combinations, but that's nothing new. We don't see many people trying to jump over the $500 threshold."

Encouraged by the success of no-fault for personal injury, the Massachusetts Legislature last year passed the law that extended the new system to property damage. Under the new plan, every motorist must purchase very inexpensive liability coverage to pay for damage to property other than automobiles—when, for example, he backs into somebody's picket fence—or for damage to out-of-state cars.

If he wants to be protected against damage to his own car, he may—but is not required to—buy one of two kinds of coverage. The first, called "all-risk" coverage, will, subject to the deductible of his choice, pay him for any damage to his car without regard to fault. The second, called "restricted" coverage, will pay him only if the other driver was at fault or if his car is damaged under certain specified circumstances—for example, when it is parked, or when it is struck in the rear by another vehicle moving in the same direction.[1]

Benefits under both alternatives are paid by the driver's own insurance company. And if the insurance company does not pay him within 15 days after he submits reasonable proof of damage, a court may order the company to pay him twice his actual damage and attorney's fees.

The new law does away with all claims and suits between Massachusetts motorists for property damage. No longer does a driver have to chase his adversary's insurer for weeks and months to recover for a bent fender. His own company will pay him under either the "all-risk" or "restricted" coverages. Moreover, while the savings are not as dramatic as they have been for bodily injury insurance, most Massachusetts motorists will be paying less for their property-damage coverage under the new system than they would have been paying under the old.

[1] In this respect "restricted" coverage is much like the type of coverage in other states under which a car owner's company agrees to pay him for injuries caused by an uninsured car, but only if the uninsured motorist was at fault.

Unfortunately, the Legislature, apparently in an effort to discourage frivolous small claims, had provided for mandatory deductibles of at least $50 under both the "all-risk" and "restricted" coverages. When the new law went into effect in January, Commissioner Ryan was suddenly flooded with complaints from car owners who found that they could not collect for the first $50 worth of damage to their car, even when someone else was entirely to blame.

Ryan moved quickly to eliminate the problem. He obtained the agreement of the insurance companies to provide the first $50 of coverage on an optional basis for a few additional dollars, and the complaints have subsided. Ryan himself wonders now whether the mandatory deductible provision should have been included in the 1971 bill. "In theory it made eminent good sense," he explains, "but I'm afraid it's been widely misunderstood and very inaccurately reported in the press. There have been complaints about it, but maybe people are thinking about insurance for the first time, and they're questioning some things that have always been true."

An industry spokesman, John O'Connor of the Insurance Information Institute, says that "the companies are delighted with the actual operation of the system." He agrees with Ryan that "the claims will be back," but he foresees the possibility of some further consumer savings as a result of lessened administrative expenses for the companies. "There have been no dollar savings in underwriting, but some savings in loss adjustment may develop as time goes on," he says. To the often-heard charge that no-fault has caused the wholesale dismissal of claims adjusters and other insurance personnel, O'Connor answers: "It just hasn't happened. Some people have been shifted to other responsibilities, but this talk about so many people being let go just isn't accurate."

One very serious problem that no-fault proponents had pointed to was the huge number of court cases which must be tried under the fault system in courts that are already overburdened with other matters. Affirming in a court decision that no-fault insurance was constitutional,[2] Justice Paul Reardon of the Massachusetts Supreme Judicial Court spoke directly to this issue:

"No one who has for any time been in charge of a trial court system (as was the author of this opinion for a number of years) can be unfamiliar with the devastating effect upon the administration of justice which the automobile has produced. The courts with their scarce resource of time simply cannot respond to new challenges or meet the new requirements imposed on them in criminal matters as long as their time continues to be consumed to the extent it has been by motor-vehicle accident cases. The problems of society to which the courts have been called no longer permit the luxury of using them as a forum for resolving the ever-increasing numbers of automobile accident claims. . . ."

Reardon noted statistics showing that as much as 60 per cent of the lawsuits in Massachusetts trial courts were for motor-vehicle cases, which he called "a cancer to be rooted out in American courts."

Because so many cases initiated under the fault system are still before the courts, it is difficult to determine the effect of no-fault on crowded calendars. One in-depth study is under way, however, and preliminary data from a few courts indicate that the number of cases is down significantly. The hallways of the Suffolk Superior Courthouse in Boston, once jammed with tort lawyers, are now relatively empty. Indeed, with tort practice decimated by the no-fault system, the organized trial bar is as critical as ever of the reform.

"Ninety per cent of tort cases are gone," explains Mrs. Kathleen Ryan Dacey, president of the Massachusetts Trial Lawyers' Association. "I had a woman call me just today from the hospital. Her whole abdomen is bruised, her hips are in bad shape, she's spent about $150 for X-rays, but there's no fracture. This probably would have meant a $3,000 settlement."

That $3,000 settlement would have depended, of course, on whether the woman could prove that the other driver was at fault. Under the no-fault system, she will get only her medical and hospital expenses, and 75 per cent of her lost wages, but she will get them from her own company quickly and without having to share them with a lawyer.

Mrs. Dacey's organization and others like it are holding seminars to retrain lawyers for medical malpractice suits and other tort cases, "but there really aren't any new fields of law," she points out. "You can go to a big firm, but most of them don't want trial lawyers. The only other place to go is government, and they only have a limited number of places. We've always had a bad general liability law in this state, and now that may go no-fault, too. They're talking about no-fault divorce and no-fault medical-malpractice insurance. I've been advising trial lawyers to find places in Federal, state, and local governments." (Mrs. Dacey herself has recently been appointed an Assistant District Attorney.)

Besides claiming that no-fault abrogates "the common-law right of a person guaranteed by the Constitution to sue a wrongdoer," Mrs. Dacey has written that the law is "discriminatory," in that a person with a $501 medical bill may sue for pain and suffering whereas a person with a $499 medical bill cannot. Further she cites the hypothetical case of a child who suffers brain damage, is kept out of school for several months and may "have his aptitude for study seriously impaired"; he would receive no compensation beyond his medical bills and other out-of-pocket losses, she asserts. This assumes that a child with serious brain damage will not incur medical expenses of more than $500, which is hardly likely.

The American Trial Lawyers' Association, a national organization with headquarters in Cambridge, has also tried to discredit the system. One of their most publicized—and revealing—attempts was a public opinion poll recently released by the Opinion Research Corporation of Princeton, N.J., which A.T.L.A. officials at first denied then later admitted that they had commissioned. On the surface, the poll lived up to its headline, "Massachusetts Accident Victims Consider No-Fault Unfair." The interviewers asked 501 auto-accident victims a series of questions about their opinions on settlement of such cases. One of the results reported was that "77 per cent say that they would favor a system whereby the driver or his insurance company would be required to pay damages in proportion to the degree of fault of the driver in causing the accident."

Among other findings, the survey purported to show that "62 per cent say it's unfair that under the Massachusetts no-fault insurance system neither the driver at fault in the accident nor his insurance company would have to pay for any of their losses." Respondents were asked: "If you were disabled in an accident and lost the use of some part of your body, do you think the other driver or his insurance company should

[2] In another state, Illinois, a no-fault law was recently declared unconstitutional. The Illinois Supreme Court had not given the reasons for its decision as this article went to press. But the Illinois law differs in numerous respects from the Massachusetts one (for one thing, it excludes taxis and trucks from compulsory coverage) and it is possible that the court decision was on narrow technical grounds that can be easily repaired by the Legislature.

or should not have to pay reasonable compensation for your disability?" Naturally enough, 91 per cent said that the other driver or his company should. Respondents were not asked whether they would be just as happy to have the money come from their own company.

Commissioner Ryan believes no-fault auto coverage sets the stage for other insurance reforms. "For example, it should make it much easier to sell auto insurance on a group basis. We've got some legislation in on that. We're beginning to see what we can do and what we can't. Maybe our threshold ought to go up to $700, down to $300. Once we have some experience here and with other states, we'll be able to work on a factual basis rather than a theoretical basis.

"Ultimate logic suggests an all-out no-fault plan, but we'll have to wait and see. We're going to need some better way of dealing with seriously injured victims, for one thing, and I don't know what the answer is there."

The "ultimate logic" that Ryan mentions also seems to point to the necessity of enacting a national no-fault system. A patchwork of 50 different plans, some good and some bad, will not solve the auto-insurance mess. Rather, it seems far more sensible for the Federal Government to produce a set of uniform standards for state no-fault plans, answering the questions that are being debated in state legislative chambers across the country, such as: What should be the benefit limit? Can no-fault somehow be extended to the seriously injured victim? Should we allow victims to sue if they sustain a minor fracture (as Massachusetts does)? Should we allow them to sue if they lose a bodily function as minor as the full use of a little toe, something which is not permitted in Massachusetts but is under the new Florida system? Should property damage be covered by no-fault insurance?

There has been some interest from Washington. Transportation Secretary Volpe has become a convert to the no-fault idea; Senators Philip Hart and Warren Magnuson have introduced the national no-fault bill, and extensive hearings have already been held on the measure. In New York, the Legislature is weighing two no-fault bills, one backed by Governor Rockefeller that is much like the Massachusetts plan and another that is favored by negligence lawyers. What is likely to emerge is a compromise plan that will preserve more or less of the tort-liability system.

Massachusetts officials learned through painful experience that Band-aid reform cannot hope to change a system so shot through with decay as the tort-liability system. Other state legislatures are learning the same lessons, and much-needed pressure is being put on Congress to act.

During the Progressive era, there was a great deal of talk about the states being laboratories for change. In time when the Federal Government seems to be having trouble just keeping up with the treadmill of social progress, the states must begin to think of themselves as proving grounds for important reforms. The Massachusetts experience demonstrates that states can lead as well as follow. In this as in so many other policy areas, however, Congress must become the arena in which significant national reform is enacted.

MEETING OUR CRISIS IN READING

Mr. MATHIAS. Mr. President, the State of Maryland continues her leading role in meeting social challenges of our day.

I speak of the reading crisis in America, involving 21 million citizens who lack the basic reading skills necessary to daily work and enjoyment. This startling fact is confirmed by a national survey conducted by Louis Harris and Associates in 1971 for the National Reading Center of Washington, D.C.

Last month, citizens of Maryland took a new and promising step toward breaking this pattern of functional illiteracy.

With the objective of helping children with reading problems, more than 100 volunteers from across our State gathered in Baltimore to participate in the National Reading Center's 2-day reading tutor-trainer workshop.

Each of these trainer volunteers has now returned to his or her home community to teach other volunteers how to help children in our school classrooms learn to read.

Represented at the workshop were Baltimore City and the following Maryland counties: Allegany, Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Charles, Frederick, Hartford, Howard, Kent, Montgomery, Prince Georges, Queen Anne's, St. Mary's, Talbot, Washington, and Wicomico.

Among the various organizations involved in this fine volunteer effort to help Maryland children, in kindergarten up to grade 3, are the following:

City and county boards of education and the parent-teachers associations, the Maryland Literacy Council, various chapters of the American Library Association and of the American Associations of University Women, the Retired Teachers Association, the Baltimore Urban League, and many others.

Mr. President, the National Reading Center is taking its tutor-trainer workshop to some 20 States this spring and summer. This fall, and in 1973, the center plans to service the remainder of the 50 States.

There is no charge for the workshop instruction. It is provided as a public service.

I ask unanimous consent to insert a description of the National Reading Center volunteer reading tutor program at this point in my remarks.

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

THE NRC VOLUNTEER READING TUTOR PROGRAM

A primary conviction of the National Reading Center (NRC) is that the amount of manpower devoted to helping children and adults to acquire basic reading skills must be increased. Since conventional avenues and the finances required do not permit the increase necessary to resolve the problem, the Center has launched a national effort to prepare trained volunteer reading tutors to help where they are needed and wanted.

NRC's Tutor-Training plan works as follows:

A State Department of Education, and statewide organizations such as the PTA, American Library Association, the Urban League or Church Women United, invite the National Reading Center to conduct a Trainer Workshop in the state.

First, a planning meeting with NRC staff is held in the state. Sponsoring organizations then help assemble 100 Trainers and 50 Coordinators from local communities.

Next, a two-day workshop for Trainers and Coordinators is directed by NRC staff in a central location in the state. Trainers are taught how to use the Center's tutor-training materials. Coordinators are taught how to recruit and organize the volunteer service, leaving Trainers free to concentrate on competent preparation of volunteer tutors.

Each Trainer Workshop can prepare 100 trainers (usually active or retired teachers) from 12 to 15 communities in a state.

The Trainer then returns to the home community and, during the year, trains 100 volunteer reading tutors. Accordingly, up to 10,000 volunteer tutors can be prepared in a state during one year to help primary grade children in the neighborhood schools.

Each volunteer tutor receives 20 hours of training including seven hours of practical experience with children.

The National Reading Center charges no fees at any stage of this program. All instruction, to trainers and volunteers, is without charge:

Trainer Workshops have been scheduled in the following states this spring and summer 1972: California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Kansas, Louisiana, Maryland, Nevada, New York, North Carolina, Oregon, Pennsylvania, South Carolina, Texas, Vermont, Washington and Wisconsin.

States not served in the present series can be served this fall or in 1973.

If you will volunteer to tutor children in your neighborhood elementary school, contact your *School Superintendent* or *Principal* and ask if a National Reading Center tutor-training course is, or soon will be, scheduled in your home community.

School officials can inquire about the Volunteer Reading Tutor Program by contacting National Reading Center, 1776 Massachusetts Avenue, N. W., Washington, D. C. 20036; the phone is (202) 833–3300.

The NRC Volunteer Reading Tutor Program can be arranged only through invitation by a State Department of Education, in cooperation with other statewide sponsoring organizations. NRC training materials, and services, cannot be provided *except* through a state-level active program.

MOVING AND THE ICC

Mr. HARRIS. Mr. President, the Washington Post March 19 article by Ronald Kessler describes the problems that many people encounter in moving. Among these problems are unreasonably low estimates, terrible service, and a lack of help from the ICC.

Mr. Kessler quotes Michael Russ, a lawyer who, unfortunately, found occasion to require the "services" of a moving company:

The guy who gets ripped off is the individual who moves once in his lifetime, and the companies couldn't care less if he comes back.

The ICC has not enforced what consumer-oriented regulations it does have. It has stifled competition. It has ignored pleas for help from the moving companies' customers. It has not made estimates binding. It has shown no desire to correct the abuses in the moving industry.

And the ICC is supposed to be a regulatory agency. This agency is supposed to be standing up for the consumer against industry. Mr. President, earlier, other Senators and I cosponsored a bill to abolish the ICC. I hope that after reading Mr. Kessler's article more Senators will join us in this effort.

Mr. President, I ask unanimous consent that Mr. Kessler's article be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

MOVING: OFTEN A NIGHTMARE

(By Ronald Kessler)

For many Americans the experience of moving is often a nightmare.

This is so despite new Interstate Commerce Commission regulations designed to curb abuses by household movers. The new rules took effect in 1970. Nonetheless complaints continued to pour into the ICC at about the same rate as before—some 350 a week during the peak season. The agency continues to get more than 10,000 complaints a year, ICC officials say.

Moving is of particular concern in the Washington area, which has one of the largest population turnover rates in the country. Nationally, one in five Americans moves each year.

Complaints filed with the ICC as recently as December relate instances of late pickups and deliveries, underestimates of charges, and damaged goods. They are often bitter and denounce movers as liars and cheaters.

The complaints typically begin by saying the family had the "misfortune" of doing business with a particular moving company and may end with vows to sell or burn furniture before entrusting it to movers again.

How many customers feel this way is not known. Many, of course, are satisfied with their moves, and the American Movers Conference, which represents interstate movers, contends the number of complaints is small in relation to total moves.

The association says a certain level of complaints is to be expected in an industry that serves the public, deals with people when they may be under emotional stress, relies on unskilled labor and is subject to variables beyond its control, such as weather and mechanical breakdowns.

However, of those who responded to an ICC questionnaire distributed by movers last fall, two out of three said they were dissatisfied with their moves. Other ICC records show that estimates of charges are under the actual bill by 10 per cent or more in 1 out of 5 moves. And a 1968 ICC study found that the promised delivery date is not met in 3 out of 10 moves made by individual families (the rate is somewhat better for moves paid for by the military and large national companies).

Despite the American Movers Conference claim that the problems are unavoidable, interviews with local representatives of national movers indicate that a common industry practice of paying estimators or salesmen by commission has the effect of encouraging these abuses.

Because of the commissions, these representatives say, it is often to the advantage of moving company personnel to purposely underestimate charges or to promise pickup dates that they know cannot be met.

Rather than correcting abuses, said C. Jack Pearce, a consumer lawyer who was formerly deputy general counsel to President Nixon's consumer adviser, Virginia Knauer, ICC regulation has to a large degree hindered consumers. Rules that are beneficial are not seriously enforced, he said.

Despite the more than 10,000 annual complaints, ICC records show that fines for infractions were leveled against a total of 15 companies last year. The average fine—many against some of the largest companies in the business—was $2,426.

William F. Sibbald Jr., chief of the ICC's motor carrier section, said the fines are set by the courts, not the ICC. He acknowledges that the ICC can suspend or bar a company from doing business but said he doesn't know of this ever happening.

Complainants interviewed said the extent of the satisfaction they had received from the ICC was a sympathetic letter or advice that they hire a lawyer.

According to the complaint of Paul F. Williams, a Federal Aviation Administration flight controller, his contract with a local agent of Aero Mayflower for a move from Woodbridge, Va., to Clarksburg, W. Va., specified a pickup date of last Oct. 27.

The new ICC regulations require movers to adhere to such dates, barring an act of God such as a snowstorm, in which case the customer must be notified of the delay.

Williams recalled that prior to moving day everything was packed, the utilities were turned off, the new owner of the house had been promised possession the day after the move, and he was due in his new job in five days. The 27th came, the family waited, but no movers showed up, he said.

Williams called the company at 4:30 p.m. and was told a van could not be located, and no new date could be given. Williams, pressed to move out before the new owner moved in, hired his own rental truck the next day and moved himself.

"We never heard a word from Mayflower; they didn't say they're sorry," he said. "We wrote to the ICC, which sent us a nice letter saying we could hire our own lawyer," Williams said.

Michael C. Russ, a lawyer, charged in his complaint that representatives of Mayflower purposely promised pickup dates of last June 24, 25, or 26 knowing that the dates could not be met.

Russ, who moved from McLean to Atlanta, says he had made intricate arrangements based on these dates and called the local agent several times to make sure there would be no hitch; each time he was assured there would be none, he said.

He or his wife spent the three days waiting in their apartment for the movers, who never came, he said. Russ said another lawyer in his firm called an assistant vice president of Mayflower to complain and was told the company knew prior to the middle of the week of June 7 that it would be "impossible" to pick up his goods before July 5—10 days after the latest date he had been promised and seven days after the new tenants were to move into the apartment.

Russ finally hired another mover, he said the ICC's response to his complaint was that such a set of facts would be a violation of its regulations.

A Mayflower spokesman in Washington said the company relies on the American Movers Conference to state its position on complaints.

The ICC said Russ' complaint has been filed for possible use in a future prosecution. A hundred or more such complaints may pile up before a company is prosecuted, the ICC said, and then the action is usually based on only one or two of them.

Russ asserts the abuses continue because the companies know nothing will happen to them. He said that although he is a lawyer, it would be futile for him to sue.

"The guy who gets ripped off is the individual who moves once in his lifetime, and the companies couldn't care less if he comes back," Russ said.

ICC officials acknowledge that because nearly all the companies charge the same rates, some try to compete for business by giving unreasonably low estimates. Consumers who are unaware that they will pay the same amount regardless of the company they choose, tend to hire the one with the lowest estimate, they said.

Timothy W. Drescher's complaint is typical. Bekins Moving & Storage's local agent estimated his move from Venice, Calif., to Chicago, where he is dean of Columbia College, at $625, he said. The actual charge was $1,200.

The ICC wrote to Drescher that Bekins must charge by weight and cannot adhere to estimates, he said.

Ken Jai said he hired Bekins for his move from Downey, Calif., to Beaumont, Tex., after he got estimates ranging from $689 to $726 from Bekins and two other companies. The actual charge, he said, was $926.

Further, said Jai, the owner of an oil refinery service company, some $1,400 in new furniture was damaged, and the claim has yet to be paid by Bekins some six months later. The ICC says it has no jurisdiction over damage claims.

"If I ever move again," he said, "I would rather give the furniture away or burn it. I would never hire a mover again."

Laurence Kressel, a Portland State University professor, said the estimate he received from a local agent for Lyon Van Lines when he moved from New York City to Portland, Ore., was off by nearly 100 per cent, and he said the bill he was given turned out to overstate the weight of his shipment by 590 pounds.

Kressel believes the extra weight resulted from someone else's furniture being in the truck at the time his goods were weighed.

Describing his efforts to have the shipment reweighed, Kressel said, "It was the most bizarre thing I've ever been involved in. I had a run-around from the driver, who gave me the responsibility of finding the scales. We went driving around, and he said he'd charge me $8.50 an hour for the drive plus $20 for reweighing."

When the goods were being loaded in New York, he said, the movers insisted until he protested, on dropping furniture out a second floor window. His refrigerator and television set wouldn't work when he got to Portland, but Lyon refused to honor his claim on the grounds the damage was "internal," he said.

They've got you over a barrel," Kressel said. The ICC's response, he added, was that there was nothing it could do.

A similar response was given by the ICC to Michael E. Templeton, a retired executive, after a grand piano arrived with a cracked sounding board in his move from Chevy Chase to Scarsdale, N.Y., his daughter-in-law said. She said the family was "so exhausted" it finally gave up writing letters to the ICC and the mover, Bekins, and got the piano fixed for $150.

Normally the ICC requires that the full bill for a move be paid in cash before the goods are unloaded. But under the new rules, if the bill exceeds the estimate by 10 per cent or more, the ICC allows families 15 days to pay the excess amount.

However, Joseph V. Seazzola, a podiatry student, said the regulation meant nothing to his driver when he moved last December from Scottsdale, Ariz., to Cleveland Heights, Ohio.

The complaint of his wife, Jo Dina E., says the local agent for Atlas Van Lines, Inc., estimated their move at $1,100. That was before the family sold half their belongings, including a refrigerator, washer, dryer, desk, sofa, table, three chests, and two beds, she said.

Nevertheless, they were handed a bill in Ohio of $1,250. The driver refused to unload "one thing" off the truck until he was paid in full, she said. The family did not have the extra money and went "out of our minds" to get it, she said. They finally scraped it together from neighbors and gave it to the driver, she said.

"The ICC hasn't done anything," Mrs. Scazzola added.

As a further deterrent to such practices, the new ICC rules require that each over- and under-estimate of 10 per cent or more be reported to the ICC with an explanation.

Some representatives of local agents say that so long as estimators are paid commissions, they will have an incentive to mislead customers.

Local agents are independent companies that book moves, pack goods, and move them out; the national companies supply the transportation and arrange for unloading of shipments at the destination.

While saying most of the people in the business are honest, Richard R. Kaiser, an

estimator with Smith Transfer & Storage Co., a Mayflower agent, said some companies will promise pickup dates they know they cannot meet.

Ed B. Darnall, an estimator with Victory Van Corp., an Allied agent, said errors in estimates of 50 per cent and more don't occur "except purposely."

Such underestimates are a tactic that "some salesmen (estimators) use to get the business," said Robert T. Bishop, an estimator with Bethesda-Chevy Chase Transfer & Storage Co., a North American Van Lines agent.

Another Allied agent, Security Storage Co. of Washington, says it has never paid commissions. Companies that do, said James Green, an estimator with the company, often "undercut just to get the job."

The ICC said it cannot disclose how many complaints it receives against each company because it doesn't break them down this way. In fact, said Sibbald, the motor carrier chief, the agency hasn't counted the exact total number of complaints since shortly after it put the new regulations into effect.

The American Movers Conference and other industry groups vigorously protested the new rules at the time, filing suit against the ICC on the grounds that some of the wording in the rules was unclear.

In a recent interview, Charles C. Coon, president of the conference, said the group actually favors the new regulations. "People think that because you go to court you're against it," he said.

Coon said that some 60 per cent of the moves in the country are made between June and September, creating a seasonal crush that is bound to generate complaints. While some complaints are legitimate, others are the fault of customers who try to take advantage of the companies or don't understand ICC regulations, he said.

Coon attributes many of the complaints to what he calls "fringe operators" who should be put out of business. These are companies who don't respond to customer complaints, knowingly set dates that can't be met, and otherwise mislead customers, he said.

Coon acknowledged, however, that most of the complaints are against the large established companies, a situation he contends is to be "expected" because these firms handle the largest number of moves.

Congressional interest in the problems of families who move has been almost nonexistent. In recent years, no more than 5 to 10 minutes have been devoted to the subject in oversight hearings on ICC policies held by the surface transportation subcommittee of Sen. Vance Hartke's Senate Commerce Committee, legislative aides and hearing records indicate.

The reason, said Jonathan A. Rowe, author of the chapter on moving companies in Ralph Nader's study of the ICC, is that few people are aware of the seriousness of the complaints because the ICC "sticks them in their file cabinets and forgets about them."

Rowe and other consumer advocates contend an administration bill introduced last November to reduce ICC regulation of transportation industries would solve many of the problems by increasing competition.

Pearce, the former deputy general counsel to Mrs. Knauer, said the industry is potentially highly competitive; little or no capital investment is required since almost anyone can hire a truck and some laborers.

The problem, he said, is that the ICC imposes restrictions upon the formation of new interstate movers that have the effect of limiting the number of such firms to about 2,500 and further limits their operating authority, making it impossible to handle the summer crush of business.

The agency allows the companies to charge the same rates, preventing competition that would lower costs to consumers, he said. And it requires that bill be paid in cash before unloading, severely limiting consumers' chances of obtaining satisfaction on their complaints.

ICC rules require that interstate movers charge by weight of shipments. Estimates, therefore, are not binding.

The administration bill would allow rate competition below certain ceilings, Pearce said, and would permit more companies to enter the business. He said the ICC could still enforce rules to protect consumers.

ICC Chairman George M. Stafford contends the bill would lead to more chaos than now exists. Coon of the Movers Conference says it woud generate "cut-throat competition" and "the very abuses we're trying to get rid of with the new regulations."

Contends Pearce, "It would be hard to make the situation worse than it is now."

MICHIGAN COMMISSION CURBS UTILITY ADVERTISING

Mr. METCALF. Mr. President, the Michigan Public Service Commission recently issued a significant order which requires utility stockholders, rather than the customers, to pay costs of advertising related to Detroit Edison's rate case.

This order will be of interest in numerous States where utilities have burdened their customers with the cost of such advertising, in preparation for rate cases at which the customers pay for the utilities' experts but are not themselves adequately represented or financed.

This imbalance would be redressed by passage of S. 607, the utility consumers' "facts and fund" bill, upon which hearings have been completed by the Senate Subcommittee on Intergovernmental Relations, or the House companion, H.R. 7444, which is before the House Interstate and Foreign Commerce Committee.

Meanwhile, however, the Michigan decision may be of some assistance to rate case participants in other States which have not yet adopted this sensible and fair approach. It is significant to note that the Michigan commission also has decided to investigate allegations that utility ads have been "false, misleading and deceptive."

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the March 20 Bulletin of the National Association of Regulatory Utility Commissioners regarding this matter and the opinion and order of the Michigan commission in this Detroit Edison case.

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

MICHIGAN PSC ORDERS DETROIT EDISON STOCKHOLDERS TO PAY FOR RATE CASE ADVERTISING

The Michigan Public Service Commission has directed the Detroit Edison Company to charge the cost of advertising related to its current rate case to its stockholders.

At the same time, the PSC announced that it will hold separate hearings on allegations that the utility's ads were "false, misleading and deceptive." The Commission also directed Detroit Edison to refrain from any further advertising concerning its pending application for a $70.1 million rate increase.

The order was signed by Chairman Willis F. Ward and Commissioner Lenton G. Sculthorp. Commissioner William R. Ralls issued a separate concurring opinion.

Three intervenors in Detroit Edison's rate case—the State Attorney General, City of Detroit and UAW-Michigan CAP—filed a motion on December 14 objecting to the utility's ads and so-called "lobbying" activities.

They asked that hearings on the main rate case be adjourned indefinitely on the grounds the ads reduce public participation in the hearings of Detroit Edison's proposed rate increase. They also requested the utility be directed to publish corrective advertisements.

The Commission upheld Chief Hearing Examiner Alfred A. Sullivan's decision to continue hearings on the main rate case. Sullivan ruled the ads, which cost approximately $25,000, and the alleged lobbying activities had not "precluded a fair and impartial hearing" on the rate case.

The so-called lobbying activities involved contacts Detroit Edison made with municipalities in its service area to discuss proposed increases in street-lighting rates. Detroit Edison said it made the contacts because it had been criticized in a previous rate case for failing to provide such information to municipalities prior to establishing new rates.

Ralls said he agreed with Ward and Sculthorp that "there is no justification for allowing as an operating expense—to be borne by the ratepayer—the costs of advertising to promote an increase in rates."

"I firmly believe that neither Edison nor any other utility involved in a rate case before this Commission should be allowed to pass on to its customers the cost of advertising the need to increase their rates." Ralls said.

"However, I think the question of whether or not Edison's advertisements were inaccurate should be decided immediately as part of the pending rate case rather than being made a separate case. If the Commission should find there were in any way inaccuracies in the advertising, a corrective disclosure order of the Commission to be effective must be issued prior to the conclusion of the rate case."

The Commission said it hopes the hearings on Detroit Edison's advertisements will enable it to develop rules and regulations or a statement of policy "which would, in the future, hopefully eliminate the occasion for such controversy" regarding rate case advertising by utilities.

(Case No. U-3910)

STATE OF MICHIGAN, BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

(In the matter of the application of the Detroit Edison Co. for authority to amend its rate schedules governing the supply of electric energy)

OPINION OF COMMISSIONER WILLIAM R. RALLS CONCURRING IN PART

(Submitted on February 21, 1972 regarding the opinion and order issued on the same date)

I agree with my fellow Commissioners in ordering that the costs incurred by The Detroit Edison Company for advertising concerning its pending rate case be disallowed in calculating its cost of service in this rate case. There is no justification for allowing as an operating expense—to be borne by the ratepayer—the costs of advertising to promote an increase in rates. I firmly believe that neither Edison nor any other utility involved in a rate case before this Commission should be allowed to pass on to its customers the cost of advertising the need to increase their rates.

There are many other important issues raised in this matter which my fellow Commissioners agree must be decided by the Commission for guidance of parties in the future. However, I think the question of whether or not Edison's advertisements were inaccurate should be decided immediately and as part of the pending rate case rather than being made a separate case. If the Commission should find that there were in any

way inaccuracies in the advertising, a corrective disclosure order of the Commission, to be effective, must be issued prior to the conclusion of the rate case.

Edison, through its advertisments, has spoken out directly on the merits of its rate application, a subject of vital interest and concern to it and the public. It contends that it has the right to do so under the First Amendment of the Constitution.

Certain intervenors have questioned both the propriety and accuracy of the statements made by Edison in its advertisements and contend the advertisements have reduced public participation in the hearings on Edison's proposed rate increase.

One thing is clear: It is the responsibility of this Commission to regulate and control the rate proceedings under the mandate from the Legislature. This Commission, by the very title of the law creating it, is to "regulate and control public utilities and other services affected with a public interest within this state." Under Section 6 of the public service act, the Commission is "vested with complete power and jurisdiction . . . to regulate all rates . . . and all matters pertaining to the formation, operation or direction of such utilities." (M.C.L.A. 460.6)

It is the responsibility of the Commission to maintain meaningful and effective procedures to assure public participation in and understanding of rate cases. This Commission has encouraged such public participation in and understanding of the Edison rate case through publication of a notice announcing the utility's application for a rate increase in newspapers of general circulation, through special public hearings in Detroit at the start of these rate proceedings and through the placement of copies of the official transcript of these rate proceedings in local public libraries in Edison's service area. This is in the interest of both the shareholders and customers of this utility, and could be defeated through inaccurate advertising.

Therefore, any allegation that Edison's advertisements explaining the merits of its application were in any way inaccurate should be determined immediately and as part of the rate case. If the allegations are untrue, then we should so tell the public. If they are not, then a corrective disclosure order should be issued prior to the conclusion of the rate case in order to remedy any misimpressions of the public from the advertising. "A cease and desist order which commands the respondent only to 'go, and sin no more' simply allows every violator a free bite at the apple." 85 Harvard Law Review 477, at 482–83 (1971). In any event, I hope the decision in the separate complaint case now ordered is reached before the rate case is concluded.

(Case No. U–3910)

STATE OF MICHIGAN, BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

(In the matter of the application of the Detroit Edison Co. for authority to amend its rate schedules governing the supply of electric energy)

At a session of the Michigan Public Service Commission held at its offices in the city of Lansing, Michigan, on the 21st day of February, 1972.

Present: Hon. Willis F. Ward, Chairman; Hon. Lenton G. Sculthorp, Commissioner; Hon. William R. Ralls, Commissioner.

OPINION AND ORDER

On December 14, 1971, the Attorney General, the City of Detroit and the UAW–Michigan CAP (Movants) jointly filed a Motion Re Detroit Edison Rate Case Advertising and Lobbying (Motion), objecting to certain advertising and so-called "lobbying" activities by The Detroit Edison Company (Applicant) concerning its pending rate application On December 29, 1971, pursuant to an Application For Order To Serve Interrogatories filed On December 21, 1971, by Movants, this Commission issued its Order for Interrogatories and Notice of Hearing, scheduling a hearing on the Motion for January 10, 1972. On December 17, 1971, Movants filed their Brief in Support of Motion Re Detroit Edison Rate Case Advertising and Lobbying and on January 7, 1972, Movants filed a Supplemental Brief in Support of Corrective Advertising. Also on January 7, 1972, Applicant filed its Answers, Objections and Responses to Interrogatories to The Detroit Edison Company together with a Motion for Hearing of Objections to Interrogatories. On January 10, 1972, Applicant filed Answer to Motion Re Advertising and Lobbying and Brief in Opposition to Motion for Continuance of Proceedings.

Hearing was held on the Motion on January 10, 1972, before Chief Hearings Examiner Alfred A. Sullivan and Chairman Willis F. Ward. At that time, Applicant's objection to Interrogatory No. 5 was sustained as was a portion of Interrogatory No. 8. Further answer was ordered on Interrogatory No. 19, and the objection to Interrogatory No. 23 was sustained. It was agreed between the parties that further answers to the Interrogatories would be made by Applicant in several instances where there existed misunderstanding either as to the interrogatory or the answer thereto.

Subsequent to the hearing held January 10, 1972, Applicant filed Supplemental Answers and Responses to Interrogatories on January 12, 1972; Second Supplemental Answers and Responses to Interrogatories on January 14, 1972; and Third Supplemental Answers and Responses to Interrogatories on January 17, 1972. Also on January 17, 1972, the City of Grosse Pointe Park filed its Brief in Support of Motion Re Detroit Edison Rate Case Advertising and Lobbying.

On January 10, 1972, and on at least three subsequent dates, counsel for Movants and Applicant, and their consultants, have met in an attempt to settle the matters raised by the Motion by negotiation and settlement. At one time, counsel for one of the Movants stated, on the record, that he was optimistic regarding the resolution of most of the advertising issues (T 1848). However, as a result of the most recent conference, which the Commission believes was held on January 26, 1972, it appears that the parties are not now as close to an amicable resolution of the issues as they apparently once were. These conferences, some held with, and some without, the participation of the Chief Hearings Examiner, have proceeded during the conduct of the hearings on the application of Applicant for authority to amend its rate schedules governing the supply of electric energy and without delaying those hearings, the Chief Hearings Examiner having denied motions for continuances of the rate hearings as requested in paragraph "G" of the "Relief Requested" section of Movants' Motion (T 2121, 2210).

With respect to the motions for continuances or adjournments, the main thrust of Movants' argument is that the advertising and lobbying activities deprive the ratepayer of a fair hearing.

Movants' further claim that to continue the hearings in the rate case would be a denial of due process, citing *Certain-teed Products Corp* v *Paris Township* (1958), 351 Mich 434, at page 14 of Movants' Brief. That case involved the decision by an administrative body ". . . under the impact of a completely committed audience re-action . . ." In the present case, the record discloses that, both at the hearings held in Detroit and at those held in Lansing, the audience, measured by those making public statements, has been heavily opposed to the rate increase sought. Of those making statements for the record, only one person fully supported Applicant's request for revenue relief and even that witness was critical of some aspects of Applicant's operations. One or two letters have been placed in the file supporting Applicant in contrast to the many letters and appearances in opposition. The record discloses the occurrence of no outbursts, protests or activities that could be said to have improperly influenced either the Commission or its Chief Hearings Examiner.

Applicant has conceded on the record of the rate case that the advertising expenses objected to should not be charged to the ratepayers. A witness for the Commission Staff has made an adjustment to eliminate $22,000 of advertising expense involved in the May, 1971, ad (T 1957, Exhibit S–21). It appears from Applicant's answer to Interrogatory No. 14 that this adjustment for the test year should be approximately $25,700. Whatever the correct figure, there appears to be no issue regarding the treatment of these expenses in the rate case.

Movants further objected to Applicant's conference with security analysts from New York and elsewhere, and the inclusion in cost-of-service accounts of the expenses connected therewith which were shown to be $2,321.77, in accordance with answer to Interrogatory No. 15. Inasmuch as these expenses occurred outside the test year, no adjustment is necessary in the rate case.

Movants further objected to Applicant's activities in contacting municipalities and public officials and characterized the expenses of such contacts as lobbying expense. Supplemental Response to Interrogatory No. 19 estimated this expense at $2,560 but it is claimed by Applicant that the contacts in many cases covered other subjects beside the rate case. In any event, the estimated expense is rather small, and it certainly appears that such contacts with municipalities did not deter municipalities from objecting to Applicant's case, especially as to the municipal street-lighting rates, inasmuch as the majority of the Intervenors in the rate case, which now total approximately 40, are cities, townships or villages opposing what they believe to be excessive proposed increases in street-lighting rates. Applicant has contended that it made contact with each municipality and supplied rate-case information for the reason that it was subjected to criticism in a prior case for failing to provide all such information prior to the setting of the new rates. Without determining the propriety of Applicant's contacts with the municipalities, it seems abundantly clear on the record that the Intervenors opposing increased street-lighting rates are fully represented. Therefore, these alleged lobbying activities do not justify a continuance or adjournment of the rate-case hearings, nor can such activities be said to have precluded a fair and impartial hearing.

Count II of the Motion refers to the Canons of Professional Ethics published by the Supreme Court of the State of Michigan. If there has been violation of the cited canon, that is a matter for the State Bar of Michigan and the Michigan Supreme Court, not this Commission. If the canons apply to attorneys and clients alike, such expanded application must be made clear by the Supreme Court.

Movants also seek to have the Commission order Applicant to cease and desist from further advertising and also to publish corrective advertisements.

There are many issues raised by Movants' Motion and Applicant's Answer thereto which should be considered by the Commission. Among these issues are the following:

1. May an applicant in a rate case pending before this Commission publish or advertise its position at ratepayers' expense?

2. If not, may it do so at its shareholders' expense?

3. To what extent are the constitutional rights of free speech and the free press impaired by any regulations or restraints that might be imposed by the Commission upon

such an applicant and whether, in fact, such rights are impaired?

4. Should the Commission establish detailed regulations regarding the accounting treatment and maintenance of records regarding expenses incurred by an applicant in rate-case advertising, conferences with security analysts and contacts with municipal and other public officials as referred to in Movants' Motion?

5. May the Commission order the payment of fees, expenses and costs incurred by Movants?

6. Were the advertisements complained of in Movants' Motion false, misleading and/or deceptive in the representations made therein to the public?

7. Is corrective advertising an appropriate and proper remedy for this Commission to order?

Since the issues cited above have not been heretofore decided by this Commission and these issues are appropriate for consideration by the Commission, it appears that the appropriate proceeding would be to treat the Motion as a formal complaint under Rule 22 of the Commission's Rules of Practice and Procedure and to assign to that complaint a docket number separate from Applicant's rate case. This practice was followed in the recent Michigan Bell Telephone Company case involving a similar motion, which case, as separately docketed under Case No. U-3986, was finally resolved by stipulation and corrective advertising.

Movants have submitted an extensive Brief as well as a Supplemental Brief in support of their Motion, and Applicant has filed a brief in opposition thereto. Part III of Movants' Brief recognizes that a continuance is within the discretion of the Commission and/or its Examiners.

Earlier continuances in this rate case were granted by the Chief Hearings Examiner over strenuous objections by Applicant, and at that time the Chief Hearings Examiner, as is disclosed by the record, made very explicit statements that further continuances would be granted only upon the strongest showing, in accordance with Michigan General Court Rule 503.1, which establishes a policy encouraging the diligent preparation and trial of contested matters. It would appear to be the most appropriate procedure to continue the orderly and timely hearing of Applicant's rate case without delaying that case by the issues raised in the Movants' Motion. Since neither the Chief Hearings Examiner, nor the Commission, have been, nor should be, influenced by the advertising and other activities complained of, the hearing on the rate case can continue in an impartial atmosphere to decision on the evidence in the record. At the same time, full opportunity for consideration of the issues raised by the Movants' Motion is given by considering those issues separately. Out of those separate proceedings may come Commission rules and regulations and/or a statement of policy by the Commission which would, in the future, hopefully eliminate the occasion for such controversy.

The Commission has reviewed the evidence submitted in this case to date, has read the record thereof, and has given careful consideration to all the issues involved in this order.

The Commission finds that:

a. Jurisdiction is pursuant to the provisions of Section 1, 2, 6, 7 and 8 of 106 PA 1909, as amended (MCLA 460.551 et seq.); 300 PA 1909, as amended (MCLA 462.2 et seq.); 3 PA 1939, as amended (MCLA 406.1 et seq.); Sections 3 and 4 of 419 PA 1919, as amended (MCLA 460.5 et seq.); Chapter 4 of 306 PA 1969, as amended (MCLA 24.201 et seq.); and the Commission's Rules of Practice and Procedure, 1954 Administrative Code, Supplement No. 54, R 460.11, et seq.

b. The action of this Commission's Chief Hearings Examiner in denying Movants' motions for continuance in the rate case were a proper exercise of the Examiner's discretion.

c. The expenses of Applicant during the test year involved in the advertising in question should be eliminated from the cost of service in the rate case.

d. The expenses of Applicant during the test year involved in contacting municipalities and public officials should not be eliminated from the cost of service, pending a hearing on the Movants' Motion as a separate complaint.

e. Applicant should be restrained from any further advertising in regard to the rate case, pending the decision on the Motion as a separate complaint and the rate case.

f. A decision should be made by the Commission on the seven issues raised in this matter as set forth previously in this order.

g. It is in the public interest that the Commission decide the issues herein involved, separate and apart from the issues involved in the rate case.

h. The advertisements, of which complaint is made in Movants' Motion, have not affected or tainted the atmosphere of the rate case, and the hearings on the rate case can continue in an impartial atmosphere to decision on the evidence in the record.

i. Neither this Commission, nor its Chief Hearings Examiner, have been prejudicially affected by the advertising in question.

Therefore, it is ordered:

A. The Detroit Edison Company shall cease and desist from any further advertising related to, or concerning, the presently pending rate case until after the Commission has issued its final order in that case.

B. The expenses of The Detroit Edison Company for the advertising related to, or concerning, the presently pending rate case shall be eliminated, by appropriate adjustment, from the test-year expenses used in calculating cost of service.

C. The Motion Re Detroit Edison Rate Case Advertising and Lobbying filed December 14, 1971, in Case No. U-3910, together with all supplementary pleadings and materials relating thereto, shall be removed from the file in Case No. U-3910 and entered in a separately numbered docket file as a formal complaint under Rule 22 of this Commission's Rules of Practice and Procedure.

D. The Answer of Applicant to Motion Re Advertising and Lobbying filed by The Detroit Edison Company on January 10, 1972, shall be considered as an answer to the formal complaint according to the Commission's Rules of Practice and Procedure and the issues shall be considered as having been joined.

E. Notice of Hearing on the formal complaint shall be issued by the Secretary of the Commission, setting a time for hearing as soon as possible, consistent with the state of the Commission's calendar.

The Commission specifically reserves jurisdiction of the matters herein contained and the authority to issue such further order or orders as the facts and circumstances may require.

NATIONAL GRANGE RESOLUTION ON GUN LAWS

Mr. STEVENS. Mr. President, at the 105th annual session of the National Grange held in Charleston, W. Va., on November 8–16, 1971, a number of resolutions were adopted as the basis for National Grange policy for 1972 by the delegate body of the National Grange. These were on various subjects, a great number of which are of significant importance and general interest. One in particular is of particular concern to a large number of people across the country. This was the Grange resolution on gun laws. I ask unanimous consent that it be printed in the RECORD.

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

RESOLUTION

It is hereby resolved, that the National Grange oppose legislation that prohibits or restricts ownership of weapons as guaranteed by the second amendment to the Constitution of the United States, and

Be it further resolved, that we go on record as opposing laws which restrict, in any way, the rights of citizens to own a gun, buy ammunition for it and use it to defend himself and his home.

THE POLITICAL POWER OF CORPORATIONS

Mr. HARRIS. Mr. President, on March 26, 1972, Morton Mintz, noted investigative reporter of the Washington Post and coauthor of the best seller "America, Inc.," appeared on the television show "Comment." He discussed the problem of corporate power which finally is becoming a subject of political debate in this country.

Mr. Mintz put his finger on the real issue behind the ITT scandal and others that resemble it. That issue is the power of corporations to receive more favorable treatment under the law than ordinary people. With their money and influence they are able to corrupt our political and judicial system. If an ordinary citizen breaks a law, he is thrown in jail. If the giant auto companies conspire—as they admit they did—to suppress antipollution devices and thus to poison our air, the executives who made these immoral and unlawful decisions are not punished. The Government only makes them promise not to break the law again.

We must be fair about this issue. As Mr. Mintz points out, ITT is not unique nor is this administration. The power of big business intimidates all administrations, Democratic or Republican. But this has to stop if we wish to ask people to believe in the fairness and impartiality of our laws.

It is time for the country to begin to address itself to the vital issues involved in the political and economic power of giant corporations. In early 1972 Senator HART's Subcommittee on Antitrust held hearings on these issues. Press attention was minimal although his hearings will probably have more impact on the quality of life in this country than almost anything else Congress does.

If nothing else, I hope that the ITT scandal will cause the country to understand the extremely important work which Senator HART is attempting. I hope that he can receive full support in both the Congress and among the public as his hearings resume. Certainly no one more fair and thoughtful could be chosen to carry out these hearings.

Mr. President, I ask unanimous consent that the statement by Mr. Mintz be printed in the RECORD.

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

MORTON MINTZ STATEMENT ON "COMMENT"

The late George Orwell told us, in "Animal Farm," that all animals are equal, but that

some animals are more equal than others. The International Telephone and Telegraph case tells us that all persons are equal, but that corporate persons are more equal than human persons.

If you visit the White House you do so as a tourist. You see the Blue Room and the Green Room. If you are Harold Geneen, president of ITT, you go to the White House to see Peter Flanigan, a top aide to Mr. Nixon; and while you are in town, you see the Secretaries of Commerce and Treasury and the Attorney General. And what you talk about is not the antiques but anti-trust matters affecting ITT.

Harold Geneen comes to Washington as the sovereign of a private government—one of many that often seem to rule the public government. His company in 1970, took in almost $7 billion and had more than 390,000 employees around the world. It owned at least half the stock in 330 corporations that had 700 subsidiaries of their own—and had the power to make or withhold political contributions and other favors commensurate with its size.

ITT isn't unique, and neither is this Administration. A Democratic Justice Department, almost ten years ago, started an investigation of anti-competitive practices by the huge Colonial Pipeline Company; today a Republican Justice Department claims to be continuing the same investigation—and can't predict when, if ever, it will end.

The department filed an anti-monopoly suit against IBM. Three years have gone by, but the suit seems to have gone nowhere. IBM's Arthur Watson, who gave the Republicans $49,000 in 1968, has gone to France, as our Ambassador.

The department sued the auto industry for conspiring to suppress the development and installation of pollution controls. We'll never do that in the future, the industry promised—and it got off. Would you get off if you had been caught conspiring to poison the air?

In the coal mines, accidents, many of them preventable, have killed hundreds of thousands of men. To enforce mine-safety standards this Administration saw fit to pick a GOP fundraiser and former lobbyist for the Iowa Association of Coin-Operated Laundries. Why? Ask the coal companies.

Richard McLaren, the antitrust chief until last month, once told a Senate committee that a bill to permit price-fixing and profit-pooling by jointly operated morning and evening newspapers in 22 cities would entrench "absolute monopoly." The head of a newspaper chain then visited the President, after which Mr. Nixon endorsed the bill, repudiating Mr. McLaren.

It may strike you as odd, or worse, that in the eyes of the law you and a corporation as large as ITT are each a "person." This notion took hold after the Civil War when the Fourteenth Amendment was ratified. Its purpose was to give the newly freed slaves the same protections of life, liberty, and property afforded whites. The amendment speaks of "persons born or naturalized in the United States." It says no state shall "deprive any person of life, liberty, or property without due process of law." Incredibly, a business-oriented Supreme Court began a century ago, to distort the amendment to declare that corporations are "persons," so as to remove them from regulation by the states. This mocks the aspiration of "Equal Justice Under Law." The law can inflict capital punishment on a human person who has a life to lose; it can inflict only punishment of capital on a corporation that is not flesh or blood.

You may recall the oil well blowout in the Santa Barbara Channel in California in 1969. The District Attorney charged four giant oil companies with criminal pollution. Last January each pleaded guilty to one count. A judge dismissed the remaining 342 counts, said the companies had "suffered sufficiently" because they had paid tens of thousands of dollars in damages, and fined each corporation $500. At about the same time in Ohio five men who had been confined for a total of 153 years in a state hospital for the criminally insane came before another judge. He released them after finding they had never been convicted of a crime, and their psychiatrists found them sane.

It is less than "sane" to say that a corporation is a "person," because it makes most all of us—men and women, black and white, poor and middle-class—second-class citizens. "All men are created equal," the Founding Fathers said. No man or woman is created equal to ITT.

The human beings with real problems, Senator Philip Hart once said, haven't the money to get to the airport, let alone to Washington. Even if they could get here, they probably couldn't get to see the men at the centers of power. The Senator was not talking about Harold Geneen of ITT.

THE WASHINGTON CATHEDRAL

Mr. MATHIAS. Mr. President, the spires of the Washington Cathedral, rising on Mount St. Alban over this Capital City, are an inspiration to all of us. The gothic beauty of this church, under construction for 65 years, is a monument to the foresight of those who planned it.

Under the leadership of the dean of the cathedral, the Very Reverend Francis B. Sayre, and the superintending architect, James B. Godwin, a program is underway to complete the nave and narthex of this massive project in time for the Nation's bicentennial celebration in 1976.

Mr. President, I ask unanimous consent to have printed in the RECORD, an editorial from the Washington Post noting the appointment of Mr. Godwin to the post of superintending architect and the significance of the construction of this 20th-century cathedral.

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

THE WASHINGTON CATHEDRAL

Officially known as The Cathedral Church of Saint Peter and Saint Paul and the sixth largest church in the world, has a new Superintending Architect. He is James B. Godwin, who was born and raised in Columbus, Georgia, has designed a number of churches and chapels in the Gothic style and looks and talks as we imagine a medieval stone mason might have. Mr. Godwin has been busy since last December preparing the final working drawings for the Cathedral, which has been under construction since 1907, so that any competent architect, expert in Gothic or not, can supervise its completion.

Mr. Godwin is the fourth architect on the job. The initial plans were drawn up by Dr. George F. Bodley, the foremost exponent of English Gothic in modern times. He died before construction began and Henry Vaughan of Boston took over. World War I interrupted the work which, since 1921, was continued by Philip H. Frohman. Still the Cathedral Architect in title, Mr. Frohman, who is now 85, had to relinquish his daily responsibilities.

Mr. Godwin is Heaven-bent to complete the interior of the Cathedral, that is the entire nave and narthex complex, in time for the nation's bicentennial celebration in 1976. The west portal with its two flanking towers, that will resemble Canterbury Cathedral in England, are to bring the building to completion in 12 years. Like his predecessors, Godwin will make the building faithfully Gothic, not just in appearance but also in its method of stone construction, making concessions to modern concrete and steel only to assure greater permanence and fire resistance. Like the Cathedral's Dean, the Very Rev. Francis B. Sayre, he sees Gothic architecture not as an anachronism but as the most perfect expression of the spirit of Christianity. "If we had gone 'modern' when we started this building at the turn of the century," the Dean said recently, "it would look pretty antique now, don't you think?" We are afraid he has a point. And he is right, too, when he points out that the Washington Cathedral, whose central tower, atop Mount St. Alban, rises even above the Washington Monument, has long since become a magnet "even for the long-haired kids who come simply becaue it is so beautiful and because it says something that they are feeling deep down inside them today."

FOREIGN TRADE AND INVESTMENT

Mr. INOUYE. Mr. President, the issue of foreign trade and investment promises to generate one of the most heated controversies of the current Congress. In the face of a massive payments deficit and the first merchandise deficit since 1893, it is perfectly understandable that the economic policies which contributed to this situation should be questioned. This reaction is even more comprehensible when we also scan the sorry statistics which only recently showed massive unemployment, near stagnant economic growth and inflation.

Our Nation has compiled a dismaying record since those years in the mid-1960's, when we earned enormous trade surpluses and possessed a rapidly expanding economy. One byproduct of this deterioration of our economy has been a massive attack on the American multinational corporation. Recently legislation has been introduced to restrict seriously the ability of these corporations to compete effectively abroad.

S. 2592, the so-called Burke-Hartke bill, while seemingly logical in its attempts to protect domestic American producers, jobs, and markets, would actually aggravate our balance-of-payments problem. Moreover, by restricting competition, it would make the American economy even less efficient and competitive than it is now. The cost of these restrictions would be borne by the American consumer, who would be paying more for a limited selection of goods. The fallacies of the arguments underlying the Burke-Hartke bill are exposed well in an article by former Gov. Orville Freeman that appeared in the New York Times on March 5, 1972.

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:

FREEMAN TERMS ARGUMENTS NOT TRUE

(By Orville L. Freeman)

Does foreign investment by American companies threaten the jobs of American workers?

There is an undeniable appeal to the argument that if United States business would only keep its money at home instead of spending it to build factories in other countries, new jobs would be created for American

workers and most of our economic problems would be solved.

That was a key argument in Senator Hartke's article (Feb. 27) in support of the bill he has sponsored with Representative Burke to limit United States business investment abroad, control the export of American technology, and place quotas on imports from America's world trading partners.

The rallying cry of those supporting the Senator's position is that "foreign investment exports jobs."

The trouble with this argument is that, while it may sound logical, it simply is not true. It is an emotional catch-phrase whose validity has never been established by any serious research or study. Most of the arguments advanced to promote other aspects of the bill are equally lacking in hard facts.

On the contrary, there is a large body of evidence available which clearly indicates that foreign investment actually creates jobs at home and has other strengthening effects on the United States economy.

A number of objective studies to determine the domestic effects of overseas investment have recently been made public. The most exhaustive of these was conducted by Business International, an independent research and business advisory organization, whose study covered detailed interviews with 86 multinational American firms with annual sales of $85-billion. The study proves rather conclusively that the more money a company invests overseas, the greater its domestic rate of growth in exports and employment.

In one aspect of our study, we grouped all the companies into four categories according to their level of foreign investment (related to United States investment)—the first category very high, the last very low. To eliminate bias, a company's size was not a factor in making the groupings. The study shows that companies in the top group had by far the largest increases in exports in the period covered, the 1960–70 decade. Specifically, these firms had 1960 exports of $777-million, and 1970 exports of $2.84-billion, an increase of 266 per cent. Companies in the lowest group increased their exports by only 161 per cent. The intermediate categories showed intermediate growth percentages.

The study also shows that the rate of employment growth in the United States by large investors in overseas facilities was more than twice as high as the nation as a whole.

To say, as Senator Hartke does, that foreign investment (i.e., foreign manufacturing plants) export jobs is to say that these plants are producing goods that would otherwise have been produced in the United States, either for domestic consumption, or for export overseas.

The facts say otherwise. With the exception of automobiles produced in Canada, imports from United States-owned plants are presently only 2.4 per cent of all imports. And this is limited largely to office equipment and consumer electronics, The reason many American companies established overseas plants in the first place was to enable them to gain new markets or retain markets that otherwise would have been lost to foreign competition.

If we listen only to the critics of foreign investment, we might get the idea that the efforts of American companies to obtain their fair share of the world's markets are detrimental to the United States economy and do not return any benefits. What is overlooked, or perhaps not even known, is that earnings from foreign operations play a substantial role in the balance sheets of many American companies. This is true in just about any industry you can name.

In 1970, for example, 42.8 per cent of Goodyear's net income came from foreign earnings. Comparable figures, taken at random, for other well-known corporate names include Polaroid, 16.3 per cent; Otis elevator, 35 per cent; Gillette, 49.6 per cent; National Cash Register, 50.9 per cent; Kimberly-Clark, 26.2 per cent.

If American companies were deprived of their foreign earnings, the effect on our economy would be devastating. Many companies might not be able to survive. In order to be able to keep operating, many would be forced to increase prices, triggering sales resistance that would start a downward spiral. The effect on the stock market can easily be imagined, not to mention employment and personal income.

Supporters of the Hartke-Burke bill seem to suggest that investment abroad somehow precludes investment at home—that if you invest overseas you automatically reduce or forgo domestic investment. This is another fallacy, contradicted by Business International's investment and trade study, which shows that the firms that have been expanding their overseas operations at a rapid rate are generally the same ones expanding most rapidly at home.

Furthermore, policy makers should be aware that American companies get only about one-seventh of their capital for overseas investment from domestic sources. Better than 80 per cent of the financing comes from foreign investors. One thing is certain: the establishment of overseas facilities does not inhibit domestic investment. Neither does it add to our balance-of-payments deficit.

As a matter of fact, quite the reverse is true. The largest single "inflow" item in the United States balance-of-payments picture is our dollar income from foreign investments. To curtail or cut off this income would have a most damaging effect on our economy, which would be felt in as little as two to four years. Such a step just doesn't make sense.

Another aim of the bill is to use taxes as a weapon to punish American investors abroad: foreign earnings would be taxed on a current basis, rather than after they are remitted to the United States.

This would be a crushing blow to American companies by pricing them right out of foreign markets. Since their overseas plants are not replacing American labor, and they are generating earnings in competition with foreign companies, one wonders what the purpose of such a punitive action might be.

Senator Hartke also alleges that American workers are hurt by the export of American technology. No sources or evidence for this claim are offered, and to the best of our knowledge, no study on this subject has ever been undertaken. As a practical matter, it is hard to visualize how any effective way could be developed to prevent the export of technology.

We export technology every time we export a product. American companies seem to have little trouble learning each other's techniques and processes, and foreign companies would have just as little. The world of science is nourished by the exchange of ideas and information through books, periodicals, meetings and other forums.

Finally, we get to the subject of quotas and other import restrictions. And here, it may be helpful to get down to basics and remind ourselves what foreign trade is really all about.

Countries simply wouldn't trade with each other if such trade didn't help both of them. The purpose of international trade is to raise the real income and the standard of living of the people in both countries involved. By erecting barriers against the free flow of goods, quotas undermine this objective. Quotas increase prices and play a basic role in generating inflation, which in turn is a major cause of trade deficits. More quotas are demanded for protection, and the vicious spiral grows.

EXEMPTION OF SOFT DRINK INDUSTRY FROM ANTITRUST LAWS

Mr. HARRIS. Mr. President, I am increasingly concerned about the massive lobbying campaign undertaken by the soft drink industry in an effort to obtain an exemption from the antitrust laws. On February 16, 1972, I placed a statement in the RECORD calling attention of my colleagues to this effort. At that time I described the way Coca-Cola and other big soft drink companies, together with their local bottlers, have reached into every State and every congressional district in their drive for special immunity from the law.

Since then more disturbing evidence of this lobbying campaign has come to my attention. Specifically, I wrote to Acting Attorney General Richard Kleindienst a week ago asking him to investigate the National Soft Drink Association, the Coca-Cola Bottlers' Association, and Mr. Earl Kintner, former chairman of the Federal Trade Commission and now lobbyist for the soft drink industry, for failure to register as lobbyists under the Lobby Regulation Act of 1946. I ask unanimous consent that my letter to Mr. Kleindienst, as well as additional material related to it, be printed in the RECORD at the conclusion of my remarks.

In addition I have obtained material prepared by the Coca-Cola Bottlers' Association indicating that that organization has set up a "franchise defense fund" to finance its efforts to avoid obeying the antitrust laws. According to a memo dated February 21, 1972, from its executive director, $222,000 was collected for this war chest in 1971 from Coca-Cola bottlers alone. I ask unanimous consent that this memo be printed in the RECORD at the conclusion of my remarks.

Mr. President, I also ask unanimous consent to have printed in the RECORD several other memos and materials sent out by the Coca-Cola Bottlers' Association and the National Soft Drink Association. I call the attention of Senators particularly to a memo dated September 3, 1971, from Mr. Douglas A. Taylor, president of the Coca-Cola Bottlers' Association. In explaining why the directors of the association decided to assess each bottler a certain amount to finance its lobbying effort, he said:

> One of the primary reasons the Board decided to raise this fund by assessment rather than liquidating some of its assets was the fact that *the dividend income from the accumulated surplus* represents substantial income to the Association. In fact, it *is now at a level exceeding the revenue received from dues.* This is one of the reasons there has been no increase in the Association's modest dues scale in sixteen years. *The Association's reserve in the stock of the Coca-Cola Company is looked upon by many as a capital endowment* which we should not begin to deplete. (italics mine)

I point this out to indicate that the bottlers' association does not have an armslength relationship with the Coca-Cola Co., to say the least. In fact, the interests of the bottlers' association, representing the local franchise holders, and the Coca-Cola Co., the franchiser that

manufactures the sirup, are essentially the same, especially on this issue.

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

U.S. SENATE,
Washington, D.C., March 9, 1972.

Hon. RICHARD G. KLEINDIENST,
Acting Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: It has been brought to my attention recently that there have been several apparent violations of the Lobby Regulation Act of 1946. The persons or groups involved include Mr. Earl Kintner, former Chairman of the Federal Trade Commission and now a partner in the Washington law firm of Arent, Fox, Kintner, Plotkin, and Kahn; Mr. Thomas Baker, Executive Vice President of the National Soft Drink Association of Washington, D.C.; and the Coca-Cola Bottlers' Association of Atlanta, Georgia.

In order to substantiate a charge of this nature, it must be established that these parties are actually engaged in lobbying activities, that these activities are a major function of the individual or association involved, and that during the time of the lobbying effort the parties were not registered as lobbyists with the Clerk of the House and the Secretary of the Senate.

The facts in each of these situations appear to be sufficient to justify investigations into the cases.

It is clear that Mr. Kintner has been lobbying here in Washington. Mr. Kintner was in direct contact with Members of Congress prior to the introduction of legislation to exempt the soft drink industry from certain parts of the antitrust laws. The House bill, H.R. 12261, was introduced on December 13, 1971, and the Senate bill, S. 3040, introduced on January 20, 1972. These bills are identical to a draft circulated last year by the soft drink bottlers (see attachment). While engaged in these activities, neither Mr. Kintner nor his law firm were registered as lobbyists. Perhaps the most conclusive evidence of the lobbying effort is a concession made by Mr. Kintner on January 22, 1972, when he was quoted in the *Washington Post* as saying, "We are indeed trying to . . . secure legislation" for the benefit of his client, the National Soft Drink Association.

Arent, Fox, Kintner, Plotkin and Kahn finally did register with the Secretary of the Senate (although not with the Clerk of the House) on January 24, 1972, two days after I after I called public attention to Mr. Kintner's lobbying (see attachment). This action implicitly acknowledged that the firm should have been registered all along, since, to my knowledge, there was no substantial change in either the methods or volume of lobbying after January 24. Mr. Kintner should have registered, as the law prescribes, "before doing anything in furtherance of such object [influencing legislation]." 2 U.S.C. § 267(a) (1946)

The fact is that before January 24, 1972, Mr. Kintner was violating the Lobby Regulation Act, apparently knowingly. The tardy registration of Mr. Kintner's law firm should not constitute grounds for cleaning of the slate. It should not since a) a violation of the law did occur, and b) should the record be cleared in this case, the Act will have no meaning for future violators, who can reasonably assume that after they are caught, they also can register and be cleared.

The National Soft Drink Association's Executive Vice President, Mr. Thomas Baker, also appears to be in violation of the Act. Mr. Baker has accompanied Mr. Kintner on visits to Members of Congress. Neither Mr. Baker nor the National Soft Drink Association was then registered as engaging in lobbying efforts. In fact, the last time Mr. Baker registered as a lobbyist was February 3, 1959. This is clearly in violation of the Act.

The Coca-Cola Bottlers' Association is also engaged in substantial lobbying activities, although theirs takes the form of initiating letter-writing campaigns. A memorandum dated May 18, 1971, from Mr. John Knox, Jr., the Executive Director of the Association, to local bottlers gives instructions and sample letters to be sent to Senators and Congressmen (see attachment). The effort was not in vain, for a Alan Ward, head of the FTC's Bureau of Competition said in the Washington *Evening Star* of June 10, 1971, "We've had more letters than I've ever seen." This enormous campaign is clearly a case of lobbying.

Neither Mr. Knox nor the Coca-Cola Bottlers' Association is registered at this time, nor have they been registered at any time throughout the lobbying campaign.

In each of these cases, it is reasonable to believe that the provisions of the Act have been violated.

I therefore request that investigations of the practices of Mr. Earl Kintner, Mr. Thomas Baker, and the Coca-Cola Bottlers' Association be opened immediately. Should it be found that these parties have acted in violation of the provisions of the Act, I would urge a vigorous prosecution of each of the cases.

Sincerely,

FRED R. HARRIS,
U.S. Senate.

[From the Washington Post, Jan. 22, 1972]

HARRIS ASSAILS LOBBYING FOR SOFT-DRINK INDUSTRY

Sen. Fred Harris (D-Okla.) said yesterday a former chairman of the Federal Trade Commission is lobbying actively in Congress on behalf of the Coca Cola Co. and other soft-drink firms charged with monopolistic practices by the FTC.

Harris said Earl Kintner, FTC chairman under President Eisenhower, and now an attorney in Washington, is aiding in the effort to find a senator to sponsor the repeal of antitrust restrictions for the soft-drink industry.

Testifying before the Senate's Antitrust and Monopoly subcommittee, Harris said he considers the lobbying campaign and the use of Kintner "a blatant example of the power of big corporations."

Kintner, in a telephone interview with a reporter, said his law firm represents the National Soft-Drink Association and not the Coca-Cola company or any other large company. Most members of the association are small bottlers, he said, adding:

"We are indeed trying to protect their territorial franchises by trying to secure legislation to protect their right to sell their products in an assigned territory in competition with other bottled products."

Coca-Cola declared it "is not engaged in any sort of lobbying." In a statement, the firm said Harris apparently confused the Coca-Cola Co., which makes and sells syrup, with locally owned bottlers. The firm added that soft-drink prices are set by retailers.

The association includes many hundreds of small businessmen, Kintner said, "and I think they are right in that they are trying to protect themselves and their business, a lifetime of investment in this business."

THE COCA-COLA BOTTLERS' ASSOCIATION,
Atlanta, Ga., May 18, 1971.

To: The members of the Coca-Cola Bottlers' Association.

Enclosed are some sample letters which you might use as guides to formulate your own letter directed to your Federal Congressional delegation. Even though you might have written them before, you might want to write them again to emphasize your feelings about this most serious matter.

The most effective type of contact with your elected representatives is, of course, in person. The second best is written communication, but it is most important that your letter be in your own words which best express your own feelings. It is, therefore, important that the enclosures be considered only guides to give you ideas for your own contact with your representatives in your own way.

We will keep you advised of further developments.

Sincerely yours,

JOHN S. KNOX, Jr.

DRAFT NO. 1

DEAR ———: Many thanks for forwarding to me a copy of the letter you received from the FTC staff concerning the proposed complaint against the soft drink companies charging that their territorial practices are unlawful.

I notice that the FTC letter makes no reference whatsoever to the fact that the territorial limitations in the franchise agreements were specifically the subject of a court proceeding and were held to be lawful under the antitrust laws (269 Fed. 796). This agreement has been in effect for over 50 years and has been a matter of public record known to the enforcement agencies and to Congress. Congress never took any action to overturn this decision. And notwithstanding what the staff of the Federal Trade Commission implies, neither the Supreme Court or any other court has ever been faced with this situation to overrule it.

The Court in that case said that bottling companies such as mine have "perpetual" rights, amounting to "property rights" in the territorial franchises. The Federal Trade Commission now seeks to strip me and my fellow bottlers of such "property rights"—without our even being parties to the proceeding and without compensation to us for loss of these rights.

Do you think that is fair? My father and his father before him and now I have made substantial investment in this business for over fifty years and now we stand to see the value of it wiped out by the action of some administrators, not even by the Congress.

Don't you think that is the taking of property without due process? Most bottlers such as myself are relatively small businesses. We are probably the ones who can afford such losses least.

It is no answer that the Commission will go through a lengthy hearing and that if it is wrong either it or an appellate court will reverse it. What am I to do in the meantime? Should I make further investments to promote re-cyclable packages? In advertising possible new product lines? Could I ever sell the business if I wanted to for what I've put into it?

Personally I think the Federal Trade Commission announcement is outrageous, harassing and unfair. It is a detriment to small businesses and the only ones it will help are the big chain stores.

Please help me and other bottlers and small businesses such as myself.

Sincerely yours,

——— ———.

DRAFT NO. 2

DEAR ———: Many thanks for forwarding the letter from the FTC staff concerning the proposed complaint against the soft drink companies challenging the territorial provisions of their franchise agreements.

I notice that the staff claims—or perhaps more accurately I should say that they implied—that the proposed proceedings will help small business by enabling them to expand into adjacent territories.

This is obvious hogwash. Let me just set forth a few facts. My Company is the Coca-Cola Bottling Company of ———. It is now

owned by me and my family, and prior to that was owned by my father, and prior to that it was owned by his father. We are the main business of the town of ———. We have a total of —— employees, including —— driver-salesmen. More than 50% of our business is in returnable bottles, which calls for the driver-salesmen not only to deliver the product but also to pick up the empties in their routes.

In order to keep the price low to consumers a nominal deposit is charged on the bottle, which deposit does not cover the cost of the bottle itself. Our Company has a substantial investment in these returnable bottles, in an amount which exceeds our annual profits.

The adjacent Coca-Cola Bottling Company is ———, one of the three public held Coca-Cola bottlers in the country. All others are closely-held family operations such as my own. The Coca-Cola Bottling Company of ——— has assets of $——, annual sales of $——, and approximately —— employees.

Can you really believe that the FTC proceedings, if successful, will enable me to take away the territory and business of this neighboring company and its territory? Don't you think it far more likely that they will come into my territory and wipe me out, together with this business which is so important to the community. How can the FTC say what it says with a straight face?

Let me just go one step further. Suppose this large company comes into my territory and delivers here. Don't you think it would be worth their while to pick up my empty returnable bottles since it would cost them less to pay the deposit on them than to buy new bottles? As noted above if they do that for one year my entire profit for more than that year is eliminated. How long do you think I can stand that?

And for all this, who is to gain by it? Only these larger bottlers and only the chain stores. There will still be only one Coca-Cola bottler in the territory but that bottler will be a large one instead of a small one. Is that what you and Congress have intended?

I think the FTC announcement of its proposed proceeding is an outrage. In its letter to you it flatly ignores the fact that more than 50 years ago in a publicly recorded decision, well-known to the Congress and to the enforcement agencies, the territorial provisions of our bottler franchise agreements were upheld by the district court as not being in violation of the antitrust laws. Never has this decision been overruled by the courts or by Congress and the FTC cannot claim that it has been. Now by action of a few administrators it attempts to take away what the court said was a "perpetual" right in the territorial franchise that amounts to a "property right." I thought only Congress could do that and only if Congress compensated us for the taking away of that property right. Certainly that would be the fair way.

It does not need elaborate proof to establish that the soft drink industry is one of the most competitive industries in the country. The Department of Commerce has even said so. What more can the Federal Trade Commission ask for?

I submit that if the Congress and you are interested in helping the small businessman, such as myself, you will take steps to see that the Commission will not only *not* seek to upset this long-standing lawful agreement, but, in addition, that it disavow its intention to do anything about it in this industry. Because while this threat to change a 50-year rule hangs over my head, I hesitate to make any additional investment in the business. As a practical matter I can't even sell the business at any reasonable figure because everyone knows that if the FTC is successful they can just walk in and take it away from me.

Please do something. I don't know what, but only you and Congress can help me and small businesses like me from the arbitrary action of agencies such as the FTC.

Very truly yours,

———— ————.

———

DRAFT NO. 3

DEAR ———: Many thanks for forwarding to me a copy of the letter you received from the FTC staff concerning the proposed complaint against the soft drink companies charging that their territorial practices are unlawful.

I would like to tell you a little bit about the soft drink industry whose structure the Commission is now admittedly trying to change. First of all, this industry has been based upon getting products available to as many consumers in as many places as possible. This is obvious to everyone who has ever seen Coke in gas stations, train stations, airports, restaurants, lunch counters, bars, delicatessens, Mom and Pop grocery stores, drug stores, supermarkets and many other public places.

This is to the interest of the consumer. It did not happen by accident. It happened because the bottler in a particular territory had the incentive to go and develop that business. It is costly to do that. It is expensive to distribute to individual Mom and Pop stores. But the bottlers are able to deliver to those Mom and Pop stores and enable them to make a profit on the resale of the product because the bottlers have the entire territory and can cover all stores on one trip efficiently.

The result has been that the cost of Coca-Cola to the consumer in a 16 oz. bottle is the same as it was —— years ago. How many other products can make such a statement?

A further result has been that . . .

Now let's suppose the FTC has its way and another bottler can come into my territory. First of all the trip is going to be longer because it's farther away from the plant. This means there will be less time for actual delivery and servicing of stops, such as checking the stock, rotating or putting fresh packages out front, picking up the empties, etc.

So if someone else comes into my territory, he won't be able to serve the same number of accounts and somebody is going to have to be eliminated. Who will that be? Obviously, it's going to be the small-volume low-profit accounts, such as the corner grocery, the drug store, etc. The high-volume accounts, such as chain stores and supermarkets, will continue to be served.

So, now, we've got two bottlers in the territory one of which serves the high-volume high-profit accounts, such as the chain stores and supermarkets, and the other of which serves unprofitable small accounts. It's perfectly plain what's going to happen. The bottler selling the small accounts is going to go out of business. He can't afford it.

The further consequences is that the small stores like thhe corner grocery (to the extent that there are any left), the drug stores, etc., are not going to be served. Why should they be served by a bottler from another territory? They are not going to be adding to his profit.

(To be fair, Mom and Pop stores frequently can be served if the FTC is successful. It doesn't mean that they will never be able to get Coca-Cola. It only means that there is going to be another link in the chain of distribution—namely, a wholesaler who is going to add on his profits and increase the price to the small retailer and ultimately to the consumer. Why does the Commission do things that cost the consumer more money?)

So the ultimate result of the FTC announced proceeding, if it is effective in achieving what it wants to do, is not only to drive out small bottlers such as myself but, also, to eliminate or reduce service to the small retail stores in favor of the chain stores. Anyone in business can tell you this. It does not take an expert. And if the FTC thinks otherwise it is closing its eyes to the obvious. In fact, I'm absolutely certain that they know what its called—namely "skimming the cream off the top of the market."

Now, who is the Federal Trade Commission or the Congress of the United States for? Are they in favor of promoting small businesses such as myself, or do they want to eliminate us and favor the chain stores? They couldn't find an industry more competitve than this—and anyone with this eyes open can see on a firsthand basis the intense rivalry among brands.

Moreover, the United States District Court ruled in 1921 that our territorial franchise agreements with The Coca-Cola Company are lawful under the antitrust laws. Congress has never said anything to the contrary. The Supreme Court has never said anything to the contrary and the FTC cannot claim that it has. Why does the FTC suddenly decide to try to overrule a decision of the courts that has been on the books for more than fifty years? And why the FTC rather than Congress? That is unfair and as a Congressman of the United States I think you ought to protect me and others like me from such unfairness of other governmental agencies.

Indeed, the mere announcement of the FTC's intention to institute the proceeding will have this dilatorious effect upon small companies such as myself. While it is pending should I make an investment in new bottling facilities? In new disposable packages to eliminate litter and waste? In re-cycling facilities? I certainly can't do such things unless I know I'll still be in business—and I won't know that with the FTC proceeding pending.

Please help.

Very truly yours,

———— ————.

———

DRAFT NO. 4

DEAR ———: Many thanks for forwarding to me a copy of the letter you received from the FTC staff concerning the proposed complaint against the soft drink companies charging that their territorial practices are unlawful.

Let me tell you what's going to happen to small business if the FTC is successful. One of the principal sellers of soft drinks in the community serviced by this company is the chain store. In fact the single brand with the greatest volume in chain stores is the private label of the chain itself.

In short, the chains are my largest major competitors. In deed, in this area the chain not only sells its own brand but also owns its own bottling plants.

Who is going to benefit from the FTC proceeding? Well, the principal person is going to be the chain store, a competitor. Who is going to be hurt? Small bottlers such as myself.

The net result is that the Commission proceeding is going to help drive me out of business, all to the benefit of one of my major competitors, the large chain stores.

Is this what Congress wants? I can't believe that it is.

Please help.

Very truly yours,

———— ————.

———

DRAFT NO. 5

DEAR ———: Many thanks for forwarding to me a copy of the letter you received from the FTC staff concerning the proposed complaint against the soft drink companies charging that their territorial practices are unlawful.

I have been seething in slow anger ever since receipt of the Commission's staff letter. It should be obvious to everyone in this Nation who reads the newpapers, magazines or listens to the radio or TV that the soft

drink industry is one of the most competitive in the Nation.

As a result of this competition consumers today can buy Coca-Cola in a 16 oz. package at the same price per oz. that it cost them 50 years ago. Are there many other industries that can make the same statement?

The Commission staff speaks grandly of our fears being misplaced. But where is the support for their contention that they will be helping either me, or other small businesses like me or consumers? Where has the consumer had a better price break than this? Where are there industries that are more competitive?

If prices were unrealistically high, why has the number of bottlers in the country declined from 4,500 to 3,500 within the last few years alone?

If the territorial provisions have been unfair, why has the Commission waited 50 years before trying to upset a court ruling that they are lawful (269 Fed. 796)? This ruling has never been overturned. In fact, the Court decided that the territorial provisions are a "perpetual" "property right" of the bottlers.

Please help me and other small businesses like me which are going to be injured by this announced action of the Commission.

I know you may be concerned about interfering with an administrative process. But I submit to you that the shoe is on the other foot and that the Commission is usurping a legislative function. The decision of the courts more than 50 years ago has never been overruled or overturned by any decision of another court. It has been publicly known to the Congress and to enforcement agencies during that entire period. Yet Congress has never done anything to overrule this decision of the courts. To take away a property right of bottlers now without compensation is clearly an exercise of the legislative function—an improper exercise at that—and unfair.

The chips are now down. Whose side is Congress to be on—that of the small businessman such as myself or of large chain stores and other large companies.

Very truly yours,

———— ————.

DRAFT NO. 6

DEAR ————: Thank you for sending me a copy of the letter you received from the FTC staff concerning the territorial system established by the major soft drink companies.

My first impression on reading this letter is that the staff has not investigated the business facts of the soft drink industry in depth and has not given much consideration to what may happen to this industry if the proposed complaints are successful.

First, the staff treats bottlers simply as distributors of products made by The Coca-Cola Company. This is not how our industry operates. We are the producers of the soft drinks, using syrups supplied by The Coca-Cola Company and operating as a licensee of its trademarks. Over the years we have invested hundreds of thousands of dollars in bottling plants and equipment and have made much of this investment in recent years in order to satisfy the changing demands of our customers and the developments of our many competitors. This investment I have made and the investments of thousands of other small bottlers like me will be wiped out without any compensation if the proposed FTC action is taken and sustained by the courts.

Our industry is intensively competitive now, and this has been particularly true in the last ten years since the chain supermarkets have gone into competition with me through their private labels sold at minimum cost in their outlets. This competition has kept the price of my products essentially the same per ounce of beverage as it was —— years ago. This competition has also eliminated dozens of soft drink bottlers in this State alone over the last ten years.

While I can accept losing my business because of fair competition, I cannot accept being run out of business to satisfy the economic theories of Government bureaucrats. My family and I have invested our money and our lives in building this business in reliance on a territorial franchise system that gave us a reasonable degree of protection for our investment. We have thought this was reasonable because these soft drink contracts have been reviewed by the courts and upheld as perfectly legal. Now the FTC wants to completely change the rules of the game. It does not make me feel any better to be told that some bottlers will have an opportunity to serve a bigger market. My territory is not strategically placed, does not have the chain store warehouses to compete for, and cannot justify the investment required to compete in a large regional market for the large volume chain store accounts.

Undoubtedly the chain stores will benefit from the FTC action as will a handful of large metropolitan bottlers, but I am extremely skeptical as to how much cost savings will be passed on to consumers. The price of this "improved" competition, however, will be the elimination of many small businesses such as mine and no competition by anyone for the low volume local accounts who depend on my route salesmen for delivery.

I hope you can do something to prevent this injustice.

Sincerely yours,

———— ————.

[From the Washington Post, Mar. 10, 1972]

JUSTICE ASKED TO PROBE KINTNER FOR LOBBYING

(By Carole Shifrin)

Sen. Fred Harris (D-Okla.) yesterday asked the Justice Department to look into possible violations of the Lobby Regulation Act by former Federal Trade Commission Chairman Earl Kintner and others.

In a letter to Acting Atty. Gen. Richard G. Kleindienst, Harris suggested that Kintner and officials of the National Soft Drink Association and the Coca-Cola Bottlers' Association had been lobbying in Congress while not registered as lobbyists as required by the act.

Harris contended that their activities were directed toward securing legislation to exempt the soft-drink industry from some anti-trust laws.

The FTC last summer issued complaints against seven large soft-drink firms, charging that their territorial restrictions on licensed bottlers are anticompetitive.

The FTC alleges that each company has a system of restricting its franchised bottlers from selling outside a designated geographical area, thus eliminating competition between each firm's bottlers.

Passage of the legislation being sought, which has been introduced in both the House and Senate, would effectively kill the FTC suits.

Harris yesterday said it was "clear" that Kintner, now a partner with the law firm of Arent, Fox, Kintner, Plotkin and Kahn, was lobbying by being in direct contact with members of Congress prior to the introduction of legislation which would aid the soft-drink industry. He noted an Associated Press story dated Jan. 22 in which Kintner was quoted saying he was "indeed . . . trying to secure legislation . . ." for his client, the National Soft Drink Association.

Kintner's firm registered as lobbying on Jan. 24, Harris said. "The fact is that before Jan. 24, 1972, Mr. Kintner was violating the Lobby Regulation Act, apparently knowingly," Harris wrote.

Kintner could not be reached for comment.

Harris said also that Thomas F. Baker, executive vice president of the soft-drink association appeared to be in violation of the act, having accompanied Kintner on visits to members of Congress. Baker yesterday said the association was registered in 1959 under a "continuing registration" and that "we will file the reports called for."

The Coca-Cola Bottlers' Association was said to be initiating letter-writing campaigns and Harris included in his letter copies of fill-in-the-blank letters supplied to bottlers who were being encouraged to send to their congressmen. UPI quoted John Knox Jr., the association's executive director, as saying he was not registered to lobby because he hadn't considered himself a lobbyist.

[From the Washington Daily News, Mar. 10, 1972]

HARRIS CITES ILLEGAL POP LOBBY

Sen. Fred Harris, D-Okla., accused a former Federal Trade Commission chairman and two others yesterday of illegally lobbying Congress in an effort to kill an FTC anti-trust suit against the soft drink industry.

The former FTC chairman, Earl Kintner, acknowledged he lobbied for a law client, the National Soft Drink Association. But, Mr. Kintner said, he legally registered as a lobbyist before contacting any congressmen.

Sen. Harris called for a Justice Department investigation of his charges against Mr. Kintner; Thomas Baker, executive vice president of the National Soft Drink Association; and the Coca Cola Bottlers Association of Atlanta.

Sen. Harris said none of the three was registered with the House or Senate as a lobbyist. However, the Senate secretary's office said Mr. Baker registered in 1959 and his registeration was still valid.

John Knox, Jr., executive director of the bottlers association, acknowledged he was not registered to lobby. "I hadn't considered myself a lobbyist," he said.

Sen. Harris released copies of form letters from Mr. Knox to Coca Cola's 780 franchise bottlers. The letters protested the FTC suit and contained blanks so the bottler could fill in the name of his firm and a few other local facts, then retype the letter and mail it to his congressman.

The Federal Lobbying Law requires registration by anyone paid "for the purpose of attempting to influence the passage or defeat of legislation."

A spokesman for Rep. B. F. Sisk, D-Calif., said the bill which would exempt soft drink bottlers from anti-trust action was drafted by the industry. The bill is sponsored by about 170 House members, including Mr. Sisk, and 35 senators.

Mr. Sisk is also sponsoring a bill under which the government would reimburse soft drink bottlers, fruit canners and other firms for losses during the cyclamate ban in 1970.

FEBRUARY 21, 1972.

To: All members.

The purpose of this letter is to remind the membership of the upcoming meeting of the Marketing Committee, to give a report of the Franchise Defense Fund, and to inform the membership that we here in the Association are available to the State Coca-Cola Bottlers' Association groups for an in person report on the current status of the FTC litigation and legislative effort.

The Association's Marketing Committee has scheduled its "input" session for May 1–2, 1972. The success of this committee depends upon the membership sending in its suggestions and comments for review of the committee and discussion with company officials. Your comments should be confined to the general subject of marketing including advertising, strategy, promotions, prestigious national accounts, etc. It is requested that your suggestions be sent in just as soon as possible so that an effective agenda for the

meeting can be implemented with adequate preparation.

As for a status report on the Franchise Defense Fund, $222,000.00 was collected as of December 31, 1971. Legal and other expenses in connection with the FTC matter and the legislative effort during 1971, were $86,244.82. Of this amount, the Association itself paid $45,461.59 (before the special fund was established); and the Franchise Defense Fund paid $40,783.23. The unused monies in the fund earned .973 of 1% interest for the few months in 1971, they were held and invested; and 18.37% of the fund was expended during 1971. The above percentages applied to your own contribution may be useful to your tax attorney or accountant in preparing your tax returns and are furnished at the suggestion of the Association's counsel. The Francise Defense Fund is held for the bottlers to be used in the FTC litigation and legislative effort as needed. Any unused funds will be returned to the bottlers.

Some of you may perhaps be interested in getting a first hand report to your state bottler group on the status of the FTC proceedings and the legislative effort from the point of view of bottlers of Coca-Cola. Things are moving so fast that it is most difficult to keep the membership abreast through written reports on these two vital subjects. If you are planning a meeting of your state group and would like a status report; please give me a call, and I will be delighted to come to your meeting unless, of course, it conflicts with any of the pre-hearing conferences or meetings scheduled in Washington.

With best regards, I remain
Sincerely,

JOHN S. KNOX, Jr.

FRANCHISE DEFENSE FUND,
THE COCA-COLA BOTTLERS' ASSOCIATION,
Atlanta, Ga., September 3, 1971.

To: ———.

Please indicate applicable category and return immediately with check.

Made payable to: *Franchise Defense Fund.*
Number of cases sold during 1970:
Up to 25,000, $50.
25,001 to 100,000, $150.
100,001 to 500,000, $250.
500,001 to 1,000,000, $300.
1,000,001 to 1,500,000, $350.
1,500,001 to 2,500,000, $600.
2,500,001 to 5,000,000, $750.
5,000,000 and Up, $1,000.
Please return yellow copy with check.

THE COCA-COLA
BOTTLERS' ASSOCIATION,
Atlanta, Ga., September 3, 1971.

To: All Members of The Coca-Cola Bottlers' Association.

ASSESSMENT FOR FRANCHISE DEFENSE FUND

At a meeting of the Association's Board of Governors held in Atlanta on August 30, the Board reconfirmed its dedication and commitment to an all out fight for the preservation of the territorial franchise system.

This week the Association's counsel on behalf of seven of its members filed a petition with the Federal Trade Commission to intervene in the pending complaint.

At the August 30, meeting the Board of Governors voted to establish a *Franchise Defense Fund* of approximately $200,000 based upon the following scale:

Total cases of all products sold in 1970

Cases:	Assessment
Up to 25,000	$50
25,0001 to 100,000	150
100,001 to 500,000	250
500,001 to 1,000,000	300
1,000,001 to 1,500,0000	350
1,500,001 to 2,500,000	600
2,500,001 to 5,000,000	750
5,000,000 and up	1,000

The fund will be used solely for legal and other expenses in connection with the protection of the franchise including the administrative proceedings in the Federal Trade Commission, expenses of the individual bottlers selected by counsel for the intervention, any necessary appeal to the courts, and the legislative effort which is expected to be under way shortly in the Federal Congress.

An invoice is enclosed. Please check the appropriate bracket and return to the Association with your check *without delay.* Substantial legal expenses are being incurred now. A return addressed stamped envelope is enclosed.

Since it is not possible to estimate legal and other expenses at this time, an annual assessment will be made to keep the fund at the $200,000 level depending upon expenses during the year. It is expected the next assessment to the fund (if required) will not be due until January 1, 1973. The unused portion of the fund will earn interest and at the conclusion of the entire effort *the remaining money in the fund will be returned to the bottler-members in proportion to their contribution.*

We are advised by counsel that in their opinion this assessment does not violate the President's Wage-Price Freeze. One of the primary reasons the Board decided to raise this fund by assessment rather than liquidating some of its assets was the fact that the dividend income from the accumulated surplus represents substantial income to the Association. In fact, it is now at a level exceeding the revenue received from dues. This is one of the reasons there has been no increase in the Association's modest dues scale in sixteen years. The Association's reserve in stock of The Coca-Cola Company is looked upon by many as a capital endowment which we should not begin to deplete. An additional reason for the assessment is that when spread over our 800 members it is a relatively small amount for each individual plant when the serious consequences of the fight we are undertaking are considered.

The Board has deferred any consideration of a dues increase even though additional services to members and rising costs would indicate the necessity of an increase within the next few years. Because of these factors we have been unable to add to our common stock reserve fund since 1962.

When this franchise fight is over, we intend to leave the Association in a strong position financially and otherwise so that we will be fully able to effectively defend any other attack which may be made against our industry.

On behalf of the Board of Governors I want to thank each of you for your support and cooperation.

Sincerely,

DOUGLAS A. TAYLOR.

NATIONAL SOFT DRINK ASSOCIATION,
Washington, D.C.

DEAR INDUSTRY MEMBER: Please give the attached letter your immediate attention.

Thanks,

TOM BAKER.

NATIONAL SOFT DRINK ASSOCIATION,
Washington, D.C., December 3, 1971.

DEAR INDUSTRY MEMBER. At the annual meeting in Houston, Texas, you heard a full report on the status of the Federal Trade Commission action. At vital element of that report concerned the legislative effort being initiated by NSDA to seek Congressional relief from this long and costly judicial process.

Your part must begin now!

Your Congressional delegation will be home very shortly and it is essential that you *personally visit your Congressman and your Senator* and impress upon them the peril to this industry that the FTC action carries with it.

Your task is to specifically ask your Representative and Senator to sponsor the attached legislative draft upon his return to the Congress.

Four attachments are enclosed for your use. Study them.

(1) A fact sheet backgrounds you to present the issues to your congressmen. To this general data *you must add the impact of your personal situation.*

(2) A "talking paper" which states the case and need for legislation in full perspective.

(3) A legislative analysis enables you to tell the congressmen the meaning and purpose of the bill you are asking him to introduce; the type of *law* that would provide the needed relief.

(4) A copy of the legislative language. *This is the bill you want your Representative and Senator to introduce when he returns to the Congress.* Leave it with him along with the analysis and the "talking paper."

Just as quickly as Congress comes back into session after the holidays a determined drive will begin to pass this legislation. You will be hearing of this effort and your essential role very shortly. Between now and then, however, the Congress must be made aware that a genuine, grass-roots need exists in their individual districts. *They must see you and hear you this recess!*

This is the beginning. If the industry misses this first critical step it will fail. Your personal role is as vital as every other industry member. Don't think another bottler can do it for you. Act now!

Above all, advise NSDA of every contact you make and of the opinion of each member of Congress.

Cordially,

TOM BAKER,
Executive Vice President.

NSDA—CONGRESSIONAL CONTACT FORM

Date: ———.
State: ———.
Congressman (Senator) Contacted: ———
Date of Contact: ———.
Contacted By: ———.

I. The Congressional Representative (Check *all* appropriate boxes):
Will introduce industry legislation.
Will not introduce industry legislation.
Will support industry legislation.
Will oppose industry legislation.
Will not definitely commit himself at this time.

II. Give your best, objective impression from your visit:
This member of Congress genuinely wants to help the industry.
This member of Congress gave a fair audience but did not reveal his opinion at this time.
This member of Congress is non-commital, but additional industry contacts may bring him behind the legislation.
This member of Congress, in my opinion, cannot be persuaded to assist the industry.
This member of Congress will definitely oppose industry legislation.

III. Should NSDA staff people call on this member of Congress to further explain the industry position?
Yes. No.

IV. Is another contact scheduled at the home District?
Yes. No.

V. Remarks (Please give all information gained from this contact which will assist understanding the position of this member of Congress. Use additional paper if required).

VI. Submitted by:
Name: ———.
Address: ———.
Telephone: ———.

FACT SHEET—THE SOFT DRINK INDUSTRY AND CURRENT FTC ACTION

1. What has the Federal Trade Commission done?

This agency has charged that eight soft drink franchise companies have illegal clauses in their contracts with soft drink manufacturers. FTC will try to prove that the clause giving a bottler an exclusive sales territory is illegal.

2. Why is the industry going to go to the Congress?

Because if the FTC successfully prosecutes its complaint, it will destroy the franchise system in this industry as it has existed for more than seventy years; and further, it will bring about the destruction of hundreds of franchised bottlers with resultant loss of investments.

3. Since the FTC has filed complaints, why doesn't it make more sense to await the outcome of the cases in the administrative or court processes before seeking assistance from the Congress?

Because the administrative-judicial process can take from five to seven years, depending upon procedures established, legal challenges, rulings, appeals, etc. During this period of uncertainty, most bottlers will be reluctant or unable to invest, expand or aggressively market. The industry can wither during this costly wait. Winning the litigation, you may still be a loser.

4. If the FTC is successful with its complaints, what would be the effect on the soft drink industry?

Because the FTC in its complaints seeks to restructure the industry and is alleging that there must be full intrabrand competition within the soft drink industry, the soft drink franchise manufacturer, depending upon his geographic competitive market, will either be destroyed by his neighboring soft drink manufacturer of the same brand products or he will destroy his neighbor. Consequently, instead of effecting more competition within the soft drink industry, the suit, if successful, would result in there being fewer manufacturers competing. As a result, the soft drink industry will tend to become monopolistic.

5. Will success in the FTC suits be beneficial to the public interests?

Initially, during the restructuring period, the public may realize cost savings as a result of vicious price wars and the struggle for market territories. However, this consumer gain, if secured, will be short-lived. Ultimately, control of the trademarked products will be in the hands of fewer soft drink manufacturers, and prices very likely will rise instead of drop.

6. What other public interest factors should be considered?

A. Soft drink products are widely accessible to the general public at a reasonable price under the franchise distribution system as it exists. The FTC proceedings would destroy most of this availability to the public. Soft drink manufacturers who will invade a neighboring manufacturer's territory will seek only those accounts which are the most profitable (i.e. chain grocery store accounts). If the predator is successful, the manufacturer whose territory is invaded will find himself left with a market which will not support a reasonable profit, as his sole remaining accounts will be smaller grocery stores, filling stations, corner drug stores, delicatessens, vending outlets, hotels, restaurants, etc. Ultimately, these accounts may not be serviced at all, and therefore will not be available to the general public for the purchase of soft drink products. Even if these accounts are serviced in some manner, the price to the consumer undoubtedly will rise.

B. Since soft drinks are a food product, the quality of that product and its wholesomeness are matters of great importance to the consumer, as well as to the soft drink franchise companies. Identification of the manufacturer of a particular item, therefore, should be readily ascertainable. Under the present franchise distribution system, identification can be accomplished as needed. The FTC proceedings, if successful, would destroy that system with its quality control aspects. Suggested alternative identification methods are much less foolproof, and could increase, rather than lessen, confusion, to the detriment of both the consumer and the industry.

7. What effect would a successful FTC proceeding have upon a large grocery chain?

The large grocery chain will actually control the distribution system of soft drink products. This would be contrary to the public interest because grocery chain stores already have controlled brand soft drinks which they distribute mostly as "loss leaders" within their stores. Controlling all soft drink products will enable the chain stores to push selected house or other brands by controlling shelf space and availability in retail outlets to the detriment of many existing brands.

8. Would there be any adverse effects upon the local community by reason of a successful FTC proceeding?

Yes. Success will mean the demise of the majority of small local bottlers. Consequently, a local manufacturing enterprise will disappear from the scene. In addition to a local labor market being lost, the community will also lose tax income and local reinvestments.

9. How would you best sum up the results of a successful FTC proceeding?

(a) Large soft drink manufacturers will become larger, and small manufacturers will be compelled to go out of business; (b) years of financial investments would be eradicated; (c) small manufacturers seeking to ward off larger predators will be financially unable to obtain financial assistance for expansion; (d) consumers will be faced with poorer market service and ultimately price incerases; (e) one-trip container use will be the rule; (f) the soft drink retail market will become monopolistic and chain stores will control the soft drink distribution system in the United States. In addition, investment, incentive, and local growth will be stifled.

10. Are there any other reasons why legislation is necessary?

Yes. In addition to the consequences set out above, legislation is necessary to once and for all establish in the antitrust laws the validity of trademark franchise geographic markets. Moreover, legislation is needed to prevent similar future actions by the government which would divest small independent businessmen of their property.

AMICUS BRIEF FILED ON BEHALF OF THE SENATE IN THE GRAVEL CASE

Mr. ERVIN. Mr. President, on March 23 the Senate adopted Senate Resolution 280, appointing a committee consisting of Senators EASTLAND, PASTORE, TALMADGE, COTTON, DOMINICK, MATHIAS, SAXBE, and myself to represent the Senate as amicus curiae before the Supreme Court in the case of Gravel against United States. The Senate took this action because it feared that an adverse decision would impair the constitutional independence and prerogatives of every individual Senator and the Senate as a whole.

This committee of Senators obtained the requisite consent of the parties and the Court, and filed a brief for the Senate on Friday, April 7. The brief stresses the dangers to the Senate of any infringement of the constitutional protection afforded Congress by Article I, Section 6, the "speech or debate" clause. In essence, the brief contends that a narrow construction by the Supreme Court of this most important clause of the Constitution would upset the delicate separation of powers between the branches of government. A constriction of the protection provided by the clause might mean that the executive and judicial branches of government could question and harass Members of Congress through their personal aides and thereby intimidate Congress as a whole.

On April 4 the Court granted the committee's request for 30 minutes in which to present oral argument on behalf of the Senate's position. The committee plans to make a vigorous defense of the Senate's prerogatives under the Constitution at the time of argument, which should be held on April 19 or 20.

For the information of the Senate and of the American people, who also have a great stake in this controversy, I believe the text of the brief should be printed in the CONGRESSIONAL RECORD.

I therefore ask unanimous consent that the text of the brief, which warns the Court of the Senate's grave concern over these issues, be printed in the RECORD.

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

[In the Supreme Court of the United States, October Term, 1971—No. 71-1026]

BRIEF FOR THE SENATE OF UNITED STATES—AMICUS CURIAE

(United States of America, Petitioner v. Mike Gravel, U.S. Senator, Respondent—On Writ of Certiorari to the United States Court of Appeals for the First Circuit)

The Senate of the United States hereby appears as *amicus curiae* pursuant to Senate Resolution No. 280—the Resolution appears as Appendix A hereto—and with the consent of the Solicitor General of the United States and Senator Gravel. Copies of the letters of consent have been filed with the Clerk's Office.

INTEREST OF THE AMICUS CURIAE

In light of the questions presented, which directly concern the scope and validity of the constitutional privilege created by the "Speech or Debate" Clause of the United States Constitution, Art. I, § 6, the interest of the United States Senate in this litigation hardly needs explication.

OPINIONS BELOW

The opinions of the Court of Appeals for the First Circuit are not yet reported. They are reproduced as Appendices A and B to the Government's petition for certiorari. The opinion of the District Court is reported at 322 F. Supp. 930.

JURISDICTION

The petitions for certiorari were timely filed. Jurisdiction is invoked under 28 U.S.C. § 1254(1).

QUESTIONS REPRESENTED

1. Can a Senator be questioned by a grand jury about his legislative conduct despite the prohibition of the "Speech or Debate" Clause against questioning in any other place?

2. Can a Senatorial aide be questioned by a grand jury about his or his Senator's legislative conduct, where there is no issue of the constitutionality of that conduct, despite the prohibition of the "Speech or Debate" clause against questioning in any other place?

CONSTITUTIONAL PROVISIONS INVOLVED

The "Speech or Debate" Clause of the Constitution, Art. I, § 6 provides:

"The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the

Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their attendance at the Session of their respective Houses, and in going to and returning from the same; *and for any Speech or Debate in either House, they shall not be questioned in any other Place.*" (Emphasis added.)

STATEMENT

In a very important sense, this is not an ordinary brief *amicus curiae*. It is rather a statement by a coordinate branch of the United States Government of that branch's understanding of the meaning of the Constitution of the United States, a Constitution which, like each member of this Court, each member of the Senate has sworn to uphold. In its nature, the brief is in fact testimonial as well as forensic.

The purpose of this brief is to establish the position of the United States Senate that the attempt to subpoena an aide to a Senator to testify before a grand jury as to his activities and those of the Senator whom he serves is an invasion of the Senate's constitutional privilege. Art. I, § 6. It is the contention here advanced that this position ought to be accepted by this Court by reason of the comity due to a coequal branch in the determination of the protections it needs to fulfill the functions with which it is charged. Only if this Court is unwilling, as a matter of comity, to accept the authority of the Senate in its own sphere, need it turn to the history and authority which also establish the propriety of the conclusion here asserted.

In part because of the nature of this brief, and in part because the materials are elaborately collected in the other briefs, it is not intended here to provide a detailed study of the origins and development of the Congressional privilege to operate free from the restraints of both the Executive and Judicial branches. It is the purpose, rather, to assert the basic principles on which the outcome of this case must rest.

In short, this brief is filed on behalf of the Congressional privilege. It is not a defense of Senator Gravel or his aide, nor is it a defense of their conduct in this case. If there were misconduct on their part, they must answer to the Senate itself. Discipline of its own membership is a function committed by the Constitution to each House. Art. I, § 5.

Nor is this brief an attack on the present administration, the President, or the Department of Justice.

In filing this brief, the Senate does not seek a confrontation with either the Executive or the Judiciary. The Senate recognizes that if the three Branches are to function in comity, such confrontations must be limited to those extreme situations where confrontation cannot be avoided. Here the confrontation is forced upon the Senate, and upon the Judiciary, by the insistence of the Executive that the Senate's privilege be limited. The facts of this case are not of sufficient importance to warrant a test of the privilege, nor to require the Judiciary to insert itself between the Executive and the Legislative Branches.

As far as this case is concerned, neither Senator Gravel nor his aide can be reached by the Grand Jury under the opinion of the Court of Appeals. A complete vindication by this Court of the Congressional privilege, much as it is desired by the Senate, would not immunize them any more.

Similarly, this is not a case of such importance to the Executive Branch to warrant a constitutional confrontation, and it is certainly not of such importance to the Executive to warrant an erosion of the Congressional privilege. In context, these Grand Jury proceedings are of little long-run significance compared to the crucial, historical importance of the "Speech or Debate" Clause to the continued vitality of the Congress. There is no need to comment here upon the principal actors in the Pentagon Papers affair: the *New York Times*, Mr. Ellsberg, and others. Their cases are properly in court and the fundamental issues, if any are involved, can be determined in their cases. The crimes suggested by the Solicitor General—retention of public property or records with intent to convert, gathering and transmitting of national defense information, concealment or removal of public records or documents and conspiracy to commit such offenses and to defraud the United States—are by their nature readily provable, if committed, without reference to any involvement of Senator Gravel or his aide. There is no compelling reason of public policy to limit the Congressional privilege in order to make this prosecution easier, even if, in fact, it would do so.

The Solicitor General suggests dire consequences to the functioning of the Grand Jury if Senatorial aides and others cannot be questioned about legislative activities of a member of Congress (Government Question 1) or if an aide may not be questioned about private publication of material introduced by his Senator-employer into a subcommittee record (Government Question 2). Made by anyone but the Solicitor General, the suggestion would not be seriously considered. For if the activities are protected, as Question 1 assumes, they should be beyond inquiry. And if there has been publication—and if publication itself is not protected—the problems of proof for the Government are not so great that an aide of a Senator should be subject to interrogation by the Executive's Grand Jury, when admittedly the Senator could not be. Indeed, if all Congressmen and all of their aides had absolute immunity under all circumstances, a position not here urged, it is difficult to imagine that this would have any substantial effect, or any effect, on the overall administration of justice. It is even more difficult to imagine that it would make any significant difference in this case. The questions raised by the conflict between the Executive and the Senate are serious; the questions raised by the Solicitor General are not.

This is a poor case to test the great constitutional issues involved. The Court might best decide to dismiss the Solicitor General's petition as improvidently granted.

It is important to note that no question is here raised as to whether or not Dr. Rodberg was an aide of Senator Gravel, nor whether the hearing of the Subcommittee on Public Buildings and Grounds, at which Senator Gravel published classified documents was or was not properly called, nor whether such Subcommittee had legislative jurisdiction over the subject matter of the publication. These determinations would historically remain subject to the judgment of the Senate.

The protection of the "Speech or Debate" Clause is not a perquisite of office. Its purpose is not to immunize Members as a reward to them. Its purpose is to enable them to perform to the fullest, without obstacle or harassment, the duties of their offices. One of these duties, important as any other, is the duty of informing other Members, constituents and the general public, on the issues of the day. This is done in many ways, most of which were not technically possible in 1789. Floor debate and belated newspaper reports were practically the only means available at the time of the founding. Now, there are many means of disseminating information: wire services, radio and television, telephone and telegraph, as well as floor debate, newspapers, books, magazines, newsletters, press releases, committee reports, the *Congressional Record*, and legislative services. In today's hectic and complicated world, the various methods of informing vary in effectiveness. Each Member must decide for himself from time to time which issues require ventilation and what methods to use. It is not for the Executive to challenge nor for the Judiciary to judge a Member's choice of issues to publicize or methods of publication regardless of whether they may be considered ill-advised. The Senate as a whole may or may not approve the exercise of the privilege by Senator Gravel in this case. But it joins in Senator Gravel's assertion of the privilege.

Neither the Executive nor the Judiciary can determine the extent of Congressional privilege if "separation of powers" is to retain its function. The Constitution says that Senators and Representatives shall not be questioned in any other place for any speech or debate. It does not say "except when the Executive thinks otherwise and the Judiciary agrees." The very purpose of the privilege is to insulate the Congress from just such scrutiny and determination. Senator Gravel made a record in the Senate and arranged for its publication. If his privilege to do so is subject to challenge by the Executive and determination by the Judiciary, the Congressional privilege is all but dissipated.

I. The origins of the "Speech or Debate" clause

"It was not only fear of the Executive that caused concern in Parliament but of the judiciary as well, for the judges were often lackeys of the Stuart monarchs, levying punishments more to the wishes of the crown than to the gravity of the offense . . .

"There is little doubt that the instigation of criminal charges against critical or disfavored legislators by the Executive in a judicial forum was the chief fear prompting the long struggle for parliamentary privilege in England and, in the context of the American system of separation powers, is the predominate thrust of the Speech or Debate Clause." *United States v. Johnson*, 383 U.S. 169, 181–82 (1965).

The origins and purpose of the "Speech or Debate" Clause are patent. This provision, like many others in the Constitution, was a specific remedy for a specific evil. The evil was harassment by the Crown and its judges of legislators who spoke out in the course of their legislative duties on public issues in a manner not pleasing to the king.

When the "Speech and Debate" Clause is the measure of the rights of the legislature, as it is here, the history of the legislative immunity is especially important. The immunity was finally gained by Parliament only after Charles I had lost his head. And he lost his head, in measure, because he imprisoned members of Parliament who had opposed him in needless and costly wars overseas, even to the extent of refusing to vote him the funds necessary to carry them on. The establishment of the legislative privilege came during the fight by Parliament to establish its independence from a king who claimed total power.

As this Court said in *Tenney v. Brandhove*, 341 U.S. 367, 372 (1951):

"In 1668, after a long and bitter struggle, Parliament finally laid the ghost of Charles I, who had prosecuted Sir John Elliot and others for 'seditious' speech in Parliament. . . In 1689, the Bill of Rights declared in unequivocal language: "That the Freedom of Speech, and Debate or proceeding in Parliament ought not to be impeached or questioned in any Court or Place out of Parliament.' 1 Wm. & Mary Sess. 2, Ch. 2.

"Freedom of speech and action in the legislature was taken as a matter of course by those who severed the Colonies from the crown and founded our Nation. It was deemed so essential for representatives of the people that it was written into the Articles of Confederation and later into the Constitution. . . .

"The reason for the privilege is clear. It

was well summarized by James Wilson, an influential member of the Committee of Detail which was responsible for the provision in the Federal Constitution. 'In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of everyone, however, powerful, to whom the exercise of that liberty may occasion offence.' II Works of James Wilson (Andrews ed. 1896) 38."

It was understood from the beginning that provisions of this kind were to be construed broadly, that the protection was not to be niggardly, but expansive, if it were to serve the function that caused its creation. See *Coffin v. Coffin*, 4 Mass. 1, 27 (1808), cited with approval in *Tenney v. Brandhove, supra*, at 373. At the core was always the recognition that the immediate and historic sources of danger to the independence of the legislature—the representatives of the people—was the Executive branch of the government. The provision is a cornerstone of the concept of separation of powers, an assurance of legislative independence similar to the protection of life tenure afforded by the Constitution to the Judiciary, and the rigid rules protecting the President against impeachment also provided by the Constitution. Thus, the Court said, in *Powell v. McCormack*, 395 U.S. 486, 502–03:

". . . we concluded in *United States v. Johnson*, [383 U.S. 169] at 181, that the purpose of this clause was 'to prevent intimidation [of legislators] by the executive and accountability before a possibly hostile judiciary.' . . . we have held that it would be a 'narrow view' to confine the protection of the Speech or Debate Clause to words spoken in debate. Committee reports, resolutions, and the act of voting are equally covered, as are 'things generally done in a session of the House by one of its members in relation to the business before it.' *Kilbourn v. Thompson*, [103 U.S. 168] at 204. Furthermore, the clause not only provides a defense on the merits but also protects a legislator from the burden of defending himself. *Dombrowski v. Eastland*, [387 U.S. 82] at 580; see *Tenney v. Brandhove, supra*, at 377."

It is of some importance to emphasize a distinction of which this Court has taken appropriate notice, the distinction between the privilege against actions taken by the Executive branch of the government, which is involved in this case, and the privilege as asserted against individual action, which is not involved here. This Court said in *United States v. Johnson*, 383 U.S. 169, at 180–81: "Even though no English or American case casts bright light on the one before us, it is apparent from the history of the clause that the privilege was not born primarily to avoid private suits such as those in *Kilbourn* and *Tenney*, but rather to prevent intimidation by the executive and accountability before a possibly hostile jury." It is exactly the latter and not the former proposition that grounds the position asserted here by the Senate of the United States.

The purpose of the "Speech or Debate" Clause—to protect the independence of the Legislative branch from incursions by the Executive—would be seriously eroded if the Court were to retreat from the standards it has heretofore announced. An independent legislature—one in which the legislators are responsible for their actions to their constituents and to the body of which they are members—must be as important to the governance of a free people as the independence of the Judiciary and the independence of the Executive.

In Great Britain, where the horrible experiences occurred that gave rise to the inclusion of the "Speech or Debate" Clause in our Constitution, it is the legislature itself that makes a determination whether the privilege is breached by threatened executive action. Thus, in 1938, in the case of Duncan Sandys, it was the House of Commons that decided that it was a breach of privilege to attempt to require a member of Parliament to divulge to a court of inquiry his source of information about anti-aircraft defenses which he published in putting a question to a minister. (1938) H.C. Pap. 173. The inquiry was based on the possibility of a violation of the Official Secrets Act. The Executive sought to bring Sandys before an allegedly appropriate tribunal. The House of Commons held that Sandys could not be required to respond to any tribunal other than the House itself.

In a more recent case, the House of Commons, contrary to the recommendation of its Committee of Privileges, voted to permit an action to be maintained for a private libel. (1958) 430 H.C. Deb. Col. 208. It is respectfully submitted that the English, without a written Constitution, are more conforming to the concept of separation of powers than we are; that whatever breach of standards committed by a legislator or his aides makes him responsible to the body of which he is a member, in this case, the Senate, is a matter of constitutional provision, Art. I, § 5; that he is not responsible for such actions to the Executive or Judicial branches of the national government is equally a matter of constitutional command. Art. I, § 6. "Courts are not the place for such controversies. Self-discipline and the voters must be the ultimate reliance for discouraging or correcting such abuses." *Tenney v. Brandhove, supra* at 380.

This view was set forth by the Court of Appeals of the District of Columbia in the case of *Cochran v. Couzens*, 42 F. 2d 783, (1930):

"Presumably legislators will be restrained in the exercise of such a privilege by the responsibilities of their office. Moreover, in the event of their failure in that regard, they will be subject to discipline by their colleagues. Article I, § 5."

If this Court is to remain true to the commands of the Constitution, it must hold that neither Senator Gravel nor his aide can be called by the Department of Justice before a grand jury to answer for the Senator's conduct or that of his assistant when they were engaged in their Senatorial duties.

II. For the congressional privilege to be effective it must include legislative aides

A factual aspect of this litigation can be disposed of by common knowledge. For it hardly requires documentation that the dangers of Executive imposition on legislative independence can as readily—perhaps more readily—flow from attacks on legislative assistants as from attacks directly on the legislators themselves. A Representative or Senator simply cannot function in the Congress without aides who are so intimately involved and identified with him as to be in many instances his alter ego. A great deal of the day-to-day work of the Congress is done in the interchange between Members and their own aides, between Members and the aides of others, and even between aides of one Member and aides of another. Congress is no longer a body which meets for only a few weeks of the year, to conduct most of its business on the floors of the House and Senate. It is in more or less continuous session, with staffs both in Washington and in the home districts, and with most of its business conducted by committee, subcommittee, and staff. A Member cannot conduct all of his business himself; he must and does conduct it largely through his aides. If the "Speech or Debate" provision is to be meaningful, it must apply to aides acting for their employer-Member in any situation where it would apply to the Member acting for himself. The Solicitor General's suggestion that harassment of an aide would not distract a Member in the performance of his duties simply misstates the facts of life for Congress today.

This was recognized in *United States v. Johnson, supra*, in which it was held that the role of Representative Johnson's aide in the preparation of a speech was within the privilege. *Id.* at 173, 173n. 4.

The only cases in which the privilege has not been extended to Congressional employees are readily distinguishable on two grounds: 1) they involved competing Constitutional rights of individuals; and 2) they involved employees who were engaged in effectuating unconstitutional legislative acts. *Powell v. McCormack, supra* at 501–506; *Dombrowski v. Eastland, supra*; *Kilbourn v. Thompson, supra*.

This is not a case in which the privilege, if sustained, will deny some fundamental constitutional right of a citizen. Nor is there any question here of the constitutionality of the actions taken either by Senator Gravel or by his aide. This is simply a classic, naked conflict between the Executive, concerned by disclosures about its conduct, and a Senator who wishes first to know about this conduct and second to make it known to the people at large. The Executive challenges the conduct of Senator Gravel through his aide. Even attributing legitimacy to the Grand Jury effort in this case, the inquiry into the conduct of a Senatorial aide in his activity for and on behalf of his Senator, if permitted, necessarily diminishes the Speech or Debate privilege.

For not only must the privilege protect a Senator from efforts of the Executive to question his speech, it must, if it is to be meaningful, prevent the Executive from acting in such a way as to inhibit a Senator's use of his aides. To isolate a Senator so that he cannot call upon the advice, counsel and knowledge of his personal assistants is to stop him from functioning as an independent legislator. If an aide must fear that the advice he offers, the knowledge he has, and the assistance he gives to his Senator may be called into question by the Executive, then he is likely to refrain from acting on those very occasions when the issues are the most controversial and when the Senator is most in need of assistance. If the aide must fear that a vindictive Executive or hostile Judiciary will seek to strike at him because it cannot reach his Senator, then the aide will not be able to give his best service to his superior. And the Senator will never be certain whether the advice he gets and the assistance he receives are not the product of the caution and fear engendered by the threats implied. In order that the Senator be protected from Executive interference, the Executive cannot be permitted to delve into what passes between the Senator and his aide.

A recent expression of the argument that the Congressional privilege extends to aides, may be found in the Government's brief in the Court of Appeals for the District of Columbia in the as yet unreported case of *Doe v. McMillan*. In *Doe*, notwithstanding the competing Constitutional claims of the plaintiffs, the Government argued that the aides were privileged because their activity was "within the scope of (their) authority and within the scope of Congress' constitutional power." Government Brief in *Doe v. McMillan*, p. 14. The Government correctly distinguished *Kilbourn v. Thompson, supra*, on the ground that in *Kilbourn* "liability arose from the lack of Constitutional authority." *Ibid.*

Because of its recency, and its applicability and importance to the position of the Senate here, the Government's argument is set forth at length:

"The protection of the Speech or Debate clause extends in this case to those seven appellees who are not members of Congress but are their employees or agents—i.e., the staff members (including the investigator and

consultant) of the Committee and the officials of the Government Printing Office. In *Dombrowski v. Eastland,* 387 U.S. 82 (1967), the Supreme Court held that the doctrine of legislative immunity is 'less absolute, although applicable, when applied to officers or employees of a legislative body, rather than to legislators themselves.' *Id.* at 85. 'Less absolute' in this context, we submit, means simply that before applying the doctrine the courts must first determine that the legislative employee was *acting within the scope of his authority and within the scope of Congress' constitutional powers.* The *Dombrowski* case itself illustrates this principle. After sustaining the dismissal of the complaint as to Senator Eastland on the ground of legislative immunity, the Supreme Court reversed the judgment of this Court and remanded the case for further proceedings only because it found a disputed question of fact as to whether the defendant Sourwine, counsel to the Subcommittee of which Senator Eastland was chairman, had by his actions transgressed the limits of congressional power under the Constitution so as to expose himself to civil liability.

"That the umbrella of immunity covers legislative officers and employees was first recognized in *Kilbourn v. Thompson, supra* note 27. While the Court there found the Sergeant at Arms of the House to be subject to civil liability for the illegal arrest of an uncooperative witness, the decision made clear that such *liability arose only from the lack of constitutional authority . . .*' Government Brief in *Doe, et al. v. McMillan, et al.,* pages 13–14." (Emphasis added.)

This argument was accepted by the Court of Appeals which held that the "Speech or Debate" privilege applied to aides. *Doe v. McMillan, supra.*

The Congressional privilege based upon an express Constitutional provision to encourage the free exchange of ideas and information can hardly be less extensive than the Executive privilege which has no express statutory or Constitutional basis and whose sole purpose is secrecy. Yet the Executive privilege has been extended to the activities of persons whose relationship to the President is far more remote than the relationship of an aide to a Senator.

The need for protecting the confidential relationships between the President and his aides, as the Government has asserted in defending the Executive privilege, is *part passu* applicable to the need for protecting the relationship between Senators and their aides. The parallel was well drawn by the Honorable William H. Rehnquist in the recent hearings before the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary:

"The notion that the advisers whom he has chosen should bear some sort of a hybrid responsibility to opinion makers outside of the Government, which notion in practice would inevitably have the effect of diluting their responsibility to him, is entirely inconsistent with our tripartite system of government. The President is entitled to undivided and faithful advice from his subordinates, just as Senators and Representatives are entitled to the same sort of advice from their legislative and administrative assistants, and judges to the same sort of advice from their law clerks." *Hearings on Executive Privilege: The Withholding of Information by the Executive before the Subcommittee on Separation of Powers of the Committee on the Judiciary, United States Senate,* 92nd Cong., 1st Sess. (1971), p. 424.

This Court has recognized the need to apply the protection of another Executive privilege—also a privilege without constitutional warrant—beyond the highest government officials to those who, in fact, are performing the acts and duties with which the higher officials are charged. In *Barr v. Matteo,* 360 U.S. 564, 572-73 (1959), this Court said:

"We do not think that the principle announced in *Vilas* can properly be restricted to executive officers of cabinet rank, and in fact it never has been so restricted by the lower federal courts. The privilege is not a badge of emolument of exalted office, but an expression of a policy designed to aid in the effective functioning of government. The complexities and magnitude of governmental activity have become so great that there must of necessity be a delegation and redelegation of authority as to many functions, and we cannot say that these functions become less important simply because they are exercised by officers of lower rank in the executive hierarchy."

III. Dissemination of information is a legislative function

The United States Senate contends that Senator Gravel's reading into the Subcommittee record parts of the "Pentagon Papers" protects the Senator and his aide from judicial inquiry into the Senator's effort to inform his colleagues and the public about his views on the war in Vietnam. The Senate further contends that whether such actions were authorized or not is a decision for the Senate and not for the Judiciary.

The Constitution itself makes it clear that it was intended for Congress to inform the public of the matters with which it was concerned. Article I, § 5, provides: "Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may *in their judgment* require Secrecy." (Emphasis added.)

Tested by any of the criteria established by this Court, the informing function is clearly within the scope of privileged activity. The Court has used various words to describe the limits of the privilege:

". . . related to the due functioning of the legislative process." *United States v. Johnson, supra* at 172.

". . . acting in the sphere of legitimate legislative activity." *Tenney v. Brandhove, supra* at 376.

". . . acting in a field where legislators traditionally have power to act. . . ." *Tenney v. Brandhove, supra* at 377.

"It would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forcible in its application to written reports presented in that body by its committees, to resolutions offered, which, though in writing, must be reproduced in speech, and to the act of voting, whether it is done vocally or by passing between the tellers. In short, to things generally done in a session of the House by one of its members in relation to the business before it." *Kilbourn v. Thompson, supra* at 204.

An early and often repeated statement of this proposition was made in *Coffin v. Coffin, supra,* quoted with approval in *Tenney v. Brandhove, supra* at 374.

". . . the article ought not to be construed strictly, but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate; but will extend it to the giving of a vote, to the making of a written report, and to every other act resulting from the nature, and in the execution, of the office; and I would define the article as securing to every member exemption from prosecution, for every thing said or done by him, as a representative, in the exercise of the functions of that office, without inquiring whether the exercise was regular according to the rules of the house, or irregular and against their rules."

To this must be added what this Court said in *Tenney v. Brandhove, supra* at 377:

"The claim of an unworthy purpose does not destroy the privilege."

The actions of Senator Gravel and his assistant that would be the subject of scrutiny by the Grand Jury, if not for the "Speech or Debate" Clause,—were the dissemination of data about the conduct of the Vietnam War. Woodrow Wilson in his classic work on the role of Congress, states the case for the informing function:

"It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served; and unless Congress both scrutinize these things and sift them by every form of discussion, the country must remain in embarrassing, crippling ignorance of the very affairs which it is most important that it should understand and direct. *The informing function of Congress should be preferred even to its legislative function.*" Wilson, Congressional Government 303 (1885), quoted with approval in *Tenney v. Brandhove, supra* at 377 n. 6 (Emphasis added.)

Whether the informing function is more important than the legislative function is not an issue here. It is clear that it is *a* function of Congress.

Again, support for this view is found in the Government's brief in the Court of Appeals in *Doe v. McMillan.* The *Doe* plaintiffs sought to enjoin publication of the report of a Congressional committee and damages because the report contained plaintiffs' names and poor school records. In arguing, successfully, to sustain the right of Congress to make reports and for Congressional immunity under the "Speech or Debate" clause, the Government quoted the following statement from *Methodist Federation for Social Action v. Eastland,* 141 F. Supp, 729, 731–732 (D.D.C. 1956):

"Nothing in the Constitution authorizes anyone to prevent the President of the United States from publishing any statement. This is equally true whether the statement is correct or not, whether it is defamatory or not, and whether it is or is not made after a fair hearing. . . . We think it equally clear that *nothing authorizes anyone to prevent Congress from publishing any statement.*

* * * * *

". . . We have no more authority to prevent Congress, or a committee or public officer acting at the express direction of Congress, from publishing a document than to prevent them from publishing the *Congressional Record.* If it unfortunately happens that a document which Congress has ordered published contains statements that are erroneous and defamatory, and are made without allowing the persons affected an opportunity to be heard, this adds nothing to our authority. Only Congress can deal with such a problem." (Emphasis added in the Government Brief in *Doe* v. *McMillan,* page 12.)

Continuing the argument in *Doe,* the Government's brief states:

"It is obvious that the Committee was 'acting in the sphere of legitimate legislative activity.' *Tenney* v. *Brandhove,* 341 U.S. 367, 376 (1951). Indeed, appellants have never alleged otherwise. *This being the case, judicial inquiry is at an end.* 'The courts should not go beyond the narrow confines of determining that a committee's inquiry may fairly be deemed within its province.' *Tenney* v. *Brandhove, supra,* 341 U.S. at 378." Government Brief in *Doe* v. *McMillan,* page 13. (Emphasis added.)

This portion of the Government's brief in *Doe* then concludes with a short statement of the Senate's position here:

"Nor is the protection of the constitutional privilege limited to the mere publication of the report. The members of the Committee are protected from judicial interference in any use to which they may put information

obtained by them in the exercise of their legislative function. Hearst v. Black, 66 App. D.C. 313, 87 F. 2d 68 (1936). If appellants suffer embarrassment or disgrace from the disclosure of certain information by the Committee in its report, their only recourse is to Congress itself, as cases such as *Methodist Federation* and *Hearst* make clear. *They cannot ask the judiciary to intrude upon the constitutional independence of the legislature.*" Government Brief in *Doe* v. *McMillan*, page 12. (Emphasis added.)

That the dissemination of information is an important part of the legislative function is also attested by the filing of this brief by that body most qualified to express an opinion on the subject: The Senate of the United States.

CONCLUSION

There is no basis in history nor in this Court's decisions nor in the prior positions of the Government for the arguments made in this case for the denial of the Congressional privilege to an aide to a Senator, acting on behalf of the Senator, in disseminating information. There is no suggestion of unconstitutionality in the conduct of the Senator or his aide. The cases are clear and unequivocal that the privilege is denied only where there is unconstitutional conduct.

No citizen is here claiming that his Constitutional rights have been infringed by unconstitutional conduct. Instead, the privilege is attacked from the very source from which attack has come historically, the Executive. It was to protect against just such attacks that the privilege evolved.

It is the position of the Senate that, absent unconstitutional activity, neither the Executive, nor the Judiciary has any authority or jurisdiction over Senators or their aides. This control is vested solely in the Senate both expressly in Article I, Section 6, and by the doctrine of separation of powers. The Senate calls upon this Court to use this opportunity to restate the fundamental Constitutional principles challenged by the Government in this case:

1. The Congressional privilege under the Speech or Debate clause extends to aides acting for Members; except where their acts constitute unconstitutional conduct, aides, like Members, "shall not be questioned in any other place."

2. Dissemination of information is an essential function of Congress protected by the Congressional privilege.

Neither Senator Gravel nor his aide should be required to testify before the Grand Jury, and no other witness should be permitted to testify as to the activities of the Senator or his aide.

Respectfully submitted.
Senator Sam J. Ervin. Jr.
Senator James O. Eastland
Senator John O. Pastore
Senator Herman E. Talmadge
Senator Norris Cotton
Senator Peter H. Dominick
Senator Charles McC. Mathias, Jr.,
Senator William B. Saxbe
Counsel for United States Senate.

Philip B. Kurland, Edward I. Rothschild, Suite 2500, 20 South Clark Street, Chicago, Illinois 60670, *Of Counsel.*

APPENDIX—S. RES. 280

(In the Senate of the United States, March 17, 1972)

Mr. MANSFIELD submitted the following resolution; which was ordered to lie over under the rule.

March 20, 1972—Ordered to be placed on the calendar.

March 23, 1972—Considered, amended, and agreed to.

RESOLUTION

Authorizing Senate intervention in the Supreme Court proceedings on the issue of the scope of article I, section 6, the so-called speech and debate clause of the Constitution.

Whereas the Supreme Court of the United States on Tuesday, February 22, 1972, issued writs of certiorari in the case of Gravel against United States; and

Whereas this case involves the activities of the junior Senator from Alaska, Mr. Gravel; and

Whereas in deciding this case the Supreme Court will consider the scope and meaning of the protection provided to members of Congress by article I, section 6, of the United States Constitution, commonly referred to as the "Speech or Debate" clause, including the application of this provision to Senators, their aides, assistants, and associates, and the types of activity protected; and

Whereas this case necessarily involves the right of the Senate to govern its own internal affairs and to determine the relevancy and propriety of activity and the scope of a Senator's duties under the rules of the Senate and the Constitution; and

Whereas this case therefore concerns the constitutional separation of powers between legislative branch and executive and judicial branches of Government; and

Whereas a decision in this case may impair the constitutional independence and prerogatives of every individual Senator, and of the Senate as a whole; and

Whereas the United States Senate has a responsibility to insure that its interests are properly and completely represented before the Supreme Court: Now, therefore, be it

Resolved, That the President pro tempore of the Senate is hereby authorized to appoint a bipartisan committee of Senators to seek permission to appear as amicus curiae before the Supreme Court and to file a brief on behalf of the United States Senate; and be it further

Resolved, That the members of this bipartisan committee shall be charged with the responsibility to establish limited legal fees for services rendered by outside counsel to the committee, to be paid by the Senate pursuant to these resolutions; and be it further

Resolved, That any expenses incurred by the committee pursuant to these resolutions including the expense incurred by the junior Senator from Alaska as a party in the above mentioned litigation in printing records and briefs for the Supreme Court shall be paid from the contingent fund of the Senate on vouchers authorized and signed by the President pro tempore of the Senate and approved by the Committee on Rules and Administration; and be it further

Resolved, That these resolutions do not express any judgment of the action that precipitated these proceedings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of these resolutions to the Supreme Court.

CRIB DEATHS

Mr. TOWER. Mr. President, one of the most tragic and the most perplexing killers will strike 28 infants in this country today, over 10,000 this year. Its name is sudden infant death syndrome—more commonly called crib death. It is the leading cause of death among infants between the ages of 1 month and 1 year. It kills three out of every 1,000 children born in this Nation.

Crib death is perplexing because we do not know what it is or what causes it. It is best defined by describing a typical case. An apparently healthy infant, usually between the age of 3 weeks and 6 months, is put to bed without the slightest indication that something might be wrong. He might have the symptoms of a slight cold. Later, while asleep and without a single cry or whimper of warning, the child dies. An autopsy discloses no definite cause of death. This phenomenon—which repeats itself thousands of times each year—is called the sudden infant death syndrome. There is no warning. There is no known reason.

A death of any small child is a tragic event. It is always an extremely traumatic experience for the parents. However, it is shocking that parents of a child who has died of crib death often possess a misplaced sense of guilt or remorse. So little is known of the disease. There is no explanation to offer to family or friends. Furthermore, it is not uncommon for these parents to be subjected to a police investigation and the harrowing experience of a coroner's jury.

The Federal commitment to discovering the cause—much less the cure—for crib death is insignificant. There is a single research grant for $46,000. I believe we must do all we can to find out more about crib death. Therefore, I am pleased to cosponsor Senate Joint Resolution 206—legislation which would focus the resources of the Federal Government in an effort to solve the enigma of crib death. It directs the National Institute of Child Health and Human Development, of the Department of Health, Education, and Welfare, to designate the search for a cause and prevention of sudden infant death syndrome as one of its top research priorities. Furthermore, the Secretary of Health, Education, and Welfare is directed to develop, publish, and distribute literature to be used in educating and counseling coroners, medical examiners, nurses, social workers, and parents to the nature of crib death and the needs of the families affected by it.

I am extremely hopeful that Congress will soon commit the resources and energies of the National Institute of Child Health and Human Development to the identification of the cause and the cure of crib disease.

ITT AND CHILE

Mr. HARRIS. Mr. President, increasingly the candidates for the Democratic nomination are raising the issue of the power of giant corporations in American political life. During my own campaign for the Democratic nomination I made this issue a central feature of my platform.

It is not always easy, however for the voters to understand the true dimension of the problem the country faces. For corporations do not go out of their way to publicize the ease with which they bring pressure on governments.

Jack Anderson's latest bombshell, which concerns ITT's activities in Chile, provides us with a unique inside view of how corporations work. We read of offers to provide money "in seven figures" if the U.S. Government adopts the ITT position on the proper policy to follow vis-a-vis Chile. We learn of interference in the political life of foreign countries. We confirm that ITT has ready access to the highest centers of power both in the United States and abroad.

Unfortunately, the only people able to study these documents at this point are

the journalists in Washington provided with copies. I believe that the documents, the contents of which have already been made public, should be available to scholars, journalists, and ordinary citizens throughout the country. I, therefore, ask unanimous consent that the documents be printed in the RECORD.

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

ITT WASHINGTON OFFICE,
Washington, D.C., September 21, 1970.

To: Mr. W. R. Merriam, Vice President.
From: J. D. Neal.
Subject: Chile.

The excellent Chile report of September 17 to Mr. Gerrity from Hal Hendrix and R. Berrellez is in such depth there is little to add with reference to my call at the State Department on September 16. However, there are a few points of interest.

John Fisher, the new Director of Andean and Pacific Affairs, said Ambassador Korry is fully convinced that if Allende becomes President there will be no half measures—the country will be communist controlled.

Along the lines of the H-B report, State said the Allende-Communist forces moved *very quickly* to take over all possible media, TV, radio, etc.; *El Mercurio* newspaper is about the only source fighting Allende.

State has little or no faith in the Chilean military's willingness or ability to take control.

Should the Christian Democrats make demands of Allende, such as not to change the form of the government, meddle with the military, etc., the State Department said Allende will agree but will not live up to his promises.

I told Fisher we had spoken to the White House and to his boss, Assistant Secretary Meyer, and that we are ready to see anyone or do anything possible. He said he understood our concern, but thought we had covered the water front.

ITT WASHINGTON OFFICE,
Washington, D.C., September 14, 1970.

To: Mr. W. R. Merriam.
From: J. D. Neal.
Subject: Chile—White House; State Department; Attorney General.

After you read me Mr. Geneen's suggestions about Chile on Friday, September 11, I took the following action over the weekend:

WHITE HOUSE—KISSINGER'S OFFICE

Late Friday afternoon I telephoned Mr. Kissinger's office and talked with "Pete" Vaky, who is the State Department's Latin American adviser to Kissinger.

I told him of Mr. Geneen's deep concern about the Chile situation, not only from the standpoint of our heavy investment, but also because of the threat to the entire Hemisphere. I explained that $95 million of our holdings are covered by investment guarantees, as are those of other American corporations, but that we are reluctant to see the American taxpayers cover such losses.

I told Mr. Vaky we are aware of Ambassador Corry's position re Alessandri being certified and then resigning in order for Frei to run again. Also, we have heard rumors of moves by the Chilean military.

Mr. Vaky said there has been "lots of thinking" about the Chile situation and that it is a "real tough one" for the U.S. I admitted we understand the difficulty of the U.S. position but we hope the White House, State, etc., will take a neutral position, or not discourage, in the event Chile or others attempt to save the situation.

I told Mr. Vaky to tell Mr. Kissinger, Mr. Geneen is willing to come to Washington to discuss ITT's interest and that we are prepared to assist financially in sums up to seven figures. I said Mr. Geneen's concern is not one of "after the barn door has been locked," but that all along we have feared the Allende victory and have been trying unsuccessfully to get other American companies aroused over the fate of their investments, and join us in pre-election efforts.

Mr. Vaky said to thank Mr. Geneen for his interest and that he would pass all of this on to Mr. Kissinger. He offered to keep us informed.

STATE DEPARTMENT—ASST. SECRETARY MEYER

Early Saturday morning I telephoned Assistant Secretary of State for Latin American Affairs, Charles (Chuck) A. Meyer, at his office. I repeated to him the same rundown I gave "Pete" Vaky.

"Chuck" said he could understand Mr. Geneen's concern and appreciated his offer to assist. He said State is watching the situation as closely as possible and awaiting the October 24 date when the Chilean Congress decides the winner.

He said the Chileans themselves are becoming quite concerned; even the labor unions see a disadvantage in Allende. He said "this is a Chile problem" and they have done a good job in "screwing-up their own dessert."

He said the head of Kennecott Copper has been in to report he feels they have lost their big mining area "El Teniente."

Meyer said he would keep me informed and trusts we will advise his office of pertinent news.

ATTORNEY GENERAL

I went to a wedding reception at the Korean Embassy late Saturday. I was in hopes of finding Secretary Rogers and especially Under Secretary of State U. Alexis Johnson who is a close friend of the Ambassador's, but they did not attend. Mrs. Rogers was there; so we chatted with her.

I ran into Attorney General Mitchell; so decided to mention Chile just in case the subject reached him in a cabinet meeting or otherwise.

Mr. Mitchell mentioned Mr. Geneen's recent visit with him. He said he could understand Mr. Geneen's concern over ITT's Chile investment. I told him I had already spoken to the White House and State Department.

DEFEAT OF ALLENDE UNLIKELY

A congressional defeat for Allende seems unlikely at this point. The Christian Democratic candidate, Radomiro Tomic, who lost, is still backing Allende and can take a sizable segment of the P.D.C. vote with him. Reports from Santiago indicate Allende and Tomic had a pre-election agreement that neither would support Alessandri in a congressional run-off. Considering Tomic's continued unwavering support for Allende, this seems true.

Despite the pessimism, attempts being made to move Frei and/or the military to stop Allende. Also, efforts are continuing to provoke the extreme left into a violent reaction that would produce the climate requiring military intervention.

FREI WEAKNESS

The State Department says one factor which has paved the way for Allende is the failure of President Frei to take a strong position against Dr. Allende. They feel he could be stopped if Frei would stand firm for his country and quit trying to play the part of Hamlet, wishing to go down in history as the great democrat. Frei has not rallied the Christian Democrats as is believed possible.

All past evaluations of Frei's weaknesses in a crisis are being confirmed. Worse, it has been established beyond any doubt that he has been double-dealing to preserve his own stature and image as the champion of Latin American democracy. For instance: he told some of his Ministers he would be quite willing to be removed by a military coup. This would absolve him from any involvement in a coup that would, in turn, upset Allende. Then, he turned right around and told the military chiefs that he was totally against a coup.

A group of respected political and business leaders called on Frei Sunday to call his attention to those lapses. The result of this confrontation or its basic purpose was not determined. The assumption is that by confronting Frei, the group hoped to press him into a definitive move in the one desired direction.

ECONOMIC PRESSURES

Some business sectors are encouraging economic collapse, hoping this eventually will necessitate a military take-over, or strengthen Allesandri in the congressional run-off. Undercover efforts are being made to bring about the bankruptcy of one or two of the major savings and loan associations. This is expected to trigger a run on banks and the closure of some factories resulting in more unemployment.

The pressures resulting from economic chaos could force a major segment of the Christian Democratic party to reconsider their stand in relation to Allende in the congressional run-off vote. It would become apparent there is no confidence among the business community in Allende's future policies and that the over-all health of the nation is at stake.

More important, massive unemployment and unrest might produce enough violence to force the military to move. The success of this maneuver rests in large measure on the reaction of the extreme and violent (Castroite-Marxist) left in Allende's camp. So far he has been able to keep these elements controlled.

It's certain that Allende is on to this scheme. He has referred to it in recent public statements. He is also certainly aware of the government's and Frei's complicity. Last week the Finance Minister issued a pessimistic report on the national economy, placing the blame on the results of the September 4 election. The statement was issued with Frei's blessings. Although it reads as an objective and realistic evaluation of economic conditions, the statement aroused the Allende camp which severely criticized it as provocative.

An extreme rightist faction launched a series of terrorist acts Sunday, September 27 (bombings mostly), in what appeared to be an amateurish attempt to provoke the Castroite-Marxist sector into a violent backlash that would produce the conditions conducive to a military intervention. The bombings failed to arouse anything outside of swift police action which resulted in the arrest of some of the bombers. This, we are told by the most authoritative sources, was the far right's last effort to provoke the far left in this particular manner.

AURA OF FUTILITY

As a result of all this Chilean inertia, an aura of defeat has enveloped important and influential sectors of the community, some businessmen who seemed all gung-ho about stopping Allende are now talking in terms of trying to make deals with him. Others have given up and are getting ready to leave the country.

Another comment by State is that the failure of the Chileans, themselves, to react strongly against Allende is making it difficult for outsiders like the U.S. and Argentina to move in and try to stop Allende openly or covertly.

THE RUSSIANS

Meantime, the Russians are busy helping shore up Allende's defenses. Since the September 4 election, the Russian Embassy staff in Santiago added twenty new members.

INTERNATIONAL TELEPHONE & TELEGRAPH CORP.,
September 17, 1970.

To: E. J. Gerrity.
From: H. Hendrix/R. Berrellez.
Subject: Chile.

The surface odds and foreign news media appear to indicate that Salvador Allende will be inaugurated as President November 4, but there now is a strong possibility that he will not make it.

The big push has begun in Chile to assure a congressional victory for Jorge Alessandri on October 24, as part of what has been dubbed the "Alessandri Formula" to prevent Chile from becoming a Communist state.

By this plan, following Alessandri's election by Congress, he would resign as he has announced. The Senate president (a Christian Democrat) would assume presidential power and a new election would be called for 60 days ahead.

Such an election would most likely match President Eduardo Frei, then eligible to run again, against Allende. In such a contest, Frei is considered to be an easy winner.

Late Tuesday night (September 15) Ambassador Edward Korry finally received a message from State Department giving him the green light to move in the name of President Nixon. The message gave him maximum authority to do all possible—short of a Dominican Republic-type action—to keep Allende from taking power.

At this stage *the key* to whether we have a solution or a disaster is Frei—and how much pressure the U.S. and the anti-Communist movement in Chile can bring to bear upon him in the next couple of weeks.

The Mercurio newspapers are another key factor. Keeping them alive and publishing between now and October 24 is of extreme importance. They are the only remaining outspoken anti-Communist voice in Chile and under severe pressure, especially in Santiago. This may well turn out to be the Achilles heel for the Allende crowd.

Following are some significant points as we see the Chile situation on this date, plus some comment on various factors and a few basic recommendations:

1. Allende and the Marxist-Socialist coalition (Unidad Popular) are acting like he is the elected President. They are pressing hard on all fronts to consolidate his slim September 4 election plurality into a solid victory in the congressional vote. Chile's Communist Party, a part of the UP coalition, is directing the pressure. Strategy is co-ordinated by the USSR. Party discipline and control thus far is extraordinary.

2. The anti-Communist elements, with Alessandri's supporters in the forefront and Frei in the wings (both prodded by the U.S. government), are manuevering—now rather efficiently—to capture the congressional vote and set the stage for a new national election. Given the atmosphere in Chile today, the prospect of a new election is looking more and more attractive as the future looks more and more bleak.

3. Since Allende and the UP won only a bit more than a one-third of the total national vote, it is strongly believed that in a two-man race and "democracy vs. communism" showdown, Frei would get most of the Christian Democratic vote—since this would put the party back in power—and all the rightest vote that supported Alessandri.

4. For the recent campaign the CD leadership was put in the hands of Radimoro Tomic, who has a deep-grained hatred for Frei and the U.S. The CD national committee is slated to meet early next month and it is expected Frei will regain leadership control. (Tomic already has pledged his support to Allende).

5. Looming ominously over the successful application of the "Alessandri Formula" is the threat of an explosion of violence and civil war if Allende loses the congressional vote. Allende, the UP and the Castroite Revolutionary Movement of the Left (MIR) have made it clear they intend to fight for total victory. Thus, some degree of bloodshed seems inevitable.

6. Is the Chilean military capable of coping with nationwide violence or a civil war? Opinion is divided on this in Santiago. Korry has said he considers the armed forces a "bunch of toy soldiers." Well-informed Chileans and some U.S. advisers believe the army and national police have the capability. There are definite reservations about the air force and navy. We know that the army has been assured full material and financial assistance by the U.S. military establishment.

The Chilean military will not move unilaterally to prevent Allende from taking office. They will act only if it is in the framework of the constitution.

7. President Frei has stated privately to his closest associates, to Alessandri and to a State Department visitor last weekend in Vina del Mar that the country cannot be allowed to go Communist and that Allende must be prevented from taking office. Publicly, however, he is keeping out of the battle up to this point while feeling steadily increasing pressure from the U.S. and his own camp. Never known for displaying guts in a crunch, he is faced with a dilemma of not wanting to be charged with either turning Chile over to Communist rule or contributing to a possible civil war. A parlay of his highly inflated ego and a chance to occupy the presidency six more years may provide the necessary starch for his decision.

To help strengthen his position, efforts are being made this week to turn this weekend's observance of Chile Independence Day into a pro-Frei demonstration. Main feature of the observance will be a military parade by about 25,000 troops assembled in Santiago.

8. Ambassador Korry, before getting a go-signal from Foggy Bottom, clearly put his head on the block with his extremely strong messages to State. He also, to give him due credit, started to manuever with the CD, the Radical and National parties and other Chileans—without State authorization—immediately after the election results were known. He has never let up on Frei, to the point of telling him to "put his pants on."

By the same token, last week when an emissary of Allende called at his office to pay respects and say that the "Allende government wanted to have good relations with the Ambassador and the United States," Korry responded only that he had been "so busy with consulate affairs helping to get visas for Chileans wanting to leave the country that he had not had time to think of the future." Thus ended the interview.

9. The anti-Allende effort more than likely will require some outside financial support. The degree of this assistance will be known better around October 1. We have pledged our support if needed.

10. There is no doubt among trained professional observers with experience in the U.S., Europe and Latin America that if Allende and the UP take power, Chile will be transformed quickly into a harsh and tightly-controlled Communist state, like Cuba or Czechoslovakia today. The transition would be much more rapid than Cuba's because of the long-standing organization of the Chile Communist Party. This obviously poses a serious threat to the national security of the U.S.—Sol Linowitz, Senator Church and others of the same thought notwithstanding—and several Latin American nations. It also is obvious from Allende's pronouncements that existing business and financial links with the U.S. would be strangled.

At a meeting of Arturo Matte at his residence Sunday (September 13), he seemed in a more relaxed frame of mind than on the last visit and he made these points:

A. The "Alessandri Formula" through which the way would be opened for new elections had the government's and Frei's personal approval. Once elected by Congress, Alessandri would resign, thus carrying out a pre-election pledge that he would do so unless he received a plurality or majority of the votes in the regular balloting.

B. Alessandri did publicly announce his plans to resign if elected last week. It was subsequently learned Frei saw and approved the text of the announcement before it was released to the public.

C. Frei and his party (at least that wing that he commands) have a deep interest in this for two reasons: it would block the assumption of power by a Marxist and also give the Christian Democrats a new chance to regain power, this time backed by the Alessandri camp. Alessandri's announcement had the effect of alerting the Marxists and Allende that a powerful last-ditch effort was afoot to block them and it also probably may have partially checked a PDC congressional vote swing toward Allende.

D. Matte said the armed forces are agreed on the extreme danger to democracy that Allende's assumption of power involves. They agree he must be stopped. However, the armed forces leadership and Frei prefer a constitutional way out (i.e., congressional election of Alessandri) that doesn't preclude violence—spontaneous or provoked.

E. A constitutional solution, for instance, could result from massive internal disorders, strikes, urban and rural warfare. This would morally justify an armed forces intervention for an indefinite period. But it was apparent from Matte's exposition that there is little hope for this. The Marxists will not be provoked. "You can spit in their face in the street," Matte said, "and they'll say thank you." This means that the far left is aware of and taking every precaution to neutralize provocation.

F. A plan suggested to Frei, said Matte, calls for the creation of a military cabinet. This would be a form of extreme provocation since it would hint at the makings of a coup. It would have a definite psychological effect on the congressional voters who may be undecided about whom they'll vote for in the runoff. But, added Matte, Frei is reluctant to do it without some reason to justify it in the eyes of the public. We inferred from this that Frei will not act on this unless he is confronted with a severe national crisis.

G. The armed forces boss, Rene Schneider, is fully aware of the danger of Allende moving in. But he will not budge an inch without Frei's okay. One retired general, Viaux, is all gung-ho about moving immediately, reason or not, but Matte said Schneider has threatened to have Viaux shot if he moves unilaterally. Although Viaux has some following after his abortive rebellion a few months ago, it is doubted he commands strength enough now to carry it off alone.

H. Frei, said Matte, is highly worried about the damage to his stature in the hemisphere; he is concerned that he may become, as the Brazilians have put it, the Kerensky of Latin America.

But he still refuses to take the reins in his hand without "moral" reasons, Matte said.

I. Could he be persuaded, Matte was asked, by assurances of fullest support from Washington? He thought that over a while and finally said he thought that would help. The distinct impression, however, was he might have felt this would have to be done with consummate skill and tact so as not to offend Chilean national dignity. (Korry's new mandate may serve this purpose).

J. The military has contingency plans ready for whatever scope operation is necessary, Matte said.

The conclusions from this session were:

The leader we thought was missing is right there in the saddle (Frei), but he won't

move unless he is provided with a constitutional threat.

The threat must be provided one way or another through provocation. At the same time, a subtle but firm enough pressure must be brought to bear on Frei so that he'll respond.

Matte did not mention money or any other needs. At the end when it was mentioned we were, as always, ready to contribute with what was necessary, he said we would be advised.

A Communist Party congress was held in Santiago early this week. Among topics discussed was expropriation. The CUT, national labor confederation, was placed in charge of mapping expropriation plans. The CUT is controlled by the Communist party.

According to informants monitoring the party congress, the priority schedule has been put in the hands of a man named Bertini and roughly looks like this:

1. Copper companies.
2. The Mercurio newspaper chain.
3. Two unspecified "attractive" interests.

(These three items would be acted upon quickly. It is assumed in Santiago that Chiltelco probably would fall in item No. 3.)

4. Following the early expropriations, a commission would be named to study which industries should be taken over. The next group of take-overs would be slated for about one year later. Within two years the process would be complete.

The Mercurio chain is hitting at Allende and the Communist party with effect. Allende this week sent one of his top lieutenants, Alberto Jerez, mentioned as his choice for foreign minister, to see A. Edwards chief representative in Santiago.

Purpose of the post-midnight session was to blackmail Mercurio into stopping its anti-Communist campaign. Jerez stated bluntly that Mercurio and A. Edwards were committing suicide with their attitude. He said Allende had no intention of trying to fool Edwards. He planned to expropriate the newspapers and destroy what they stand for. Jerez added that the other Edwards interests in Chile could be affected more or less by the attitude taken by the papers in the weeks ahead. He said the papers was "inciting sedition and if this continued we cannot control the MIR, which wants to burn the plant." He also said Edwards could return to the country (he is in the U.S. on business and his family now is in Baires) but if he came back and the paper refused to change "he could be hanged in the Plaza de Armas" after Allende takes power.

The paper in Santiago is in financial trouble. Since election day it is running about 10 to 15 per cent of its normal advertising. They will have a close squeeze meeting this end-of-the month pay roll.

As you have read in news stories. Chile's economy is sagging badly. But runs on the banks have stopped and the escudo has settled back down to around 25 on the black market.

Unemployment is rising rapidly, especially in the construction sector. About 5000 workers already have been laid off in Santiago construction as projects are being shut down. It is estimated that over-all layoffs will affect about 30,000 in Greater Santiago by the end of this month.

We will be advised what help we can contribute as present activities develop between now and early October.

We have recommended, apart from direct assistance, the following:

1. We and other U.S. firms in Chile pump some advertising into Mercurio. (This has been started).

2. We help with getting some propagandists working again on radio and television. There are about 20 people that the Matte and Edwards groups were supporting and we should make certain they are revived. Allende now controls two of the three TV stations in Santiago and has launched an intensive radio campaign.

3. Assist in support of a "family relocation" center in Mendoza or Baires for wives and children of key persons involved in the fight. This will involve about 50 families for a period of a month to six weeks, maybe two months.

4. Bring what pressure we can on USIS in Washington to instruct the Santiago USIS to start moving the Mercurio editorials around Latin America and into Europe. Up until I left they were under orders not to move anything out of Chile.

5. Urge the key European press, through our contacts there, to get the story of what disaster could fall on Chile if Allende & Co. win this country.

These are immediate suggestions and there will be others between now and October 24 as pressure mounts on Frei and the Christian Democrats.

ITT WASHINGTON, *September 22, 1970.*

Please forward following message to ITT Europe, Brussels.

To: Mr. H. S. Geneen.
From: E. J. Gerrity, ITTW.
CC: F. J. Dunleavy, ITT Europe; J. W. Guilfoyle, ITT N.Y.; E. R. Wallace, ITT N.Y.

(No other distribution of this memo should be made.)

The Hendrix and Berrellez memo which we discussed last Friday has been confirmed. Bill Merrian reviewed the actions being taken today with the man you introduced him to some months ago. It is clear that the strategy outlined in the Hendrix memorandum is the best course to be followed. Bill's contact suggested that all possible pressures be exerted. He reported that pressure is building on the scene.

GERRITY.

ITT WASHINGTON OFFICE,
Washington, D.C., September 30, 1970.

To: Mr. W. R. Merriam.
From: J. D. Neal.
Subject: Chile—A Questionable U.S. Policy.

The unfortunately heavy probability that Allende will take office in November is well known to the State Department and Embassy Santiago. Both believe Allende will start early and systematically attack foreign private enterprise. Thus forewarned, we should hope the Nixon Administration will be prapared to move quickly to exert pressure on Allende. However, because of our weak policy in the Hemisphere during the past two years, we cannot count on such immediate and effective action.

I fear the Department of State will convince the White House to again circumvent the Hickenlooper Amendment—as it has done in Peru, Bolivia, and Ecuador, etc. Instead, I look for the silent pressure (?) which will call for a drying-up of aid and instructions to U.S. representatives in the international banks to vote against or abstain from voting on Chilean loans.

For the past several years the State Department has been predicting an upsurge of Marxism in Chile, and foresaw the culmination of the threat in the September, 1970, elections. Knowing this, the U.S. stepped up its AID program in an attempt to help Chile remain democratic. Following are the figures for economic assistance to Chile between 1961 and 1968 in millions of U.S. dollars:

1961	132.8
1962	169.5
1963	83.7
1964	127.4
1965	130.9
1966	107.7
1967	284.6
1968	99.8
	1,136.4

The 1969 estimate was over 100 million as, no doubt, fiscal year 1970 was the same or more.

The above total includes both AID loans and grants. A few weeks ago, the State Department estimated the *outstanding loan total* in Chile would be in the area of a billion dollars. Allende has already expressed a desire to re-negotiate this figure; probably wishing to offer Chilean bonds!

The foregoing means the U.S. realized the danger of Marxism in Chile; so fought it with grants and loans, but did not have the extra forethought to follow its intuition by taking a more active part during the pre-election period to assure the defeat of Allende.

The State Department and AID admitted in public congressional hearings that "Chile is a country of major U.S. assistance emphasis because of its important political role in the Hemisphere." They continued the hearing by saying the liberal U.S. loan policy to Chile is justified because they were putting the money in there to fight Marxism. However, now that its program failed to prevent Allende from winning the election, the U.S. says, "This is a Chilean matter, thus, we must not interfere!"

Why should the U.S. try to be so pious and sanctimonious in September and October of 1970 when over the past few years it has been pouring the taxpayers' money into Chile, admittedly to defeat Marxism. Why can't the fight be continued now that the battle is in the homestretch and the enemy is more clearly identifiable?

ITT WASHINGTON OFFICE,
Washington, D.C., October 7, 1970.

To: Mr. E. J. Gerrity, Jr.
From: W. R. Merriam.
Subject: Chile.

Our man reports nothing new and picture is not rosy. He says Prewett column exaggerated. Repeated calls to firms such as GM, Ford, and banks in California and New York have drawn no offers of help. All have some sort of excuse. English papers were delivered. His only message is that everyone should keep the pressure on because Allende should not take office with complete support and also for the weakening we might accomplish after he does take office—there is always a chance something might happen later.

The information we are receiving from Hendrix and Berrellez is up-to-date, factual, and concise as any coming out of Chile. The State Department says it is swamped with rumors and facts; so there is no lack of information there either.

Everyone foresees an Allende victory in Congress unless some last minute miracle takes place. There is no, repeat no, solid news showing even a chance that Allende can be stopped.

The State Department says one factor which has paved the way for Allende is the failure of President Frei to take a strong position against Dr. Allende. They feel he could be stopped if Frei would stand firm for his country and quit trying to play the part of Hamlet, wishing to go down in history as the great democrat. Frei has not rallied the Christian Democrats as is believed possible.

The lack of strong political activity on the part of Chile has hampered outsiders like the U.S. and Argentina in trying to help defeat Allende.

Assistant Secretary of State Meyer leaves tomorrow for a week in Haiti and Santo Domingo (while Santiago burns)!

OCTOBER 9, 1970.

From: W. R. Merriam.
To: Mr. McCone.

At Ned Gerrity's suggestion I am attaching a summary of a report which we recently received from our people in Latin America. I think you will find it interesting.

Today I had lunch with our contact at the McLean agency, and I summarize for you the results of our conversation. He is still very, very pessimistic about defeating Allende when the congressional vote takes place on October 24. Approaches continue to be made to select members of the Armed Forces in an attempt to have them lead some sort of uprising—no success to date.

In the meantime, Allende continues to hold meetings with small groups of Army, Navy and Air Force people promising them, personally, that he will see to it that they will be promoted; that their pay will be increased, etc. Thus, it is easy to understand why there is a problem in getting the military to take action.

To follow up the vote last weekend, which ordered the hierarchy of the Christian Democrats to work out the wording of a constitutional amendment which Allende would subscribe to and which would limit him in some of his far-out ideas, various small committees of three have been appointed. It is interesting to note that the persons appointed to serve on these committees are very favorable to Allende although technically Christian Democrats.

Practically no progress has been made in trying to get American business to cooperate in some way so as to bring on economic chaos. GM and Ford, for example, say that they have too much inventory on hand in Chile to take any chances and that they keep hoping that everything will work out all right. Also, the Bank of America had agreed to close its doors in Santiago but each day keeps postponing the inevitable. According to my source, we must continue to keep the pressure on business.

I was rather surprised to learn that in this man's opinion the Nixon Administration will take a very, very hard line when and if Allende is elected. As soon as expropriations take place, and providing adequate compensation is not forthcoming, he believes that all sources of American monetary help, either through aid or through the lending agencies here in Washington, will be cut off. He assures me that the President has taken at this time (better late than never, I guess) a long, hard look at the situation and is prepared to move after the fact. We had heard previously from the lower level at the State Department that Hickenlooper would not be evoked. This policy has either changed or the lower echelon does not know of the change. This is the first heartening thing I have heard because with few exceptions, Nixon has paid very little attention to Latin America.

ITT WASHINGTON OFFICE,
Washington, D.C., October 22, 1970.

To: Mr. E. J. Garrity, Jr.
From: W. R. Merriam.
Subject: Chile.

I have just met with Dr. Danielion, Tim Stanley, and Jack Neal on the above subject. All of us went over in great detail possible repercussions in Chile if and when it becomes known that we are pushing the State Department along certain lines. I, personally, feel that we don't have much to lose one way or the other, unless, of course, our so-called "pressures" come back to haunt us in other Latin American countries. This I also doubt.

Awaiting Senate floor action is an Inter-American Bank appropriation amounting to $2.9 billion. This appropriation has passed the House, has been reported out of the Senate Foreign Relations Committee, and supposedly will be taken up after the recess.

We are planning, together with some of the other members of IEPA, to approach Senators Scott and Mansfield to see if they will just "forget" to take up the bill. We could prepare statements from them which would get a message to the other Latin American countries that Chile's action is affecting them too, albeit indirectly.

Dr. Dan plans to hold a meeting of his Latin American Committee early next week to see what other pressures we can drum up to make the State Department stiffen its attitude. We are not hopeful and believe the best pressures must come from other Latin American countries. It was also suggested that we try to determine if any large European companies are in the same position we are in Chile and other Latin American countries. If so, do you think there is any possibility of trying to get them stirred up?

Following is our idea of a white paper to be presented to Assistant Secretary Meyer. Jack and I feel that perhaps it will be more effective if HSG were to talk to Meyers over the telephone rather than deliver a white paper to Meyer's desk. We can do the latter, of course, but the telephone call would be the important thing.

Late this afternoon we can discuss this, as I will be out of the office in Leesburg most of the afternoon, and Jack Neal has some pressing personal business to take care of after lunch. I will call you as soon as I return, around 4:00 or 4:30 p.m.

INTERNATIONAL TELEPHONE & TELEGRAPH CORP.,
Washington, D.C., October 23, 1970.

Dr. HENRY A. KISSINGER,
Assistant to the President,
The White House

DEAR DR. KISSINGER: As a result of recent events in Latin America, foreign private enterprise in that area is facing its most serious exposure.

President Nixon, one year ago, in his speech before the Inter-American Press Association said, "We will not encourage private investment where it is not wanted, or where local political conditions face it with unwarranted risks."

ITT does not wish to go where it is not wanted, but we, too, have President Nixon's "strong belief that properly motivated private enterprise has a vital role to play in social as well as economic development."

Our company knows the peoples of the Americas deserve a better way of life and we believe we have a substantial interest in diminishing their problems. The countries themselves are unable to furnish necessary development funds, the U.S. taxpayers cannot, and U.S. private enterprise can provide only that part which a proper climate affords. Everyone agrees the job will have to be done on a coordinated basis.

ITT has given serious consideration to circumstances now facing Hemisphere development. We are convinced the present moment is a most expedient time to reappraise and strengthen U.S. policy in Latin America.

I attach a paper containing our estimations plus specific reference to the Chilean situation. This is respectfully submitted; I would appreciate your comments.

Sincerely,

WILLIAM R. MERRIAM,
Vice President.

NEW YORK, *September 29, 1970.*

To: Hal Hendrix—ITT HDQS—N.Y.
From: Robert Berreller—ITT LA-B.A. (Dictated today by telephone from Buenos Aires to New York.)
Subject: Chileans.

CAPSULED SITUATION

It appears almost certain that Marriot Salvador Allende will be confirmed by the Congress as Chile's next President.

The Congressional run-off vote is scheduled October 24.

There's only a thin tendrill of hope of an upset based on a sharp and unlikely switch in voting sentiments among the Christian Democrats who hold the balance of power in the run-off. The prevailing sentiment among the P.D.C. is said to favor Allende.

A more realistic hope among those who want to block Allende is that a swiftly deteriorating economy (bank runs, factory bankruptcies, etc.) will touch off a wave of violence, resulting in a military coup.

President Eduardo Frei wants to stop Allende and has said so to intimates. But he wants to do it constitutionally—That is, either through a Congressional vote upset or an internal crisis requiring military intervention.

DETAILS

1. Chances of thwarting Allende's assumption of power now are pegged mainly to an economic collapse which is being encouraged by some sectors in the business and political community and by President Frei himself. The next two weeks will be decisive in this respect. Cash is in short supply. But the government is printing more money. There's an active black market with the escudo moving at a 29 to $1.00 U.S. rate on Monday, September 28. It had gone down to 26.50 to $1.00 on Friday. The pre-election rate was 20/21 to $1.00.

Undercover efforts are being made to bring about the bankruptcy of one or two of the major savings and loan associations. This is expected to trigger a run on banks and the closure of some factories, resulting in more unemployment.

2. The pressures resulting from economic chaos could force a major segment of the Christian Democratic party to reconsider their stand in relation to Allende in the Congressional run-off vote. It would become apparent, for instance, that there is no confidence among the business community in Allende's future policies and that the overall health of the nation is at stake.

More important, massive unemployment and unrest might produce enough violence to force the military to move. The success of the maneuver rests in large measure on the reaction of the extreme and violent (Castro-ite-Marxist) left in Allende's camp. So far he has been able to keep these elements controlled.

3. It's certain that Allende is on to this scheme. He has referred to it in recent public statements. He is also certainly aware of the government's and Frei's complicity. Last week the Finance Minister issued a pessimistic report on the national economy, placing the blame on the results of the September 4 election. The statement was issued with Frei's blessings. Although it reads as an objective and realistic evaluation of economic conditions, the statement aroused the Allende camp which severely criticized it as provocative.

4. All past evaluations of Frei's weaknesses in a crisis are being confirmed. Worse, it has been established beyond any doubt that he has been double-dealing to preserve his own stature and image as the champion of Latin American democracy. For instance: he told some of his Ministers he would be quite willing to be removed by a military coup. This would absolve him from any involvement in a coup that would, in turn upset Allende. Then, he turned right around and told the military chiefs that he was totally against a coup.

5. A group of respected political and business leaders called on Frei Sunday to call his attention to those lapses. I could not determine the results of this confrontation or its basic purpose. The assumption is that by confronting Frei, the group hoped to press him into a definitive move in the one desired direction.

6. As a result of all this inertia, an aura of defeat has enveloped important and influential sectors of the community, some business men who seemed all gung-ho about stopping Allende are now talking in terms of trying to make deals with him. Others have given up and are getting ready to leave the country.

7. Some Chilean business men have suggested we try to deal in some manner with Allende, in an effort to rescue at least a por-

tion of our investment instead of losing it all. At this writing, we have been told that Allende's representatives have asked for a meeting with Sheraton representatives to discuss Allende's future policies regarding the hotels. My personal view is that we should do nothing to encourage or help the Allende team. Every care should be exercised to insure that we are not—repeat not—identified openly with any anti-Allende move.

8. No hope should be pegged to conditions the Christian Democrats are demanding from Allende in exchange for their support in the Congressional vote. Some believe that if Allende turns them down, the P.D.C. will not vote for him. Allende will promise anything at this stage. Furthermore, many of the conditions the P.D.C. is making are covered by the Constitution, to which Allende will pay lip service for a while until he is firmly in the saddle and has consolidated all the elements necessary to convert Chile into a thoroughly Communist, self-perpetuating state.

9. It is obvious from his latest remarks, however, that Allende feels something is in the wind to deprive him of the Presidency in the Congressional vote. On Monday, he warned publicly that he would bring the nation to civil war if he was not voted into power.

10. Meantime, the Russians are busy helping shore up Allende's defenses. Since the September 4 election, the Russian Embassy staff in Santiago added twenty new staffers.

11. An extreme rightist faction launched a series of terrorist acts Sunday, September 27 (bombings mostly), in what appeared to be an amateurish attempt to provoke the Castroite-Marxist sector into a violent backlash that would produce the conditions conducive to a military intervention. The bombings failed to arouse anything outside of swift police action which resulted in the arrest of some of the bombers. This, we are told by the most authoritative sources, was the far right's last effort to provoke the far left in this particular manner.

THE SUM-UP

1. A Congressional defeat for Allende seems unlikely at this point. The defeated Christian Democratic candidate, Radomiro Tomic, is still backing Allende and can take a sizable segment of the P.D.C. vote with him.

2. Despite the pessimism, efforts are continuing to move Frei and/or the military to act to stop Allende. Efforts are also continuing to provoke the extreme left into a violent reaction that would produce the climate requiring military intervention.

3. Although its chances of success are slender, a roadblock to Allende's assumption of power through an economic collapse should not be dismissed.

ITT WASHINGTON OFFICE,
Washington, D.C., October 15, 1970.

To: Mr. W. R. Merriam.
From: J. D. Neal.
Subject: Chile—Conversation with Ambassador Korry.

This morning, I called on the U.S. Ambassador to Chile, Edward M. Korry, who is in Washington on consultation.

ALLENDE TO PROCEED SLOWLY

The Ambassador believes Allende, upon taking office, will proceed cautiously and slowly. It will not be necessary for him to initiate new legislation because he will already have sufficient authorization to carry out most of his socialistic program.

The Ambassador said that regardless of Allende's many faults and idealistic beliefs, he is known to be a man of his word; so it is quite certain he will carry out his campaign promises. This means nationalization of everything which he thinks should fit into his Marxist scheme.

This action against U.S. private concerns will quickly bring Allende face to face with U.S. policy.

AID STOPPED

Ambasador Korry said he has reduced the amount of U.S. aid "already in the pipe-line" as much as possible. He estimates the amount to be $30,000,000.

Also, there is a much larger amount for which Chile has been given letters of credit, but he didn't say how much.

The Ambassador said he had difficulty in convincing Washington the need to "cut-off" every possible assistance to Chile, but he insisted because he needs this as a bargaining point. This "cut-off" will be denied by State, who will say, as it has in the past, "there has been no shut down of aid to Chile; the program is under review."

MILITARY EQUIPMENT

Ambassador Korry says there is no leverage as regards aid, because Chile will not seek it right away. He feels Allende will quickly need equipment for the military.

I said if we won't furnish that then the Russians will. The Ambassador thinks *not*. Too, he believes it would take too long to convert the Chilean Army from U.S. equipment to Russian.

U.S. HARD LINE

The Ambassador said that if Allende starts to expropriate American businesses, the U.S. will insist on immediate and just compensation in dollars. In the event U.S. mining companies are taken, payment might be arranged in ore.

The Ambassador intimated he plans a hard line with Allende in respect to complying with obligations.

Personally he feels Allende is going to pay his bills in order to maintain Chile's international prestige.

Ambassador Korry believes the U.S. pressure points with Allende include our source of development fund, market for Chile's products, our world prestige, etc. He seems to think he can insist that Allende restrict himself to internal democratic procedures rather than the tool of Castro and Russia.

RUSSIA

With respect to Russia, Korry discounts the part the Russians have played in Allende's election.

FELIPE HERRERA

The Ambassador said he had a long talk with Herrera when he was in Santiago recently. Evidently Herrera's letter of congratulation to Allende was a mistake because Herrera told Korry that Allende told Herrera he was not acceptable as a cabinet member. Korry agreed with me that it was good to have Herrera out of the bank and that he should be replaced by someone who will tighted the bank's administration.

TOMIC

Korry feels the loss of the election by Tomic started him on a downward plunge from which he will not return politically. He seems to have little or no regard for Tomic and believes his secret deal to support Allende in a congressional run-off has hurt him.

U.S. POLICY RE ALLENDE

The Ambassador said there are several alternatives of action, the main ones being to provoke Allende and cause a rupture in our relations with Chile, thus, lose all without a try.

The second would be to try to live with Allende—not appease him—take a firm line, but attempt to negotiate at every turn.

The second alternative seems to be the one the U.S. will take. The position will have to be taken soon because on the November inauguration of Allende, President Nixon must send a message of congratulation or the world will know of the rebuff.

Ambassador Korry wished to know whether Mr. Geneen would be in New York this weekend at which time he would try to see him. I told Mr. Korry that Mr. Geneen would be at the Cape or in Maine, but that maybe he could call the Ambassador early next week.

Mr. Korry said if Mr. Geneen had any ideas about U.S. policy toward Allende's government he hoped this would be relayed to the White House immediately. He said other companies with Chilean investments should do the same. He feels any complaints or ideas should be made now rather than after October 24.

INTERNATIONAL TELEPHONE & TELEGRAPH CORP.,
October 30, 1970.

To: E. J. Gerrity.
From: Hal Hendrix.
Subject: Charles Meyer.

Per your request for a personal viewpoint sketch of Charles Meyer, following are some of my thoughts:

Meyer came aboard at the Department of State as Assistant Secretary for Inter-American Affairs in March, 1968.

Previously, he was a Sears Roebuck executive in Latin America, with about 14 years residence in Bogota, Colombia, where he performed as an outstanding merchandiser in the Sears Roebuck joint-effort program in Latin America. Sears had been knocked out of business during the 1948 Bogota riots, and, in effect, it was Meyer's mission to restore the company's presence. In that role he performed well. But Meyer's Latin America experience was limited to the north coast of South America and Mexico.

During the last two and one-half years at State, for all his great personal charm, elegance and wit on social occasions, he ranks very high as the weakest Assistant Secretary in recent times—at least during my 22 years of association with the area.

He has only secondary or tertiary relations with the President, for example, who from the beginning has relied on his National Security Council team, Henry Kissinger, and Latin America specialist Viron Vaky for top guidance on the Latin area. His clout with Secretary Rogers is about as potent.

By the same token, Meyer has suffered—as has his area department within State—because of other pressing administration priorities around the world, and surely in the U.S.

But Meyer clearly has been ineffective in the bureaucratic infighting for attention at State, and, therefore, in the Nixon administration.

He also on numerous occasions has exercised bad judgment in dealing with the press that covers Latin America. His contacts with press are extremely limited as a result.

SEPTEMBER 23, 1970.

Mr. R. L. SCHMIDT, W. R. MERRIAM.

In a conversation with Ned this morning, he feels it's about time to move on getting someone to do something about Chile on the floor of the House and or/Senate.

The attached clippings, together with an editorial from the *Washington Post* of yesterday, and Ralph Dungan's stupid piece this morning of the *Post*, should serve as background.

I suggest you get together with Bernie Goodrich to decide what can be prepared. Incidentally, Bernie leaves on Saturday for Europe so you will have to work fast on that end of it.

CHILE: TEST OF AMERICAN MATURITY

(By Ralph A. Dungan)

Whatever else follows, the recent Chilean election—in which a socialist, Salvador Allende, with some Communist Party support was the victor—provides an opportunity for the United States government to demonstrate a maturity in the conduct of its foreign relations which would be as refreshing as the Chilean situation is novel.

Several characteristics of the election can

be acknowledged by almost any objective observer. As has been true historically in Chile, the elections were as honest as elections are anywhere—perhaps more so. Participation was high, as usual, and proportionately higher than in most Western countries.

Demagoguery, last minute incidents or external events do not seem to have distorted the results. To the extent that there were seriously disturbing factors present, the urban terrorism attributed to and sometimes claimed by the MIR (Revolutionary Left Movement) was more likely to have benefited center-right candidate Sr. Allesandri. The election by almost every standard was honest, orderly and in the best Chilean and Western tradition.

Therefore, there is every reason for us to adhere fully to our principle of self-determination and maintain strictly neutral posture as the Chilean people move to complete the constitutionally prescribed process on Oct. 24. On that date a joint session of the Chilean Congress will decide in a runoff ballot which of the three candidates will be president. If it adheres to tradition, Sr. Allende having the largest plurality, will be named.

It can be predicted safely that the period preceding the runoff will be marked by political jockeying as the Christian Democrats seek to gain whatever advantage their large number of seats in the Congress will yield after the poor third place showing of their candidate, Sr. Tomic.

One can also expect some panic reaction on the part of the wealthy and the relatively large petty bourgoisie. It will be difficult indeed to stem the flow of currency into foreign banks, the relatively unimportant capital market, like similar institutions in other countries, will no doubt be chaotic. These and other manifestations of unrest and anxiety are to be expected given Sr. Allende's rhetoric during this and previous campaigns.

And the reaction may be more than the fragile social and economic structure of Chile can stand. Some elements of the military might make a move, as they have promised, to prevent Allende's taking power. Or the MIR, taking advantage of the confusion, might make a desperate move. Or, less likely, one of Chile's neighbors might threaten.

But the democratic process does not guarantee stability; it only guarantees people free choice in the selection of their government. A majority (more than 60 per cent) of the Chilean people, quite predictably, have indicated their desire for a government of the left and apparently at least a third of the electorate is not concerned with a Marxist label.

It is hoped that Chileans and Chile's friends outside the country will view the recent election in some perspective and will speak and act with restraint. Foreigners especially should recognize that despite the very susbtantial progress brought about under the Frei government, continued rising expectations, unsolved problems like inflation, and the desire for a change were important factors in the election.

Chile, like other modern democracies, has a large swing vote not clearly committed to party or ideology. This swing vote is young and left-leaning and looking for solutions. The choice of aging, rigid Jorge Allesandri as the candidate of the Conservatives was poorly calculated to attract center-left elements which could have made the difference in this close race.

Then there is Sr. Allende himself. A man historically in opposition, he has had no recent governmental experience. He is intelligent and committed. Above all he is a Chilean and can be expected to look for, as he has suggested, solutions which will suit the Chilean character and spirit. He will inherit large problems including a huge external debt, a probable decline in copper prices, and endemic inflation. Taking nothing away from his ideological convictions, he is too intelligent and sophisticated an observer not to realize that doctrinaire solutions usually don't work.

In any event, the central fact is that the Chilean people have chosen and are in the process of completing a constitutional and free election. It would be most unfortunate if anything interrupted the process which will determine Chile's destiny.

[From the Washington Post, Sept. 22, 1970]

THREAT TO PRESS FREEDOM IN CHILE

The Inter-American Press Association has issued a most urgent and alarming warning about the threatened strangulation of the press in Chile. Earlier this month Salvador Allende, a Marxist supported by the Communist Party, won a plurality in the popular balloting for president, and since then, according to the IAPA, "Communist and Marxist forces and their allies" have attacked the country's independent media, causing the resignation or dismissal of journalists opposed to them and otherwise using union pressure and intimidation to bring the media under their control. El Mercurio, Chile's leading newspaper and one that has stoutly opposed pressure. Its owner, Augustin Edwards, has refused to give in.

Mr. Allende's distaste for the influential Edwards newspaper chain and his stated intent to "liberate" the Chilean media from their "Commercial character," are all too well known. But implementation of such a policy is utterly incompatible with the preservation of the democratic system that, until now has been Chile's pride. Mr. Allende received only 37 percent of the popular vote and he needs the support of other parties in the runoff election in Congress on Oct. 24. The Christian Democrats, as a condition of their support, have demanded that he pledge to keep the democratic system intact. It is essential that Mr. Allende make such a pledge and even more essential that he move immediately to honor it by throwing his weight against those of his followers who, in his name, are threatening to turn Chile 1970 into Czechoslovakia 1948.

To: Mr. H. S. Geneen—Intel. Brussels.
From: E. J. Gerrity.
Date: September 29, 1970.
cc: F. J. Dunleavy—Intel. Brussels; Guilfoyle—ITT N.Y.; Merriam—ITT Washington.

Subsequent to your call yesterday I heard from Washington and a representative called on me this morning. He was the same man you met with Merriam some weeks ago. We discussed the situation in detail and he made suggestions based on recommendations from our representative on the scene and analysis in Washington. The idea presented, and with which I do not necessarily agree, is to apply economic pressure. The suggestions follow:

1. Banks should not renew credits or should delay in doing so.

2. Companies should drag their feet in sending money, in making deliveries, in shipping spare parts, etc.

3. Savings and loan companies there are in trouble. If pressure were applied, they would have to shut their doors, thereby creating stronger pressure.

4. We should withdraw all technical help and should not promise any technical assistance in the future. Companies in a position to do so should close their doors.

5. A list of companies was provided and it was suggested that we approach them as indicated. I was told that of all the companies involved ours alone had been responsive and understood the problem. The visitor added that money was not a problem.

He indicated that certain steps were being taken but that he was looking for additional help aimed at inducing economic collapse. I discussed the suggestions with Guilfoyle. He contacted a couple of companies who said they had been given advice which is directly contrary to the suggestions I received.

Realistically I do not see how we can induce others involved to follow the plan suggested. We can contact key companies for their reactions and make suggestions in the hope that they might cooperate. Information we received today from other sources indicates that there is a growing economic crisis in any case.

Guilfoyle received a call this afternoon from a representative of the key candidate asking us to do nothing to rock the boat because forces are at work to solve the problem.

I advised the visitor that we would do everything possible to help but I pointed out in detail the problems we would have with the suggestions he had made.

Finally, Bob Berrellez has just sent a report which is pessimistic as to the outcome next week. This report is being delivered to you by Mr. Barr of the technical department who is leaving for Brussels this evening.

GERRITY.

SEPTEMBER 30, 1970.

To: Messrs. Merriam/Neal/Ryan.
From: E. J. Gerrity.

Yesterday, subsequent to my visit from Mr. Broe, Jack Guilfoyle was advised of the following by Enno Hobbing of CLA:

Hobbing was visited yesterday by Gregorio Amunategui, who is an Alessandri representative. Gregorio had come from Santiago and his message to Hobbing from Alessandri was—keep cool, don't rock the boat, we are making progress—.

This is in direct contrast to what Broe recommended.

I will call you later to discuss HSG's reaction to my telex in some detail. He agrees with me that Broe's suggestions are not workable. However, he suggests that we be very discreet in handling Broe.

Allende obviously must be aware of this sort of plotting since his Unidad Popular has penetrated nearly everything in Chile. In one impromptu speech early this week he noted that Chile "was now swarming with C.I.A. agents."

A significant straw in the wind was noted this week while in Chile. The Commander of the Navy, Admiral Fernando Porta, was put on temporary leave of absence. His sudden departure from the scene was attributed unofficially to a meeting of four other admirals with Allende, with the reported consent of Admiral Porta. The meeting allegedly was arranged to pledge the Navy's support to Allende.

It also is significant that in spite of all the gossip and speculation about Viaux, no action has been taken against him. However, the Commander of the Army, General Rene Schneider, still shows no open indication of supporting Viaux.

Meanwhile, Allende and his representative have been ardently romancing the armed forces at various levels and have continued to infiltrate the lower ranks. Many have agreed to support Allende after hearing his promises to give the Army a greater role in developing the country's infra-structure, much like the work of a U.S. Corps of Engineers.

Allende also has promised various officers that he will not change the military organizational structure. But he has given no pledges about personnel changes. One retired officer pointed out that all Allende has to do as President is to pick his time to promote a loyal Major or Colonel to General rank and all those officers above his appointee would automatically be retired out of command. This is a tactic not uncommon in Latin America.

While Chile was bubbling with rumors last week, it is completely the opposite this week. The capital is in a bad state of depression, the general public seemingly resigned to the fact that Allende has won and that the next order of business is to determine how to survive and live with a Marxist government. Some anti-Allende spokesmen who show this resignation speak of starting to work toward winning a "second round."

INTERNATIONAL TELEPHONE AND TELEGRAPH CORP.,
October 16, 1970.

To: E. J. Gerrity.
From: H. Hendrix (dictated by phone from San Juan).
Subject: Chile.

Unless there is a move by dissident Chilean military elements by this time next midweek, the consensus in Santiago is that Salvador Allende will win the October 24 Congressional run-off easily and be inaugurated as President November 4.

The chance of a military coup is slim but it continues to exist—at least to this date.

A key figure in this possibility is former Brigadier General Roberto Viaux, who last October led an insurrection by members of the First Artillery Regiment in a demand for more pay and improved working conditions. This revolt collapsed quickly. Viaux was summarily dismissed from the Army but overnight his actions made him a hero to a large group of active and retired officers and enlisted personnel.

Clearly, Viaux was gearing up to launch a move last week. Rumors that he would trigger a coup on October 9 or October 10 were rampant in Chile and spilled over into Buenos Aires, Argentina.

It is a fact that word was passed to Viaux from Washington to hold back last week. It was felt that he was not adequately prepared, his timing was off, and he should "cool it" for a later, unspecified date. Emissaries pointed out to him that if he moved prematurely and lost, his defeat would be tantamount to a "Bay of Pigs in Chile."

As part of the persuasion to delay, Viaux was given oral assurances he would receive material assistance and support from the U.S. and others for a later maneuver. It must be noted that friends of Viaux subsequently reported Viaux was inclined to be a bit skeptical about only oral assurances.

Meanwhile, Viaux has been conferring with high-ranking and junior officers about taking some action to prevent Allende from becoming President. He has pledges of support from several, but unfortunately not from any key troop commanders, at least to our knowledge.

Whatever resistance starch there was left in many anti-Allende groups was thoroughly dissipated by the Christian Democratic National leadership decision October 5 to support Allende in Congressional balloting. Allende took a firm, hard-line with the P.D.C. once he was certain he had at least 25 of the party's votes in his pocket to assure his election. Since then, groups of the radical and national parties that had been wavering have jumped on the Allende bandwagon. There are even indications now that a significant number of Alessandri votes will swing to Allende.

Allende this week has had a series of meetings with Chilean business leaders, seeking pledges of support. He reportedly made it clear to all visitors that he intended to move as rapidly as possible with his industrial nationalization plans, legally with the aid of a Congress he will be able to control. He has not clearly defined a manner of compensation in his plans to nationalize the basic mining, banking, communications, both national and foreign, enterprises in Chile.

Feedback from some of these sessions indicates that Allende has become gravely concerned about the sick state of the Chilean economy. It is far worse than he first thought, according to some visitors, and it is said Allende is now giving this problem an "agonizing reappraisal." Business conditions are worsening steadily throughout Chile, unemployment is rising, and the flight of capital is continuing.

Allende also is becoming increasingly irritated with labor unions, most of which are under control of the Communist Party. The Communist Party forms a part of the Unidad Popular coalition. Several labor unions are pressing for tremendous wage increases before November 4, feeling it may be a long dry spell for raises under Marxist rule.

Allende's chief concern in this area is with the Anaconda Copper Company workers at the huge Chuquimata mine in northern Chile. More than 5,000 of these workers have been on strike since October 1 and may well still be on strike November 4, giving him a colossal headache with his inauguration. These workers are demanding 51% increase in wages and benefits and have ignored Allende's appeals to return to work. The government, as you know, now owns 51% of Anaconda. The company management is ignoring the workers demands.

We are also experiencing similar union difficulties. Workers at Chiltelco staged an illegal strike Wednesday morning, October 14, demanding special increases in wages and cost of living bonuses. Their demands represented about 18 million escudos, which translates roughly into $1.5 million. By the end of the day more than 3500 workers had joined the strike. Inasmuch as I left late Wednesday night for Puerto Rico, I do not know if the strike continued into Thursday. B. Holmes took the position of ignoring the workers' demands and the company advised both the union and the Frei government that the strike was totally illegal because the union agreement is valid until December 31, 1970.

Workers at ITT COM in Santiago also are pressuring for wage increases and are threatening strike action.

As I explained to E. R. Wallace by telephone, we had a low key press party Wednesday evening in Santiago to show the new Sheraton San Cristobal hotel. About 50 newsmen, including a handful of visiting foreign correspondents, were invited for a walk-through tour of the hotel and treated to a cocktail party afterward. There were no other guests except the local Sheraton management executives and B. Holmes.

General Manager Fernando Hoffman opened the San Cristobal for business Thursday morning, October 15, with no fanfare. His first guests, a group of about 75 on an American Express tour, were expected to arrive in the hotel during Thursday.

The hotel looks great. Its interior decor is in very good taste and done exceptionally well. It will be staffed by a skeleton force of 255 employees. For the time being, only 2 of its 7 floors will be open for guests. Hoffman said he has several American Express tour groups booked into the hotel in the coming months, which will keep it afloat.

INTERNATIONAL TELEPHONE AND TELEGRAPH CORP.,
October 20, 1970.

To: Mr. H. S. Geneen.
From: E. J. Gerrity, Jr.
Subject: Chile: the Aftermath.

Assuming that Allende will take power on November 4, barring a last-minute coup, the following broad plan of action is recommended both to protect us, as best possible, in Chile and to guard against the inevitable reactions that will occur primarily in Argentina and Brazil.

In fact, though the formal Allende takeover has not occurred the effects are already being felt in Argentina as our reports indicate and as we had assumed.

It is important that we establish the following—on the record as much as possible:

What does the State Department estimate will happen to U.S. investment in Chile?

In the event of expropriation, what will the U.S. do? Will it take a hard line or go the "soft route" followed first in Peru and now in Bolivia? Will it press for payment in dollars to the expropriated owners?

Will it invoke the Hickenlooper Amendment, and if it did would it matter? What is at stake? Will AID funds be cut off? (Please see Jack Neal's memo concerning his conversation with Ambassador Korry who, Neal reports, says he has gotten approval to cut off aid if expropriation occurs, and who adds that aid funds in the pipeline will be cut off *where possible*. If the worst occurs I see no reason why aid in any form should be continued.)

What does State estimate the effect of Allende's takeover will be in the rest of Latin America?

We believe that State should be pinned down on the record in a written exchange of views so that, in effect, a formal history is set down. State has been absolutely wrong on the outcome in Chile, as other Government agencies have, but State has the fundamental responsibility for the U.S. position and it has been wrong consistently. It is our assumption that it will also, based on its record, probably be wrong about the effects of the Allende presidency.

With a member of the board of directors, we propose that the outlined program above be implemented with: Dr. Kissinger, Mr. Meyer and Mr. Irwin of State, with certain other persons to be determined and, ultimately, with Secretary Rogers and the President. When these visits are carried out, we should demand that U.S. representatives of international banks take a strong stand against any loan to countries expropriating American companies or discriminating against foreign private capital.

As part of the overall action, we should ask our friends in Congress to warn the Administration that continued mistreatment of U.S. private capital will bring about a cutoff of the U.S. taxpayers' funds to international banks.

Allende has already moved to take over communications—the press, radio, TV—in Chile—in emulation of his friend Fidel Castro, of the Chinese Reds, and of the so-called proletarian dictatorships everywhere. Only El Mercurio and Radio Cooperativa Vitalicia hold out against his threats and intimidation, and once he is running the country their fate is sealed.

Freedom is dying in Chile and what it means to Latin America, and to us—to free men everywhere—is not pleasant to contemplate.

We should offer an additional action plan which would involve reduction of American diplomatic representation in such South American capitals as Santiago, Lima, La Paz, Quito, etc. This could be on the basis of leaving each post in the hands of a Charge d'Affaires. This wouldn't reduce the coverage of developments in each of the countries, but it would be a diplomatic slap.

We should also consider communication with the press and with members of Congress as the situation develops.

Finally, we must continue to appraise our total position in Latin America—and this should be an assigned chore for a definite group.

This is important because it is plain that events will cause the investment community and our shareholders to scrutinize our activities in Latin America closely. We see, on balance, at this time no reason for anyone to be optimistic.

Because the Chile situation is so interrelated to our overall position in Latin America, and therefore of such importance to our stockholders, I believe that you would want to meet in Washington with the highest officials to personally express our deep concern

with developments that have such serious impact.

This program has been discussed with Mr. Aibel, Mr. Brittenham, Mr. Dunleavy, Mr. Guilfoyle and Mr. Merriam, as well as with Mr. Hendrix, Mr. Berrellez, Mr. Perkins and Mr. Wallace, of our Department, and they are aware of the details.

OCTOBER 20, 1970.

The withdrawal yesterday in Santiago of Jorge Alessandri from the Congressional runoff election for President of Chile marked the final step in the collapse of political resistance to the election of Salvador Allende.

In a message to his supporters in the right-wing National Party, Alessandri stated he did not wish them to vote for him in the balloting Saturday. The message also carried a personal endorsement of Allende, thus virtually assuring that Alessandri's backers will throw their votes to Allende in a show of national unity.

That Alessandri would take this action was evident last week in Santiago. His top advisers reported that he was very bitter now towards President Frei, feeling that Frei had double-crossed him in the post-election plans to win the Congressional election away from Allende. Frei did just that.

Now there is general resignation that Allende will win easily in Congress, and most likely will be inaugurated November 4.

Except among the Allende supporters, a cloud of depression and worry has settled over Santiago and there is no outward sign of any organized opposition. Once the Christian Democrats swung to Allende at their national convention October 5, hope of stopping Allende and his Marxist-Socialist Unidad Popular evaporated quickly and the gloom took hold firmly.

In this atmosphere, many Chileans have turned to thinking about what they can now do to survive economically and politically under Marxist rule. Thus, future announcements of deals and arrangements with Allende should not be surprising.

In spite of the forementioned, there remains in Chile a faint whispher of hope—or wishful thinking—that a military coup will be staged to prevent Allende from assuming the presidency.

The chance of a coup diminishes with each passing day, but some civilian and military personnel continue to look toward former Bridgadier General Roberto Viaux to lead a military action against lame duck President Eduardo Frei before November 4, putting the armed forces in power and thus preventing Allende from taking office.

Viaux has considerable popular following in the lower ranks of the armed forces and some support among officers. But so far he has not won any pledges of support from officers who command troops.

Allende is continuing almost daily meetings with business, industrial and military leaders to explain his programs and seek support. His efforts have paid off. He has made it clear he plans to proceed as soon as possible with nationalization of industries that would allegedly benefit Chile, using legal means and providing compensation—without being specific. He has convinced many military officers that he won't disturb the military structure.

Allende will inherit an economy in critical condition. He also will apparently inherit considerable labor strife and has indicated he will take a hard line with union unrest and demands for increased wages. Thus, organized labor—mostly Communist controlled—is pressuring now for wage and benefit improvements through wildcat strikes. The Anaconda strike and one against the Chile Telephone Company last week are examples.

The rift between Ambassador Ed Korry and his supeior at the State Department has reached the point where he deals now directly with the White House and does not always share his input and instructions with State. Korry was in Washington last week for consultations and was supposed to return to Santiago during the past week-end. But he is remaining in the Washington and New York area for a short time. The word among Korry's colleagues is that Charles Meyer and his deputy, John Crimmons, are determined to get Korry out of Chile—and out of the Department, if possible.

In summary, there is little indication now of any remaining resistance to Allende in Chile—apart from the aforementioned long-shot military action. There are some Chileans who speak of planning now for a "second round" against Allende, but they also admit that the odds for a second round are rather slim.

OCTOBER 21, 1970.

Mr. JOHN A. MCCONE,
Los Angeles, Calif.

DEAR JOHN: Attached is a summary of the situation we discussed at length last week. This is based on information from various sources, including the personal observations of Hal Hendrix and Bob Berrellez of my staff who were recently on the scene. Hendrix is now back in New York and Berrellez has returned to Buenos Aires.

We are developing a followup program as suggested during our discussions. I will bring you up to date on that in the near future.

Best wishes.

Sincerely,

E. J. GERRITY.

UNITED STATES AT THE CROSSROADS—A NEEDED REAPPRAISAL OF OUR LATIN AMERICAN POLICY

The ten year adverse trend of Latin American political and military unrest culminated recently in Chile where an avowed Marxist, Dr. Salvador Allende, was elected President. The free world was shocked and private foreign enterprise, already reeling from damaging treatment in Peru, Ecuador, and Bolivia, was left groping for means of protecting its investments.

Policymakers in Washington only a few months previously were using Chile as a democratic symbol. Now they are unable to predict how Dr. Allende's Marxist policies will affect the Chilean people, their democratic rights, and their economy. However, from Allende's pre-election promises, the results can be anticipated.

What has happened in Chile brings the U.S. face to face with reality in Latin America. The Chilean Marxist government justifies an immediate reappraisal of our Latin American policy.

A recent Congressional report says over *eight billion dollars* have been channeled to Latin America from U.S. official sources during the past *seven years*, with "only modest visible development gains."

The report further states "the United States stands at the crossroads with respect to its policy toward Latin America."

The U.S. government time and again during the past few years has admitted our assistance programs in Latin America have not met their objectives. Those of us who have been operating in the area for almost 100 years are intimately aware of these failures.

The American public is appalled by the failure of the countries to help themselves; displeased with the lack of responsibility; and shocked by the unreasonableness with which U.S. tax money is regarded by those seeking it without a sincere intent of assuming the responsibility of its proper utilization.

Foreign private enterprise equally is disenchanted by the unethical political abuse of development projects which, over the past fifty years, could have made Latin America one of the most stable areas of the world. As previously stated, over *eight billion dollars* during the past seven years alone have been poured into Latin America.

A responsible segment within the Hemisphere is increasingly discouraged about future hopes. Radical government moves are retarding development; local capitalists are without confidence; foreign investors refuse to enter a hostile market; international banking prestige has reached a new low; therefore, the hopes of the people are shattered and essential development is stifled.

Like the Congressional report, I, too, feel we are at a crossroads because we must decide not only whether we, ourselves, are to return to fundamental principles on which this country was founded, but also whether we are to stand firm for democracy for the sake of those friends of ours in Latin America who based their hopes and aspirations on our strength. This is not a time to deny your own heritage, but is a moment of truth when we must stand erect to be counted.

I do not visualize retaliation or vengence as a part of our policy. I am only convinced that to assist development of the Hemisphere the leaders must be assured the United States taxpayer is no longer prepared to sacrifice his hard-earned money for tasks which, as the Congressional report stated, "basically must be discharged by the Latin Americans themselves; and, even with the best of effort, many will not be accomplished in the next decade."

Our prestige is at a low ebb in Latin America—this is a consensus. It is low because our policy has been weak and indecisive. We have not used the legislative implements, such as the Hickenlooper Amendment, to our advantage or to the benefit of democracy in the Hemisphere. We continue to grant aid in super-abundant amounts, even when our citizens are being discriminated against; we give funds when and where they cannot be absorbed; we give where it is not appreciated.

Congress feels this type of assistance should end; the people of the United States certainly agree, and our private corporations know too well it has been counterproductive.

The following quotation from the June 22, 1969, Subcommittee on Inter-American Affairs is almost prophetic in content:

"We want to note, however, that cooperation is a two-way street. The flow cannot come from just one direction. Our readiness to fashion new patterns of inter-American cooperation has to be matched by increased self-help and internal reform, by willingness to establish fair and stable rules which will attract private capital and reduce dependence on Government aid, and by other steps which will reinforce our mutual efforts and sacrifices."

U.S. ACTION REGARDING CHILE

In view of the far-reaching threats Dr. Allende made prior to his election, there should be no hesitance on the part of the United States to confront the new President on what the resultant action of the United States Government will be in the event he carries out his threats. This will not be retaliatory on our part, but will be information to Allende as to the orderly procedure which follows if his threatened action is taken.

I believe the United States should consider the following:

I. Under Presidential instructions, have the U.S. Ambassador to Chile seek an early audience with President Allende for the purpose of informing him of U.S. policy. The Ambassador's approach might include:

a. Review of our historical relationship with Chile; the democratic aspirations of our two countries; our contributions in the form of aid, soft loans, military assistance, earthquake and disaster relief; making him aware of this total figure of more than *one billion, five hundred million* poured into Chile during the past ten years.

b. Outline the vast economic and social contribution to Chile by U.S. private investment.

c. Call his attention to his own threats to

these corporations, and inform him of the deep concern which resulted.

d. Make reference to the sudden economic fear which struck his country after the September election and advise him of similar repercussions experienced in international banking circles. (United Press International reports the Export-Import Bank has dropped Chile to its worst-risk category. It also reports the Overseas Investment Corporation, another U.S. Government agency, is not insuring new investments in Chile.)

e. Inform President Allende that, if his policy requires expropriation of American property, the United States expects speedy compensation in U.S. dollars or convertible foreign currency as required by international law.

f. Inform him that in the event speedy compensation is not forthcoming there will be immediate repercussions in official and private circles. This would mean a stoppage of all loans by international banks and U.S. private banks.

g. Continue the foregoing trend with every possible pressure which might keep Dr. Allende within bounds.

II. As a reassertion of U.S. Latin American policy, each Hemisphere Ambassador to the U.S.—and to the OAS—should be called to the State Department and individually informed of our diplomatic review with Dr. Allende.

III. Without informing President Allende, all U.S. aid funds already committed to Chile should be placed in the "under review" status in order that entry of money into Chile is temporarily stopped with a view to a permanent cut-off if necessary. This includes "funds in the pipeline"—"letters of credit" or any such.

IV. Consideration should be given to a reduction in U.S. diplomatic representation in certain Latin American capitals. Staffs should be reduced and the post left in the hands of a Chargé d'Affaires.

INTERNATIONAL TELEPHONE AND TELEGRAPH CORP.,
October 22, 1970.

To: E. J. Gerrity.
From: Hal Hendrix.
Subject: Chile.

Bob Berrellez called this morning from Santiago to report that shortly after 0800 this date an attempt was made on the life of General Rene Schneider, Army commander-in-chief in Chile.

Generel Schneider was gravely wounded by shots fired by occupants of a car described as a white-grey Falcon. One of the shots reportedly struck him in the neck.

The assassination attempt occurred as the general was leaving his home to go to his office. Three vehicles blocked the path of his car, and machinegun fire came from one.

An official communique stated that General Schneider's condition was "delicate." He was rushed to a hospital and underwent immediate surgery. President Frei and other government officials are standing by at the hospital.

The assailants escaped and there was no immediate indication who was involved.

In recent days, however, police and army squads have been picking up extreme right-wing terrorists. Thus, the quick assumption in Santiago is that right-wing terrorists are responsible.

Observers speculate that the attempt is (1) revenge against Schneider for his refusal to support plans for a military coup against Frei to block Allende from taking office, or (2) an attempt to arouse violent reaction among the extreme left. The latter is considered unlikely because of the rigid discipline managed by the Communist Party.

Yesterday, authorities arrested a retired police Major, Jose Cabrera, and found a small arsenal in his home. This morning's El Siglo, the Communist party daily in Santiago, said the capture of the Major revealed a plot to kill Allende. The main conspirators, said El Siglo, were the CIA and General Lanusse of Argentina.

Tuesday, a retired army major, Arturo Marshall, was arrested and described as a leader of a right-wing terrorist group.

In mid-morning, General Carlos Prat, chief of staff, was named interim commander in chief.

The army was put on alert and ordered to remain in barracks. All roads leading out of Santiago have been blocked. There were rumors that air line flights were cancelled but Berrellez says that all international carriers are operating.

Shortly before noon, Allende met with Frei at the Casa Moneda (presidential palace). There was no announcement on what was discussed.

The Technical-University students announced plans to stage street demonstrations this afternoon in support of "institutionality." The meaning of this was not explained in the announcements, but it is interpreted as a warning to the military to stay in their quarters and mind their own business.

Also, the CUT, the national Chilean labor confederation (dominated by the Communist Party), announced that it would go into an emergency session at 5:00 p.m. It did not indicate what the session would deal with.

We will continue to monitor the situation. Whether it will develop into any military action remains to be seen, but at this stage it seems doubtful with General Prat now in command.

Prat supported Schneider in his attitude toward General Roberto Viaux, who had attempted to spark a military coup earlier. Prat does not like Viaux personally. As far as we can determine, Prat will display the same loyalty to Frei as Schneider did in the past.

To: Hal Hendrix, ITTHQNY.
From: R. Berrellez, ITTLABA/CHILTELCO.
Date: October 22, 1970 (sent by traveler).
Subject: Chile.

A group of workers identifying itself as a "Policy Orientation Committee" of the Popular Unity Front (Allende's) visited Standard Electric, Chiltelco, and ICO (World Com) the past week to conduct lectures on communications policy in the new government.

Apparently no one at any of the plants checked into the credentials of the group to determine if it was an authentic delegation or merely a self-appointed team trying to impress (and possibly even intimidate) management and employes.

The lecture at Standard Electric was taped by Dan Gillen. We are to get a copy. Arturo Prat at Worldcom made notes, the gist of which follows:

Gillen says his workers were told there were no immediate plans to take over the factory, but that the government would have a bigger say in future policy and that government and workers would also have representation on the Board of Directors.

At Worldcom, according to Prat's notes, singular emphasis was made on the fact Allende would create a government of the workers. The team spokesman (not identified by name) also said both the telephone company and Worldcom would be nationalized with the process beginning the day Allende takes over, November 5. In response to questions, he said he did not know how long the process would require.

Worldcom and Chiltelco, the spokesman said, suffered from the same malady: poor administrations and outdated equipment. If Chiltelco declares profits of "thirty million dollars," he said, it simply means that the profits are much higher.

All this would be corrected in the future, the spokesman stressed, and "cheaper telephone service would be made available to all, not just a privileged few." A vast expansion program also would be undertaken. Less emphatically, he said that at least during the initial phase of the program salaries and other social benefits would be frozen.

All America Cables would disappear, the spokesman said, because it operates illegally (? ? ?) in Chile.

He asserted the Popular Unity Front does not wish to do away with unions since they represent the workers and the government is of the workers. (This was probably an oblique allusion to swiftly spreading apprehensions in some worker sectors that Allende plans to do away with the trade union movement, a la Castro. Allende heightened these fears when he made it known he would break the backs of the "labor aristocracy" in Chile—the mine workers).

In his private conclusions, Prat observes that the pitch was made to put the workers at ease, all of them including those who might not have voted for Allende.

Prat said the team spokesman did not mention the ITT hotel properties.

He also said the spokesman pointed out Standard Electric would not be nationalized because its production was essential to future telephone system expansion. No one apparently asked if this meant that a nationalized factory's output would be inadequate for expansion purposes.

OCTOBER 27, 1970.

To: H. S. Geneen.
From: E. J. Gerrity

Attached are two reports on the Chile situation which have just arrived from Bob Berrellez. I thought you would be interested in seeing them as they sum up the situation there as it stands today.

To: Hal Hendrix, ITT HQ NY.
From: Robert Berrellez—ITT LA BA—CHILTELCO.
Date: October 25, 1970 (sent by traveler).
Subject: Chileans.

1. Marxist Salvador Allende has been elected to the Chilean presidency by the congress and the first step toward the total communization of this country has been taken.

2. In view of important recent developments, a major question is what immediate steps the communists will take to consolidate their beachhead. A likely immediate target is Allende himself. Although a Marxist and an admirer of Castro, Allende sees himself as a Western hemisphere Tito who will forge his own utopian version of socialism: at once palatable both to Washington and Moscow.

3. Having just recently given Tito a personal presidential blessing, Washington will certainly arouse liberals everywhere if it turns its back on Allende. Such inconsistencies are fodder for the editorial pages.

4. However, if Washington just sits there and does nothing to thwart Allende, it will be inviting a sharper turn toward leftist nationalism—which translates into more danger for foreign investments—among other Latin American countries.

5. Allende does not have the large personal following that President Frei once enjoyed and thus has no real power base from which to move independently as he hopes. He lacks Castro's charisma and in a crunch could not—as Fidel can—bring the crowds out into the street for massive demonstrations of support. At least not without the acquiescence of the Communists and the leftist bloc that put him in power.

6. Thus the communists can and probably will take the measures necessary to shape Allende to their liking. A key factor here is economics.

7. The general consensus is that the election of Allende by congress pulled the plug from under the anemic Chilean economy. Without help from Washington, Allende

will be forced to turn to the communists and Moscow. The Russians don't want another Tito on their hands. In order to fortify their hold, the communists will have to start tampering with the congress, the trade unions and the military. This will invite some serious troubles for the communists.

8. A main deterrent to this remains the armed forces. The elimination of General Rene Schneider from a key command post (chief of the armed forces) makes Allende and the communists even more vulnerable than before. General Schneider, fatally wounded in an assassination last week, has been described as favorable to Allende. He is known to have consistently blocked coup efforts by more determined general officers.

9. His successor, General Carlos Prats, is described as a political moderate, a professional who'll brook no outside tampering with the armed forces.

10. Contrary to the general expectation, the military did not move against Allende over the weekend. It was believed that the killing of Schneider was a prelude to the coup.

11. A widespread belief is that the Schneider plot was handled from within the army. The job was too professional for ordinary civilians—excluding those trained in Russia and Cuba. The thinking is that if the Schneider shooting was not really the prelude to the coup, it was a skillful maneuver to eliminate from the top the one man who would have permitted Allende to infiltrate and neutralize the military.

UNITED STATES AT THE CROSSROADS—A NEEDED REAPPRAISAL OF OUR LATIN AMERICAN POLICY

The ten year adverse trend of Latin American political and military unrest culminated recently in Chile where an avowed Marxist, Dr. Salvador Allende, was elected President. The free world was shocked and private foreign enterprise, already reeling from damaging treatment in Peru, Ecuador, and Bolivia, was left groping for means of protecting its investments.

Policymakers in Washington only a few months previously were using Chile as a democratic symbol. Now they are unable to predict how Dr. Allende's Marxist policies will affect the Chilean people, the democratic rights, and their economy. However, from Allende's preelection promises, the results can be anticipated.

What has happened in Chile brings the U.S. face to face with reality in Latin America. The Chilean Marxist government justifies an immediate reappraisal of our Latin American policy.

A recent Congressional report says over *eight billion dollars* have been channeled to Latin America from U.S. official sources during the past *seven years*, with "only modest visible development gains."

The report further states "the United States stands at the crossroads with respect to its policy toward Latin America."

The U.S. Government time and again during the past few years has admitted our assistance programs in Latin America have not met their objectives. Those of us who have been operating in the area for almost 100 years are intimately aware of these failures.

The American public is appalled by the failure of the countries to help themselves; displeased with the lack of responsibility; and shocked by the unreasonableness with which U.S. tax money is regarded by those seeking it without a sincere intent of assuming the responsibility of its proper utilization.

Foreign private enterprise equally is disenchanted by the unethical political abuse of development projects which, over the past fifty years, could have made Latin America one of the most stable areas of the world. As previously stated, over *eight billion dollars* during the past seven years alone have been poured into Latin America.

A responsible segment within the Hemisphere is increasingly discouraged about future hopes. Radical government moves are retarding development; local capitalists are without confidence; foreign investors refuse to enter a hostile market; international banking prestige has reached a new low; therefore, the hopes of the people are shattered and essential development is stifled.

Like the Congressional report, we, too, feel we are at a crossroads because we must decide not only whether we, ourselves, are to return to fundamental principles on which this country was founded, but also whether we are to stand firm for democracy for the sake of those friends of ours in Latin America who have based their hopes and aspirations on our strength. This is not a time to deny our own heritage, but is a moment of truth when we must stand erect to be counted.

Considering the background and philosophy of Allende and the strength of the Communist and Socialist parties in Chile, there remains no doubt that a strongly anti-U.S. government is prepared to take power. It should be readily apparent that a Communist-dominated Chile in the southern cone of the hemisphere in tandem with Communist Cuba in the north at our doorstep represents a new critical challenge to the national security and interest of the United States.

Allende has asserted publicly that he plans to establish diplomatic relations with Castro's Cuba, North Korea and North Viet Nam. He has said he is considering inviting a group of Red Chinese technicians to come to Chile. Thus, Cuba can quickly become a new platform for anti-U.S. conferences and propaganda to further undermine United States prestige and influence in Latin America.

A Communist Chile also provides another base for export of Communist-inspired revolutionary violence, especially in countries neighboring Chile, and a transit point for Cuban and Soviet support for guerrilla groupings in several South American nations.

In addition to these political dangers, there is to be considered anew the strategic importance of Chile's resources to the security of the United States. There also exists the real possibility that in the future the Soviet fleet could use Chile as an operating base in the same manner that Cuba is utilized presently.

It is apparent that the interest and designs of the Soviet Union in Latin America are real. So is the threat of a hostile and Communist-supported regime in Chile. Our foreign policy should not ignore these facts of life today. This hemisphere still is in the United States sphere of influence and this should be made clear to the Soviet Union.

We do not visualize retaliation or vengeance as a policy. We are only convinced that to assist development of the Hemisphere the leaders must be assured the United States taxpayer is no longer prepared to sacrifice his hard-earned money for tasks which, as the Congressional report stated, "basically must be discharged by the Latin Americans themselves; and, even with the best effort, many will not be accomplished in the next decade."

Our prestige and influence are at a low ebb in Latin America. They are low because our policies and diplomacy have been weak and indecisive. We have not used properly the legislative implements, such as the Hickenlooper Amendment, to our advantage as a diplomatic tool. Yet, large amounts of U.S. aid continue to flow into the area, in an increasing amount, while at the same time there has been growing discrimination against our citizens.

Congress feels this type of assistance should end; the people of the United States certainly agree, and our private corporations know too well it has been counter productive.

The following quotation from the June 22, 1969, Subcommittee on Inter-American Affairs is almost prophetic in content:

"We want to note, however, that cooperation is a two-way street. The flow cannot come from just one direction. Our readiness to fashion new patterns of inter-American cooperation has to be matched by increased self-help and internal reform, by willingness to establish fair and stable rules which will attract private capital and reduce dependence on Government aid, and by other steps which will reinforce our mutual efforts and sacrifices.'"

U.S. ACTION REGARDING CHILE

In view of the far-reaching threats Dr. Allende made prior to his election, there should be no hesitance on the part of the United States to confront the new President on what the resultant action of the United States Government will be in the event he carries out his threats. This will not be retaliatory on our part, but will be information to Allende as to the orderly procedure which follows if his threatened action is taken.

We believe the United States should consider the following:

I. Under Presidential instructions, have the U.S. Ambassador to Chile seek an early audience with President Allende for the purpose of informing him of U.S. policy. The Ambassador's approach might include:

a. Review of our historical relationship with Chile; the democratic aspirations of our two countries; our contributions in the form of aid, soft loans, military assistance, earthquake and disaster relief; making him aware of this total figure of more than *one billion, five hundred million* poured into Chile during the past ten years.

b. Outline the vast economic and social contribution to Chile by U.S. private investment.

c. Call his attention to his own threats to these corporations, and inform him of the deep concern which resulted.

d. Make reference to the sudden economic fear which struck his country after the September election and advise him of similar repercussions experienced in international banking circles. (United Press International reports the Export-Import Bank has dropped Chile to its worst-risk category. It also reports the Overseas Investment Corporation, another U.S. Government agency, is not insuring new investments in Chile.)

e. Inform President Allende that, if his policy requires expropriation of American property, the United States expects speedy compensation in U.S. dollars or convertible foreign currency as required by international law.

f. Inform him that in the event speedy compensation is not forthcoming, there will be immediate repercussions in official and private circles. This could mean a stoppage of all loans by international banks and U.S. private banks.

g. Continue the foregoing trend with every possible pressure which might keep Dr. Allende within bounds.

II. As a reassertion of U.S. Latin American policy, each Hemisphere Ambassador to the U.S.—and to the OAS—should be called to the State Department and individually informed of our diplomatic review with Dr. Allende.

III. Without informing President Allende, all U.S. aid funds already committed to Chile should be placed in the "under review" status in order that entry of money into Chile is temporarily stopped with a view to a permanent cut-off if necessary. This includes "funds in the pipeline"—"letters of credit" or any such.

IV. Serious and concentrated effort should be made at the Presidential level to strengthen the professional quality of the U.S. diplomatic representation throughout Latin America. The Soviet Union apparently has given such serious concentration and has

staffed its embassies with top-flight Spanish-speaking and Portuguese-speaking ambassadors and diplomats. Unfortunately, the same cannot be said of the United States representation in various Latin American nations. In this connection, it should be noted that a year ago it was announced there was to be named an Under Secretary of State for Latin America. This post remains unfilled.

INTERNATIONAL TELEPHONE AND TELEGRAPH CORP.,
October 29, 1970.

To: Mr. W. R. Merriam.
From: E. J. Gerrity.
Subject: Chile.

On Saturday, Salvador Allende, a Marxist, was elected president of Chile. He did not attain a majority for election when his countrymen balloted last month. He received about 36 per cent of the vote and thus the election was thrown into the Congress. On that basis it is said that a Marxist has for the first time anywhere been freely elected in a democracy.

Three years ago, Allende said:

"The United States is in trouble, everywhere. The wave of the future is Marxist-Leninism."

If that is so, freedom is in danger, everywhere.

Attached is a memorandum describing briefly Allende's background, indicating his thinking. He admires Red China and relies on Fidel Castro for advice. In his hands, Chile's future seems plain.

OCTOBER 26, 1970.

From: E. J. Gerrity.
To: W. R. Merriam.
Subject: The Chilean Candidate.

Here are some pertinent sidelights on Dr. Salvador Allende from a highly reliable but confidential source.

Physically, Allende is short, red-faced, curly-haired, and tough-talking. In real life he doesn't look nearly so young and attractive as in those recent photographs appearing in *The New York Times* and the world press. For one thing, he is not in robust health. He has kidney trouble. He has had hepatitis twice, and it left him with chronic liver problems. He has suffered a heart attack, and two minor strokes that left the right side of his face partly paralyzed. He is also known as a heavy drinker, and of course this aggravates his physical problems.

In compensation, perhaps, he dresses elegantly and modishly. His party propaganda paints him as a man of the masses, but his tastes are refined and capitalistic: he owns a beautiful summer beach home, a yacht, and a full wardrobe of stylish suits.

Intellectually he has an upper middle-class background. But he has turned into a pugnacious Communist while retaining a degree of both worldliness and provincialism.

Since the Chilean elections much of the world press has been expressing fond hopes that Chile will develop its "own brand" of Communism, somehow more democratic and benign, with guaranteed freedoms and minimal disruption of business, social, and cultural life. Such hopes are far from the actual prospects.

No Communist government of an important nation, once installed, has ever been thrown out. It will make no difference that Allende is coming to power as the first Communist head of state ever democratically elected. It is foolish to believe that he will give democracy another chance in six years. Whatever the trappings, there is unlikely ever to be another truly free election in Chile.

Freedom is already dying in Chile. Allende's supporters have intimidated the entire press and broadcasting media serving the country's 9 million citizens. Only one newspaper, *El Mercurio*, and one radio station have held out against being cowed or coerced into support of Allende. And *El Mercurio*, usually appearing in 64-page editions in the springtime season, is now printing 10- to 20-page editions. This universally respected newspaper symbolizes a 150-year tradition of Chilean freedom of the press. Today *El Mercurio* is isolated, and nobody knows how long it can hold out.

Chilean Communism is going to look a great deal like Chinese and Cuban Communism. Allende has paid three extended visits to Red China, has sent his wife and daughter there as well, and has arranged China visits for Chilean newsmen.

Allende's sister, Beatriz, went to Cuba in September. Men of Allende's own party, the Popular Union Committee, have visited Havana regularly for briefings and money—in dollars from the Russians. Beatriz herself received subversion and guerrilla training in Cuba. She carried back a portfolio of sage tips for Allende from her recent visit. For example, 1. "Try to persuade your skilled technicians to stay in Chile. Take administrative measures if necessary." (These measures are already applicable in Chile: All the country needs to do is send a certain man an internal revenue notice that his tax filings are under study and that he may not leave the country until he has been cleared.) 2. "Don't act too revolutionary or you'll give the counter-revolutionaries the pretext to upset your economy." 3. "Direct all copper sales to the dollar market." 4. "Maintain good relations with the military until you've had time to consolidate your popular support."

Allende is following Castro's advice, and we seem to be letting it happen. The Communist virus will certainly not be confined to Chile. Already leftist elements in other countries of the hemisphere are getting bolder. Student militants have taken over all the non-leftist newspapers in Bolivia and are running them by Marxist cooperatives. American-owned mines will almost certainly be nationalized under the new government of General Torres. In Argentina the new Minister of Economics is a leftist economist, Aldo Ferrer. As a matter of fact, there is no longer a respectable "democratic left" in Latin America—men, for example, like Betancourt, former president of Venezuela, who managed to stand up to the 5-year campaign of arson, subversion, and murder personally directed by Castro against Venezuela.

The United States has poured money into Chile since 1964, when the relatively moderate Eduardo Frei won the election despite heavy financial assistance from Havana for Allende. In the years 1964–1967 we gave Chile $658.4 million for AID projects. We were well aware of the need to help the Christian Democratic candidate and keep a Havana-wired Marxist candidate out. This time we kept our nose, financial and otherwise, out of Chile's presidential election. The State Department's opinion seemed to be: "It is unthinkable that Chile will go Communist." Now the unthinkable is on us, but we seem to be shrugging our shoulders and moaning, "We are powerless because the people of Chile elected Allende legally."

Under Frei, a program of economic reform was instituted, involving even a move toward gradual nationalization of some industries, but gradual nationalization of any kind is almost certainly out the window now. We can expect some swift and ruthless seizures.

And we can expect the same kind of repression of the human spirit which the doctrinaire Marxist always imposes—a repression sometimes cynically enforced with raw power plays, sometimes with bumbling bureaucratic idealism. But the result is the same.

Three years ago Allende told an American observer: "The United States is in trouble, everywhere. The wave of the future is Marxist-Leninism."

Yet, when the election of Allende became a new certainty, former OAS Ambassador Sol Linowitz said: "I think the best course for the U.S. is not to rock the boat, respect the decision of the Chilean people, and hope that out of this will come a mature system, with democratic rights preserved."

Far more likely is the comment of a Chilean citizen: *"El Mercurio* is like a candle in a bottle. It will give light for a while, and then will be smothered, leaving only a little black smoke."

That candle is freedom—in Chile today, in the rest of Latin America tomorrow—if Allende stays in power.

NOVEMBER 2, 1970.

To: Keith Perkins.
From: Hal Hendrix.
Subject: Chile—C. Bartlett.

FYI, Charlie Bartlett of Sun-Times Syndicate called Friday and we talked for over an hour about Chile and the general situation in Latin America, plus the attitude of the U.S. and lack of any Nixon policy. Apparently he is planning several columns on the subject in the days ahead. I gathered from a recent column and from some of his comments that he had a copy of one of our earlier memos (Hendrix-Berrellez) on Chile. Don't really know what tack he will take at this point, but presume it will be anti-Allende and anti-administration with respect to U.S. Latin policy—or lack of it.

NOVEMBER 4, 1970.

To: Mr. H. S. Geneen.
From: E. J. Gerrity.
Subject: Charles Meyer.

Attached is an in-depth report. It speaks for itself. Meyer has not done a good job.

Attachment.

To: H. Hendrix—ITTHQNY.
From: R. Berrellez—ITTLABA.
Subject: Chileans.

1. Salvador Allende was inaugurated last Nov. 3 as Chile's President (until 1976) without incident. At every public appearance during the two-day inauguration festivities, he was a living, breathing image of political moderation, a perfect vehicle that Moscow will now thoroughly exploit to give their brand of communism a touch of bourgeoise respectability they hope will make it palatable—and even desirable—in other Latin American countries.

2. Evidence that the ploy is working in Chile can be found among Allende's conservative opposition. The very people who were once urging Washington to take firmer action to stop Allende now believe they can co-exist with him. They say that "Washington must do nothing in terms of economic or political reprisal that will force him to turn toward the extreme left."

3. Allende has made a most compelling pitch for moderation and national unity. And it would be altogether believable were it not for a few grim undercover signs that clearly indicate the leftwing extremists (Castroites, Maoists) have already moved in to consolidate power bases from which democracy will be slowly but thoroughly strangled long before Allende's six-year term is up.

4. Most alarming of these signs is the presence in Santiago of Cuban political police personnel, trained in Moscow, and headed by Luis Fernandez Ona, described as one of their best agents. The Cubans and other Iron Curtain "tourists" and delegates to an industrial fair now underway in Santiago, arrived within hours of the September 4 voting which gave Alende a plurality in the voting.

5. A weekly newspaper, PEC, recently published a detailed account of the clandestine movement of the leftwing extrements in Chile. The account has been termed "highly accurate" by authoritative sources, persons in a position to know.

6. This version, supplemented by information from other sources, indicates the visitors have taken up residence in homes and apartments in Santiago, suggesting a lengthy stay.

7. Fernandez Ona arrived ostensibly on a romantic mission. He fell in love, a purposely muted public version alleges, with Beatriz Allende, daughter of the President, while she visited in Havana. Beatriz is said to have been the bearer of an alleged special message from Fidel Castro urging Allende to (a) keep copper in the dollar market (b) don't fall into the Soviet clutches, and ad infinitum. Once believable, the message's authenticity becomes more questionable when viewed in the light of what has been going on quietly underfoot.

8. Fernandez Ona's mission is said to be concerned mainly with the shoring up of security for the governing coalition against a military coup or subversion from any other quarter. The Popular Unity front that put Allende in power had organized highly effective security units (commandos) that apparently had infiltrated the police. These are expected to serve as cadres for "committees" in defense of the new regime in the same manner that General Alberto Bayo organized "Committees for the Defense of the Cuban Revolution" in 1959. There was one committee to each block in every key urban community. Thus, when the Bay of Pigs invasion came in April, 1961, the committees were ready to finger—and imprison—anyone suspected of disloyalty.

9. Collaborating with the Cubans are Chilean leftist extremists, the self-styled "revolutionary left" that vigorously opposed—until Castro intervened to quiet them—the "peaceful" quest for power by the Communists and more moderate Socialists. Published statements last week showed the "revolutionary left" is still agitating in schools and universities urging "vigilance committees" to prepare now for any move by the moderates to thwart a total socialization of the country.

10. Numerically the extreme left may be small, but it has been proven in post-war Europe and more recently in Cuba that a militant, disciplined minority can quickly and effectively neutralize and overpower a majority.

11. A grim development that may greatly strengthen Allende's and the Communist position was the assassination of Gen. Rene Schneider, head of the Armed Forces until he was gunned down in late October (see Oct. 25 report). What initially appeared to be a professional job handled from within the Army turned out to be a poorly organized and bungled kidnap attempt in which at least two ex-military figures are directly involved.

12. Among those arrested in the Schneider killing was General Roberto Viaux, a retired officer who gained national prominence and a measure of lower-rank following last year when he led an abortive pay-hike rebellion against the Frei government. Viaux, a conservative strongly opposed to Allende and around whom coup elements appeared to be rallying after the Sept. 4 election, has a lawyer who has indicated more Army brass may be involved.

13. If it turns out that some toplevel military chiefs are involved, even indirectly, with Viaux, this will give Allende the moral and political authority to purge the Armed Forces command and move his men into strategic military positions. This would, in effect, neutralize the Armed Forces which so far have displayed nothing but passivity amid the approaching storm.

14. In one of his most revealing press interviews, President Allende told Julio Scherer, a highly respected Mexican journalist (Excelsior of Mexico City) last Nov. 2: (a) He will use the plebiscite (constitutionally corrected) wherever necessary to go around Congress if needed reforms were blocked by legislative action. Asked if this would not eventually lead to the disappearance of Congress as an effective legislative body, Allende said emphatically "Never would we make Congress disappear." (b) Describing the flight of investment capital as part of a "climate of terror," imposed on Chile, he said its continuation would force a limitation of individual guarantees under the Constitution. He added: "If reactionary violence comes, we will respond with revolutionary violence." (c) If Chile finds itself isolated and blockaded as did Cuba, "There then is no alternative but armed insurrection. We are disposed to anything."

Our Havana files are not available, but a flashback to the year 1959 brings memories of highly similar remarks by Castro when, like Allende, he was impressing almost everyone within earshot of his moderate political views while his brother Raul and Che Guevara worked quietly behind the scenes for the mousetrap job that followed. For instance, Castro said that elections were not necessary. That the people were the Congress of Cuba, that until the subversives were liquidated and the climate of terror imposed on Cuba from inside and outside was lifted, there would have to be special "precautions" imposed on the citizenry for the defense of the revolution, that counter-revolutionary violence would be met with implacable revolutionary violence.

THE SUM-UP

1. The view by Chilean conservatives, now trying to make deals with Allende, that U.S. economic and political reprisals will force Allende farther to the left is a correct asessment. It ignores a fact, however, that whether or not he likes it, Allende will be forced far to the left eventually regardless of what policy Washington adopts.

2. The view among another sector that U.S. reprisals will force Allende into the leftwing extremist camp and that this will trigger a popular and military reaction against his government has little merit. The military has shown no disposition to act in the clutch. There is little reason to believe their mood has changed. It is even questionable that they have the capacity to handle the kind of massive nationwide reaction the far left can mount: general strikes, urban guerrilla warfare. Time is swiftly eroding the military capacity to move against the Allende coalition, even in defense of the Constitution, if such a moral issue arises.

NOVEMBER 10, 1970.

To: H. S. Geneen.
Re: Chile.

Attached are several items.

1. The copy of Henry Kissinger's letter of yesterday's date to Bill Merriam. Please note Bill's note at the bottom of the letter. We are advised that Chuck Meyer is under fire. We don't know what decision will be made as to his future.

Additionally, Merriam is delivering to Kissinger the latest information referred to in your note as supplied by Bob Berrellez.

2. Berrellez' telex which I have copied in sufficient number for all members of the Board should you desire to distribute it to them.

Also attached are some newspaper clippings from the New York Times' report on the unveiling of a statue of Che Guevara.

E. J. GERRITY.

THE WHITE HOUSE,
Washington, D.C., November 9, 1970.

MR. WILLIAM R. MERRIAM,
Vice President, International Telephone and Telegraph Corp., Washington, D.C.

DEAR MR. MERRIAM: Thank you very much for your letter of October 23 and the enclosed paper on United States policy toward Latin America. I have read it carefully and I have passed it to those members of my staff who deal with Latin American matters. It is very helpful to have your thoughts and recommendations, and we shall certainly take them into account. I am grateful for your taking the time to give them to me.

With best regards,

HENRY A. KISSINGER.

NOVEMBER 18, 1970.

To: Keith Perkins.
From: Hal Hendrix.
Subject: Ed Korry.

After your inquiry about Ed Korry in Chile, I asked Bob Berrellez to put down his current observations on him since Bob has been spending a lot of time lately in Santiago. His current comments are attached.

Apart from this, I might add my personal view. I did not know Korry until he showed up in Chile and I was working for Scripps-Howard. Since he formerly worked for UPI, which S-H still owns, we had no problem in establishing a good working relationship.

At the outset it was obvious to me that Korry was (and still is) one of the die-hard New Frontier types from the Kennedy administration. He was and is an extremely clever writer and phrase-maker. He also is brash, at times quite arrogant. He is a great name and place-dropper. In many respects he bears a strong resemblance to Peter Jones, which I guess accounted for their former close personal relationship. Like Jones, he has a habit of using people to his advantage until they are of no use to him. He also has a habit, I learned, of saying one thing to one person and a different story to his next visitor. As one good friend, who has worked closely with him, put it to me recently, "Korry is a man that not even the management of the U.S. government or ITT could keep in harness if he didn't like the fit of the harness."

I feel fairly certain from some of his past comments that he is trolling for a position with ITT when he gets bounced by State. If we want two-of-a-kind in the house, that's probably what we would get.

There has been an enormous lack of imagination prevalent in the Latin section of State under Meyer's direction, with very few exceptions. With him and his deputy, John Crimmons, the general theme has been don't make any waves; don't rock the boat. Granted, there is the traditional State timidity within the careerist system for this particular attribute of Meyer's administration, but he has failed to encourage either creative or independent thought. This is a complaint heard throughout Latin America in our embassies. He certainly has not fought for his area or his section in the manner of some of his predecessors, notably Tom Mann, Henry Holland, or even Jack Vaughn in his short sit in the slippery Assistant Secretary chair.

In retrospect Meyer may, of course, be the victim of the new Latin area strait jacket called the "low profile of the U.S. in Latin America," which when applied to Chile today could be a salient reason why the United States failed even to head off in 1970 that which it so successfully and energetically aided Chileans to avoid in 1964—the emergence of a Marxist president. Meyer and Crimmons jointly led the effort to make certain that the U.S. this time did nothing with respect to the Chilean election.

Meyer's public statements in Latin America all seem to be flavored with apology, which certainly doesn't reflect U.S. strength.

As stated in the beginning, I consider Meyer one of the weakest yet in the long string of Assistant Secretaries. I also believe it would be better for us if he returned to Sears Roebuck.

LATIN AMERICA, INC.,
Buenos Aires, Argentina, November 13, 1970.
To H. Hendrix.
From R. Berrellez.
Subject Ed Korry.

1. There are deep doubts among diplomats and U.S. businessmen in Chile that Ambassador Ed Korry, a Nixon political appointee, will survive under the Salvador Allende administration. Korry alienated Chilean friends, antagonized his Chilean critics and embarrassed many Americans with petulance in the final days of the Frei government.

2. Korry estranged himself from the State Department over the Chilean issue and was dealing directly with Nixon on policy and strategy. The source of this information is Korry himself. The Ambassador became a hard liner (economic reprisals, etc., against Chile) after Allende registered a plurality in the Sept. 4 elections while State chose to play it indifferently. Because of this, Korry's diplomatic career certainly seems at an end.

3. Korry also blew his composure with the U.S. news media and became a sort of male Martha Mitchell in off-the-record briefings. He scolded some (Joe Novitsky of the NYK Times was one) for emphasizing what he considered the "wrong leads" in reports. Most of the press came away either angry or unimpressed with Korry. In all fairness, however, we should point out that much of the U.S. news media almost always has been hostile toward our diplomats, with or without reason.

4. From Embassy friends we've learned Korry is fully aware of his position and has put out a few probes into the business community to sample future opportunities. I've not had a chance to verify this personally.

5. Here is a bit of his background for whatever future use it may serve:

6. A former newsman, Korry has been described variously as imaginative, fearless, sharp and even brilliant by some of his closet associates. I can personally vouch for his courage in a crunch: the gutsy final effort to block Allende, so unusual in our diplomats.

7. Originally a Kennedy appointee (he had made his mark as a correspondent in Europe), Korry also impressed Nixon who promised him a job if he ever became president. Korry, who had been ticketed for dismissal after the last presidential elections, took up Nixon on his promise and got the Santiago post.

8. It was almost inevitable that because of his Kennedy background Korry would hit it off well with the Christian Democrats and Frei. But, as one of his associates has remarked, he became blindly enamoured of Frei and his political evaluation suffered accordingly. He failed to see through Frei's duplicity until too late in the ball game. This is said to be Korry's most glaring fault as our envoy in Chile. He loved unwisely and too well.

9. It is no secret that Korry was highly impressed with Christian Democrat Radomiro Tomic's chances of winning the last elections. We cannot verify that he was actually touting him, but at least two months before the voting he reportedly told friends Tomic would win. He changed later on when it became apparent the contest would be between Alessandri and Allende.

10. Although he was close to Frei, Korry apparently did not get along at all with Foreign Minister Gabriel Valdez. He did not attend a farewell cocktail party for the diplomatic colony arranged by Valdez. Korry's official excuse: he had to attend to the dispatch of food parcels to Easter Island. Actually, he was busy on the dismantling of a U.S. installation on the island. Whatever it was, it was clear he did not need to attend to it personally and the snub was all too apparent.

11. The press quickly picked it up. One newspaper "Las Ultimas Noticias" quoted Valdez as saying:

"With no other Ambassador have I had more problems than with this Mister Korry. We have had problems with Argentina, but never formally with its Ambassadors. I cannot stand or accept this diplomat." He added referring to Korry: "What nature does not endow, diplomacy does not lend."

12. El Siglo, the communist newspaper, was less generous. It used the vilest language possible (likening him, for instance, to excrement) in describing his character: "gross, petulant, flatulent, aggressive, brute, etc."

13. It is certain that Foreign Minister Valdez made his personal views on Korry clear to the diplomatic colony. Diplomats could not escape seeing the press barrage.

14. For this reason, Korry's usefulness as a diplomat in Latin America has been destroyed. And his usefulness in a business capacity in this same area now becomes, I believe, questionable.

REFORM OF SOCIAL SECURITY SYSTEM

Mr. GAMBRELL. Mr. President, the problems facing the senior citizens of our Nation should be of concern to all of us. In these times of inflated prices and ever-increasing taxes, all Americans are affected, but the elderly, particularly those living on a fixed income, are affected most severely. Our senior citizens have worked tirelessly, productively to insure that ours is a better nation, and it is time that we offer some security in return.

Legislation aimed at reforming our social security system is now under consideration by Congress. I have asked the distinguished Senator from Texas (Mr. TOWER) to add my name as a cosponsor of two of his bills which seek to reform the social security system.

One of the major injustices in today's system is the limitation placed upon the senior citizen who is willing and able to work. One bill, S. 2563, would give the person 65 and over who continues to work, the choice of asking for a refund of social security taxes or letting the taxes earn additional social security credit. The second bill, S. 639, will raise the maximum earnings for a social security beneficiary from $1,680 to $3,000 a year before benefits are reduced. The need for legislation such as this is great, and I am hopeful that the Congress will act promptly to remove the inequities in the social security system that now exist.

Throughout the country, retired citizens living on fixed incomes are being forced to vacate their homes of many years because they cannot meet their rapidly rising property taxes. I have asked Senator Moss to add my name as a cosponsor of S. 3088, a bill to encourage State and local governments to provide relief from real property taxes for the elderly. I have not sufficiently studied alternative methods of implementing such tax relief to be assured that S. 3088 is the best possible approach, but I enthusiastically endorse the objective of this proposal. Even if we were so callous as to disregard the uprooting of a segment of our population, we should be persuaded of the desirability of such property tax relief by the economics of the inevitable influx of many of these displaced citizens into Government-supported housing.

Just as property taxes have become an impossible burden, housing for the elderly has become a critical problem. I recently introduced S. 3285, a bill responding to the needs of older Americans for suitable housing. Adequate housing facilities should be assured to the elderly, and S. 3285 would result in sufficient funding for 35,000 elderly housing units during the first 2 years the program is in operation. The bill also provides for grants or loans to elderly persons to rehabilitate their homes. The problem is, if property taxes continue to rise, these rehabilitation grants will be worthless. If the elderly cannot afford to pay their property taxes, they do not need home improvement loans.

Mr. President, we often speak of domestic priorities and of problems at home. We now have an opportunity to provide much needed relief to the senior citizens of our country, and it is my hope that Congress will act favorably on this legislation.

ORGANIZED SUPPORT FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, often in the past I have urged Senators to consider and ratify the long-neglected treaty for the prevention and punishment of genocide. By now the merits of this humanitarian document are well known.

Since 1948 numerous organizations concerned with human rights and dignity have forthrightly endorsed the treaty. As resolutions have been sent to my office I have presented them to the Senate in an effort to convey the depth of support for the articles of the Genocide Convention. Recently I received such a resolution from the Jewish women's service organization, B'nai B'rith Women, which has a long history in the fight for humanitarian issues.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD.

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

RESOLUTION: GENOCIDE CONVENTION

B'nai B'rith Women has consistently supported efforts to achieve ratification by the United States Senate of the Convention on Prevention and Punishment of the Crime of Genocide. We believe that the official labeling of genocide as an international crime demonstrates the concern of civilized nations with the inherent human rights of each individual on earth; as well as belief in a system of international law and morality. World peace, if it is to be accomplished, must be based on these precepts.

We reaffirm our past resolution in light of recent active efforts to bring the matter of ratification to the floor of the United States Senate. Expressing our confidence in the wisdom of the members of this great body, we know they will recognize that the position of the United States will be enhanced internationally by such ratification; and that approval will be a restatement of the principles of liberty and human justice to which this nation has been so passionately dedicated.

Be it resolved, therefore, that B'nai B'rith Women once again calls upon the membership of the United States Senate to confirm America's role as a leader of the community of nations an dour devotion to world peace by voting for ratification of the Genocide Treaty.

AD HOC COMMITTEE ON SENATE REFORM

Mr. HARRIS. Mr. President, on April 13, the Democratic conference will meet to discuss the first two reports of the Ad Hoc Committee on Senate Reform, appointed by the majority leader in February 1971. These two reports and their accompanying resolutions deal with the method for selecting Senate conferees and with the conditions which conference members should continue to enjoy the benefit of seniority deriving from conference membership.

Because of the important issues involved, I ask unanimous consent that documents relating to these two questions be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., November 23, 1971.

Hon. ——— ———,
U.S. Senate,
Washington, D.C.

DEAR ———: At the beginning of the current session the Majority Leader appointed an Ad Hoc Reform Committee of the Senate Democratic Conference to look into these questions: selection of conferees, admission to the Democratic Caucus, and the seniority system. The Committee, composed of Senator Humphrey, Senator Talmadge and myself, is now ready to submit its report regarding the selection of conferees.

As Chairman of the Ad Hoc Reform Committee, I am attaching to this letter the majority report of the Committee and the resolution which it is proposed be submitted to the Senate Democratic Conference. Senator Talmadge will, I'm sure, want to present a minority report.

Because this is a matter affecting the Senate's negotiating relationship with the other body, I believe that members of the Democratic Conference will wish to study the proposed resolution carefully.

I would like to request your comments on the proposed resolution as soon as possible so that the Committee may consider an appropriate date to request a meeting of the Democratic Conference after the first of the year. The member of my staff working on this matter is Bill Maynes (54721).

With best wishes.

Sincerely yours,

FRED R. HARRIS,
U.S. Senate.

REPORT TO ACCOMPANY THE RESOLUTION OF CONFEREES SUBMITTED BY THE AD HOC REFORM COMMITTEE OF THE SENATE DEMOCRATIC CONFERENCE

The status of the Senate as a co-equal body in the Congress depends in great measure on its ability to negotiate from a position of equal strength with the House of Representatives in committees of conference.

This year this question has been posed more clearly than ever before. In the Legislative Reorganization Act of 1970 the House of Representatives inserted a provision specifying that in conference on legislation passed by both the House and Senate, the House conferees could not consider Senate amendments that would have been non-germane under House rules.

This development has made it even more important that Senate conferees carry with them, in addition to their traditional and personal competence, strong convictions in support of the Senate's position on items in disagreement between the houses.

Your committee believes, therefore, that the Senate Democratic Conference should move to assure that the prevailing view of the Senate on disagreements between the Houses be carried to the Conference Committee by Senators who, by their votes during Senate consideration of the bill at hand, and related issues, have shown their own support for the prevailing view on items in disagreement with the House. We believe that such Senators should be a majority of the Senate conferees.

We submit the accompanying resolution for the consideration of the Senate Democratic Conference, and urge its adoption. It provides that prior to the appointment of Senate members of committees of conference by the presiding officer of the Senate, the Majority Leader, after conferring with the Minority Leader, appropriate committee chairmen, and interested Senators, shall submit a list of conferees to the presiding officer and that at least a majority of the so proposed conferees shall have indicated their support for the bill in question as passed by the Senate and their support for the prevailing opinion of the Senate on the principal matters of disagreement with the House of Representatives which occasioned the appointment of conferees.

Your committee is confident that implementation of this resolution will protect the historic rights of the Senate itself and of the public at large.

RESOLUTION SUBMITTED BY THE AD HOC REFORM COMMITTEE OF THE SENATE DEMOCRATIC CONFERENCE

Resolved: Prior to the appointment of Senate members of committees of conference by the presiding officer of the Senate, the Majority Leader, after conferring with the Minority Leader, appropriate committee chairmen, and interested Senators, shall submit a list of conferees to the presiding officer. At least a majority of the proposed conferees shall have indicated their support for the bill in question as passed by the Senate, and their support for the prevailing opinion of the Senate on the principal matters of disagreement with the House of Representatives which occasioned the appointment of the committee.

U.S. SENATE,
Washington, D.C., March 17, 1972.

The Majority Leader has informed me that he will call a meeting of the Democratic Conference "in the near future" in order to discuss a resolution which the Ad Hoc Committee on Senate Reform is submitting as a majority report wih respect to the method of selection of Senate conferees. The text of the resolution is attached.

A large number of Conference members have already expressed agreement with the resolution's principles. Some expressed the view, however, that the resolution might also establish clearly as a general principle that unless other fundamental considerations are in jeopardy, committee members rather than non-committee members ought to serve as conferees in view of their knowledge of the legislative field in question.

I had intended to make precisely this point during discussion of the resolution during the Conference debate. But I am now convinced that it would be useful to spell out this question beforehand in the resolution. I, therefore, intend during the meeting to offer the following perfecting amendment to the Committee's majority report resolution:

"In the selection of conferees, preference shall be given to members of the relevant committee of the Senate on the basis of past practice to the degree that this does not conflict with the overall objective of this resolution."

This perfecting language will serve another purpose. Limited concern has been expressed that if, under the Committee resolution, the role of the Majority Leader in the selection of conferees is to be enhanced, then under a Leader less even-handed than our present Leader this power might be abused. The perfecting language would establish that the Leader's role will be carefully limited. He will intervene only in the event that a basic principle of democratic procedure is in danger of violation.

I personally do not believe a Majority Leader, elected by his colleagues, would wish to interfere with the right of other Senators, including committee chairmen. But in any event this resolution will reserve, not undermine, the rights of individual Senators. At the same time, it will also protect the rights of the Senate as a whole.

I hope that you will be able to support the Committee resolution at the Conference meeting.

With high regard.

Sincerely yours,

FRED R. HARRIS,
U.S. Senate.

RESOLUTION ON CONFEREES SUBMITTED BY THE AD HOC REFORM COMMITTEE OF THE SENATE DEMOCRATIC CONFERENCE

The Ad Hoc Reform Committee, to which Senator Harris, Senator Humphrey and Senator Talmadge were appointed, presents for approval to the Senate Democratic Conference in the form of a majority report endorsed by Senators Harris and Humphrey the following resolution governing the selection of Senate conferees:

"Prior to the appointment of Senate members of committees of conference by the presiding officer of the Senate, the Majority Leader, after conferring with the Minority Leader, appropriate committee chairmen, and interested Senators, shall submit a list of conferees to the presiding officer. At least a majority of the proposed conferees shall have indicated their support for the bill in question as passed by the Senate, and their support for the prevailing opinion of the Senate on the principal matters of disagreement with the House of Representatives which occasioned the appointment of the committee."

As a result of consultations with other members of the Democratic Conference, Senator Harris will submit the following perfecting amendment:

"In the selection of conferees, preference shall be given to members of the relevant committee of the Senate on the basis of past practice to the degree that this does not conflict with the overall objective of this resolution."

The Ad Hoc Committee's formal majority report is attached. Following are additional discussion points concerning this resolution:

PRESENT RULES AND PROCEDURES

The Presiding Officer of the Senate is formally charged with naming conferees, but the Senate now has no rules stipulating how the actual selection shall be made. Through precedent, the practice has evolved that a committee chairman selects as conferees majority members of his committee, usually on the basis of seniority, while the ranking minority member selects from the committee conferees of his party, also on the basis of seniority.

Yet even from the point of view of precedent, the method of selection remains cloudy. In 1935 Vice President Garner announced that after receiving the recommendations of committee chairmen, he would exercise some discretion in the selection of conferees. Vice President Garner apparently did not follow through on his intention. But so long as Senate precedent remains so unclear, the possibility always exists that the Vice President, an official not elected by or responsible to the Senate, may attempt to assume the powers to which Vice President Garner alluded.

DISADVANTAGES

The present system of selecting conferees has the grave disadvantage that at times

conferees may be nominated who are in opposition to the position taken by the Senate on the principal matters of dispute with the other house. According to precedent, conferees whatever their personal views are to support the prevailing view of the Senate in conference. But this clearly places an unfair obligation on conferees who do oppose the Senate's position. In this regard Randall B. Ripley's *Power in the Senate* points out that individual dissenting views are likely to be expressed the longer a conference committee meets. He quotes a senior Republican Senator as follows:

"It is my impression that conferences always start out with all Senators of both parties supporting the Senate's position. But if the conference drags on, the individual attitudes of the various members begin to show. Particularly if there is strong support in the other body for your position and against the Senate position, and something has got to give somewhere. Then you begin to put pressure on your Senate colleagues to give in to the House because that was the position you had on the bill in the first place."

DIFFICULTIES WITH HOUSE

It is important to minimize potential divisions in the ranks of Senate conferees because the House has been misusing the provision in the Legislative Reorganization Act of 1970 that House conferees may not consider Senate amendments that would be considered non-germane under House rules. This provision has been applied in a manner designed more to gain adoption of House positions than to rule out non-germaneness. The current proposal will not resolve this larger problem, but it will strengthen the hand of representatives of the Senate in their effort to make House conferees apply the germaneness rule fairly.

WHAT PROPOSAL DOES NOT DO

The proposal will strengthen the hands of Senate conferees. But it will not tie them. Senate and House conferees will continue to meet under the same conditions of freedom and secrecy that facilitate negotiation. The proposal affects, in other words, only the selection of conferees.

This proposal also will not deny the Senate of the benefits of experience from the committee system. Under its provisions the Majority Leader must consult with the Minority Leader, interested committee chairmen, and interested Senators before submitting his list of conferees to the presiding officer. On the basis of advice he receives, he will nominate experienced Committee members as conferees. If it happens that more senior Committee members are opposed to the Senate's position on the bill in conference, it will also be possible to dip further down into the Committee's ranks in selecting conferees. In the very unlikely event that virtually no one on the Committee supports the position held by the Senate, this resolution would also grant sufficient flexibility to include non-Committee members as well.

The purpose of Senator Harris' perfecting amendment is to establish clearly as part of the resolution that in the selection of conferees preference shall be given to Committee members on the basis of past practice to the degree that this did not conflict with the overall objective of the resolution. Limited concern has been expressed that without this amendment, the proposed resolution could place too much power in the hands of the Majority Leader and that with a Leader less fair minded than the present Leader, such power could be subject to abuse. The perfecting amendment would ensure that, in embracing reform, the Senate will continue to follow its traditional practices. The amendment will set carefully defined limits to action on the part of the Majority Leader.

REPORT TO ACCOMPANY THE RESOLUTION OF CONFEREES SUBMITTED BY THE AD HOC REFORM COMMITTEE OF THE SENATE DEMOCRATIC CONFERENCE

The Status of the Senate as a co-equal body in the Congress depends in great measure on its ability to negotiate from a position of equal strength with the House of Representatives in committees of conference.

This year this question has been posed more clearly than ever before. In the Legislative Reorganization Act of 1970 the House of Representatives inserted a provision specifying that in conference on legislation passed by both the House and Senate, the House conferees could not consider Senate amendments that would have been nongermane under House rules.

This development has made it even more important that Senate conferees carry with them, in addition to their traditional and personal competence, strong convictions in support of the Senate's position on items in disagreement between the houses.

Your committee believes, therefore, that the Senate Democratic Conference should move to assure that the prevailing view of the Senate on disagreements between the Houses be carried to the Conference Committee by Senators who, by their votes during Senate consideration of the bill at hand, and related issues, have shown their own support for the prevailing view on items in disagreement with the House. We believe that such Senators should be a majority of the Senate conferees.

We submit the accompanying resolution for the consideration of the Senate Democratic Conference, and urge its adoption. It provides that prior to the appointment of Senate members of committees of conference by the presiding officer of the Senate, the Majority Leader, after conferring with the Minority Leader, appropriate committee chairmen, and interested Senators, shall submit a list of conferees to the presiding officer and that at least a majority of the so proposed conferees shall have indicated their support for the bill in question as passed by the Senate and their support for the prevailing opinion of the Senate on the principal matters of disagreement with the House of Representatives which occasioned the appointment of conferees.

Your committee is confident that implementation of this resolution will protect the historic rights of the Senate itself and of the public at large.

U.S. SENATE,
Washington, D.C., March 30, 1972.

I am submitting with this letter the second report of the Ad Hoc Committee on Senate Reform, to which the Majority Leader appointed Senators Humphrey, Talmadge and myself in February 1971. This second report concerns the conditions under which members of the Democratic Conference should enjoy the benefits of membership in the Conference.

The report and the accompanying resolution are endorsed by a majority of the Ad Hoc Committee, Senator Humphrey and myself. It is our intention to submit this resolution to the next meeting of the Democratic Conference, which the Majority Leader has stated will take place in the near future.

The proposed resolution attempts to set forth certain fundamental principles which it is hoped all members of the Conference will be able to accept. At the same time it fully recognizes the independent character of any Senate body in relationship to organizations outside the Senate. Thus, the resolution makes clear that the Conference itself, not some body alien to the Senate, rules in cases in which it is contended that these fundamental principles have been violated.

Because there will be an early meeting of the Conference to discuss the resolution, I would greatly appreciate your written views on the attached documents as soon as possible. The member of my staff working on this matter is Bill Mayes (X. 54721).

With best wishes.

Sincerely yours,

FRED R. HARRIS,
U.S. Senate.

REPORT OF THE AD HOC COMMITTEE ON SENATE REFORM CONCERNING THE BENEFITS OF SENIORITY DERIVING FROM MEMBERSHIP IN THE DEMOCRATIC CONFERENCE

Tre Democratic Conference in the United States Senate does not now, and never has attempted to impose a detailed code of political behavior on its members. Your Committee continues to regard this traditional practice as wise in motivation and desirable in effect. It would be impractical for the Democratic Conference to attempt to pre-determine the political conduct of its members on the myriad of issues that come before the Senate. Moreover, it would be wrong. A Senator accepting such instructions from the Conference would violate his primary obligation to his electors.

At the same time, however, your Committee believes there are certain minimum standards which Senators seeking the benefits of Conference membership ought to share. For by running under the banner of the Democratic Party, a candidate incurs another obligation towards his electors. This is his pledge that, running with the assistance of the Democratic Party, he will not work to undermine the fundamental principles and programs of that party.

In the opinion of your Committee, the minimum standards which members of the Conference ought to share concern the following fundamental issues: a) racial, religious, or sexual discrimination and b) the basic requirements of party loyalty. This report discusses these two fundamental issues separately.

PRINCIPLE OF NONDISCRIMINATION

Throughout our history the issues of racial, religious or sexual discrimination have troubled American political life. They still do today. But over the years and particularly in the last 18 years the basic principles involved have become clear and settled for all. They should no longer be open for dispute. Consequently, a decision to affiliate with the Democratic Party should indicate a clear commitment to combat racial, religious, or sexual discrimination or exclusion.

Your Committee submits that as a minimum standard Conference members receiving the benefits of seniority from Conference membership ought to refuse the endorsement of any local or state party which practices in any form racial, religious or sexual discrimination or exclusion at any level. It therefore recommends that the Conference adopt this standard as a general principle.

LOYALTY TO THE DEMOCRATIC PARTY

Throughout its history the Democratic Conference has welcomed new members from among those Senators who were not originally elected as Democrats but who found after experience in the Senate that the principles and programs of the Conference conformed most closely with their own. Your committee believes it important that the Democratic Conference continue to welcome such Senators.

At the same time it is also important that the Conference provide some positive encouragement to those at the local and state level attempting to support and strengthen the Democratic Party. In particular, it is absolutely essential that the rules of the Conference not undercut the efforts of those at the local and state level who at considerable

personal or political sacrifice work to promote the principles and programs of the Democratic Party.

Your Committee therefore recommends that the Conference declare that as a general principle those desiring the benefits of seniority from Conference membership shall campaign for their re-election as a candidate of the official Democratic Party in their states. The purpose of this provision is to make it clear that the nomination of the Democratic Party brings both benefits and obligations.

For similar reasons, your Committee also believes that as a general principle those Senators desiring the benefits of seniority from Conference membership should not assist through statements of support or campaigning the electoral efforts of the Presidential or Vice Presidential candidates of another party.

Your committee is aware that a campaign for the Democratic nomination for President opens for debate the most politically-charged issues facing the nation. There will be honest disagreements over the manner in which the nation should address those issues. It cannot be expected, therefore, that all members of the Democratic Conference will agree sufficiently with the various positions adopted by the ultimate Democratic nominee to work actively in his campaign effort. Your Committee believes, however, that members of the Democratic Conference enjoying its benefits at a minimum should not assist in the electoral effort of the nominees of another party either through campaigning or statements of support.

CONCLUSION

Your committee submits that the foregoing are minimum and wholly reasonable standards. They would not bar anyone from membership in the Conference but they establish that a Conference member enjoying the benefits of seniority from Conference membership ought to accept certain minimal obligations.

Your committee believes that all members of the Conference should be able to accept these obligations. If in individual cases this is not possible, then our history is dotted with examples of political leaders of many parties who could not in good conscience accept basic policies being advocated by their party majorities. Men like Calhoun, Lincoln, Theodore Roosevelt, La Follette, Morse and Thurmond instead took the honorable course of action and joined other parties which stood for policies that were more nearly their own and in which they could make a substantial contribution.

By accepting these general principles, your Committee believes the Democratic Conference would demonstrate that it was responsive to the significant changes which have taken place in American society since 1945. For despite problems which all recognize, our nation in many respects has grown closer together in the post war period as industrialization and modern communications have blurred regional differences. In the past these differences could not justify, but perhaps might explain, a reluctance to strive for the establishment of certain minimum standards of membership in the Democratic Conference. This is no longer the case. The nation no longer understands the total absence of such standards.

Your Committee wishes to point out that the resolution it is submitting recognizes the independent character of any Senate body in relationship to organizations outside the Senate. Thus, the resolution makes clear that the Conference itself, not somebody alien to the Senate, establishes the standards for membership.

At the same time it also takes into account the permanent ties which have existed and ought to exist between the Conference and organs of the National Democratic Party. Thus, the resolution further stipulates that failure of a local or state party offering endorsement of Senatorial candidates to receive official recognition from the most recent Democratic National Convention shall be among the factors which the Conference shall take into consideration as evidence of violation of the principles enunciated. Final judgment resides with the Democratic Conference.

A text of the proposed resolution follows:

1. It is expected that after January 1972 members of the Democratic Conference receiving the benefits of seniority from Conference membership shall:

(a) refuse the endorsement of any local or state party which practices in any form racial, religious or sexual discrimination or exclusion at any level;

(b) campaign for their re-election as a candidate of the official Democratic Party in their states;

(c) not assist through statements of support or campaigning the electoral effort of the Presidential or Vice Presidential nominee of another party.

2. Among the factors which the Conference shall take into consideration as evidence of violation of the principles set forth in (a) or (b) will be the failure of the local or state party offering endorsement of a Senatorial candidate to receive official recognition from the most recent Democratic National Convention.

* * * * *

The members of the Ad Hoc Committee on Senate Reform are Senator Harris, Chairman, Senator Humphrey and Senator Talmadge. Senators Harris and Humphrey support this report and the accompanying resolution.

HARRIS-HUMPHREY RESOLUTION GOVERNING CONDITIONS FOR THE ENJOYMENT OF THE BENEFITS OF MEMBERSHIP IN THE SENATE DEMOCRATIC CONFERENCE

QUESTIONS AND ANSWERS

1. Has either the Senate Democratic Conference or the Republican Conference in the part attempted to establish standards concerning either admission to the Conference or enjoyment of its benefits?

Precedents in the Senate are mixed. In the 1936 campaign Senator Rush D. Holt, Democrat of West Virginia, apparently held conferences with the Republican nominee, Governor Landon, and openly fought the re-election of his Democratic colleague from West Virginia, Senator Neely. Senator Holt, in his wrecking effort, operated through the new Union Party of Father Coughlin, Dr. Townsend and William Lemke. The chairman of the Democratic Patronage Committee, Senator Carl Hayden, thereupon informed Senator Holt that he would be deprived of patronage positions assigned to him as a Democrat. The Democratic Conference subsequently upheld Senator Hayden's decision.

In the 1924 Presidential campaign several Progressive members of Congress supported the Presidential bid of Senator La Follette. The Republican Conference subsequently placed Senators La Follette, Ladd, Brockhart, and Frazier at the bottom of their committees in terms of seniority.

By contrast, those Democratic Senators in the Presidential election of 1928 who supported President-elect Hoover and opposed the Democratic nominee did not suffer loss of committee rank. In that same campaign, three Republican Senators (Norris of Nebraska, Blaine and La Follette of Wisconsin, "young Bob") openly bolted Herbert Hoover and took the stump for Al Smith. They also did not suffer loss of committee rank. In 1952 Senator Morse openly supported the Democratic nominee, but he resigned from the Republican Party to become an Independent, later a Democrat. Those Senators supporting the 3rd Party Presidential bid of then Governor H. Strom Thurmond in 1948 did not suffer loss in committee rank.

Precedents in the House of Representatives are similarly mixed, but precedents in both houses suggest no one is *entitled* by some automatic right to hold his committee rank if he has opposed his party in the preceding national election.

2. Since precedents are mixed, what justifies the establishment of new principles now?

The Democratic Conference must demonstrate that it is responsive to the major changes which have taken place in American society since 1945. The most significant political event in the U.S. since that date is the civil rights movement. It is time, after so much has happened, that the Senate Democratic Conference take a clear stand against discrimination.

Moreover, despite problems which all recognize, our nation in many respects has grown closer together in the post-war period as industrialization and modern communications have blurred regional differences. Today, because of the mass media, there is a national Democratic Party in the sense that never was true in the past. It is vital for the Party's survival that the voters see that being a Democrat has meaning and that all Democratic Senators embrace certain fundamental principles.

3. The resolution states that members of the Conference enjoying the benefits of seniority from Conference membership shall run for their re-election as a candidate of the official Democratic Party in their state. If this principle is adopted, will a precedent be set which will require denial of seniority to Democratic Senators if they do not receive the nomination of their state Democratic Party and then run and win on the ticket of a third party?

The House of Representatives has a clear set of precedents relevant to this question. Since 1930 there have been eight instances in which members were elected to the House of Representatives on third party tickets for more than one term. None of these members received the normal benefits of seniority. In every instance, freshmen members were placed ahead of veteran third party members.

There are no clear precedents on the Senate side. We have already cited the case of the Progressive Senators who after the campaign of 1924 lost their seniority. But there are conflicting precedents which we have also cited. In any event, all these precedents are not directly relevant to the question of what the Conference ought to do if a Democratic Senator fails to receive the nomination of his state Democratic Party and then runs and wins on a third party ticket.

In such a situation, there would undoubtedly be many factors which the Conference would want to take into account. It is for this reason that the proposed resolution does not make any action on the part of the Conference automatic. Rather the Conference would be required to make a decision on the basis of evidence available to it.

4. What obligations would this resolution place on members of the Democratic Conference if the Democratic nominee were someone whom in good conscience they could not support?

The resolution does not require Conference members to support the Democratic nominee. It does establish the principle that members should not issue statements of support or campaign for the nominee of another party.

5. What sanctions would the Conference take against members who violated the principles in the Resolution?

Conference membership confers the following benefits of seniority: a) assignment to committees; b) committee rank including chairmanship; c) various privileges of longevity, e.g., office space, senate patronage.

Only the Conference, acting in an individual case, could determine (i) which of these rights were in question and (ii) how long a member was in jeopardy of losing them.

6. What steps ought the Conference to

take to prove or disprove the violation of principles enumerated in the resolution?

It would be necessary for the Conference to determine these steps on an individual case basis. Evidence which might be relevant could include whatever the Conference wishes to consider, e.g., court decisions, findings of the U.S. Civil Rights Commission, actions of national, state or local organs of the Democratic Party.

7. If a state party were to fail to receive recognition from the 1972 National Democratic Convention, would Senators from those states who campaign for re-election in 1974 be punished by the Conference regardless of any party reforms made in the interim?

It is because of special cases like this one that the resolution states that the actions of the National Convention shall be *among the factors* which the Conference shall consider as evidence. Clearly in reaching a decision which only it could take, the Conference would want to consider all evidence available to it.

8. If a member were in violation of the resolution's principles, what procedure would the Conference follow in order to bring the issue of his membership to a vote?

In a statement before the Democratic Conference on February 10, 1971, the Majority Leader stated:

"The Leadership reminded the members of its standing practice that there be a call of the Caucus upon the petition of any one Senator for the purpose of presenting a specific matter for discussion."

The Leader also stated:

"Commencing with the 91st Congress, Committee ratios and assignments as recommended by the Steering Committee were made subject to ratification by the full Caucus. That procedure was then established as the practice and rule for our Caucus; it was adhered to this year and, unless specifically ordered otherwise, will be followed as the rule at future organization Caucuses. In addition this year—beginning with the 92nd Congress—a separate ratification procedure was established for the appointment of Chairmen."

These statements and past practice establish a clear procedure for implementing the principles of the proposed resolution.

9. Inasmuch as the organs of the United States Senate are independent bodies and the proposed resolution mentions the decisions of the National Democratic Convention, does such mention undermine the traditional independence of Senate bodies?

The resolution makes it clear that the Democratic Conference considers the decision of the Democratic Conference as *among the factors* constituting evidence of violation of certain principles enumerated in the resolution. No effort is made to bind the hands of the Conference, which remains the sole organ to determine whether in fact a violation has taken place.

It is true that the Democratic Conference is an independent body. But that independence is not undermined if the Conference decides to take into account decisions by other organs of the Democratic Party.

ANNOUNCEMENT OF POSITIONS ON VOTES

Mr. GAMBRELL. Mr. President, I was necessarily absent when several yea-and-nay votes were taken on March 28 because of longstanding prior commitments in Georgia.

I ask unanimous consent that the permanent RECORD reflect that had I been present on March 28 I would have voted as follows:

First. I would have voted "yea" on H.R. 13955, making appropriations for the legislative branch for fiscal year 1973.

Second. I would have voted "nay" on Senator MANSFIELD's amendment—as a substitute for committee language—making funds available for preparation of plans for extending west central front of the Capitol.

Third. I would have voted "nay" on S. 1821, to provide for the transportation of Government traffic by U.S. civil air carriers to the fullest extent practicable.

The PRESIDING OFFICER. Without objection, the permanent RECORD will so reflect.

COMPENSATION PAYMENTS TO VETERANS

Mr. TOWER. Mr. President, I noted with satisfaction the introduction of S. 3338, a bill to increase the rates of compensation payments to veterans whose disabilities are related to their military services. It was introduced by the Senator from Georgia (Mr. TALMADGE) and cosponsored by every member of the Committee on Veterans' Affairs. I am pleased, at this time, to be listed as a cosponsor.

It is difficult to formulate a program to compensate a disabled veteran for the losses he has suffered as a result of injuries incurred in service for his country. It is impossible to put a price on the loss of an arm, a leg, or even one's vision. The best method that we have been able to devise is a program of compensation based on the average economic loss resulting from the injury or disease. In other words, compensation payments are based on the degree of disability of the veteran rather than on his need.

The average economic loss is, at best, an inexact way of compensating the disabled veteran. For example, it does not recognize the veteran's pain and suffering—the endless months of hospitalization and rehabilitation. It does not take into account dreams which have gone unfulfilled and talents which have gone undeveloped—the gifted photographer who has lost his sight and the skilled carpenter who has lost an arm. Nevertheless, we have so far been unable to devise a better standard. Therefore, we must continue to base our compensation rates on the average economic loss.

However, we can—and we must—adjust the rates of compensation periodically to meet the rising costs of living. By the end of 1972, the Consumer Price Index will have risen 9 percent since the rates were last adjusted. During this same period of time, social security benefits have increased 10 percent, wages of Federal employees have increased almost 12 percent, and the average weekly take-home pay of workers in the manufacturing industries have increased 11.8 percent. S. 3338 proposes an equitable 10-percent increase in compensation benefits. A disabled veteran with a 50-percent disability would receive an additional $16 a month. A veteran who has 100-percent—or total—disability would receive an additional $45 a month.

The need for such an adjustment is substantiated by a comparison of the median income of a male veteran in the civilian population in 1970—$8,660—to the compensation paid to a totally disabled veteran—$5,400.

I am pleased that Senator TALMADGE, chairman of the Subcommittee on Compensation and Pensions, has declared the disability compensation program to be the top-priority item this year. I am hopeful that Congress will act favorably on this measure this session.

F. BRADFORD MORSE

Mr. HARRIS. Mr. President, one of the most challenging jobs in the world today must be those held by the Secretary General and his top assistants. For the U.N. is going through a period of acute crisis. There probably has never been a period in our postwar history when the U.N. was needed more. Yet there also have been few periods since 1945 when the member nations have been more remiss in their U.N. obligations, financial and political.

To bring the U.N. through this period of turmoil, we will need officials who are both creative and dedicated. It is for this reason, Mr. President, that I was pleased to read of the nomination of Congressman F. BRADFORD MORSE as the new Under Secretary of the United Nations.

In Congress Mr. MORSE has consistently proven himself as a representative of the national interest instead of party interest. In the early 1960's he was the driving force behind the formation of the Wednesday Group in the House of Representatives, which began meeting once a week to discuss alternatives to the conservative programs being advocated by the congressional leaders of the day. Other members of the group were John V. Lindsay, CHARLES MCC. MATHIAS, and ROBERT T. STAFFORD.

Representative MORSE also spearheaded the effort in the House of Representatives to bring to the consciousness of the American people the problems of the emerging nations in Africa. In 1967 he proposed a bombing halt a full year before the previous administration stopped bombing North Vietnam. He is one of the most knowledgeable Members of either the Senate or the House on the problems of Latin America. And he was chief Republican sponsor of legislation to repeal the Gulf of Tonkin resolution.

I believe that every Member of the Senate joins with me in wishing Representative MORSE success in his new position. He follows in the footsteps of one of the giants of American diplomacy and human decency, Ralph Bunche. In addition to his own intelligence and sense of fair play, he will need the full support of the American Government including the Congress. I hope he will get it.

Mr. President, I ask unanimous consent that a New York Times' profile of Representative MORSE be printed in the RECORD.

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

[From the New York Times, Mar. 29, 1972]

NEW UNDER SECRETARY AT THE U.N.—FRANK BRADFORD MORSE

(By David E. Rosenbaum)

WASHINGTON, March 28.—In the early nineteen-sixties, seven liberal Republican Representatives, calling themselves the Wednesday Group, began meeting once a week to discuss alternatives to the conservative programs advocated by the Republican

leaders in Congress. The Wednesday Group is still a thriving organization, but only one of the seven original members—F. Bradford Morse of Massachusetts—is still in the House. John V. Lindsay left not only the House but also the Republican party. Charles McC. Mathias of Maryland and Robert T. Stafford of Vermont have moved up to the Senate. The other original members of the group have left politics.

Now Mr. Morse is about to leave Washington. Yesterday, Secretary General Waldheim announced at the UN that Mr. Morse would become the Under Secretary General for Political and General Assembly Affairs, a position held by the late Dr. Ralph J. Bunche.

Mr. Morse, whose primary interest in Congress has been in foreign affairs and who, according to colleagues, was becoming bored after 11 years in the House, asked for the job and was proposed for it by President Nixon. He will be the highest ranking American in the Secretariat.

" 'Bored,' that may not be the right word," Mr. Morse said in his office this afternoon. "Let's just say that I've accomplished a lot in 11 years here, and I see even greater opportunities in the U.N."

Frank Bradford Morse was born on Aug. 7, 1921, to a working-class family in Lowell, Mass. When he is asked whether he is "really a Bradford," referring to the family of William Bradford, who came over on the Mayflower and became the first Governor of Massachusetts, Mr. Morse replies:

"Nah. In Lowell, there was an apartment house called the Bradford House, and my mother liked the name."

Actually, he says, he has no idea why his parents chose the name, but he was always "Brad" to distinguish him from his father, Frank.

His father died when Brad was 9 years old, and he was reared by his mother, who he now says, was "completely apolitical—I don't even know what party she belonged to."

Despite this, Mr. Morse says, he decided as a child that he would go into politics. He registered as a Republican in the early nineteen forties, he says "because the Democrats were too much identified with the South."

GI IN WORLD WAR II

After serving in the infantry in World War II, Mr. Morse was graduated from Boston University in 1948, got his law degree there in 1949 and taught at the law school until 1953.

He came to Washington then as a counsel on a Senate committee and moved, after a year, to become chief assistant to the Massachusetts Republican Senator, Leverett Saltonstall.

Mr. Morse's predecessor in that job was Elliot L. Richardson, now Secretary of Health, Education and Welfare. His successor was Charles W. Colson, now a top White House aide.

In 1960, Mr. Morse entered politics for himself and, at the age of 39, was elected to Congress. His constituency is largely Democratic and Roman Catholic, but Mr. Morse, a Protestant, has been elected ever since by large majorities.

In 1968, for example, Mr. Morse received 60 per cent of the vote in his district, against President Richard M. Nixon's 33 per cent.

Part of his popularity can be attributed to his good nature. He has a glad hand and a smile for everyone, and one of his colleagues in the House says: "Brad shakes hands with hydrants and tips his hat to telephone poles."

Mr. Morse is a member of the Foreign Affairs Committee and was an early dove on the war in Vietnam. In 1967, he proposed a bombing halt a full year before the Johnson Administration stopped bombing North Vietnam. He was also the chief Republican sponsor of the legislation repealing the Gulf of Tonkin resolution.

Mr. Morse is the ranking Republican on the Inter-American Affairs Subcommittee and, in recent years, has devoted much of his energy to Latin-American problems.

"SPECIALISTS ON AGING"—FORGOTTEN MEN OF HUD

Mr. WILLIAMS. Mr. President, the Senate has already gone on record in support of establishing an Assistant Secretaryship for Housing for the Elderly in the Department of Housing and Urban Development.

That stand was taken in the March 3 vote on the Housing and Urban Development Act of 1972, thus fulfilling a long-standing objective I have advanced as chairman of the Subcommittee on Housing in the Senate Committee on Aging.

Now the issue is before a subcommittee of the House Committee on Banking and Currency, meeting in executive session to consider—among many other items—similar proposals to raise the level and quality of attention within HUD to shelter needs for older Americans.

The administration has staunchly and stubbornly resisted my proposal for an Assistant Secretary, largely on the grounds that HUD needs administrative flexibility.

In addition, the administration seems to take the view that the elderly are already getting their share of attention at HUD.

My purpose today is to draw the attention of the House Committee on Banking and Currency to evidence clearly indicating that housing for older Americans is apparently at a very low level within HUD today.

My findings also should be of interest to participants at the recent White House Conference on Aging, who emphatically supported a recommendation calling for the Assistant Secretary within HUD and also for a return to the 202 direct loan housing program.

Their support of 202 is based largely upon the fact that this program was designed solely for the elderly. In addition, it gave nonprofit sponsors considerable leeway to conduct experiments in livability and design. HUD has insisted, however, that 202 is dead, and contrary to what I have consistently argued is the intent of Congress. In place of 202, HUD has insisted on conversion to the costly, inappropriate, and frustrating 236 interest subsidy program.

As it promoted 236, HUD insisted that older Americans would not be forgotten. The Committee on Aging was assured, for example, that the hardworking and very effective staff persons who manned the 202 program would continue to serve church organizations, unions, and other potential nonprofit sponsors of housing for Americans in the later years of their lives.

I decided to take HUD at its word on this issue, and I asked Committee on Aging staff to make informal inquiries on what has happened to the 202 staff. On the basis of telephone conversations with four of these specialists, I must report that they apparently spend precious little time on matters that absorbed them so completely when they worked for 202.

When the section 202 housing for the elderly program was functioning at full capacity, each regional office of the Department had a man in charge of the 202 program. These men are still operating at the regional level but their staffs and authority have been stripped away.

May I point out that all of these men have developed years of experience and understanding into the real needs of the elderly—a problem that demands special attention. They were administrators of regional section 202 programs that produced thousands of housing units throughout their region. Not one of these projects has ever failed.

A relatively small staff—never more than five or six people—spent 100 percent of their time developing housing for the elderly. The programs were not extensive, but they were responsive to the special needs of the elderly and emphasized quality and social services. The motivation was the tenant—the older American—not bricks and mortar. What is essential to point out here is the existence of badly needed specialization. Very careful note was taken of site location, architectural barriers, construction safeguards, and social services. Intelligent consideration of these important aspects of housing are unavoidable in any workable program to house older Americans.

Let me emphasize, all the 202 projects and the 202/236 pipeline projects have been taken away from the 202 specialists at the regional level and have been transferred out of their offices of the various area offices. Left with no program to administer, these regional specialists also lost their staffs. Their experience is going virtually untapped. Any nonprofit sponsor who now wants to begin a project must go to the area office where, unfortunately, there is absolutely no one with the equivalent experience in dealing with the special housing needs of the elderly; and, more important, no one in the area office specializes in housing for the elderly.

The former administrators of the 202 program still maintain titles such as "Elderly Housing Specialist" or "Specialist on Housing for the Elderly," but far too often it remains just a title. It is simply form without substance. They no longer have staff, authority, or administrative power. In several cases, they do not spend all their time on elderly housing. They work also in areas of rehabilitation and college housing. Their function has become purely advisory.

Mr. President, I think it is clear that HUD should have an Assistant Secretary for Housing for the Elderly. Without a spokesman, without a top-level official with direct access to the Secretary, without a specific and visible leader and line of command, we will continue to witness what I have described today—the gradual disappearance of any form of recognition of elderly housing as an area of growing concern that demands special attention unique to the elderly.

GUN CONTROL LEGISLATION

Mr. GAMBRELL. Mr. President, many of my constituents in Georgia have expressed their concern to me concerning the future of gun control legislation in

Congress. I have been pleased to give them, individually, my personal views on this subject, and I would like to state my position for the RECORD at this time.

As a gun owner myself, I will certainly oppose any legislation which threatens the constitutional right of American citizens to bear arms. The constitutional right referred to is a guarantee that citizens will not be imposed upon by the Government or by lawless elements in society. In addition, guns have a valid use in sporting activities, which I enjoy myself, although not as frequently as I would like.

There is a need for strict regulation of the manufacture, sale, and ownership of the so-called Saturday night special type of pistol. Such weapons are capable of easy concealment, are cheap, and are very easy to use carelessly. Such guns are the ones used to commit robberies, shoot policemen, and victimize law-abiding citizens. They have no value in sportsmanship or recreation, and are not necessary for self-defense. Therefore, I reserve the right to support appropriate regulation of the "Saturday night special."

I am opposed to further legislation which would require registration or impose other restrictions on the use and ownership of shotguns, rifles, and conventional pistols.

CARGO THEFT, PILFERING, AND HIJACKING

Mr. CANNON. Mr. President, for the last several years my distinguished colleague, the senior Senator from Nevada (Mr. BIBLE), has drawn the attention of Congress particularly and the country generally to another facet of the crime-plagued society in which we live and work these days; namely, the theft, pilferage, and hijacking of an estimated $1½ billion of truck, air, rail and ship cargo annually.

As chairman of the Senate Committee on Small Business, Senator BIBLE has conducted committee hearings looking into this problem and its dollar impact on small business carriers and shippers, not to mention the consumer generally. This effort was chronicled in a special security issue of the prestigious national, weekly newsmagazine of transportation management, "Traffic World," on March 20, 1972.

Mr. President, I ask unanimous consent that the article by Senator BIBLE, entitled "A 1972 Look at Cargo Security—Everyone's Business," and an editorial by Editor Joseph C. Scheleen, entitled "Toward Better Handling of Freight—and Claims," be printed in the RECORD.

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

A 1972 LOOK AT CARGO SECURITY—EVERYONE'S BUSINESS

(By Senator ALAN BIBLE)

(EDITOR'S NOTE.—Senator Alan Bible (D-Nev.) has become a leading crusader in Congress in the war against transportation cargo theft and hijacking. Since becoming Chairman of the Senate Select Committee on Small Business in 1969, he has directed a far-ranging investigation of the problem, originally from the standpoint of the impact of such activity on smaller firms, but inevitably broadening to include other segments of the economy. The results of the Committee's investigations and numerous public hearings have provided a basis for several important legislative proposals introduced by Senator Bible and now pending before the Congress. A member of the Senate since 1954, the senior Senator from Nevada also serves on the Senate Interior Committee, the Interior, Transportation, Defense and Public Works Subcommittees of the Senate Appropriations Committee and the Joint Committee on Atomic Energy.)

Security will be a major challenge for this country's transport system for the 1970s and possibly beyond.

That challenge will be sharpened by an estimated record tonnage to be transported in a society where security from crime and prevention of crime are becoming the goals of a carrier industry's efforts to deal with the biggest multi-billion dollar racket nationally today—the theft, pilferage and hijacking of truck, air, rail and ship cargo.

For the transport industry, yours is the homefront war today against cargo thieves—a war that in 1971 probably cost more in losses than the $1.5 billion estimate for 1970. And the prestigious New York State Motor Truck Association at a Transportation Crime Conference in January asked the more expensive question: Can armed hijack, larceny, theft and pilferage cost the transport industry in excess of $2.6 billion in 1972?

This is the atmosphere in which the carrier industry, shippers, the consumer public and the government find themselves today. One long-time rule of thumb seems to be (whether we like it or not) that when a problem gets big enough (and crime in the transport industry is big enough), then the federal government gets into it. Both the transport industry and the federal government are trying to help row the law enforcement, security-prevention boat in some rough waters these days so that efficient transport can be maintatined on our highways, streets, airlanes, waterways and railways.

Even though the thieves have a good head start, we believe it can accurately be said that progress is being made to deal with the enemy. That progress is the carrier industry generally becoming more alert to a problem that has some carriers almost on the ropes, but similarly the federal government is trying to help coordinate a broadscale campaign. But, there is a long road ahead to win the fight.

Three years ago when the Senate small business committee began investigatory hearings into this general problem, there was very little interest on the part of most carriers, the government or almost anyone else except the small shipper suffering skyrocketing losses that put him out of business all too often, and the American Trucking Associations' trucking industry committee on theft and hijacking which was urging trucking management in 1969 to see the danger signals. As carrier industry executives have told me, their watchword, as they moved record tonnages to the jingle of their cash registers, had been: "Move the goods . . . Let the insurance companies worry about the losses."

Today, fortunately, we believe that general picture is beginning to change along the whole carrier industry front but not necessarily based on the speed of the carriers involved. The Department of Transportation, which showed no affirmative interest in 1969, was severely criticized in 1970 for its "rhetoric, vacillation and negative attitude" by the Senate appropriations committee controlling its funding and by the Senate small business committee. The Department is now marshaling an intensive effort to come to grips with the cargo crime problem under General Benjamin O. Davis, Jr. (U.S. Air Force, retired), Assistant Secretary of Transportation for Safety and Consumer Affairs.

To his great credit, Secretary of Transportation John A. Volpe last June called a four-day cargo crime conference in Washington, marking the first time that a federal agency or industry had really zeroed in on a broad effort to delineate the limits of the problem, to determine roles and responsibilities, and to take an affirmative first step in exploring methods to deal effectively with it.

Secretary Volpe announced to the conference: (1) organization of a Transportation Security Office within his Department; and (2) organization of an Intergovernmental Task Force under the President's direct authorization to seek out ways and means for all executive agencies of the federal government to assist air, truck, maritime and rail carriers to curb growing cargo thievery in cooperation with state and local authorities.

Meanwhile, the Department of Transportation has fashioned a 12-point federal program including physical security guideline measures and pilot security projects. Secretary Volpe has requested every governor to designate a member of his personal staff to work with federal and local organizations to push the program and to ascertain if state funding for such purposes can be secured through Law Enforcement Assistance Administration fundings from the Department of Justice.

Deputy Attorney General Richard G. Kleindienst urged all U.S. attorneys to give particular attention to cargo crime areas for active prosecution.

Additionally, the Transportation Association of America, directed by its president, Harold Hammond, and representing most major carriers and shippers, announced the formation of a Transportation Cargo Security Council made up of carrier, labor, insurance, shipper and associated private industry organizations and manufacturers to assist in the federal-state efforts. All 50 state governors were asked to recognize the severity of the problem and to seek federal funding for cargo security programs locally.

The American Trucking Associations' security arm, the trucking industry committee on theft and hijacking (TICOTH), continued to step up its activities begun back in 1969. The National Truck Theft Association was organized in Jacksonville, Fla., to deal with truck thefts particularly.

Meanwhile, the Interstate Commerce Commission, the Federal Maritime Commission and the Civil Aeronautics Board have adopted or are carrying out uniform cargo loss reporting rule-making proceedings, the two former regulatory bodies with more affirmativeness than the latter's snail-like pace.

To capsule the problem faced by industry and government efforts, let me quote a statement I made before last summer's national conference on the cargo security crisis in Washington, D.C.:

"After two years of listening to testimony from government, transportation and regulatory agencies, carriers, law enforcement officers, insurers, shippers and consumers, one fact comes through loud and clear—the cargo carrier crime crisis is growing alarmingly day by day. Our law enforcement agencies, our shipping regulatory bodies, government and the carrier industry have been unable to mount an effective response."

Two years ago, no governmental, private carrier or trade organization had any kind of a realistic handle on just how big the problem really was. The Senate small business committee, aided by insurance underwriters, carriers, Library of Congress statisticians, national news media and others sought to

arrive at a generalized best estimate to shake up the carrier industry from its head-in-the-sand stance, to shake up government from its let-somebody-else-worry-about-it attitude and to bring on the focus of public interest. The committee prodded the ICC into adopting uniform loss reporting for Class I truck and sparked current rule-making proceedings by the Federal Maritime Commission and the Civil Aeronautics Board.

Estimates showed losses were in the neighborhood of $1.5 billion for 1970, with truck theft and hijacking in first place at $900 million, airlines at $110 million, maritime shipping at $210 million, and railroads at $250 million. There seems little reason to believe that this total moved downward in 1971 with truck hijacking substantially on the increase that year and apparently new record highs set for dollar losses per major theft, at least in the motor freight hijack category.

These figures represent only the value of goods stolen or pilfered. But what is the bigger impact such as the cost to business? And what about the consumer, who pays for all the direct and indirect losses by crime-inflated prices?

The American Trucking Association told our committee that for every $1 of direct loss, it costs motor freight carriers from $2 to $5 of indirect costs in processing claims, paperwork and manpower. Shippers say their indirect losses are even greater or $5 to $7 for not having goods for sale, loss of profit dollars, disruption of manufacturers' production lines and the tie-up of monies due them and delayed in the claims reimbursement pipeline.

Therefore, if we add the direct dollar theft loss plus the carriers' and shippers' indirect costs, we may be talking of costs to the national economy approaching $8 to $10 billion annually. Again, it is the consumer who pays the crime-tagged price as that inflation spiral goes round and round.

As another example, a major recreational vehicle manufacturer had a truckload of wheels hijacked, possibly mistaken for a high-value cargo load. Because the wheel manufacturer could not resupply immediately, the vehicle manufacturer was forced to close down its production line, thereby losing its customer orders. Its building overhead expenses continued as did mortgage payments, equipment amortization, executive payroll and warehousing costs for the unfinished vehicles. Regular employes were furloughed and were substantially without pay. Other parts suppliers had to be paid. The company's direct loss for the hijacked wheels was only $30,000 but other costs went into the millions of dollars, indirect though they were but just as expensive as the direct variety.

Today, in this turbulent world of swift change, we try to live with extremes. But today the transportation industry has been victimized by losses never thought possible a few short years ago.

And how do these thefts impact on the four transport modes? According to the American Trucking Associations' TICOTH committee, the cost to the motor freight industry was in excess of $1 billion in 1970.

Sometimes the truck hijack bowling alley—the New York City-New Jersey metropolitan area—is said to stretch from Boston straight down the east coast corridor to Miami. Some believe it is spreading to the midwest and the Pacific coast as terminal and driver security improvements force some ordinary thieves into hijacking.

Yes, hijackings may get the headlines, but the bulk of truck cargo loss, around 80 per cent, is the pilferage and theft of one to several cartons each time and repeated thousands of times every year according to the American Trucking Associations.

Even though 60,000 trucks move in and out of New York City daily via six interstate crossings and $17.3 million worth of goods was stolen in 318 hijackings there in 1970, the hijack rate increased beyond the 350 mark in 1971. However, greater truck losses dollarwise occurred elsewhere from a high of 2.13 per cent of revenue on the Pacific Coast to a low of 1.61 per cent in the Rocky Mountain states.

While figures like these show the problem is a growing one, we are beginning to see more activitv by insurance companies to force carriers to cut losses where possible. After all, insurance companies can't stay in business either if their losses become excessive or if customers are no longer insurable risks. In 1969, one major insurance company's loss ratio on cargo skyrocketed to an unprofitable 151 per cent. By 1971, that company cut its loss ratio to 69 per cent by forcing trucking industry management to institute security and prevention programs.

More than one insurance company executive has said that some trucking firms just cannot see any profit in preventive, security-type programs until the noose becomes so tight about their necks they don't know which way to jump. But in fairness to the trucking industry, can it carry on business as usual if the crime problem has become so rampant that only escort vehicles or western-style armed guards "riding shotgun" can help? Obviously, these expensive alternatives would increase shipping costs tremendously and would be generally impractical for other reasons. Can the motor freight industry operate in a crime-pocked society where it is a favorite and vulnerable target . . . one where truckload thefts are valued at about $35,000 each compared to bank robberies which average about $4,500 each?

As a result of our Committee's hearings about cargo theft and loss, our attention was drawn to the claims practices dealing with loss and damage in commercial transport. Several weeks ago the Interstate Commerce Commission announced it was moving to attack "mounting problems" of shippers in collecting loss and damage claims from railroads, truckers and other carriers. The ICC declared that the motor carrier rules for settlement of loss and damage claims restrict the liability of carriers and are unlawful, and at the same time announced a new set of rules carriers must begin using, including, beginning April 21:

(1) Acknowledgment by carriers of the receipt of each loss and damage claim;

(2) Investigation by the carrier of each claim promptly;

(3) Disposition by the carrier of the claim within a specified period, or the carrier to be required to inform the claimant of the claim and explain why a settlement has been delayed.

This announcement came as a result of an order in the proceedings in Ex Parte 263, dealing with Rules, Regulations and Practices of Regulated Carrier with Respect to the Processing of Loss and Damage Claims.

It appears that the primary judgment made by the Commission in its report in *Loss and Damage Claims*, 340 I.C.C. 515, is that there now prevails throughout the country a tremendous need and a growing public sentiment for a new approach to be taken in attempting to resolve what ICC called "a mounting national crisis in cargo loss and damage claims." The ICC said that the significance of the problem is pointed up by industry figures which show that more than $300 million in cargo is lost or damaged each year, with the railroads and motor carriers, respectively, handling 2.5 million and 1 million claims annually. This waste of our nation's resources, the Commission concluded, no longer could be tolerated.

The ICC announced adoption of a dual program designed to utilize its existing statutory authority to the fullest extent possible. It candidly admits, however, that the limited response it is now able to make to this problem may fall short of the mark needed to achieve appreciable improvements that it has found to be necessary in the public interest.

First of all, the Commission has promulgated sweeping regulations to become effective April 21, 1972. These regulations require all surface transportation companies to acknowledge receipt of each loss and damage claim, to investigate claims promptly, and to dispose of claims within a specified time or inform the claimant the status of his claim and the reason for the delay. The Commission also made a commitment in its report to institute in the near future another rulemaking proceeding in which it will determine whether there is also a present public need for it further to define the term "reasonable dispatch" insofar as it relates to the transportation of perishable commodities.

In the second phase of the dual program outlined in its report, the Commission seeks to bring the cargo claims situation under control by recommending that the Congress grant it the authority (a) to adjudicate cargo loss and damage claims in the first instance, subject, of course, to judicial review, and (b) to issue regulations setting cargo insurance standards for railroads, express companies, and water carriers.

And what about the fast-moving world of air freight? It is setting new tonnage records with gains of at least 20 per cent per year. In 1958 domestic air cargo carriers flew 726 million ton miles. That tripled in 10 years to more than 2 billion ton miles. It should quadruple during the 1970s, far outdistancing passenger traffic increases.

Larger aircraft are on their way which will carry more passengers and more freight, a far cry from the country's first scheduled cargo-passenger flight in Florida in 1914 by the St. Petersburg-to-Tampa Airboat Line. Its motto, ironically enough, was "safety first" and its cargo was a few pounds of hand-carried packages and boxes.

The world's greatest air cargo terminal, New York City's John F. Kennedy International Airport, had reported thefts in 1969 of $3.5 million. Additionally, airmail, parcel post thefts of securities, cash, diamonds and other high-value items at Kennedy were estimated at $65 million from 1967 through 1969. At some airports today, like JFK, U.S. Postal Service guards are "riding shotgun" on ground vehicles hauling mail pouches between airplanes and airport mail handling facilities. The Postal Service advised our committee that in 1969, 1970, and 1971 it levied fines against 15 of the 16 U.S. domestic air carriers operating under mail contracts out of Kennedy Airport because of lax mail handling practices or for losses, such fines totaling $450,000 in 1969, $400,000 in 1970 and $550,000 for the first nine months of 1971. We hope that added security steps being taken by the New York area Airport Security Council, and to its credit, will be affirmatively helpful.

As for maritime shipping, the Senate small business committee found that industry "probably less security-conscious than either the air or truck carriers" as its estimated losses increased from $170 million in 1969 to $210 million in 1970 at docks, piers and warehouses.

And how are the railroads doing in this fight? Our committee's opening day of hearings last June into railway cargo thefts gave support to earlier estimates of $250 million in losses for 1970. Witnesses said the rate of increase in rail thievery in 1970 compared to 1969 was 50 to 77 per cent higher. General Motors, one of the nation's largest shippers, said it experienced a 50 per cent increase in cargo theft and damage. It is reported vandalism loss and damage to 248,000 new automobiles being shipped by rail from assembly plants to dealer showrooms out of a total 1970 production of 2.5 million units. It is

now running express-type automobile trains to stop thievery and vandalism, and packaging vehicles so they cannot be visibly detected on railroad cars, or placed inside new Verti-pak cars.

Penn Central's security director, Don Nelson, reported a 54 per cent increase in thievery losses in 1970. Western Carloading, one of the nation's largest freight forwarders, said its rail thefts were up 77 per cent in 1970, a far greater increase than the 11 per cent general crime rise nationally for 1970.

There seems little doubt that the country's transport industry has become the favorite target for organized and unorganized crime. The pickings are richer and easier. Cargoes have overwhelmed facilities. Security efforts have provided little security. And that old crutch of substituting insurance payments for good security has imperiled the insurance industry in some areas and put transportation companies out of business because loss insurance was refused by underwriting companies. One insurance company, which reported only two bankruptcies motor carriers over 30 years, recently revealed that five trucking firms went broke in 1970 because of cargo theft losses.

One insurance executive told our committee:

". . . many of these things are stolen for order and they are handled by organized crime. The markets are already established and the property is absorbed into our economic system just like a huge dry sponge. It just sucks it all up and it disappears. We do not penetrate the activities of the receiver, the fences and the people in possession of this stolen property."

Certainly, the criminal redistribution "fence" system must be attacked from all directions as truck hijacks spread.

And what are some of us in the Congress trying to do to help out in this cargo carrier crime fight?

My bill, S. 942, passed by the Senate and now before the House interstate and foreign commerce committee, would establish a Presidentially-appointed Commission on the Security and Safety of Cargo, with 10 members drawn from truck, air, water and rail carriers, cargo labor unions, shippers, import-export concerns and the President's Cabinet. It provides for an indepth, two-year examination of methods to improve security in our entire carrier system, with an interim report after one year. There are those who say the time period should be shorter, but certainly an overall examination of one of this country's greatest and most complex industries should be examined deeply and fairly if recommendations to deal with its problems in the 1970s, 1980 and beyond are to be made.

In addition to the study aspect, the bill would authorize the Secretary of Transportation to establish federal security standards where necessary at all airports, seaports and other commerce-associated areas when the commission concludes its work. We realize there are no overnight, magic or simple remedial measures to eliminate cargo theft and hijacking, but we believe this legislation offers the broadest, most coordinated, concrete, partnership-type approach yet suggested to face up to a problem that is not getting smaller.

It would provide an opportunity for the development of innovative security methods that would be keyed, not as a hindrance to the free flow of commerce, but as an adjunct to it. Certainly, all transport modes must be examined together because they are intertwined inextricably in their daily jobs.

Another bill offering some promise as an outgrowth of our committee's 1969 hearings is the Treasury Department port security bill, S. 1654. It seeks to get at port security at international ports, both sea and air, through Customs Bureau jurisdiction. Since this measure focuses only on one portion of the broad problem, we believe our overall approach is to be favored because of its broader application of physical security standards.

My bill, S. 2426, is designed to strike at the heart of the criminal redistribution "fence" system which we believe supports truck hijackings nationwide and a substantial share of all cargo carrier thefts generally. This bill would permit transport carriers, shippers, or those lawfully in possession of goods moving in interstate or foreign commerce to recover treble damages from any person who steals them during the course of such movement or who buys, receives, or has them in his possession after they have been stolen, having knowledge of their stolen character.

Obviously, S. 2426 is the first attempt to apply the use of civil remedies to reach criminal acts associated with the fencing of goods stolen from the nation's trnsport system. Since I offered this bill late last year, I have had discussions with the senior Senator from Arkansas, Mr. McClellan, about this general area and the possibility that it might be included as a part of his pending "Victims of Crime Act of 1972" proposal now before his Senate Judiciary Criminal Laws and Procedures Subcommittee. Therefore, on March 3, 1972 I introduced as an amendment to Senator McClellan's bill my own proposal broadening S. 2426 in several ways:

(1) It provides the Attorney General of the United States with the authority to enter a private civil damage suit on a class action basis for all citizens of the United States; and

(2) It grants the Federal district courts power to issue injunctive orders forcing the divestiture of business fronts or assets of those who are engaged in the purchase and resale of stolen cargo.

One of the main reasons for the introduction of legislation to reach criminal activities through civil action is that the burden of proof which must be met to obtain conviction on a charge of possession of stolen goods is so great that it sharply limits successful prosecutions for that crime. The burden of proof required in a civil action is considerably less. In other words, evidence insufficient to obtain a crimnal conviction could well be strong enough to warrant a successful damage judgment in a civil action.

The treble damage provision increases the monetary risk of the fence and the buyer, resulting in a decrease of price to the thief and reduction of profit to each in the chain.

My proposal would permit recovery of damages for losses sustained as a result of the violation or conviction under the theft in interstate shipments act (18 Stat. 659), providing criminal penalties for theft or purchase of stolen goods moving in interstate commerce. It would add a civil remedy to the present criminal statute.

Briefly, my legislation is designed to help take the profit out of marketing stolen goods. Certainly, if a thief does not have a buyer to purchase or "fence" for resale his stolen or "hot" cargo, then his market will dry up. Recovery in civil damages will give to businessmen, shippers, and carriers, who pay the brunt of losses for cargo theft, an opportunity to recover their dollar losses plus treble damages which will hit the thief, the fence or the illegal buyer where it hurts most, his pocketbook. At the same time it will tighten up the shady market area where thieves sell their multi-million dollars worth of stolen goods.

Law enforcement officials plus shipper, carrier, and insurance executives believe most of this massive cargo theft finds its way back into legitimate commerce as a result of the operations of criminal, middlemen fences. Today, legitimate merchants, salvage companies, discount stores, as well as the more shady dealers operating behind the scenes are believed to be the link supporting widespread fence operations. It is believed that many of these merchants are engaged in selling goods which were originally stolen from interstate and foreign commerce shipments. It is charged that these merchants buy goods from middlemen fences who in turn buy directly or control the operations of thieves preying on cargo shipments from all modes of transportation.

If I remember correctly the heyday of the Al Capone reign in Chicago, he was convicted not for murder, theft, violation of the Volstead Act, or other mobster activity but for income tax evasion. Perhaps, it is time we go after the modern day cargo thieves indirectly too, as my bill proposes. Above all, this proposal would furnish a valuable addition to the arsenal of weapons our federal courts can use against those who engage in the theft of goods moving in interstate commerce, those who "fence" such goods and the buyer who deals in stolen goods.

My third bill, S. 1763, would provide airlines a "dollar sign" incentive to improve security practices by requiring them to compensate shippers at full cash value for the theft, loss or damage to cargo, thereby conforming airlines to truck, rail and maritime liability practices of cash value reimbursement.

Just as airlines are beginning to come of age in the cargo transport business, they should also be required to observe a loss compensation divorced from the horse and buggy days. Their current 50-cents-per-pound domestic liability rate is a hand-me-down from the pre-air cargo industry era back in the early 1900s. Today, international air cargo losses are compensated at $7.52 per pound, which proves that the domestic rate is wholly unrealistic and grossly unfair to the shipping public. Whether the whole air carrier industry has yet developed a real commitment to cargo security might seem questionable. Too much of the air carrier industry has not become convinced that cargo losses strike at its profit and loss statements. When they do or someone pushes them into it, we will see more affirmative movement towards a goal of adequate protection for shipments of air cargo. Some airlines have taken constructive steps. We hope the practice will spread.

Meanwhile, we believe that good security is good business for everyone's business. It would seem to be one of today's most important answers if the carrier industry is to serve the country's shipper and consumer public.

PENN CENTRAL LOCKING DEVICE

The Penn Central, in conjunction with certain shippers, is testing a locking device for standard box cars which has proven to be an effective deterrent against looting and vandalism. The device, a "C" clamp with bolt is placed flush against each door in the top guide of the car with the aid of a lengthy extension which is compatible with a standard drivesocket and ratchet wrench. With the bolt tightened, the device makes sliding the door open impossible. At destination, the application is reversed with the aid of another extension, a ladder or from a loading dock.

[From Traffic World, Mar. 20, 1972]

TOWARD BETTER HANDLING OF FREIGHT—AND CLAIMS

(Editorial by Joseph C. Scheleen)

Preparation of material for the annual Perfect Shipping Issue of this magazine in years past has been the sort of exercise in futility that we and other members of our news writing and editing staff have approached with not much more felicity than children experience when they're having teeth filled or extracted. This time, however, the job of rounding up special articles for the Perfect Shipping Issue has been made rather cheerful by some "special" developments.

At least two major aspects of the freight

loss and damage problem attracted President Nixon's attention and led him to include, in his State of the Union message last January 20, the statement that "great progress has . . . been made in promoting transportation safety and we have moved effectively against cargo thefts and skyjacking." In an article beginning on page 39 of this issue, Lieut. Gen. Benjamin O. Davis, Jr. (U.S. Air Force, retired), Assistant Secretary for Safety and Consumer Affairs in the U.S. Department of Transportation, reports on the Transportation Department's 12-part cargo security program, aimed against thefts of shipments in interstate or foreign commerce. The President and his aides have become deeply concerned about the seriousness, size and frequency of losses inflicted on American shippers and carriers by thieves or gangs of thieves who are apparently well organized and well informed about movements of valuable cargo. The big-scale perpetrators of such larceny, or pirates of the highways, have hijacked whole truckloads or truck-trailer-loads of freight; the smaller-scale filchers have pilfered contents of thousands of cartons of costly merchandise left unattended on docks or loading platforms and have sold their loot (at far-below-cost prices, of course) to profit-hungry "fences" who have no scruples about buying and selling stolen goods.

The huge waste of productive efforts expended in manufacture or processing of the items that are lost or damaged after being entrusted to carriers and the millions of dollars spent annually by the carriers to pay freight loss or damage claims in whole or in part have generated, at long last, sincere interest in the "F. L. & D." problem by people in "high places" in the federal government.

One elected official who has given special heed to this troublesome aspect of the transportation business is United States Senator Alan Bible (D-Nev.). As chairman of the Senate select committee on small business he is trying to get things done to put a stop to such losses, particularly those attributable to hijackings and pilferage.

Reported in the article that Senator Bible has written for this issue of TRAFFIC WORLD (pages 25 to 34, inclusive) are various actions that have been taken by federal government authorities—the Department of Transportation, the Department of Justice, and the transportation regulation agencies—and by non-governmental organizations to curb or prevent the operations of thieves in freight transportation establishments. Notable among the non-governmental groups are the Trucking Industry Committee on Theft and Hijacking (TICOTH), established by the American Trucking Associations, and the Transportation Cargo Security Council, created under the sponsorship of the Transportation Association of America. They are striving to provide weapons needed in what Senator Bible calls "the homefront war that in 1971 probably cost more in losses than the $1.5 billion estimate for 1970."

It seems appropriate, therefore, that most of the special articles in this Perfect Shipping Issue, pursuant to plans made for it by General Editor R. Stanley Chapman, pertain to the current cargo-security campaigns.

Adding encouragement to this year's efforts by Traffic World to stimulate more intensive and effective claim-prevention activity in the American transportation community are the recent decision and order by the Interstate Commerce Commission in Ex Parte No. 263, requiring the carrier respondents in that proceeding to modify, on or before April 20, their freight claim rules and their policies related thereto so as to conform with the rules the Commission now has prescribed and has added to the Code of Federal Regulations as a new Part 1005, Principles and Practices for the Investigation and Voluntary Disposition of Loss and Damage Claims and Processing Salvage. Excerpts from the Commission's decision appear on another page of this issue.

Perusal of the digests of representations by shippers, shipper groups and government interests that appear in Appendix B to the Ex Parte 263 report reveals several instances of advocacy of the establishment of a claims arbitration board or of a small claims court to make final determinations in disputes over freight claims, and, also, some suggestions that the Commission itself handle such arbitration.

In discussion of the arbitration idea the Commission cited a U.S. Supreme Court decision setting aside an arbitration award because of failure by the arbitrator to disclose his so-called "evident partiality." Such arbitrators are not of the character sought or enlisted by the American Arbitration Association as members to provide such service. What the AAA does in this area is clearly explained by Richard E. Lerner, associate counsel of that association, in the article on pages 54 to 56 of this issue.

The Commission apparently feels that arbitration of claims disputes would be lawful and acceptable, but it sees some disadvantages in that kind of procedure and says it agrees with "those parties who believe that the expertise, the nationwide facilities, and the organizational structure of this Commission render it uniquely qualified to determine the facts with respect to claims." We would be the last to disagree with that averment.

The Commission, however, has not been very successful in getting favorable action on its legislative proposals by Congress. It will need a lot of luck to obtain enactment of its legislative recommendation that it be empowered to issue orders binding on all parties to claim disputes, "unless otherwise revised on judicial review." This would involve an outlay of federal money that Congress might be reluctant to grant. Reference of disputes about freight claims to the American Arbitration Association wouldn't cost the taxpayers anything and would be a fair means of settlement.

TAX REFORM

Mr. HARRIS. Mr. President, a Washington Post article of March 20 by Nicholas von Hoffman discusses ways a taxpayer can get away with paying less than his fair share of income tax. Now, no one is suggesting that people should resort to such entrafuges. But the idea behind Mr. von Hoffman's article is a legitimate one. He writes:

It's not just that our taxes are so high, but that millions of us are catching on to the corruption of a Congress that can legislate tax laws so grossly weighted to favor the rich.

I have long been a critic of our present tax structure, which places an unfair burden of the taxes upon the average American. At the moment, the rich can get away with what amounts to "cheating" on the intent of the income tax system simply by using the tax "loopholes." Until we have made our taxing structure fair, until we have made it equitable, we cannot hope to have general respect for our tax laws.

Mr. President, I ask unanimous consent that Mr. von Hoffman's article be printed in the RECORD.

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

THE LITTLE MAN VERSUS THE TAX MAN

(By Nicholas von Hoffman)

Karl Meyer, a guy out in Chicago, actually does what most of us want to do but are afraid to. He won't pay his taxes. Absolutely refuses. Not only that, he has no compunctions about falsifying his tax returns in order to do it.

At length the IRS caught up with Meyer, who is one of those Catholic radicals, and had him sentenced to two years in the pokey. He'd claimed 10 deductions when he was entitled to only four.

Because he did what he did on principle, Meyer was given a rougher jail sentence than is handed out to the tax swindling businessman who's too dumb to know you can beat the IRS with legal gimmicks. But, although Meyer wants to beat the tax man for more admirable motives than most of us, he is still in the mainstream of the growing American rage at our tax system.

It's not just that our taxes are so high, but that millions of us are catching on to the corruption of a Congress that can legislate tax laws so grossly weighted to favor the rich. It used to be that folks didn't know about oil depletion allowances, accelerated depreciation and capital gain, but no more. They know, and they also know how congressmen and senators are bribed to keep these laws in effect. Why else the enormous interest in campaign contributions?

They've also learned that each of these successive "tax reforms" is nothing of the kind, and this, plus a new and special hatred for Internal Revenue agents and their officious practices, make them hate the tax laws and disregard them at any time they can. It's not easy for the little man to beat the tax man, however. The system is rigged to get him, but he may get some tax advice—albeit illegal—that isn't offered by H. & R. Block in the April issue of Ramparts Magazine which carries an article entitled, "How To Cheat Your Income Tax: A Guide."

In times past, although most people didn't consider tax cheating a crime, the IRS's reputation of invincible infallibility frightened them off trying. That's beginning to change. The word's out that the IRS is having its troubles, too. Last year the number of delinquent accounts jumped 8 percent and the amount of unpaid taxes increased to an all-time high of $3.5 billion. One of the reasons for this is that the IRS's manpower is being strained by trying to police wages and prices and do other jobs unconnected with the work of tax harvesting. Last year, for instance, IRS audited 363,000 fewer returns than the year before.

The anonymous Ramparts article writer points out that the computerization of the IRS may help the little guy cheat. In the past ever so many tax returns were pulled and audited. That's no longer so. Now "the computer subjects every return to reasonableness tests, comparing each return against averages. Those that flunk come bounding out onto the desk of one of the IRS's agents . . . Overshoot the percentage of your income group's allowance for contributions and out will jump your return," writes our tax consultant who is an accountant doing two to ten for embezzlement, not tax fraud.

But, he says, if you know what averages the computer is programmed for, then you can pile on the phoney deductions just so long as you don't go above the average for your income group. Our man obligingly supplies a table which tells us that if you're in the $9,000 group you can safely say you've spent $350 on medical expenses without getting caught.

Our felonious tax consultant offers the small man other ways of beating the IRS. You can have a business: "Just as thousands of the rich have hobby farms, Bermuda properties and other tax deductible bogus businesses whereat they vacation and entertain, so we can have modest cottage industries to shield from taxes our modest incomes: pottery, weaving, consulting . . . It is not necessary that you actually make any money . . ."

Since this is a poor man's guide to tax chiseling, the amounts you can steal back from the government aren't anything like what an oil company can pull in. Still, the Rampart's illegal method will save a man earning $5,000 $150 bucks, or an $8,000 a year man a little better than $200.00.

There is another out for people who don't want to file for bankruptcy. Instead of filing this year's Form 1040, find the form from 1913, the first year of the modern income tax. You'll save a lot of money. A family of five making $10,000 and using the up-to-date form will have to pay $871.75 plus $468 in Social Security tax, but if they were to use the old, 1913 form, their tax would be a mere $60. The deduction situation was better then, too. A man and wife got a $4,000 deduction; a single person was good for a $3,000 one.

There is yet one other way of escaping taxation without breaking the law. You can do what Karl Meyer is presently doing. He is arranging his life so that his income doesn't push up above the taxable poverty line. He does it by choice, but with the speed they're thinking up new taxes, federal, state and local, we may get pushed under the poverty line whether we like it or not.

GEORGE WALD ON AMERICAN BOMBING IN VIETNAM

Mr. KENNEDY. Mr. President, one of the most tragic aspects of the Indochina war has been the corrosive effect it has had upon America's moral and humanitarian sensibilities. Almost casually—with no sense of involvement or of horror—we read in each morning's newspaper of American planes dropping hundreds of thousands of tons of bombs over North Vietnam and all of Indochina.

We read of statements by our national leadership telling us that the war is "winding down" while American bombing is "winding up." We see the incredible statistics of more tons of bombs dropped by America in Indochina during the last 2 years than during all of World War II.

Just what does 6,250,000 tons of bombs mean?

Few of us see or feel or comprehend what such a statistic means. To do so, one needs to travel to Indochina, and more particularly to North Vietnam, to begin to understand—to see what Prof. George Wald saw during his recent visit to the area. In a most compelling report, Professor Wald, a Nobel Prize winning scientist at Harvard University's biological laboratories, relates some of his observations on the impact of American bombing in North Vietnam.

I commend Professor Wald's article to my colleagues to help bring the tragic reality of this war closer, to help us comprehend what bombing statistics mean in human terms. I ask unanimous consent that his article, a table of official bombing statistics, and an editorial from the Baltimore Sun be printed in the RECORD.

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

THE RESULTS OF THE BOMBINGS WERE NOT AS SUCCESSFUL AS HOPED

(By George Wald)

"Bad weather over North Vietnam forced U.S. pilots to pass up a number of important military targets during last week's heavy air raids, the Pentagon acknowledged yesterday for the first time . . . the results of the bombing were not as successful as hoped."—Associated Press, Washington, January 3, 1972.

On the morning of Saturday, February 19, I visited a bombed hospital on the outskirts of Thanh Hoa, a large town about 125 kilometers south of Hanoi. The town had been heavily bombed on December 26, the first day of the renewed heavy bombing of North Vietnam, ordered by President Nixon. That bombing continued for five days and involved one thousand sorties.

As I say, it hit Thanh Hoa on Sunday morning, December 26, the first group of planes coming over at 9:35 a.m. It was a cloudy day. The date, the time, and the weather are all important.

It will no doubt surprise many Americans to know that though only about 10 per cent of North Vietnamese are Christians—for the most part Roman Catholics—the Communist government of that country observes Christmas as a national holiday. Last year it came on a Saturday, and on Sunday morning almost everyone was at home taking advantage of the holiday, and preparing food for outings.

Thanh Hoa has a number of strategic objectives, and has been bombed frequently before. Just before entering the town I crossed the Han Rong ("Dragon's Jaw") Bridge over the Ma ("Horse") river, an old steel suspension bridge carrying a single, narrow gauge track and roadways, started by the French in 1910. Just down river from the bridge I could see a pontoon bridge ready to take over in an emergency. On April 3 and 4, 1965, the Han Rong bridge suffered its first massive air attack. For those two days, 150 to 180 planes were over it constantly; and I was told that 47 of them were shot down. The road at both ends of the bridge was heavily damaged, the bridge only slightly. Within one hour both bridge and road were working again.

For some time after that there were no more massive attacks, only single planes or small numbers, attacking by surprise. That tactic proving unsuccessful, our forces went back to massive attacks. Since 1965 the North Vietnamese estimate that there have been about 4,200 sorties against the bridge, dropping more than 4,000 tons of bombs, not including rockets. A lot of anti-personnel fragmentation bombs were dropped around the bridge. Also for a time mines were dropped into the river, upstream from the bridge, but the Vietnamese managed to detonate all of them before they reached the bridge. Rockets and guided missiles were launched from a distance during three days, but none of them struck the bridge. It has also been shelled from the sea for many days (the bridge is 18 kilometers inland). One can see that every girder in that bridge has been torn and damaged; yet the bridge was never knocked out for more than three hours.

Just after crossing the bridge, we passed a power station on the left, that also has been a prime target. Also the Pearl Mountain, near the bridge, has been bombed so heavily that about one sixth of it has been carried away.

The new bombing on December 26 involved about 100 planes. There were four targets: (1) North of town, six explosive bombs. (2) The hospital. (3) The village of Dong Vinh: 12 explosive bombs and six anti-personnel cluster bombs. (4) The fields of Dong Tan village: six explosive bombs. In all there were 24 dead and 37 wounded in addition to those at the hospital, most at the village of Dong Vinh. There were no military casualties. Two of the raiding planes were shot down, one at Han Rong bridge, marked F4D, which still carried two explosive bombs and two cluster bombs. Both pilots were killed. The second plane tried to escape to sea and on its way dropped bombs on the village of Hoang Dai. Then it fell into the sea about 3 kilometers off shore. When the site was reached there was no sign of the pilots.

Because of the presence of strategic targets, since 1965 the town had ordered schools, hospitals and commercial establishments to disperse. It is mainly for this reason that casualties were not heavier.

I visited a dispersed portion of the Thanh Hoa provincial hospital. Formerly in the town there had been two hospitals: one a tuberculosis hospital with 500 beds, with up-to-date equipment. This was completely destroyed by bombs in June 1965. Several patients and doctors were killed, but few since the hospital had already been largely dispersed. There was also a general hospital with 530 beds. This was destroyed on June 1, 1966.

The hospital I visited was started in September 1970. It is three and a half kilometers from town, and, I was told, about three kilometers from the nearest strategic objective. There is a complex of low buildings of bamboo and thatch and two rather handsome brick buildings are under construction. Across the road there is a technical school, training students to be assistant doctors and pharmacists.

At 9:35 a.m. of that Sunday morning, December 26, a first group of four planes dropped ten explosive bombs, each of one ton. This was followed at ten minute intervals by two further groups, each of four planes, dropping cluster bombs. I was told that each cluster bomb contains 300 pellet bombs, spherical, about two and five eighth inches in diameter, with plastic jackets. The cluster bomb explodes in the air, releasing the pellet bombs, which are intended to explode just above the ground, where they will do the most damage. The pellet bombs in this instance did not contain pellets but the casing itself fragmented to small rectangular pieces of metal each about 4 x 10 mm. Each pellet bomb breaks into about 300 such fragments. The one I was shown had a casing marked L22, was khaki in color, and had been manufactured in August 1971.

The bombing of the hospital completely destroyed two of the buildings and heavily damaged one other. One of the buildings destroyed had been for traditional medicine (Chinese and Vietnamese hospitals ordinarily offer patients a choice between traditional and western forms of treatment). The second building destroyed was the dental clinic. In all, nine persons were killed and eleven wounded. Of the nine killed, four were patients, the others medical workers and their children. Of the eleven wounded, one was an assistant doctor, one a nurse and seven were children. Of the seven persons in the family of one nurse, four were killed, including her husband and three children. She and two others were wounded. The wounded assistant doctor lost a boy in the raid, and two of his other children were wounded. The first bomb to hit a building threw bodies of patients as far as 20 meters; the head of one patient was found three days later 100 meters away.

I saw and photographed the dental clinic, flattened by the blast from a bomb that had fallen nearby. I also examined that bomb, which had been dug out, and another, a dud.

On the body of the unexploded bomb were stamped the words "Mark 84, Model 2. GP2000lbs. Contractor MI. Date Mfd.—11-70." I have since identified the manufacturer of this bomb as the Intercontinental Manufacturing Company of Garland, Texas, a subsidiary of the International Control Company, of Fairfield, New Jersey. This bomb also carried an astonishingly fresh paper label which said. *"From:* Tooele Army Depot Tooele, Utah. *To:* 3CD Port Chicago (NAD Concord). *Ultimate Consignee:* US NAV WPNS STN CONCORD, CALIFORNIA. Weight this piece: 4053." At the small end this bomb carried a part marked, "Adapter Booster", bearing the stamped date 8-71. The exploded bomb was also a Mark 84, Model 2, weighing one ton. The fin assembly was marked with the maker's name, "MECO",

which I have identified since as representing the Metals Engineering Corporation of Greenville, Tennessee.

I then went through the wards of the hospitals, going from bed to bed, and examining the patients' records. They included the following:

Girl, Xuong, aged 8. Lower spinal cord cut by pellet from a fragmentation bomb. Lower body permanently paralyzed, and incontinent.

Baby girl, Thao, three months old. She was being held by her grandfather. Her father had been killed in the bombing, her mother, wounded in the backbone, is in the hospital in town. The baby still has a pellet under her jawbone which will be removed later.

Boy Chien, three years old. A bomb fragment tore his left arm so badly that the arm had to be amputated just under the shoulder.

Young male, Manh, 20 years old. He was being treated by traditional medicine and was about to be discharged when the bomb struck. Open skull wound with some brain damage, bone broken in forearm, pellet in chest, all results of a fragmentation bomb.

Man, An, 34 years old. Another patient in traditional medicine. Both lower legs shattered and in a cast. Also so much skin was lost through scraping against the ground that skin grafting will be needed later.

Boy, Thinh, 9 years old. Right foot torn off. Crutches.

Boy, Jaing, 13 years old. Son of the vice-director of the medical school. Fragments in chest that entered through back.

Boy, Hung, ten years old, son of an assistant doctor. His big brother was killed instantly in the raid, the head blown off and the body disembowled. Blast wound on arm. His sister had one buttock torn off.

Girl, Mai, 13 years old, and her sister, Huong, 8. Their mother was a student in the school being trained as an assistant doctor. The mother and brother were killed instantly. The girls' father had recently been killed in the war. These children had only superficial injuries to feet and other parts, caused by the blast. They now, however, have no family.

Boy, Phuc, 12, son of a pharmacy student in the school. A penetrating skull wound, exposing the brain, with some brain damage. He was operated on four hours later.

It was just a cloudy Sunday morning, the morning after Christmas. The bombing was done by Christians, with high ideals of which we have been told. The visibility was poor, but good enough to bring three groups of planes over this target. The bad weather had forced our pilots to pass up a number of important military targets; and the results of the bombing were not as successful as hoped.

U.S. bombing of Indochina

AIR MUNITIONS

Tons of bombs:

1966	496,000
1967	932,000
1968	1,437,000
1969	1,387,000
1970	977,000
1971	763,000
1972 (estimated 2 months)	300,000
Total tonnage of bombs	6,292,000

ARTILLERY AND GROUND MUNITIONS

Tons of munitions:

1968	1,150,000
1969	1,100,000
1970	1,200,000
1971	700,000
1972 (2 months)	200,000
Total tons of munitions (of which 80 percent is artillery)	4,350,000

Source: (Compiled from Department of Defense statistics.)

[From the Baltimore Sun, April 4, 1972]

WHEN IN DOUBT OR TROUBLE, BOMB

If the skies over Indochina should clear today or tomorrow, American air power, reinforced by two more carriers recalled to the Gulf of Tonkin, is preparing to increase to massive magnitude its attacks against the current enemy offensive across the demilitarized zone. The United States Command in Saigon is said to be planning this effort in "retaliation" for the offensive—as if retaliation were something unusual in war—and against the troops and material already engaged south of the zone.

It will be recalled that for weeks that stretched into months American aircraft have been striking heavily against an expected offensive, first predicted for the Tet season, that appeared to be building up just above South Vietnam's northernmost province, Quang Tri. The American-South Vietnamese plan, or hope, was so to disrupt the buildup as to render an offensive ineffectual, or at least to blunt it seriously. Some degree of blunting may well have been achieved—yet the enemy attacks are still heavier than intelligence assessments had expected them to be.

The intentions of the enemy, since he holds the initiative, are unknown, but it already seems clear that the North Vietnamese battle plan has not been seriously deterred by American air power. This could hardly come as a surprise to any one who has noted the incredible weight of bombs dropped on Vietnam over the years, and how little they have accomplished in any way that could be called even temporarily decisive.

In the Pentagon it is thought that the South Vietnamese army is doing "pretty well," all things considered, under the onslaught, but at the same time the Pentagon acknowledges that the severer test will come when the enemy runs into better South Vietnamese troops than he has encountered so far. If this sounds familiar, so it is. Meanwhile, civilians flee from towns and cities already under bombardment, and flee from the countryside into those and other towns and cities, seeking safety. There is little to be said about all this except that it seems to have been going on forever, and is not ending now: and that how it may do anything but delay the release of the American prisoners-of-war, who last week had the comfort of an officially proclaimed period of "concern" on their behalf, is altogether impossible to discern.

GRADUATING CLASS AT HICKORY TAVERN HIGH SCHOOL, HICKORY TAVERN, S.C.

Mr. THURMOND. Mr. President, at this particular time of year, we are accustomed to congratulating those who are graduating from our schools. This is a normal and annual activity.

However, I wonder what the odds are against finding 20 percent of a graduating class being twins? As unusual as this sounds, it is actually occuring in one of the high schools in South Carolina. Of the 40 students graduating this year from Hickory Tavern High School, eight of them are twins. Each set is made up of a boy and a girl. Their names are Kay and Ray Sims, Kay and Ray Medlin, Carol and Jimmy Roper, and Paula and Jerry O'Dell.

Mr. President, an interesting article about this unusual occurrence was published in the March 20 edition of the Laurens Advertiser. This article, entitled "Not A Full House—But They Come In Pairs," was written by Jimmy Roper and Jackie Zeller.

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:

NOT A FULL HOUSE—BUT THEY COME IN PAIRS

(By Jimmy Roper and Jackie Zeller)

There is really nothing so unusual about a set of twins. But when sets of twins make up one fifth of a class, then you've got a different story.

That's how it is in the graduating class at Hickory Tavern High. In a class of forty, the final graduating class at Hickory Tavern, there are four sets of twins.

It sounds as if there would be a problem of seeing double. That's no problem at all. Each set is made up of a boy and a girl. They're Jerry and Paula O'Dell, Jimmy and Carole Roper, Kay and Ray Sims, and Kay and Ray Medlin.

And that's just the beginning of the coincidences. While two sets have the same first names, three sets, the O'Dells, Ropers and Medlins, all were born within 12 miles of Hickory Tavern High. To top this off, Kay and Ray Medlin have another set of twins in their family. The O'Dells and Ropers have been attending the Hickory Tavern schools together for 12 years. And the Medlins, while a year older than the other three sets, are graduating with them because they both failed the same grade the same year (They swear they didn't study together).

In talking together, each twin decided his personality is very different from that of the other twin, except for the O'Dells. While the O'Dells are the most alike, they're also the most compatible.

The Ropers, who have been friends with the O'Dells since first grade, agree that Paula and Jerry get along well together. They have fun together and are very considerate of one another, the Ropers say.

Paula agrees. "I guess the nicest thing Jerry ever did for me was in the first grade. At the Easter egg hunt he found the golden egg, but he gave it to me and let me get the prize and the praise."

The Sims, on the other hand, consider themselves to be much less congenial. "Life as a twin is very dreary," comments Ray Sims.

The Medlins find their biggest difference in their attitude toward life. Kay takes everything pretty seriously, while Ray is the happy-go-lucky sort.

Of all four sets, probably Carole and Jimmy Roper look the most alike. That's where the likeness stops, however, they agree. "Seems like my whole life has been sharing the backs of the cereal box," Jimmy comments.

Interestingly enough, though thrown together all these years, not one of the twins has ever dated a twin from another set. "We've been such good friends, we've never thought of dating," say the O'Dells and Ropers.

After being together for approximately 18 years, you would think it might affect the twins' plans for the future, but each brother and sister seems to be going his own way after graduation.

The O'Dells are planning a rivalry. He is going to Clemson, she, to Carolina. Ray Medlin hopes to study auto mechanics in Tennessee before entering the military service, while Kay wants to study dental technology at Greenville Tech. The Sims haven't really decided on the future. Neither has Carole Roper, but Jimmy hopes for Clemson and civil engineering.

For most, leaving home next Fall will separate them for the first time. Ray Medlin, who had a 7-week stay in the hospital, is the only twin who has been separated from the other over two weeks.

All eight agree, however, that being a twin hasn't affected their personal identity in any way. About the biggest problem of being a

twin, they conclude, is having to share everything from their playpen, when they were small, to their cars, now.

Oh yes, and we musn't forget to give credit to their parents, Mr. and Mrs. Burley G. Medlin, Mr. and Mrs. J. W. Sims, Mr. and Mrs. James B. Roper and Mr. and Mrs. Paul S. O'Dell.

RADIO LIBERTY AND RADIO FREE EUROPE

Mr. McGEE. Mr. President, a newspaper article recently published in the New York Times is entitled, "Why Not Tell the Truth?" The article, written by Mr. Cyrus Sulzberger, pointed out that Radio Liberty and Radio Free Europe were providing the people of the Soviet Union and Eastern Europe with accurate information at a time when the media of those countries was using every available means to misinform their own people, as well as the public abroad, in the hopes of furthering their domestic and foreign policies while harming ours.

At the moment, I do not intend to devote time to praising the work of Radio Liberty and Radio Free Europe. This has already been done convincingly by a number of us in Congress, not to mention the many articles and editorials which have appeared in the American and West European press supporting both radios. Today I should like to look at the other side of the coin. Is there any sign, for example, that the regimes of the Soviet Union and Eastern Europe are prepared to declare a truce in what they describe as the "ideological struggle" against capitalism? And what does their attitude toward "ideological struggle" reveal about their real attitude toward detente?

Since Radio Liberty and Radio Free Europe are in the business of international broadcasting, let us first take a look at what the Communists are doing in the same field.

Altogether, they beam some 6,500 hours of programs abroad every week. This compares to 786 hours for the Voice of America, 543 hours for Radio Free Europe, and 500 hours for Radio Liberty.

Some of these Communist broadcasters are official voices of their governments; while others falsely declare themselves to be operating within the countries to which they are directed and call for the overthrow of governments traditionally friendly to us. Over the past 4 years, these broadcasters have increased their output from 450 to 684 hours a week.

The Soviet Union is by far the largest of the international broadcasters, even though China and the United Arab Republic have been moving up rapidly. Aside from Radio Moscow and many "black" operations situated near its southern borders, the Soviets support something called Radio Peace and Progress. Although housed in the Radio Moscow building, Radio Peace and Progress claims to operate independently of the Soviet Government. For example, when the Indian Government objected to personal attacks on political figures in Peace and Progress broadcasts, Moscow answered that the Soviet Government had nothing to do with the incident. Soviet foreign broadcasting is carried on in 82 languages for nearly 2,000 hours per week, compared to broadcasts in 35 languages for 786 hours per week by the Voice of America. The 82 Soviet broadcasts include 12 indigenous languages of the Indian subcontinent—compared to three for VOA—12 languages of Africa—compared to four for VOA—and two Indian vernaculars of South America—compared to none for VOA.

Not many North Americans listen to short-wave radio, although it is enormously important in most parts of the world. Even so, Moscow alone broadcasts 10 hours a day to North America, in languages of our ethnic minorities as well as in English.

There is a division of labor between the Warsaw Pact countries in international broadcasting. Until recently "Oggi in Italia"—Today in Italy—a clandestine Italian language station, operated out of Prague. Much of the Arabic broadcasting is handled by the East Germans. Programs are beamed to Turkey from Bulgaria, and so forth. No such coordination exists between NATO countries.

Important as this vast external broadcast effort may be in areas of the world where such propaganda may be believed, the totally false picture of world events that these regimes, through the monolithic control by the Communist parties over domestic media, present to their own people is more disturbing to those who hope for detente.

America is the main target and it is not only our country's foreign policies which are misrepresented; as almost everything American is pictured as evil and rotten. Our soldiers are described as stupid and brutal; our youth as festering with hopelessness, drug-ridden and without values; our working people as downtrodden and poverty-stricken; and our political system as arbitrary, autocratic and oppressive.

On March 4, Theodore Shabad, Moscow correspondent of the New York Times, reported on a Soviet TV documentary along these lines concerning the United States. Mr. Shabad described the documentary as "an effort to counteract any elation Russians might feel" due to the President's upcoming trip.

Mr. President, this campaign of calumny is not merely an affront to our Nation's pride. At the time of the 1968 Soviet military invasion of Czechoslovakia we saw how such systematic misinformation about life abroad was exploited by the Soviet rulers to mobilize their people for external aggression.

The Soviet Union's massive effort to imbue its people with fear and hatred of the United States does not serve the cause of detente. We must not forget, however, that this manipulation of public opinion has always been a cardinal aspect of the Soviet system and that, in fact, Soviet leaders always call for sharpening the ideological struggle during periods of slackening international tension.

Mr. President, I am not suggesting that we should ape others by mounting psychological warfare campaigns against them in the same manner they launch them against us.

I do submit, however, that there is no call to declare unilateral moral disarmament by abolishing Radio Liberty and Radio Free Europe. Recently, in an interview published in the New York Times and Washington Post, Aleksandr Solzhenitsyn, the 1970 Nobel Prize winner in literature and generally considered Russia's greatest living writer, praised the broadcasts of Radio Liberty.

He said:

If we learn anything about events in our country, it's from them.

We all hope for the easing of tension in our relations with the Soviet Union. But I submit that truly harmonious and healthy relations between our countries—a stable and safe detente—can be based only on a public opinion in Eastern Europe, as well as in the United States, which is accurately informed about events at home and abroad.

Congress should, without delay, approve fiscal 1973 authorizing legislation for Radio Liberty and Radio Free Europe. As Mr. Sulzberger says:

Why not tell the truth?

TRIBUTE TO MRS. JESSE M. BLACKWELL, SOUTH CAROLINA'S MOTHER OF THE YEAR

Mr. THURMOND. Mr. President, the selection of South Carolina's Mother of the Year is an event which takes place annually in my State, as it does in most others. This year, however, something rather unique will be added to the contest for National Mother of the Year, because the entry from South Carolina is the mayor of the county seat town of Bennettsville.

Mayor Jesse Blackwell is a personal friend of mine, and I am fully aware of her unusual ability as an effective administrator as well as a wonderful mother. She is most deserving of the title of "South Carolina Mother of the Year" for 1972, and Mrs. Thurmond joins me in commending her for this honor.

She is the mother of two sons, Robert, Jr., a senior at Francis Marion College in Florence, S.C.; and Breedan, assistant principal at Pine Forest High School in Fayetteville, N.C. Her husband is Robert L. Blackwell, a leader in city and county affairs for Bennettsville and Marlboro County.

Mrs. Blackwell is active in the community not only through her mayoral position but also through her church, civic, political and education work.

She believes, as I do, that involvement is the key to effective leadership. She says:

If you are going to be heard, you have to be involved.

South Carolina's Mother of the Year has been mayor of Bennettsville since 1967. Prior to that she served on the city council for 8 years. One of only three women mayors in my State, she is overseeing the largest budget her city has ever had, and she is directing many new projects for her town and area.

Since Mayor Blackwell was named Mother of the Year, several articles and editorials about her have been published in South Carolina newspapers. They are: "Bennettsville Mayor Named 1972

S.C. Mother of Year," The News and Courier of Charleston, S.C., March 18, 1972; the Presbyterian Church Bulletin of March 19, 1972; "S.C. Mother of Year Is Named," The State of Columbia, S.C., March 19; "Mayor Blackwell is S.C. Mother of Year," the Marlboro Herald-Advocate, March 20, 1972; "State Mother of the Year," Marlboro Herald-Advocate, March 20; "State Mother of 1972," the Columbia Record, March 21, 1972; "A Tip of the Hat to Her Honor," Florence Morning News, March 22; "Woman Mayor Aids Ex-Convicts," the News and Courier, March 26; and a salute from the Anderson Daily Mail of Anderson, S.C.

Mr. President, I ask unanimous consent that the articles and editorials be printed in the RECORD.

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

BENNETTSVILLE MAYOR NAMED 1972 SOUTH CAROLINA MOTHER OF YEAR

(By Gale Young)

The New S.C. Mother of the Year, Mrs. Robert L. Blackwell (Jessie), is a many titled woman.

The mayor of Bennettsville and holder of various state organization offices, Mrs. Blackwell was notified Thursday morning by Mrs. James Cuttino of Sumter that she had been unanimously elected the state's 1972 Mother of the Year.

Her nomination for the honor was endorsed by the Mooreland Garden Club of Bennettsville. Mrs. Blackwell and her husband will be at the Waldorf Astoria in New York City the second week in May where she will be considered among 52 Mothers of the Year from the U.S. and Puerto Rico for the national title.

Mrs. Blackwell is here in Charleston this weekend at the S.C. Assn. of Classroom Teachers convention to help her twin sister Mrs. John Hargrave, also of Bennettsville, campaign for the office of secretary.

"This has been quite a week. Earlier I was notified that I had won a freezer in a drawing at a furniture store. When Mrs. Cuttino called and said she was talking to the Mother of the Year, all I could say was, 'It just can't be true'," she said. Materials on Mrs. Blackwell's many activities and letters from a minister, an educator and a government official were the basis of the five judges' unanimous decision.

"We had to enclose a stamped manila envelope if we wanted the materials returned from the judges. Every day when I went to the post office I just prayed that the envelope wouldn't be there," she spoke of the suspense.

She is the mother of two sons, Robert Jr., a senior at Francis Marion College, and Breedan, assistant principal at Fine Forest High School in Fayetteville, N.C.

"When they were old enough, both of them worked after school bagging groceries and in the summer on construction jobs. I took half their paychecks; I told them it was for their room and board. I invested the money and later both boys had enough money from the investments to make down payments on houses," she told.

Her sons, as youngsters in the lower grades, helped her campaign for her councilman offices.

Mrs. Blackwell is active in the community not only through her mayoral position but also through her church, civic, political and education work.

"I like to be involved. If you're going to be heard, you have to get involved," she said.

Mrs. Blackwell served on the city council in Bennettsville eight years before running for the office of mayor. She's been mayor now for five and half years and will seek reelection in March of '73.

"When I first went on the council, Bennettsville was a municipality of only about 5,000 people. There are now about 8,500 within the city limits and 10,000 on the fringes."

One of only three women mayors in the state, Mrs. Blackwell is overseeing the largest budget her city has ever had and directing several new projects for the area. She also has her share of problems.

The city recently obtained a federal grant from the Impact program, designed to relieve unemployment in areas where it is worst. The funds will be used to build a new municipal complex.

Ground was broken March 7 for the building which will house the general government offices, police station and jail, fire department, street department and utilities offices. The construction will employ approximately 100 workers for a year.

"How would you like to be told you can apply for a half million dollar grant if you can come up with a full set of plans in three days? We worked around the clock. Ralph Hope, superintendent of utilities, and Ralph Kelly, city attorney, went with me to Huntsville in October to present our plans. From among applications submitted, we were deemed second in the nation in need of the grant. Our unemployment then was about 9.1 per cent, but it has dropped."

She is currently the state membership chairman of Delta Kappa Gamma, an honor sorority for "key" women teachers. She was among 12 people chosen by the National Education Assn. to participate in the first teacher-political conference in Washington in 1958 and attended it again in 1960. She was a delegate to the NEA convention in Miami in 1967.

Her association with the Austin Wilkes Society, a religious-oriented organization of volunteers who work to rehabilitate prisoners, may have had some bearing on her selection as Mother of the Year, she said. She is also state membership chairman of that group.

"We work in close contact with families while the men are in prison, arranging transportation for them to visit the men and working with the welfare department. We help the men who are up for parole find jobs," she said. "The important thing is letting them know somebody cares. We are proud of the fact that recidivism (repeat criminals) has dropped to 12 per cent in South Carolina, the lowest in the U.S."

Mrs. Blackwell, chairman of the Democratic Women's Council in Marlboro County and the county's Democratic committeewoman, said she had encountered only a little political opposition to the fact that she is a woman.

Her husband, who plans to announce his candidacy for county supervisor Sunday, encouraged her to run for mayor, she said.

The five members of the Bennettsville city council, all men, are very cooperative, she praised. "All of them devote a lot of their time to council work. They love being a part of the city."

Mrs. Blackwell is the only woman member of the executive board of the S.C. Municipal Assn.

Church work is important to Mrs. Blackell, who is a member of First Presbyterian Church which was built by her great grandfather. Her husband is a deacon there. "I was baptized there, married there, both my sons were baptized there and Sunday my second grandchild will be baptized there."

She recently acted as a counselor at the crusade in Fayetteville where Nicky Cruze, a former drug addict, testiefid for Christianity. She has been working with the ministerial association in Bennettsville to schedule the kick-off of Boyce Stadley's Wings For Christ crusade on May 6.

"One of my greatest satisfactions is being a Christian, working every day for Christ," she said.

[From the Presbyterian Church Bulletin, Mar. 19, 1972]

Congratulations to Mrs. Robert L. Blackwell who has been named Mother of the Year for the State of South Carolina.

[From the State, Columbia, S.C., Mar. 19, 1972]

SOUTH CAROLINA MOTHER OF YEAR IS NAMED

SUMTER.—Mrs. Jesse M. Blackwell, mayor of Bennettsville, was named South Carolina's mother of the year Saturday by the Palmetto State Mothers Committee.

The committee said Mrs. Blackwell, mother of two sons, was selected on the basis of outstanding contributions to her state as well as accomplishments in rearing her children.

Mrs. Blackwell is membership chairman of the Alston Wilkes Society, a prisoner-aid group in the state and is a member of the executive board of the State Municipal Association.

She is also a member of the State Advisory Committee on Aging, the Environmental Health Task Force of the State Health Department, the Human Resources Commission of National League on cities, Salvation Army, United Fund and area arts council.

The South Carolina Mothers Committee, chaired by Mrs. James Cuttino of Sumter, also announced that Mrs. Myrtis Logan of Sumter has been named the state's first merit mother. Mrs. Logan has three children.

The committee named Mrs. James A. Carthcart of Columbia as its fourth honorary mother. Mrs. Carthcart is a former state president of American Legion Auxiliary and is a recipient of the National Membership Award.

[From the Marlboro Herald-Advocate, Bennettsville, S.C., Mar. 20. 1972]

MAYOR BLACKWELL IS SOUTH CAROLINA MOTHER OF YEAR

Bennettsville Mayor Jessie M. (Mrs. Robert L.) Blackwell has been named South Carolina Mother of the Year.

Mrs. James Cuttino of Sumter, chairman of the five-member state selection committee, notified the Herald-Advocate of Mayor Blackwell's selection on Thursday.

Her nomination for the honor was endorsed by the Mooreland Garden Club of Bennettsville, of which she is a member.

In addition to the garden club, Mrs. Blackwell's nomination was supported by letters from a minister, an educator, and a government official.

Mayor Blackwell was in Charleston Friday and Saturday and unavailable for comment. She was there at the S.C. Assn. of Classroom Teachers convention to help her twin sister, Mrs. John L. Hargrave, also of Bennettsville, campaign for the office of secretary.

Mayor Blackwell is in her sixth year as Mayor of Bennettsville and told a News and Courier interviewer that she would seek reelection again next year. She is one of three woman mayors in South Carolina.

Prior to her election as Mayor in 1967, she had eight years previous service on the Bennettsville City Council. She is also the only woman on the executive board of the S.C. Municipal Assn.

In addition to her duties as Mayor, Mrs. Blackwell currently serves as membership chairman for two state organizations: Delta Kappa Gamma, an honorary teacher sorority; and Alston Wilkes Society, a statewide organization formed to help rehabilitate former prisoners.

She is chairman of the Marlboro County Democratic Woman's Council; first vice chairman of the county's Democratic Party; and an alternate delegate to the state Democratic Convention.

She is also a member of the State Advisory

Committee on Aging, the Environmental Health Task Force of the State Health Department, the Human Resources Commission of National League on cities, Salvation Army, United Fund and area arts council.

An active member of First Presbyterian Church, Mrs. Blackwell recently served as a counselor at the crusade in Fayetteville, N.C., where Nicky Cruze, a former drug addict, testified for Christianity.

Mrs. Blackwell is a daughter of Mrs. Jessie B. Matheson of Bennettsville.

The State's Mother of the Year and her husband, who has recently announced as a candidate for Supervisor of Marlboro County, have two sons: Robert Jr., a senior at Francis Marion College; and Breeden, assistant principal at Pine Forest High School in Fayetteville.

In a feature article in Saturday's Charleston "News and Courier," Mayor Blackwell was quoted by writer Gale Young as follows:

"This has been quite a week. Earlier I was notified that I had won a freezer in a drawing at a Bennettsville furniture store. When Mrs. Cuttino called and said she was talking to the mother of the year all I could say was, 'It just can't be true'," she says.

"We had to enclose a stamped manila envelope if we wanted the materials returned from the judges. Every day when I went to the post office, I just prayed that the envelope wouldn't be there," she spoke of the suspense.

About her sons:

"When they were old enough, both of them worked after school bagging groceries and in the summer on construction jobs. I took half of their paychecks: I told them it was for their room and board. I invested the money and later both boys had enough money from the investments to make down payments on houses," she told.

On politics:

"I like to be involved. If you're going to be heard, you have to get involved," she said.

About the new city complex:

"How would you like to be told you can apply for a half million dollar grant if you can come up with a full set of plans in three days? We worked round the clock. Ralph Holt, superintendent of utilities; and Ralph Kelly, city attorney, went with me to Huntsville in October to present our plans. From among applications submitted, we were deemed second in the nation in need of the grant. Our unemployment then was about 9.1 per cent, but it has dropped."

And, about satisfaction:

"One of my greatest satisfactions is being a Christian, working every day for Christ," she said.

STATE MOTHER OF THE YEAR

Congratulations to Mayor Jessie M. Blackwell of Bennettsville upon her selection as South Carolina Mother of the Year.

To our knowledge, this is the first time that this honor has come to a Marlboro County mother.

Mrs. Blackwell has an impressive list of interests and activities and we join her hosts of friends across our state in extending our sincere congratulations to her and her family upon receiving this honor.

[From the Columbia Record, Mar. 21, 1972]

STATE MOTHER OF 1972

One of South Carolina's most time-honored awards is the selection of the State Mother of the Year. This annual salute to motherhood takes into consideration not only what a woman has done for her own family, but also what she means and does for her community and state.

The State Mother of 1972, just announced, is Mrs. Robert L. (Jessie Matheson) Blackwell, a native of Marlboro County and the third-term mayor of the county seat, Bennettsville. She has two sons, Robert L. Blackwell Jr., a senior at Francis Marion College, and Breeden Blackwell, a Pembroke College graduate who is assistant principal of Pine Forest High School at Fayetteville, N.C. She is a graduate of Flora McDonald College.

Besides heading the government of her home town, after promotion from the town council, she holds responsible positions in statewide organizations on municipal government, prisoner reform, the aging, environment, health, human resources and teaching. She formerly taught school in both Carolinas.

Mrs. Blackwell's honor follows a tradition of outstanding State Mothers. Her predecessors have stood high in the national considerations and one of them, Mrs. David R. Coker of Hartsville, was American Mother of the Year in 1958.

[From the Florence Morning News, March 22, 1972]

A TIP OF THE HAT TO HER HONOR

A tip of the hat is in order for Bennettsville Mayor Jessie M. Blackwell. She has been named this year's South Carolina Mother of the Year.

Mrs. Blackwell, one of three women mayors in the state, is the mother of two sons, one a senior at Francis Marion College and the other a high school principal in Fayetteville, N.C.

She has been Bennettsville mayor since 1967 and served eight years on City Council before that. She is the only woman on the board of the S.C. Municipal Association executive board. She is also active in community, civic and church activities as well as Democratic Party affairs.

With the rising concern for over-population, the emphasis in honoring motherhood has perhaps shifted. Large families are no longer applauded. But the deeper reasons for honoring motherhood remain constant.

Mrs. Blackwell's selection as state Mother of the Year suggests that being deeply involved in a wide range of community activities is no bar to fulfilling the responsibilities of motherhood.

A tip of the hat and congratulations.

[From the News and Courier, Charleston, S.C., Mar. 26, 1972]

WOMAN MAYOR AIDS EX-CONVICTS

(By Eppie Richbourg)

BENNETTSVILLE.—Being mayor of a town the size of Bennettsville could be taxing on a member of the fairer sex, but not if Mrs. Jessie Blackwell is an example.

The vivacious lady mayor manages to keep Bennettsville progressive, execute her duties and be state membership chairman and local secretary of the national Alston Wilkes Society, an eleemosynary organization dedicated to working with former inmates of penal institutions. She has a never-ending source of enthusiasm.

"I can talk all day about the Society and the wonderful job it is doing to help parolees and prison inmates," she says.

As the first Alston Wilkes Society in S.C. to be chartered, in 1966, the Bennettsville chapter has grown to roughly 25 members. Last year the chapter financed prison guard Ray Satterfield to accompany young convict Bobby Hunter to the Pan American Games where Hunter's success made him an almost certain contender for the 1972 Olympics in Munich.

If Hunter goes, Mrs. Blackwell said the chapter again plans to take as its project financing Satterfield to accompany Hunter, considered to be a top U.S. hope for a medal in boxing.

The young convict from Charleston took up the sport after being confined in the Manning Correctional Institution in Columbia where he is serving 18 years for manslaughter.

Led by Mrs. Blackwell last October, the Bennettsville chapter was instrumental in organizing a Sunday ministry at the Marlboro County Prison Farm which she considers "the grandest thing our chapter ever did."

And Mayor Blackwell is the program's biggest booster. Every first Sunday she and husband, Bob, attend the prison worship. "I love to go out there . . . so rewarding . . . so much participation by the prisoners. They love to sing and do it beautifully. The program has been such a success."

Prison ministry services are conducted by members of Bennettsville's Men's Evangelistic Club and local ministers.

Probably a large part of Mrs. Blackwell's success with the society is her attitude that "prisoners and parolees are human beings just like the rest of us and they're appreciative of what we're doing for them."

Mrs. Blackwell says the local chapter aids an inmate's family while he is away and attempts to bridge the communications gap for the parolee coming out. This isn't the easiest thing in the world, she says. "Often the family doesn't want the parolee back, particularly in the case of an alcoholic who abused his family before going to prison."

And there are cases she cites of youngsters whose families don't want them, who are even rejected by their mothers. In these cases, counselors or doctors try to work out the problems and are often successful in reuniting the families.

However, most parolees move their families from their original homes because of the stigma they feel the prison sentence has left them, Mrs. Blackwell says. In such cases, the society aids the parolee in setting up a home elsewhere.

Probably hardest for society members is securing jobs for former inmates. "They come out with nothing. No credit rating, can't borrow money, but the local industries here have been most cooperative, Mrs. Blackwell said. "They know what the Alston Wilkes Society is. If they have an opening and if the parolee qualifies, he gets the job and his past is never discussed."

Mrs. Blackwell has visited all but one of the S.C. penal institutions and says all kinds of untapped talent comes to light behind the walls.

For example, an inmate from Scotland who never knew he had artistic talent is putting on an April art show in Columbia, sponsored by the Alston Wilkes Society, showing the works of prisoners from all over the United States. Andrew Wyeth is judge for the show.

[From the Anderson, S.C., Daily Mail]

THE DAILY MAIL SALUTES

Few honors bestowed in our state within a year's time carry more distinction than the title of South Carolina Mother of the Year. The state committee has looked over hundreds of persons nominated for the honor, and has awarded the 1972 honor to Mrs. Jesse M. Blackwell, who, among other distinctions, is mayor of Bennettsville. Her selection was made on the basis of her outstanding contributions to the state, as well as her accomplishments in rearing her children and assuming other family responsibilities. Her services have, indeed, been numerous and spread over many fields. She is state membership chairman for the Alston Wilkes Society, a prisoner-aid group, while she is a member of the executive board of the State Municipal Association. Some of her other activities include membership on the State Advisory Committee on Aging; Environment Health Task Force; the Human Resources Commission of the National League of Cities and others. In her hometown she is also engaged in many community activities including the Salvation Army and the Area Arts Council. She will be especially honored on Mother's Day and on other occasions.

SECRETARY CONNALLY AND TAX REFORM

Mr. HARRIS. Mr. President, I note with interest Secretary Connally's pledge to clean up tax fraud. His concern stems from indications that millions of taxpayers have been getting bad service from tax consultants. I am hopeful that the mistakes of tax consultants, whether willful or innocent, will be halted promptly and that innocent taxpayers will not be harrassed or intimidated.

I would also urge the Secretary, Mr. President, to use some of his new-found fervor for rooting out tax fraud to go after the big fish as well as the little minnows. Billions of dollars are lost every year through unnecessary loopholes and, in many cases, outright evasion of tax obligations. Both the U.S. Government and the American people who must foot the bill for running the country are being defrauded by the wealthy few and big business, who use both legal and illegal fraud, tax loopholes, to keep from paying their fair share of taxes.

As filing time for tax returns grows closer, and as we all wade through the morass of tax forms, spending countless hours trying to figure out just what we are to pay our Government, the resentment against those who do not have to pay becomes more acute. The American people are fed up with our inequitable tax system, and I predict that those responsible for its continuation are in for a big surprise in November.

I would suggest that while Secretary Connally is checking out the returns of millions of Americans, he make a special effort to check the returns of the wealthy barons of big business and the conglomerates, and that he tell us who has not been paying his fair share of taxes and that he come back to Congress with plans from this administration to end the outrageous tax preferences for the rich.

STRIKE LEGISLATION

Mr. TAFT. Mr. President, emergency strike legislation will again be heard tomorrow in executive session in the Labor Subcommittee. Hopefully a bill may be reported by the committee soon. The need for strengthening the Railway Labor Act and the Taft-Hartley law becomes more clear daily. The New York Times on April 5 commented on the problem in its lead editorial.

It is time that the Congress faces up to its responsibilities and moves in the public interest to prevent a paralyzation that could wreck our efforts to stimulate the economy, solve unemployment, and stabilize prices.

I ask unanimous consent that the editorial from the New York Times dated April 5, 1972, entitled "Sputtering Strike Fuse" be inserted at this point in the RECORD.

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

SPUTTERING STRIKE FUSE

President Nixon has used the creaky provisions of the Railway Labor Act to purchase sixty days of grace in two major strie threats on the nation's railroads. Unfortunately, the recent history of that anachronistic law provides little basis for hope that its peacemaking processes will bring settlement of either dispute—one involving freight crews on the Penn Central and the other sheet metal workers employed in repair shops of all railroads.

The probability is that the beginning of June will find the country in the familiar position of having to improvise emergency legislation to deal with both situations before they stifle the economy. Indeed, the necessity for crash action on such legislation may arise even sooner if the Pay Board follows its decision to scale down the oversize wage settlement for West Coast longshoremen by a similar ruling affecting Atlantic and Gulf dock workers.

The initial decision precipitated a walkout from the Pay Board of four of its five labor members, but the West Coast workers have been remaining on the piers pending final board action on the East Coast pact. The Pay Board, now reconstituted as an all-public panel, is expected to make its decision early next month—a decision that may precipitate a shutdown of all deep-sea ports.

Since the goal of any such strike would clearly be to force higher pay in violation of the Economic Stabilization Act, the Government might move to halt the tie-up by injunction. But that remedy is far from clear-cut, and all the cooling-off provisions available under the Taft-Hartley Act have been exhausted.

The looming crises on both the railroads and the docks underscore the necessity for ending the long sit-down strike on Capitol Hill against proposals to tighten the statutory safeguards against strike emergencies in vital transportation industries.

More than two years have passed since President Nixon called for a modified type of compulsory arbitration to resolve such disputes. If the Democrats in control of Congress have a more dependable formula for dealing with the problem, the time to fight the issue out on the floor is now—not to wait once again to pass patchwork laws under the gun of a crisis.

THE LEAGUE OF WOMEN VOTERS STUDY "ADMINISTRATIVE OBSTACLES TO VOTING"

Mr. McGEE. Mr. President, on Monday of this week, the League of Women Voters' educational fund made public a comprehensive analysis of our country's voter registration system. Their study covered 47 States, approximately 250 communities, 2,234 interviews with government officials, party officials, and representatives of citizens groups and observations of over 900 registration and polling places. We should all be aware of the results of this in-depth study.

The League of Women Voters' report reemphasizes the unanimous conclusion of previous studies of our registration system—that it discourages registration and voting. Mr. Richard Scammon's report of the President's Commission on Registration and Voting Participation in 1963 was one of the first detailed inquiries into our registration system. Prof. Stanley Kelley of Princeton University also produced a study which concluded:

Registration requirements are a more effective deterrent to voting than anything that normally operates to deter citizens from voting once they have registered.

In 1968, a Gallup poll substantiated the previous studies when it concluded that—

It was not a lack of interest but rather the residency and other registration qualifications that proved to be the greatest barrier to wider voter participation in our nation.

Finally, in 1970, the Freedom to Vote Task Force under the leadership of Ramsey Clark agreed that registration procedures are the major cause of nonvoting.

Page 16 of the League of Women Voters' report states that—

Considering the all too frequent occurrence of complex forms, unhelpful and poorly trained staff, machine breakdowns, and inconveniently marked registration and polling places, it's surprising that so many citizens do vote. That the system functions at all is a tribute to the sheer determination of citizens to overcome these inconveniences and obstacles.

Gentlemen, this is quite an indictment, especially in light of the fact that it is being said by the League of Women Voters—a respected bipartisan group of citizens not given to radicalism or overstatement.

This report produces some extraordinary data concerning exactly how many registration operations are deficient. They found that 52 percent of the registration locations were not clearly identified with a sign. Twenty percent of the States expressly forbid evening and Saturday registration. Three-quarters of the communities studied had no Saturday or evening registration in the nonelection months. Even among those communities where deputy registrars were authorized, 29 percent of the election officials failed to use them. During the heat of the election period—30 days prior to the closing of registration—nearly 40 percent of the communities provided no additional hours for registration.

Clearly, the above obstacles must be removed so that the American people can register and vote. With this kind of a registration system there should be no question of why America ranks last in the world in its democratic participation.

I urge all Senators to read this short report by the League of Women Voters. It presents in detail the obstacles that stand in the way of this country's voters.

Mr. President, I ask unanimous consent that the report by the League of Women Voters entitled "Administrative Obstacles To Voting," be printed in the RECORD.

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

ADMINISTRATIVE OBSTACLES TO VOTING

(A report of the League of Women Voters Education Fund)

This publication has been made possible by funds granted to the League of Women Voters Education Fund by the Ford Foundation of New York.

PREFACE

The need for election reform through *federal* legislation has been documented and endorsed by several committees of national prominence. Most notable is the report of the President's Commission on Registration and Voting Participation [1] and the reports of the Freedom to Vote Task Force.[2] A forthcoming report of the National Municipal League will focus on the need for *legislatively enacted*

Footnotes at end of article.

election reform. A model state election code also is being developed by the National Municipal League and will be available to state legislatures for their consideration.[3]

In addition to changes in election laws, there is a need for changes in *administrative practices* of local and state election officials. (For the purposes of this study administrative practices refers to the standards, procedures and structures set up to implement state election laws.) The main purpose of this report then is to document the need for administrative changes and to draw attention to the numerous administrative obstacles which confront all Americans as they seek to implement their right to vote.

The basis for this report is a study undertaken by the League of Women Voters Education Fund (LWVEF) with the assistance of a grant from the Ford Foundation. The administrative practices of election officials in 251 communities were documented through the efforts of over 3,000 League volunteers during the fall election period of 1971.[4]

All types of communities were included in this study; those where problems of registration and voting were likely to be found in the extreme as well as those where the problems were less visible. In general, the information was collected from at least one large city, a suburb, an independent small town, and a rural area in every state. To supplement the League effort, information from some areas of the rural South was collected by local organizations associated with the Voter Education Project. This sample of communities encompassed approximately 40 million people or one-fifth of the total population of the United States.

Data were collected through three methods: (1) recording official registration and voting procedures, (2) interviewing government and election board personnel to determine attitudes and practices, and (3) observing citizen experiences at both registration and polling places. Information also was collected on state administrative practices with regard to elections by some state Leagues of Women Voters.

It should be noted that observations of registration and polling places were made during the period of the 1971 fall elections. This means that administrative behavior was observed in a non-presidential election year in which various types of contests, some considerably more important and appealing than others, were at stake. This factor tends to mute the findings and conclusions drawn from this study. It is reasonable to conclude then that the findings contained in this report might be an understatement of the problems citizens experience when participating in presidential elections.

It is also important to review the findings within the framework of the Constitutionally-guaranteed right to vote of every eligible citizen. This means that although some figures pertaining to a given administrative obstacle to voting may be less than 50%, the finding may nevertheless be highly significant to the extent that it indicates that thousands or hundreds of thousands of citizens are possibly being disenfranchised.

Within the context, then, *the study documents the fact that the current system of registration and voting functions inefficiently for citizens throughout the United States.* Both supportive evidence and specific recommendations for administrative changes are included in this report.

A LOOK AT THE PRESENT SYSTEM

During the next six months, much public attention will focus on the principal candidates and issues of the November presidential election. It is doubtful, however, that very much concern will be given to the electoral process itself—that system of registration and voting procedures Americans must use in order to express their choice on the candidates.

Most citizens show little interest in the process not because they dismiss its importance but simply because they do not recognize the extent to which the current election system impairs the right of all Americans to engage in self-government. The public generally believes that the system has worked well for them in the past and that it will work well for the 140 million Americans of voting age in 1972.

Regrettably, the present election system has not worked well. It still bears the mark of forces which originally gave it birth at the turn of the century: fear of the then-widespread corruption and fraud at the polls and a desire to control the voting participation of millions of European immigrants who threatened the political status quo. Although these particular forces have largely ceased to exist, the system remains saddled with many unnecessarily restrictive laws and exclusionary procedures. It has become an administrative maze in which many of the abuses it was designed to prevent can, in fact, be more easily hidden and through which the average citizen must painstakingly grope in order to exercise his fundamental right to the franchise.

Fear of fraud is often advanced in opposition to proposed reforms of the present election system. It could be argued, however, that such abuses are a function of community mores and will exist in some communities no matter what election procedures are established. More noteworthy, it would seem, is the fraud perpetuated on the American people by a system which excludes millions of eligible voters from the electoral process in the name of preventing a few dishonestly-cast votes.

Indeed, the system works poorly for *all* Americans. In the case of minorities, the poor, the uneducated and the aged, who are unable to meet its complicated requirements easily, the system naturally imposes more heavily than it does on the average mainstream American. These groups can be even further excluded from the electoral process by the arbitrary and uneven application of administrative procedures which, while legal, can be manipulated to serve the political advantage or philosophy of those who control them.

Such misuse of administrative practices is not new to the institutional life of our society. What is notable about the established election system is the extent to which, barring misuse of any kind, it denies the rights and infringes on the convenience of hundreds of thousands of Americans regardless of their racial or economic background.

In the presidential election of 1968, 73 million Americans or approximately 60% of the total population of voting age actually voted for a candidate of their choice; 47 million or approximately 40% *did not* cast a ballot. Compared with other democratic countries, this voting rate of American citizens is embarrassingly low. For example, the rate at which voters in Italy have participated in elections in the last 10 years has regularly approached 90%. Canada records a voting rate of approximately 75% to 80%, and in the last 25 years, West German citizens have voted at rates which range between 78% and 87%.

It is the contention of this report that millions of American citizens fail to vote not because they are disinterested but because they are disenfranchised by the present election system. Ironically moreover, many of them lose their right to vote not because they are poor, black, uneducated or uninterested, but because they are part of the mainstream of American society. Moving to a better neighborhood, accepting a company transfer, going to college, getting married, serving their country and exercising other rights, freedoms and obligations to their country too often has had the effect of denying citizens their right to vote.

Undoubtedly, the present election system will continue to disenfranchise millions of Americans of every economic and social background unless improvements are made at both the administrative and legislative levels.

THE POWER OF THE LOCAL OFFICIAL UNDER CURRENT ELECTION LAWS

To what extent can electoral reform occur within the context of existing law? To what degree do current state election laws affect the administrative behavior of election officials?

In a few areas of registration and voting, the law is specific. Residency requirements and closing dates for registration are examples. Although the capacity of administrators and local officials to act independently is considerably limited in these instances, they *can* determine the impact of these laws by the vigor with which they make these requirements known and encourage citizens to meet them.

Most of the laws concerning registration and voting, however, are not specific. In many cases, the law only establishes broad minimum requirements, thereby leaving a great deal of discretion to local officials. For instance, the law may require that a central registration office be located in each city of the state but not specify how clearly that office shall be identified. In fact, 52% of approximately 300 registration places observed in this study were *not* clearly identified. Again, the law may state that registration lists must be available to the public but it often does not stipulate the mechanisms for making the lists available. For instance, there was a financial charge for the registration list in 55% of the communities and authorization for access to the list was required in 38% of the cases.

Local officials may be even more powerful where the law is merely permissive. State statutes frequently allow, but do not require, the following: precinct registration, Saturday and/or evening registration hours, and the authorization of deputy registrars. Data from the community study show that in these areas local officials frequently do not use these statutory powers to reach citizens.

In 29% of the communities where deputy registrars were allowed, election officials failed to use this method to reach citizens. While only 10 states[5] expressly forbid evening and Saturday registration, 77% of the communities studied had *no* Saturday registration and 75% had *no* evening registration in non-election months.[6] Even during the heat of an election period, i.e. the 30 days prior to the closing of registration, 38% of the communities provided *no additional hours* for registration. The data clearly suggest, then, that local officials have in many cases failed to use the tools allowed but not mandated by law to make registration and voting easier and more accessible for all citizens.

In addition to their influence in areas where the law is stated in broad or permissive terms local officials are able to influence the electoral process in matters where the law is silent. Although the law may neither require, suggest nor forbid it, an election official might provide information to citizens concerning the election, might conduct extensive training programs for all poll workers, and might provide bilingual clerks where needed. While such initiative would remove many obstacles to voting, local officials have seldom acted in their areas: only 11% of the local officials included in this study published a voter information guide; 28% provided no training for poll workers; and in approximately 30% of the registration places where bilingual assistance was needed, local officials failed to provide this service. Election officials clearly have the power to

Footnotes at end of article.

make registration and voting procedures easier for citizens but this study has found that, by and large, they don't use it.

To a large extent, local officials retain their discretionary powers by default. The community study found that the state authority charged with responsibility for administering the state election code most often counted it as one of several other major functions of his or her office. In most states, reports from local officials to the state authority are generally required just after elections and contain little else than the total number of people registered and voting in a given jurisdiction and the results of the latest election. Though many states issue guidelines to local election officials, few state administrative mechanisms have been set up to monitor or enforce compliance with the guidelines. In short, state election administrators have little knowledge or control and exert practically no leadership over local election officials and the manner in which they administer the state election code. It is little wonder then that the local election official can, and often does, become the chief policy-maker for all local, state and national elections held within his jurisdiction.

FOOTNOTES

[1] Report published in 1963.

[2] Two reports issued in 1971 by this commission of the Democratic National Committee; "Report of the Freedom to Vote Task Force of the Democratic National Committee" and "That All May Vote".

[3] Developed under a two year grant from the Ford Foundation, the model state election codes will be published in the spring of 1973.

[4] A modified version of the comprehensive survey on which this report is based was conducted by League volunteers in an additional 600 communities. The purpose of this Mini-Survey was to verify the validity of the comprehensive survey sample.

[5] Includes North Dakota with no statewide registration and New Hampshire and Vermont where a checklist system is used.

[6] For the purposes of this study "evening hours" pertain to the hours after 5:00 p.m.

TABLE A.—DISTRIBUTION OF RESEARCH COMMUNITIES ACCORDING TO POPULATION SIZE BY ADDITIONAL TIME AVAILABLE FOR REGISTRATION DURING AN ELECTION MONTH (—MONTH PRIOR TO CLOSING OF REGISTRATION)

	Total communities		Additional hours election month			Additional Saturdays[1]			Additional evenings[1]			Additional evening hours[2]		
		Percent	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No	Percent	<10 hours	>10 hours
Population size	N=200	100	100	62	38	100	70	30	100	83	17	100	52	49
Greater than 1,000,000	4	2	100	[3](1)	(3)	100	(4)	(—)	100	(2)	(2)	100	(4)	(—)
500,000 to 1,000,000	13	6	100	62	38	100	63	37	100	89	11	100	57	42
250,000 to 500,000	21	10	100	41	59	100	75	25	100	77	23	100	----------	100
100,000 to 250,000	33	16	100	68	32	100	90	10	100	70	30	100	36	64
50,000 to 100,000	27	13	100	73	27	100	55	45	100	86	14	100	44	57
25,000 to 50,000	42	20	100	66	34	100	75	25	100	90	10	100	56	44
10,000 to 25,000	46	22	100	60	40	100	67	33	100	93	7	100	61	39
Less than 10,000	22	11	100	56	44	100	44	56	100	60	40	100	83	17

[1] Refers only to those places reporting some additional hours of registration during an election month.

[2] Refers only to those places reporting some additional evening hours of registration during an election month.

[3] Refers to actual number rather than percentages.

TABLE B.—DISTRIBUTION OF RESEARCH COMMUNITIES ACCORDING TO POPULATION SIZE BY AVAILABILITY OF REGISTRATION BY DEPUTY REGISTRARS

	Total communities		Deputy registrars allowed			Deputy registrars used[1]			Limits to number of—					
									Deputy registrars			Forms		
		Percent	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No	Percent	Yes	No
Population size	N=208	100	100	73	27	100	71	29	100	38	62	100	13	87
Greater than 1,000,000	4	2	100	[2](4)	(—)	100	(2)	(2)	100	(2)	(2)	100	(2)	(2)
500,000 to 1,000,000	13	6	100	85	15	100	100	----------	100	20	80	100	----------	100
250,000 to 500,000	21	10	100	71	29	100	64	36	100	40	60	100	10	90
100,000 to 250,000	33	16	100	73	27	100	63	37	100	40	60	100	31	69
50,000 to 100,000	27	13	100	70	30	100	82	18	100	44	56	100	27	73
25,000 to 50,000	42	20	100	83	17	100	80	20	100	46	54	100	7	93
10,000 to 25,000	46	22	100	72	28	100	76	24	100	40	60	100	8	92
Less than 10,000	22	11	100	46	54	100	56	44	100	33	67	100	----------	100

[1] Includes only those communities where deputy registrars are allowed.

[2] Refers to actual number rather than percentages.

PERCEPTIONS AND ATTITUDES OF LOCAL OFFICIALS AND CITIZEN GROUP REPRESENTATIVES

The perceptions and attitudes of officials and community leaders are important to an examination of election systems for several reasons. First, they are frequently reflected in administrative behavior and in evaluations of that behavior. In many cases, they also indicate the willingness or unwillingness of community leadership to undertake needed administrative and legislative reform. Where opinions are backed by the power of an office or the resources of an organization, they take on added importance. Finally, such attitudinal data often show how different groups perceive community problems and the extent to which they are sensitive to citizen needs.

PERCEPTION OF REGISTRATION AND VOTING NEEDS

Long lines, short office hours, inaccessible registration and polling places, and registration periods remote from the date of election are common experiences to many Americans.

Interviews with local officials who hold the authority, responsibility and power to alleviate these problems show that they are generally insensitive to them. For instance, less than one-fourth of election officials held that the following were problems in their communities:

Residency requirements

Complex registration procedures

Complex absentee voting procedures

Inconvenient registration hours

Distant and inconvenient places of registration

Complicated voting procedures, i.e. use of voting machines and paper ballots.

Inconvenient hours of polling

Positioning candidate names on the ballot, and

Insuring the proper functioning of voting machines

On the other hand, most persons representing voting rights groups viewed all of these as serious problems in their communities.

ATTITUDES TOWARD LEGISLATIVE AND ADMINISTRATIVE REFORMS

Although the need for legislative action to reform the electoral process has been documented and endorsed by several committees of national prominence (see page 1), the League of Women Voters Education Fund community study shows that local election officials are reluctant to support many legislative changes and to assume the responsibility for administering reforms. For instance, support by local election officials dipped to less than a majority in regard to the following:

Carrying out door-to-door registration by government officials.

Updating registration lists monthly for public review.

Requiring at least 16 hours of training for election officials.

Extending voting hours from 7 a.m. to 9 p.m.

Conducting elections on a non-work day.

Publishing voter education materials at least 30 days prior to an election.

Placing local election officials under state merit systems.

In short, election officials seem to view the government as a passive participant in the electoral process with no responsibility for reaching out to citizens. They apparently believe that the initiative lies entirely with the citizen. This would seem to suggest at least one reason why 47 million Americans didn't vote in 1968. The issue clearly goes beyond the generally accepted explanation of voter apathy. Viewed from another perspective, the question arises that if the government can find a citizen to tax him or draft him into military service, is it not reasonable to assume that the government can find that same citizen to enroll him as an eligible voter and include him in the active electorate?

TABLE C.—NUMBER AND PERCENT OF ORGANIZATIONAL REPRESENTATIVES BY POSITION WHO AGREE THAT SELECTED REGISTRATION AND ELECTION PRACTICES ARE BASICALLY GOOD IDEAS [1]

[In percent]

Statement	Elected officials		Voluntary organization							Range	
	CCoEO N [2]=158	CCiEO 86	LWV 220	NAACP 120	LCP 166	YG 62	PCC 206	CAL 150	MG 62	Low	High
A. Door-to-door registration should be carried out by local government officials in order to get all eligible citizens on the voter registration lists	31	23	50	69	58	82	25	47	60	23	82
B. Voter registration should not be closed sooner than 30 days before any election	76	73	92	88	89	87	87	83	91	73	92
C. Residency requirements for voting in local elections should not exceed 60 days	61	49	74	81	77	84	65	53	73	49	84
D. Each county should require at least 16 hours of instruction for election officials	46	47	64	83	72	85	48	70	85	46	85
E. On election day, polling places should open from at least 7 a.m. to 9 p.m.	25	34	77	77	69	92	63	60	94	25	94
F. All elections should be held on a nonwork day	29	20	35	41	33	46	18	18	47	18	47
G. 30 days before each election, election officials should send each registered voter a voter information guide	23	24	62	66	46	65	32	44	75	23	75

[1] Not all data from the original interviews are included in this table.
[2] N refers to the number of respondents for the 1st statement. All percents computed on actual N's but sample sizes not reported in this table.

Note: Positions are identified as follows: CCoEO=Chief County Election Official; CCiEO=Chief City Election Official; LW=League of Women Voters; NAACP=National Association for Advancement of Colored People; LCP=Labor Council President; YG=Youth Groups; PCC=Chamber of Commerce President; CAL=American Legion Commander; MG=Nonblack Minority Groups.

TABLE D.—NUMBER AND PERCENT OF ORGANIZATIONAL REPRESENTATIVES BY POSITION WHO BELIEVE THAT SELECTED REGISTRATION AND ELECTION CONDITIONS EXIST IN THEIR COMMUNITY [1]

[In percent]

Statement	Election officials		Voluntary organization							Range	
	CCoEO N [2]=158	CCiEO 86	LWV 220	NAACP 122	LCP 161	YG 61	PCC 203	CAL 150	MG 61	Low	High
A. Many nonvoters would vote if registration procedures were less complex	11	9	60	57	42	74	22	13	69	9	74
B. Many potential voters become "nonvoters" because absentee voting procedures are too complex	20	16	69	61	41	76	27	16	67	16	76
C. The hours of registration set by the election officials are inconvenient, and many potential voters find it difficult or impossible to register	9	8	59	51	46	64	20	14	70	8	70
D. The polls close so early in the day that many potential voters find it difficult or impossible to get to the polls on time	8	6	39	47	31	54	20	11	64	6	64
E. Places of registration are inconveniently located, and many potential voters find it difficult or impossible to register	9	7	60	53	43	73	22	15	64	7	73
F. Many nonvoters are simply frightened by the complicated procedures of voting	20	12	67	65	48	68	25	17	75	12	75

[1] Not all data from the original interviews are included n this table.
[2] N refers to the number of respondents for the 1st statement. All percents computed on actual N's but sample sizes not reported in this table.

Note: Positions are identified as follows: CCoEO=Chief County Election Official; CCiEO=Chief City Election Official; LWV=League of Women Voters; NAACP=National Association for Advancement of Colored People; LCP=Labor Council President; YG=Youth Groups; PCC=Chamber of Commerce President; CAL=American Legion Commander; MG=Nonblack Minority Groups.

OBSTACLES TO ORGANIZED CITIZEN INITIATIVE

Since election officials have so often been unwilling to support outreach efforts, citizen groups have for many years attempted to fill this void through a variety of activities such as: conducting voter registration drives, sponsoring get-out-the-vote campaigns, publishing voter education materials, and providing volunteer staff for mobile registration units. These efforts, however, have all too often been frustrated by the inefficiencies and restrictive practices of the system as indicated by interviews with 584 citizen group representatives.

Approximately 50% of the organizations using registration lists to be inaccurate, and in half those cases the inaccuracy was reported to be greater than 10%. Lists were available to the public in 96% of the communities, but there was a financial charge for the list in 55% of the communities and authorization was required to use the list in 38% of the cases.

Groups were also frustrated when they attempted to have members deputized to register voters. Approximately one-fourth of the organizations seeking to have members deputized were refused the authorization they requested. Of those organizations which succeeded, 31% reported a limit to the number of deputy registrars allowed and 10% reported a limit to the number of forms a deputy registrar could obtain at any one time, an effective way of limiting the number of citizens registered.

These examples once again illustrate an attitude on the part of many election officials which tends to obstruct rather than encourage the efforts of citizen groups to expand the electorate. The instances cited strongly suggest the need for administrative reforms which would place more responsibility for outreach programs with election officials themselves and which would simplify administrative procedures pertaining to outreach efforts by citizens.

SEEKING TO REGISTER AND VOTE: EXPERIENCES OF THE VOTER

Under the system of voter enrollment and participation currently used in the United States, the individual citizen must take the initiative in order to qualify himself as a voter. The preceding discussion has indicated that the law does not require local election officials to take the initiative and that many are unwilling to employ their numerous powers or fully utilize the efforts of citizen volunteers to reach potential voters.

In the context, the experiences of the individual citizen as he seeks to register and vote are extremely important. If the cost in terms of time, energy, inconvenience or personal pride is too high, the individual may choose not to vote. Considering the all too frequent occurrence of complex forms, unhelpful and poorly trained staff, machine breakdowns, and inconveniently located registration and polling places, it is surprising that so many citizens do vote. That the system functions at all is a tribute to the sheer determination of citizens to overcome these inconveniences and obstacles.

Registration is the first step in the voting process and the most crucial. When people register, they usually vote. In the presidential election of 1968, 89% of those persons who were registered actually voted. Observations of registration places and examination of formally stated registration practices provide some dramatic examples of the problems citizens encounter in trying to register.

The first problem that the citizen is likely to encounter will be finding the registration office. He may well have to travel a considerable distance from his home to a central registration office (except perhaps during the last month of registration for a particular election when he is more likely to find facilities in his neighborhood). In 40% of the communities studied, however, no additional registration places were opened even during these rush months. Since 54% of the registration places were not accessible by convenient public transportation, 24% lacked convenient parking, and 52% were not clearly identified as a registration or elections office, the prospective registrant may well be frustrated before he arrives.

TABLE E.—DISTRIBUTION OF REGISTRATION STAFF BEHAVIOR ACCORDING TO SOCIAL CHARACTERISTICS OF REGISTRANTS

Variables	Total samples observed		Registration behavior			Registration staff behavior		
		Percent	Percent	Helpful	Not helpful	Percent	Courteous	Discourteous
Social class [1]	N=209	100	100	48	52	100	62	38
Middle	125	60	100	54	46	100	68	32
Working	53	25	100	42	58	100	58	42
Composite	31	15	100	33	67	100	44	56
Race [1]	N=123	100	100	49	51	100	63	37
White	147	69	100	52	48	100	67	33
Primarily white	46	22	100	52	48	100	61	39
Composite	13	6	100	17	83	100	50	50
Primarily nonwhite	7	3	100	[2](1)	(6)	100	12	88

[1] These classifications are based upon the judgment of registration observers.

[2] Refers to actual number rather than percentages.

Once he has located the registration office, the prospective registrant may find that it is not open for registration. In 29% of the communities. registration closes more than 30 days prior to an election. Even if he arrives before the registration deadline, the office may be closed since 77% of the communities studied had *no* Saturday registration and 75% of the communities had *no* evening registration during non-election months. While 52% of the communities did have additional registration hours during election months, 30% of these still had no additional Saturday hours and 17% had no additional evening hours.

The persistent citizen who anticipates and copes with the numerous obstacles already mentioned will next find himself confronted with a registration form. If the form is confusing or questions arise concerning his eligibility. he may not find the staff very helpful. Fifty-two percent (52%) of the observers at registration places classified staff as not helpful. Furthermore, in 30% of the places where bilingual staff was needed, it was not found.

There is no way to measure the number of citizens who are discouraged from registering even before they get to the registration office, but observations of 5,750 people attempting to register at approximately 300 registration places showed that 3 out of every 100 qualified people who made the effort and found the registration place still left without being registered.

Casting a ballot at a polling place is the ultimate event in the electoral process for the citizen. Although he has been successfully registered, the potential voter may be frustrated in his attempts to vote. Polling places, though usually located in his precinct, may be poorly marked (as were 38% of the polling places observed) and public transportation and convenient parking may be lacking. Fifty-eight percent (58%) of the places observed lacked convenient public transportation and 11% lacked convenient parking. Since polling places are not opened in the evenings in many states, the potential voter may need to take time from work or rush to the polling place before or after work. If he goes early he may not be able to vote because many polls open later than the hour prescribed by law as happened in 7% of the 484 polls observed. If he goes to the polls following work, he may find that he is refused the right to vote even though he is standing in line at closing time. Such refusals occurred at 19 of the polls observed.

The prospective voter who gets into the polling place will probably confront a poorly trained staff usually selected on the basis of their partisanship. If there are voting machines at his polling place, he may well be delayed in casting a ballot by a machine breakdown since this occurred in one out of every ten places having voting machines. His right to vote may be challenged as were the rights of 419 persons at the observed polls. In the event that he successfully casts a ballot, it must be attributed at least partially to his perseverance.

SUMMARY

In a democratic society, no right is more fundamental than the right of every citizen to vote. Indeed, the vote is the very symbol of democracy. It is the basic unit of our representative form of government; the major vehicle through which the consent of the governed is offered or withheld—the prime means by which the American people can express and effect their will. The right to vote, therefore, necessarily carries with it the right of equal access for every eligible citizen to the formal system of regulations and procedures through which the vote is cast.

In studying the way our current election system is administered, the League of Women Voters Education Fund found that the administrative practices of local election officials and therefore citizens' access to the election system vary greatly from place to place, that many state election officials have not established structures and procedures which would insure uniform interpretation and administration of state election codes throughout each state and that the discretion which most state laws give to local election officials is often exercised in a manner which impedes rather than enhances the citizen's right to vote.

There is an urgent need for administrative reform of our present election system. Citizens must no longer be forced to earn the "privilege" but rather must be insured the *right* to vote. They must demand that the direction granted to local officials by current state laws be used for the purpose for which it was originally intended; to give election administrators the margin of flexibility they need to assure the access of all citizens to the vote under the varying social, economic and geographic conditions which exist within states.

RECOMMENDATION OF THE ELECTIONS SYSTEMS PROJECT COMMITTEE

An advisory Committee consisting of nationally prominent authorities and experienced practitioners in the fields of voting rights, citizen participation, and elections was convened by the League of Women Voters Education Fund and the National Municipal League to assist them in designing the Election Systems Project. Upon completion of the LWVEF survey, the Committee reviewed its finding and developed the following recommendations regarding elections administration as a practical means of removing unnecessary obstacles to voting. (See p. 3/NML).

Some of the measures recommended may requires changes in some state election codes. The purpose of this report, however, has been to identify administrative obstacles and to document the need for eliminating them. It is now up to local and state officials and citizens throughout each state to decide which reforms their own election system requires and to employ whatever means would most effectively achieve them.

FINDINGS: CHIEF LOCAL ELECTION OFFICIALS

The administrative practices of local election officials were found to be diverse throughout the states. Data on their attitudes towards reforms that would extend the franchise as well as their perceptions of the problems citizens might encounter under the present system reflect a tendency to conceive of the vote as a privilege rather than as a right. These findings imply serious discrepancies between the citizens' Constitutional right to the vote and the actual practices which govern its implementation.

Therefore, the Election Systems Project Committee recommends: That the chief election official of every community comprehensively analyze community conditions and citizen needs by examining the registration rates of every precinct in his jurisdiction and by talking to representatives of various citizen organizations interested and active in issues of registration and voting participation;

That the chief election official of every community go the full limit of his legal powers in order to aggressively extend the right to vote to every eligible citizen. Such a program could include 1) maximum use of out-of-office registration techniques, e.g., use of mobile and other temporary registration units; 2) maximum authorization of qualified deputy registrars on a paid or volunteer basis; 3) the provision of bilingual staff where needed; 4) the publication and widespread dissemination of voter information guides; 5) the expansion of registration and polling place hours; and finally, 6) the use of all these techniques on the basis of voter need as revealed by his precinct analysis and information obtained through his community contacts;

That the chief election official of every community recruit, appoint, and train registration and polling place staff capable of and willing to respond to diverse citizen needs; that he or she further promote the highest standards of professional conduct by providing at least the federal minimum hours wage to all registration and polling place staff and by selecting staff based on qualifications above and beyond traditional partisanship.

FINDINGS: CHIEF STATE ELECTION OFFICIAL

The LWVEF study found that although the Secretary of State or State Attorney General is usually charged with general responsibility for administering the state election code, in fact, it is one of many duties of his or her office and therefore its implementation is, with few exceptions, decentralized to the local level. Where regular reports are made to a central state authority, moreover, the survey revealed that they generally contain no more than facts and figures regarding registration and voting rates and occasionally information on the kind of voting system used (automatic voting machines, paper ballots, etc.). Furthermore, where the state authority issues guidelines to local officials it usually provides no mechanism for monitoring or enforcing them.

The community study also found that, in the event that local officials are confused about how to interpret any part of the state election code, they must take the initiative in seeking state counsel. Except when their intervention is specifically requested, state authorities generally take little action to insure uniform and liberal interpretations of state election laws at the local level. Finally, state authorities generally do not monitor the way local officials use the extensive discretionary provided by most state election codes.

Therefore, the election systems project

committee recommends: That each state locate responsibility for the implementation of state election laws in a single state official or office and that the uniform interpretation and administration of the election code throughout the state be the sole responsibility of that official or office;

That the state election official establish and issue to every local election official minimum standards and performance guidelines; that the state official also establish a supervisory structure within which he or she can evaluate the performance of local officials under guidelines and take corrective action where the standards are not being met;

That the state authority conduct mandatory training sessions for local officials which cover both the technical aspects of efficiently managing an election system as well as the local officials' legal obligations to aggressively extend the franchise and protect the voting rights of all citizens;

That both the guidelines and the training sessions be developed within the philosophical context of the vote as a right rather than a privilege;

That the chief state election official through an established supervisory structure and regular training sessions keep local election officials abreast of the most current legal opinions on voting rights and establish reporting procedures that will assure local officials' compliance with the most recent court decisions.

FINDINGS: ORGANIZED CITIZEN INITIATIVE IN REGISTRATION AND VOTING

Since election officials have so often been unwilling to support outreach efforts, citizen groups have for many years tried to fill the void by initiating registration and voting services which would meet citizens' needs. The data show, however, that their efforts have often been impeded by the inefficient and restrictive practices of local election officials. Interviews with their representatives also show that citizen organizations recognize problems in the current election system that the officials tend to overlook.

Therefore, the election systems project committee recommends: That citizen organizations add to their present outreach programs and aggressive effort to scrutinize the policies and actions of local election officials during both election and non-election periods;

That citizen organizations demand not only a role in the selection process of the chief local election official in their communities but also adequate representation of their constituencies on local and state boards of election where they exist. Where they do not exist, an effort should be made to create them.

THE ROLE OF POLITICAL PARTIES, MASS MEDIA, AND EDUCATIONAL INSTITUTIONS

Although the LWVEF study did not specifically examine the current role these institutions play in our election system, based on the overall findings and the experiences of Committee members, the following recommendations are offered.

Political parties, because of their vital role in a democratic society have a responsibility to see that responsive and responsible election officials are appointed and elected. They must use their considerable influence to insure that election officials use their discretionary power to aggressively recruit voters and to allocate available resources in a manner that expands the electorate. Political parties should further support all efforts to provide adequate funding for local election officials.

Mass media should direct its enormous capabilities toward both informing the public of its voting rights and increasing the visibility and therefore the public's awareness of the system and administrators through which that right must be exercised. Such efforts might include a regular newspaper column devoted to registration and voting information, e.g., the requirements of the law, location and office hours of local registration and polling places, announcement of deadlines, etc. Reporters should cover not just the election but also the operation of local election systems on election day. Officials should allow reporters access to the polls at any time during the polling process.

High schools and colleges, through their curricular or extracurricular programs, should provide information on the legal and administrative requirements pertaining to the franchise. By this means, not only can the crucial facts be made known, but a new regard for the vote as an undeniable right rather than a privilege might be fostered within every American citizen.

MEMBERS OF THE ELECTION SYSTEMS PROJECT ADVISORY COMMITTEE, LEAGUE OF WOMEN VOTERS EDUCATION FUND

COCHAIRMEN

Mrs. Fay Williams, Trustee, League of Women Voters Education Fund.

Hon. Wilson W. Wyatt, Regional Vice President, National Municipal League.

Monsignor Geno Baroni, Director, Center for Urban Ethnic Affairs.

Charles A. Barr, Director, Political and Economic Education, Standard Oil Company.

Robert L. Bennett, Director, American Indian Law Center, University of New Mexico.

Mrs. Lucy Wilson Benson, Chairman, League of Women Voters Education Fund.

Col. C. K. Blum, Chief, Federal Voting Assistance Task Force.

Earl Blumenauer, Assistant to the President for Student Affairs, Portland State University.

Mrs. Willie Campbell, Chairman, Special Research and Projects, League of Women Voters Education Fund.

Michael Cole, Executive Director, Youth Citizenship Fund, Inc.

Steven Galpin, Manager, Community and Government Relations General Electric Company.

Donald G. Herzberg, Executive Director, Eagleton Institute of Politics, Rutgers University.

Benjamin S. Hite, Formerly Director of Elections, Los Angeles County.

Mrs. Delores C. Huerto, Vice President, United Farm Organization Committee, AFL–CIO.

Mrs. Barbara Jordan, Member, Texas Senate.

Mrs. Charlotte Kemble, Executive Director, Front Lash, Inc.

Dr. Penn Kimball, Graduate School of Journalism, Columbia University.

John Lewis, Executive Director, Voter Education Project, Inc.

John Perkins, Assistant Director, Committee on Political Education, AFL–CIO.

Dr. William J. Pierce, Professor of Law, School of Law, University of Michigan.

Matthew A. Reese, President, Matt Reese & Associates.

John Sayre, Director, Precinct Voting, Republican National Committee (Formerly Chief of the Federal Voting Assistance Task Force).

Richard Scammon, Director, Elections Research Center.

Governor William Scranton, President, National Municipal League.

Mrs. Althea Simmons, Director for Training Programs, NAACP.

Mrs. Albert Sims, Former President, League of Women Voters of Connecticut.

Dr. Richard Smolka, Editor, *Election News*, The American University, Institute of Election Administration.

Mrs. Julia Stuart, Member, National Municipal League Council, Former President, League of Women Voters of the U.S.

Miss Amalia M. Toro, Election Attorney, Office of the Secretary of State, Connecticut.

Richard F. Treadway, Director, U.S. Department of Commerce, Boston Business Services Field Office.

Gus Tyler, Director, Politics, Education & Training, International Ladies Garment Workers Union.

Mrs. Ann Wexler, Director of Voting Rights Activities, Common Cause.

PARTICIPANTS IN COMMUNITY SURVEY:

APPENDIX A

(City and State)

ALABAMA

Birmingham
Auburn
*Montgomery
Tuscaloosa
Mobile

ALASKA

Anchorage
Ketchikan-Gateway
Kodiak
North-Star Borough (Fairbank)

ARIZONA

*Gila River Indian Reservation
Phoenix
Tucson
Yuma

ARKANSAS

Pine Bluff
*Pulaski County (Little Rock)
Voter Education Project Texarkana, Texas

CALIFORNIA

Union City Alameda County
Berkeley
Sacramento
Eureka
Los Angeles
North San Mateo County
Los Gatos
Fresno
Redding
*San Diego
San Francisco
Tulare County

COLORADO

Arapahoe County
Boulder
Craig & Moffat County
Denver
Ft. Collins
Jefferson County
Durango

CONNECTICUT

Branford
Bridgeport Area
Greenwich
*New Haven
West Hartford
Wilton

DELAWARE

Laurel, Greater
Wilmington, Greater

FLORIDA

Clearwater Area
Dade County
Hillsborough County
Sarasota County
Tallahassee

GEORGIA

Atlanta-Fulton County
Augusta
Macon
Savannah

HAWAII

Honolulu
Hawaii County

IDAHO

*Boise
Idaho Falls
Lewiston
Pocatello

ILLINOIS

*Chicago
Highland Park
Hinsdale-Clarendon Hills-Oak Brook
Morgan County

Footnotes at end of article.

ILLINOIS—Continued
Peoria
Springfield
Edwardsville

INDIANA
Bloomington
Gary
Indianapolis
South Bend
Fort Wayne-Allen County
Lafayette, Greater
Porter County
Seymour

IOWA
Algona
Des Moines
Keokuk
Mt. Pleasant
Scott County (Davenport)
Sioux City
Waterloo-Cedar Falls

KANSAS
Emporia
Hays
Parsons
Shawnee-Mission
Wichita

KENTUCKY
Boone, Campbell, Kenton Counties
Lexington
Louisville and Jefferson County
Richmond

LOUISIANA
Baton Rouge
Jefferson Parish
New Orleans

MAINE
Bangor
* Lewiston-Auburn
Orono
Portland

MARYLAND
Baltimore City
Baltimore County
Dorchester County
Garrett County
Montgomery County
Prince Georges County

MASSACHUSETTS
Arlington
Boston
* Fall River
* Framingham
New Bedford
Northampton
Plymouth-Kingston
Southbridge-Sturbridge

MICHIGAN
Allen Park
Alpena County
Copper County: Houghton & Ontonag
Jackson County
Flint
Grand Traverse
Kalamazoo Area
* Mt. Pleasant

MINNESOTA
Austin
Roseville
Duluth
Hibbing
Minneapolis
Bloomington

MISSISSIPPI
Jackson
Oxford
Vicksburg-Warren County

MISSOURI
Kansas City
Cape Girardeau County
* Jefferson City-Cole County
Rolla-Phelps County
Springfield
St. Louis

MONTANA
Billings
Helena
Missoula
Ravalli County

NEBRASKA
Kearney
Lincoln
Omaha

NEVADA
Carson City
Reno

NEW HAMPSHIRE
Concord
Keene
Littleton
Petersborough

NEW JERSEY
Camden County
Cumberland County
Franklin Township
Ridgewood
Morristown Area
Newark
Cranford

NEW MEXICO
Albuquerque
Las Cruces
Santa Fe

NEW YORK
Buffalo
Canton & Potsdam
New Rochelle
New York City
Oyster Bay (L.I.)
Rochester (Monroe County)
Syracuse, Metro Area
Utica
New Platz

NORTH CAROLINA
Charlotte-Mecklenburg
Durham
Raleigh-Wake County
Tryon
Watauga County
Winston-Salem & Forsyth County
Eden-Rockingham County

NORTH DAKOTA
Fargo Area
Grand Forks

OHIO
Bowling Green
Cincinnati Area
Cleveland
Columbus, Metropolitan
Dayton Area, Greater
Kent

OKLAHOMA
Bartlesville
Chickasha
Stillwater
Tulsa

OREGON
Medford; Jackson County
Central Lane County
Deschutes County
East Washington County
Lake Oswego
Portland

PENNSYLVANIA
Clarion County
Erie County
Lancaster County
Pittsburgh Area
Radnor Township
*Scranton

RHODE ISLAND
*Barrington
North Providence

SOUTH CAROLINA
*Charleston
Clemson
Columbia Area
Greenville

SOUTH DAKOTA
Brookings City and County
Rapid City
Vermillion
Yankton County

TENNESSEE
Knoxville and Knox City
*Memphis-Shelby County
Murfreesboro
Nashville

TEXAS
Brazos County
Corpus Christi
Dallas
El Paso
Lubbock
San Antonio Area
Tarrant County
Houston

UTAH
Cedar City
Ogden County
Salt Lake City

VERMONT
Champlain Valley (Burlington)
Montpelier
Woodstock

VIRGINIA
Fairfax Area
Lynchburg
Norfolk-Virginia Beach
Richmond Area

WASHINGTON
*Port Angeles
Seattle
Spokane
Thurston County
Yakima

WEST VIRGINIA
Charleston Area
Huntington Area
Logan Area
Morgantown
Wood County
*Wheeling

WISCONSIN
Dane County
La Crosse
Milwaukee, Creater
Neenah-Menasha
Racine
Stevens Point
Superior
Wisconsin Rapids

WYOMING
Laramee County
Casper
Powell Area

WASHINGTON, D.C.

VIRGIN ISLANDS
St. Thomas

PARTICIPANTS IN THE STATE SURVEY (N=47):

APPENDIX B

Alabama
Alaska
Arizona
California
Colorado
Connecticut
Delaware
Florida
Georgia
Hawaii
Idaho*
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey*
New Mexico
New York
North Carolina
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming**

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*For purposes of this report, data from these communities are not included in the analysis.

**Data from these states were not available for this analysis.

INTERVIEWS COMPLETED: APPENDIX C

	No. of Interviews
Government officials:	
Chief elections officer of city	86
Chief elections officer of county	158
Mayor	193
City manager	111
President of city council	99
Chairman of county commissioners	175
Party Officials:	
Democratic Party chairman	203
Republican Party chairman	200
Third party chairman	41
Representatives of citizen groups:	
League of Women Voters	219
NAACP	118
Labor Council	160
Youth Group	61
Chamber of Commerce	203
American Legion	144
Non-black minority group	63
Total	2,234

APPENDIX D

Number of registration observations:	
Observations at permanent places	299
Observations at temporary places	94
Observations at mobile units	9
Observations at unclassified places	56
Total	458

APPENDIX E

Polling places observed:	
Ethnic white—under $5,000	37
Ethnic white—$5,000 to $10,000	59
Ethnic white—over $10,000	47
Nonethnic white—under $5,000	57
Nonethnic white—$5,000 to $10,000	67
Nonethnic white—over $10,000	70
Spanish speaking—under $5,000	22
Spanish speaking—$5,000 to $10,000	15
Spanish speaking—over $10,000	3
Black—under $5,000	51
Black—$5,000 to $10,000	43
Black—over $10,000	13
Total	484

GENERAL REVENUE SHARING

Mr. BEALL. Mr. President, at the request of the distinguished Senator from Florida (Mr. GURNEY), I ask unanimous consent that a statement by him on the subject of general revenue sharing be printed in the RECORD.

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

STATEMENT BY SENATOR GURNEY

The General Revenue Sharing proposal which has been given tentative approval by the House Ways and Means Committee contains provisions which would force many states to adopt personal income taxes or greatly increase existing ones. One portion of the proposed formula for distribution of funds to the state governments would be a factor based on a state's personal income tax collections. Despite the provision for a minimum payment to states with little or no personal income taxes, the effect and apparent intent of the proposal would be to force every state to adopt heavy personal income taxes in order to participate equitably in General Revenue Sharing funds.

I must oppose any provision which would force personal income taxes on states, both as Senator from Florida and on the grounds of basic political philosophy.

The State of Florida has a strong Constitutional prohibition against personal income taxes. This prohibition has a long history of almost unanimous support from the citizens of Florida, who have made it clear time and again that they choose to finance their government by means other than a state personal income tax.

The Constitution of the State of Tennessee also prohibits personal income taxes. Other states which have no personal income taxes are Nevada, Texas, South Dakota, Washington and Wyoming. Numerous other states utilize personal income taxes to generate only a minor portion of their revenues. It is a well established principle in this country that the people of each state have the right to decide for themselves what state taxes they will impose on themselves, both in nature and amount. These ideas are intrinsic in the famous expression, "no taxation without representation." It would indeed be an ironic situation if General Revenue Sharing—the very proposal originally designed to give individual states greater local control of tax monies—should become the means of the Federal government arbitrarily forcing an unwanted personal income tax on many state governments, and forcing increases in income taxes on other state governments.

I strongly support General and Special Revenue Sharing, and have co-sponsored every Administration bill introduced in these areas. I believe one of the primary arguments for Revenue Sharing is that it would strengthen local and state governments by shifting the "power of the purse" from the Federal bureaucracy to governments closer to the people. Using the power of Federal income tax dollars, collected from the citizens of every state, to force those same citizens to adopt state income taxes against their will certainly does not accomplish this goal.

Accordingly, I feel that I must make it clear at this time that I will find it exceedingly difficult to support any Revenue Sharing proposal which works toward forcing the adoption or significant increase in state personal income taxes. I have today written to my Senate Colleagues who represent states which might be particularly discriminated against by such a proposal, asking them to join me in opposition to a state personal income tax factor in any formula for Revenue Sharing.

I have also called upon the Florida Congressional Delegation to initiate similar action in the House of Representatives.

It is my sincere hope that the General Revenue Sharing proposals now under active consideration will be modified to allow those of us who oppose state personal income taxes, and support the right of the states to fiscal self-determination, to give our full support to a fair and equitable General Revenue Sharing bill.

FILING OF A REPORT ON H.R. 9212, WITH AMENDMENTS, FROM THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. RANDOLPH. Mr. President, the Committee on Labor and Public Welfare recently concluded its efforts to bring about urgently needed improvements to title IV of the Federal Coal Mine Health and Safety Act of 1969, relating to black lung benefits. On yesterday, I was privileged to file the committee's report on this measure.

The House of Representatives passed H.R. 9212 on November 10, 1971. The Subcommittee on Labor of the Committee on Labor and Public Welfare began hearings December 1 last year on that bill and two other measures. I introduced S. 2675 with the cosponsorship of my valued and able colleagues Senator ROBERT C. BYRD, Senator VANCE HARTKE, Senator RICHARD SCHWEIKER, and Senator HARRISON WILLIAMS. I also call attention to S. 2289, sponsored by Senator HARTKE and myself.

At the request of the distinguished chairman of the Labor Subcommittee and of the full committee, I presided over our hearings. A total of 6 days of extensive testimony was taken, including 2 days of hearings in the field—at Beckley, W. Va., and at Scranton. Pa.

The Federal Coal Mine Health and Safety Act of 1969 recognized, for the first time in Federal legislation, the inadequacy of compensation to miners totally disabled by coal workers' pneumoconiosis, commonly called, "black lung." As the Senate report on the original act stated, this irreversible disease was "believed to have afflicted 100,000 of the Nation's active and retired miners."

President Nixon, in his March 1969 message which called for a new coal mine health and safety act, said:

Death in the mines can be as sudden as an explosion or a collapse of a roof and ribs, or its comes insidiously from pneumoconiosis, or black lung disease.

At the time the Coal Mine Health and Safety Act was signed into law, only 2½ years ago, it was generally thought that coal miners' occupational breathing disabilities were encompassed by the term "pneumoconiosis." Members of Congress, the knowledgeable press, and many physicians believed this to be the case. It was generally believed that title IV of the act, relating to black lung benefits, would be a satisfactory means of compensating miners who were incapacitated by respirable diseases, as well as the surviving widows and children of miners who had died from the dread black lung.

Since the passage of that basic, necessary, desirable act however, experience has taught us that all is not as we expected. As of March 3, 1972, 356,857 claims had been filed since the effective date of the act, December 30, 1969. According to the Social Security Administration 91,784 disabled miners and 74,809 widows have received benefits, for a total of 166,593 claims, while 169,999 claims have been denied.

Not only have the number of claims far exceeded those earlier expectations of Congress, indicating a more widespread and more serious problem than then anticipated, but also the rate of denials—more than 50 percent nationwide, and as high as 70 percent in some States—suggests strongly that the solution has not been nearly as complete as Congress believed and expected.

This is the reason for the legislation which has been reported by the Committee on Labor and Public Welfare. This measure is well-reasoned and carefully deliberated. It will, if enacted into law, provide relief for many thousands of disabled miners, their widows and their children, who urgently need our assistance.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, how much time remains of the period for

the transaction of routine morning business?

The ACTING PRESIDENT pro tempore. There are 12 minutes remaining.

Mr. ROBERT C. BYRD. I thank the Chair. Mr. President, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

WAR POWERS ACT

The ACTING PRESIDENT pro tempore (Mr. STEVENSON). Under the previous order, the Chair lays before the Senate the unfinished business, S. 2956, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the time between now and the hour of 2 o'clock will be equally divided. Who yields time?

Mr. SPONG. Mr. President, will the Chair advise the Senator from North Carolina, the Senator from New York (Mr. JAVITS), and myself how much time each side will have?

The ACTING PRESIDENT pro tempore. Thirty-six minutes.

Mr. SPONG. I thank the Chair.

Mr. ERVIN. Mr. President, I yield myself such amount of the time in support of the motion to commit the bill to the Committee on the Judiciary as I may use.

Ever since the Prophet Isaiah predicted that the day would come when swords would be beaten into plowshares and spears into pruning hooks, and the nations would learn war no more, there has been an eager yearning for the arrival of that day. I do not know of anything which history shows prompts Americans in general and American Congresses in particular more to abdicate the exercise of their intellectual functions than this very understandable hunger for peace.

The record of the American Government in searching for peace and arrangements which profess methods of attaining that goal during my generation has not been very creditable. After the holocaust of the First World War, this hunger for peace, which has manifested itself to an inordinate degree after every struggle in which America has been involved, caused the summoning of the Washington conference, which, as I recall, met in 1922.

At that time, the United States had the greatest Navy which had ever sailed the seven seas, and it was thought by those in high places in Washington that if we could get an arms limitation agreement applicable to the building of fighting ships, the problem of peace would be solved and that if it should be necessary to the obtaining of such an agreement, the United States should be willing to take a fountain pen and sink the greatest Navy which up to that time had ever sailed the seven seas.

So we had the Washington conference. Those who ruled in America took a fountain pen and sank the greatest Navy which up to that time had ever sailed the seven seas, in return for a few empty promises, particularly in return for promises on the part of the Japanese Empire that it would limit its construction of naval ships. These empty promises were soon broken. No historian who is willing to face the facts will deny that the Washington conference of 1922, which sank a major portion the American Navy for all practical intents and purposes, was one of the contributing causes to the ultimate Japanese invasion of Manchuria and the invasion of China and the sowing of Asiatic seeds for the Second World War.

Then came along another period in which we sang songs to lull ourselves into believing that peace, which had eluded mankind through all the generations, was now at hand. We sang songs such as, "I didn't raise my darling boy to be a soldier. I brought him up to be my peace and joy. Who dares to place a musket on his shoulder to kill some other mother's darling boy?"

We passed a constitutional amendment the other day which, if ratified, will cause the fathers and mothers of the future to sing, "I raised my darling daughter to be a soldier," which is another illustration of how our hysteria for peace and for another concept embodied in the elusive word "equality" obstructs our mental vision.

So, as the result of singing such songs as "I Did Not Raise My Darling Boy to be a Soldier," the U.S. Congress, at the instance of the President of the United States, took steps in the 1930's, when Hitler became dictator of Germany and Mussolini became dictator of Italy, and when the war clouds were looming upon the continent of Europe, to insulate the United States from that prospective war by passing the Neutrality Act of 1937.

The motives which inspired the passing of the Neutrality Act were of the purest nature, just as are the motives of the sponsors of the bill now pending before the Senate. Congress wanted to keep us out of war. Congress wanted to make peace secure.

So the U.S. Congress declared in the Neutraliity Act that the United States in the future would make no distinction between aggressor nations and nonaggressor nations and would not support nations fighting for their liberty against the prospective tyranny of Hitler and the prospective tyranny of Mussolini. Not only did Congress declare that in the Neutrality Act, but also, it said that we would not even furnish munitions or weapons to nations which might strive in the future to prevent the lights of liberty of their people from being extinguished by such dictators as Hitler and Mussolini.

We embargoed our ships from the seas to transport munitions and weapons to warring other nations and agreed to what was known as the cash-and-carry plan, under which we would sell munitions and weapons to other nations only if their ships came for them and they paid us cash on the barrelhead for those weapons and those munitions.

The Neutrality Act further provided that foreign nations engaged in wars could not get any credits or sell any of their securities in this Nation.

The motive behind the passage of the Neutrality Act was laudable. It was to keep the United States out of war. It was to bring about peace for the United States, if nowhere else on earth. But the Neutrality Act was the thing for which Hitler had been thirsting and the thing for which Mussolini had been hungering. All they were waiting for was a declaration by the United States that it was going to isolate itself on the American continent and let liberty be extinguished elsewhere on the face of the earth by ruthless dictators. The Neutrality Act gave them that assurance, and so they plunged the world into the Second World War.

No historian who has the least respect for the truth will ever fail to agree that the passage of the Neutrality Act by the American Congress, at the instance of an American President, was one of the great causes which unleased the dogs of war in Europe and led to the Second World War, in which millions and millions and millions of helpless men and women and children suffered extermination in virtually all areas of the earth.

But there seems to be no way in which one can stop the delusion that Congress in some way, by passing a law, can put an end to war, so far as the United States is concerned. The war clouds continued to gather, and it became necessary for the United States to have a draft law. Yet, on the very eve of the Second World War, when the renewal of the draft law was absolutely essential for the security of America, the House of Representatives was able to enact an absolutely necessary law by a majority of only one vote.

On the even of American involvement in the Second World War, a well-intentioned Representative from Indiana, L. L. Ludlow, proposed a constitutional amendment which provides that before the United States could go to war against any nation other than a non-Western Hemisphere nation, attacking a Western Hemisphere nation, there had to be a national referendum to authorize such war. Virtually every Member of the House of Representatives, trying to manifest his great desire for peace, pledged himself to vote for the Ludlow amendment. It took all the skill, all the ingenuity, and all the power of Franklin D. Roosevelt to prevent a vote in the House on that amendment, and on the eve of the Second World War, when it was apparent to every American who was willing to face reality that we were on the verge of another worldwide holocaust. It was about that time that Congress wrote

into the draft law a provision that no drafted man could be sent to fight outside this country. It was thought that this would keep us at peace in a war-torn world where ruthless dictators were seeking to extinguish the light of liberty of freedom loving nations.

After that terrible conflict was over, I had the honor to sit for a short time in the House of Representatives. After V–J Day and the enemy had surrendered the cry arose "Bring the boys home. Bring the boys home."

In 1946, the House of Representatives passed a draft law—at a time when we needed to renew the draft, because of the precarious conditions created in Europe by Russia, then headed by Stalin—and I saw the remarkable spectacle of the House of Representatives passing a draft law under which no one could be drafted. Only three Members of the House of Representatives dared to stand up on the floor of the House and point out to the American people the absurd position of the House in that respect. They were former Senator James W. Wadsworth, then a Representative from New York, Ewing Thomason, of Texas, and myself. I had to borrow 2½ minutes from the Democrats and 2 minutes from the Republicans to make a speech in opposition to the draftless draft bill.

I recall that the draft bill provided that no man could be drafted unless he was 20 years of age or more. We had been engaged in the Second World War for some years when everyone from the age of 18 up had already been drafted. So we solemnly passed a draft law under which no one could be drafted.

So, Mr. President, I do not have the same confidence in the capacity of Members of Congress to write a bill, even in the name of peace, which will improve upon the Constitution of the United States.

This bill is, in effect, an attempt to amend the Constitution of the United States. That is not only my opinion but it is the opinion of Kenneth Crawford who published an article in today's Washington Post entitled "'Hot-Stove' Legislative—Bill Would Curb Warmaking Power of Past Presidents."

He says, at the conclusion of his article:

Both advocates and foes of the Javits bill are convinced that it is the most important legislation Congress will consider at this session. Advocates believe it can help heal the Vietnam sickness that has infected American society. Foes are equally convinced that it would undermine this country's diplomatic credibility. Yet Senate debate on the issue has attracted a minimum of attention from media and public.

Mr. President, I ask unanimous consent that the entire article be printed in the RECORD.

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

"HOT-STOVE" LEGISLATION—BILL WOULD CURB WARMAKING POWER OF PAST PRESIDENTS

(By Kenneth Crawford)

Congress is now working on a law to prevent Presidents Kennedy and Johnson from involving the United States in the defense of South Vietnam. Since the effort comes ten years or so late, the law's sponsors explain that their object is to forestall "another Vietnam."

The chance that any President would so ignore tragic experience as to undertake again anything remotely like the Vietnam intervention is about the same as the chance that a child who has burned his hand on a hot stove would do the same thing a second time.

Yet there is always someone, after a burning, who feels that there ought to be a law against hot stoves. This time it is Sen. Jacob Javits of New York, author of the so-called war powers bill, now under debate in the Senate and scheduled for a vote today. His measure seems to have majority support in the Senate, though perhaps not in the House. In any case, a presidential veto is virtually certain if it gets as far as the White House.

This is not the first time hot-stove legislation has been handled by Congress. After the first world war and a Senate investigation of "merchants of death", the House and Senate wrote a set of neutrality laws to prevent President Wilson, then long dead, from involving the U.S. in a European war.

The effect of these laws was to hamstring President Roosevelt in his attempt to help contain Adolph Hitler before the Nazis could overrun all of Europe and precipitate another world war. Obviously, Hitler posed a different and more serious threat to the world than Kaiser Wilhelm had. Fortunately, Roosevelt, before it was too late, found ways through, over and around the neutrality laws.

What the Javits bill would do is limit a President's authority to employ armed forces abroad. In emergencies he could order the Army, Navy, Air Force or Marine Corps, or all four, into action overseas. But he could not keep them in action for more than 30 days without specific congressional sanction. Pending amendments would not substantially change the purpose and thrust of the legislation.

Opponents argue that the war powers bill, like the neutrality laws, however well intentioned, would only straightjacket future administrations by undertaking to anticipate unpredictable international developments. They even doubt the constitutionality of the proposed redistribution or war-making powers. Why, they ask, change a system that has served the nation well for almost 200 years. Why abandon flexibility in favor of rigidity at a time when world affairs are as chaotic as they are now?

Proponents counter with the argument that Vietnam has demonstrated the necessity of "redressing" the balance of war powers between Congress and the President. The Constitution gives Congress the exclusive right to declare war but the present war has never been declared. It has been fought by executive decree. What this overlooks is that this country has engaged in armed conflict more than 200 times, going all the way back to George Washington, even though Congress has declared war only five times. A balance that never has existed can't be redressed.

Not all members of the Senate have made up their minds about war powers. Some of them consider the Javits bill innocuous on the assumption that Congress would never in any conceivable circumstance pull the rug from under a President once U.S. military forces were committed. They point out that Congress already has ample authority to stop an American shooting war. Its control of the purse strings could have been used to stop American operations in Vietnam at any point.

When Congress adopted the Bay of Tonkin resolution in 1964 with only two dissenting votes in the Senate and none in the House it was approving President Johnson's escalation as surely as it could have with the Javits bill in effect. Within a year, moreover, Johnson asked for an additional $700 million for Vietnam operations in a message specifically inviting Congress to withhold the funds if it disapproved of his war policy. Again the approving vote was almost unanimous.

Several senators are skeptical of the notion that Congress would be more restrained than a President in the face of provocation. It never has been in the past, not even in the case of Vietnam. Some of the skeptics will nevertheless vote for the Javits bill. Such a vote for them will be a gesture denoting second thoughts about Vietnam. A post facto vote against an unpopular war can't do them any harm.

Both advocates and foes of the Javits bill are convinced that it is the most important legislation Congress will consider at this session. Advocates believe it can help heal the Vietnam sickness that has infected American society. Foes are equally convinced that it would undermine this country's diplomatic credibility. Yet Senate debate on the issue has attracted a minimum of attention from media and public.

Mr. ERVIN. Mr. President, the New York Times for Thursday, April 6, 1972, published an article entitled "Who's Got the Power?" written by Eugene V. Rostow, which points out the futility of this law as an effort to prevent future Vietnams.

I ask unanimous consent to have this article printed in the RECORD.

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

WHO'S GOT THE POWER?

(By Eugene V. Rostow)

NEW HAVEN, CONN.—The Javits war-powers bill confirms Oliver Wendell Holmes' quip that "great cases like hard cases make bad law" more vividly than any proposal since that of the Bricker Amendment. Responding to Vietnam, the Javits bill would radically change the constitutional relationship between Congress and the Presidency in making foreign policy. Ignoring their own repeated votes for Vietnam, the sponsors contend that the cause of the Vietnam tragedy is a modern usurpation of the war power by the President. As Senator Cooper points out, this claim rewrites history.

The Javits bill would annul the military provisions of all outstanding treaties and Congressional resolutions authorizing the use of force by the President, including NATO and the Middle East Resolution, as well as all Presidential commitments.

The bill is full of paradox. While it purports to assure the nation that a pacific Congress will keep jingoistic Presidents from engaging in limited wars like Korea or Vietnam, the bill would not have prevented Vietnam, which was authorized by Congress through the very procedures proposed in the bill as constitutionally proper. In Korea, the Javits bill would have required President Truman to obtain a Congressional resolution within thirty days—which would surely have been voted at the time, although Truman and the Congressional leaders thought it unwise to do so under the circumstances.

But if the Javits bill had been on the books, it would have prevented President Kennedy from handling the Cuban missile crisis as he did. There was no claim on that occasion that we were acting to forestall an imminent threat of armed attack. Under the Javits bill, Mr. Johnson could not have moved the fleet to keep the Soviet Union out of the Six-Day War in 1967. Mr. Nixon could not have used the same method to avert general war in the Middle East in 1970, or to confine the India-Pakistan War of 1972. Nor could earlier Presidents have used force

or the threat of force to induce France to leave Mexico in 1865–66, to avoid war with Britain and Spain over Florida, or to send Commodore Perry to Japan.

The Javits bill would deprive the Presidency of powers which were used by George Washington and by nearly every President since—the powers of credible deterrent diplomacy the nation needs most if there is to be any hope of avoiding nuclear war.

With admirable candor, Senator Javits has said that the purpose of his bill is to reduce the elective Presidency, which the Founding Fathers were at pains to establish as an equal branch of the tripartite government, to the humble posture of George Washington during the Revolution, when he functioned as Commander in Chief, appointed by the Congress, and its creature in every respect.

Congress has made no bid for supremacy so bold, and so foreign to the Constitution, since the impeachment of Andrew Johnson. The legal theory of the bill would permit a plenipotentiary Congress to dominate the Presidency (and the courts) more completely than the House of Commons governs in Great Britain.

I do not favor increased Presidential power. But I do defend the constitutional pattern of enforced cooperation between Congress and President we have inherited. Its corollary, however, is democratic responsibility. It is unseemly for astute and worldly men who spoke and voted for SEATO, the Tonkin Gulf Resolution, and other legislative steps into the Vietnam War now to claim that they were brainwashed, and therefore that we—and the world—should treat public acts of the United States as if they never happened. These men were not brainwashed. They knew everything the executive knew. But even if they had been brainwashed, their votes stand. The Fourteenth Amendment is not a nullity because it was ratified by many legislatures which voted under circumstances of fraud, or the coercion of military occupation.

Korea and Vietnam did not come about because the Presidency arrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. The country is in a foreign policy crisis, however—not a constitutional crisis, but an intellectual and emotional crisis caused by growing tension between what we do and what we think. The ideas which guided our response to Korea and Vietnam have suddenly lost their power to command. Those who now believe Korea and Vietnam were errors should recall the prudent wisdom of an earlier time, when the powers of the Supreme Court were left untouched even after the catastrophic error of Dred Scott. We have never needed the strong Presidency we have developed in nearly 200 years of intense experience more than we need it today. The Javits bill would turn the clock back to the Articles of Confederation, and emasculate the independent Presidency it was one of the chief aims of the men of Annapolis and Philadelphia to create.

Mr. ERVIN. Mr. President, I also noticed in the Evening Star a few days ago, a letter to the editor entitled "War Powers Bill" written by Walter Sterling Surrey, who points out the folly of Congress passing this bill in its present form.

I ask unanimous consent to have this article printed in the RECORD.

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

WAR POWERS BILL

SIR. As one who for many years has practiced and taught in the field of international law, I can only view the Javits War Powers Bill as raising most serious constitutional law issues and as substituting for presidential flexibility in the conduct of our foreign policy an inflexible limitation on the president's power and capacities to act as the principal spokesman for the United States in the field of foreign relations and as the commander-in-chief of the armed forces of the United States.

One can identify, as a citizen, with the frustrations of many congressmen and senators on the position in which we find ourselves in Vietnam; one can, as a citizen, identify with the frustrations of a congressman or senator who today seeks assurances of better, more complete and prompter communications on significant foreign policy matters by the executive to the responsible committees of Congress; one can share with the congressmen and senators—and a large section of the American public—the concerns with the changes in the fabric of our society which Vietnam has caused, and abhor the unknowns that could be brought about in our society and on our form of government by another Vietnam.

However, these frustrations and deep concerns cannot serve as justifications by Congress to seek through legislation, rather than by constitutional amendment, a drastic rearrangement of the constitutional relationships in the conduct of foreign policy between the Congress and the president, arrangements which will seriously affect our capabilities and flexibilities in our conduct of international relations.

Others have documented the specifics that may be made against the bill—its annulment of the Middle East Resolution and of our commitments to NATO, its limitations on the powers of the president as commander-in-chief, which were used so effectively by President Eisenhower in the Lebanese intervention, by President Kennedy in the Cuban missile crisis, by constant presidential actions with respect to Berlin, by President Johnson in the use of the fleet to deter Soviet intervention in the six-day war in 1967, by President Nixon's comparable action in the same Middle East area for the same purpose—to identify only a sampling.

However, at this stage of the legislative history of the Javits bill, it is important that the Congress focus on its course of conduct in order that it may provide full consideration to the terms and consequences of the proposed legislation. The Senate is scheduled to act on the legislation this week.

One can only hope that the leadership of both parties will recognize the full consequences of what the legislation seeks to do and at the very least will want to assure the fullest consideration in both houses of the constitutional implications of the legislation. This could be accomplished in part by the Senate referring the bill to the Senate Judiciary Committee with a 60-day time limit to examine and report to the full Senate the committee's views on the constitutional questions raised by the bill.

In addition, it is important that the House recognize that the Javits bill is very different from the Zablocki bill passed in August 1970. The Zablocki bill provided that wherever feasible the President should seek appropriate consideration by the Congress before involving the United States in armed conflict, and it required the president, in the event of his use of armed forces, to report to the Congress fully on such use.

It is important that the House recognize the grave differences between the two bills and that whether on the floor of the House, in considering the Javits bill, or in a House-Senate conference committee, in the event the Javits bill is handled as an amendment to the Zablocki bill, that these difficulties be given serious consideration by the House members or the House conferees. It is not enough to say, as has been stated on the Senate floor, that we are dealing with a political and not a legal issue. We are dealing in effect with an amendment to the Constitution and with a radical change in the historical relationship between the president and Congress in relation to foreign policy which will have widespread effects on the whole pattern of the conduct of our international relations.

Mr. ERVIN. Mr. President, in my judgment, the Constitution of the United States cannot be improved on to define the war powers of Congress and the war powers of the President.

Article I, section 8, clause 11, provides that Congress shall have the power to declare war.

Mr. President, I wish the time at my disposal were sufficient to allow me to elaborate further on this matter. But that clause is a recognition of the fact that the power of the United States to embark upon an offensive war, as contradistinguished from a defensive war, is a power which must be exercised or should be exercised by Congress.

Mr. President, there are two kinds of wars. There are offensive wars and there are defensive wars.

The Constitution of the United States provides that not only is it the constitutional power of the President, but it is also the constitutional duty of the President to repel invasions of our Nation without the consent of Congress.

The recognition that defensive wars must be fought without the consent of Congress is set forth in two different sections of the Constitution in two different articles.

Article IV, section 4, provides that the United States shall protect each of them—that is, each of the States of the Union—against invasion.

Now, the executive power of the United States is vested in the President. The President is the one who is to determine when it is necessary for the United States to protect a State against invasion—that is, when it is necessary for the United States to fight a defensive war. But, the Constitution does not stop with that. It also provides something about the power of the States to wage war.

This is a provision in the Constitution which reinforces my assertion that the Constitution recognizes the distinction between offensive wars, which Congress must declare or should declare, and defensive wars which it is the duty of the President and, in some instances, the Governor of a State, to fight without consultation with Congress.

Article I, section 10, clause 35 among other things states that no State shall, without the consent of Congress "engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

Thus, Mr. President, this provision in the Constitution recognizes that even the Governor of a State has the constitutional power and the constitutional duty to fight to protect his State against invasion where the circumstances will not admit of delay.

Mr. President, these two provisions are absolutely inconsistent with the idea that Congress has a constitutional voice in determining when a defensive war should be fought, because that constitutional power is reposed in the executive branch of the Government, that constitutional duty is imposed upon the executive branch of the Government.

Now there is another provision in the Constitution which is relevant here, and that is in article II, section 2, as follows:

The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States; . . .

The men who wrote the Constitution were wise men. And I say nothing derogatory to my colleagues in the Senate or to my colleagues in the House of Representatives when I assert that the Founding Fathers had more wisdom concerning how to frame the organic law in this field than is displayed by even the learned gentlemen who have presented the pending bill to the Senate. I respect their devotion to the country and I respect their sincerity. However, I do say that I would rather have this matter considered by another committee. It seems to me it is sort of arrogant for the Senate Foreign Relations Committee to say that a bill that they present cannot be improved upon, especially after they have attempted to improve upon it after it had reached the Senate floor.

What does the bill do? It says in effect that the President can still fight without the consent of the Congress and defend the country against invasion for 30 days. It says that the President can still be the Commander in Chief of the Armed Forces of the Nation for 30 days. But it declares that at the end of 30 days, the Commander in Chief of the Armed Forces of the United States shall be the President, 100 U.S. Senators, and 435 Representatives. That is not what the bill says in its linguistic terms, but that is what it says in practical effect.

The effort of one bill to place a 30-day limit or any other limit of an appreciable time upon one President's power to use the Armed Forces to resist the invasion of one country is wholly unrealistic. There is no way in which a President can disengage forces defending the country against invasion after one expiration of a specified number of days without surrendering or jeopardizing their tactical or strategic position. An act of Congress cannot abolish reality.

It says that after 30 days of exercising his undoubted constitutional power and after 30 days of performing his undoubted constitutional duty to protect this country against invasion, the President of the United States must come to these other 535 Commanders in Chief of the Armed Forces and get permission from them to continue to exercise his constitutional power and to perform his constitutional duty to defend this Nation against armed aggression from without.

Mr. President, there never has been an army yet that ever won a skirmish when it had 536 or any appreciable number of Commanders in Chief. The men who drew the Constitution knew that they could have but one head of the Armed Forces. And they made the President of the United States that head of the Armed Forces. And they have wholly excluded Senators and Congressmen from then assuming directly or indirectly the functions of Commanders in Chief of the American Army.

Imagine what would happen under these circumstances at the end of 30 days. Some of the Commanders in Chief would order the Army to charge. Some of the Commanders in Chief would order the Army to retreat. Some of the Commanders in Chief would order the Army to dig in. What went on in the Tower of Babel would have been intelligent and intelligible as compared with the position that America would be in at the end of the 30 days.

Let me make it clear that if Congress opposes the action of the President in defending the country against invasion at the hands of a foreign foe, it has the constitutional power to compel him to desist from his constitutional duty to resist invasion by exercising its constitutional power of the purse to deny him the necessary appropriations. But Congress has no power to do what this bill undertakes to do—that is to usurp and exercise, in part or in whole, the power of the President to perform his constitutional duty to defend the Nation against invasion.

This bill has some good provisions. I think that Congress might well undertake to regulate the use of the Armed Forces by the President to protect American investors in some banana republic. And Congress might well regulate the conditions under which the President is to use the Armed Forces to protect the evacuation of Americans who have elected to sojourn in foreign lands. This might be wise.

The pending bill does not undertake regulations of that kind. It undertakes to put in a single category the most insignificant use of the Armed Forces and the use of the Armed Forces under circumstances where their use might be necessary to the very survival of this Nation and to subject these diverse uses to exactly the same limitations and the same congressional authority. In other words, there can be no doubt, as many learned men on this subject have pointed out, that this is an effort on the part of the Congress to amend the Constitution and to deprive the President of his power and his duty after 30 days to fight a war and to defend the United States against foreign aggression.

I hate war. But I am compelled to agree with the late Elmer Davis, who said atomic war is bad enough; biological warfare would be worse; but there is one thing worse than either, and that is subjection to an alien oppressor.

To forestall that calamity, the Founding Fathers made it the constitutional duty of one President to defend this Nation against invasion without having to cope in emergencies imperiling our national existence with the diverging voices of 100 Senators and 435 Representatives.

I think some of the provisions of the bill are wise, as I have said. For that reason, I advocate the bill being sent to the Judiciary Committee which primarily has jurisdiction of matters involving the Constitution of the United States and letting that committee study it for a limited period of time.

I cannot see why any person can reasonably object to such referral because the bill can be called back to the floor at any time by a majority vote after a limited period of time.

Mr. President, I would like to inquire as to the time remaining to those who favor the motion to commit.

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. ERVIN. I am sorry that I used so much time. This is a matter of great importance. I would like to yield to the Senator from Arizona, after the Senator from Virginia has spoken, the remainder of the time in favor of the motion.

Mr. President, I yield the floor.

Mr. SPONG. Mr. President, I yield 7 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator from Virginia.

My position on this matter is well known. I am deeply concerned with the subject matter. I am rather close to it. I have been here a number of years, during two wars. I am not running from any responsibility we have. However, this is not a bill to outlaw war. It is not a bill to stop wars, and I am sure that it will not.

This is merely a measure to try to bring back into focus the responsibilities of Congress. I think it is something that is very much on the minds of the people. In fact, I know that it is.

I think that by and large that awesome responsibility on anyone's mind, regardless of who it is or what position he has, is too much to ask. It is too much to ask that he carry the entire load of saying whether this Nation, with all of its manpower and all of its resources, should be committed to war.

I have to explain that I am not for disarmament as such. That is a dangerous thought. I stand positively for all reasonable preparedness of the very highest quality—not merely quantity but the highest quality—of both manpower and weaponry of the best type, and plenty of it.

I would like to say that I favor some arms limitation if it can be done within reason and with safeguards.

But I feel that there is a direct responsibility here, in view of what has happened since World War II, for Congress to establish something on the lawbooks that shows clearly its responsibility.

I would not favor one iota a reduction in the power and responsibilities of the President of the United States. I have argued that many times here in connection with the war that is going on. I would not be a party to try to affect that war now with this bill. I would not support any bill that did not especially except this war because we are already in it and the course of that war is set.

But I believe that the time has come when, in view of all that has happened since World War II, Congress has a direct responsibility to express its position about what role, if any, it has in committing this Nation to war. There is no doubt about what the Constitution says about it. It says that Congress shall have the power to declare war, in just those few words.

With all deference I do not think we have been living up to that responsibil-

ity. I am as guilty as any man here; I place myself No. 1. The fact that I have been here gives me a chance to know something direct about how these things have happened. We go in 1 inch at a time, 1 foot at a time, and I have seen clearly where a President acting alone can get so far in he cannot get out; there is no room for him to turn as he sees his responsibility. I am just old fashioned enough to believe that Congress has this responsibility. I think it got swept out with the trash following World War II when we were all overwhelmed, more or less, by nuclear weapons. Atomic bombs had been dropped. A great number of mutual defense agreements had been made. But even then we always had a provision in the treaties which stated that before this Nation was committed it would require the operation of constitutional processes.

Time after time in the early 1950's the question was asked, What does that mean? Time after time, as I cited the other day, and this is from the man handling the bill, it was said that means a declaration of war. I asked that question myself. Declaration of war by whom? They said by Congress. No mistake about that in all these mutual defense treaties and agreements.

If I felt we were turning our backs on any of our allies by this bill I would not favor that because although I might want some of those agreements changed by mutual negotiations, but I do not favor turning my back on one, not one.

I have just related that all of those agreements except one provide "by constitutional processes." We want to remember our allies and their people, and we must remember our own people, too.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPONG. Mr. President, I yield the Senator 1 additional minute.

Mr. STENNIS. I thank the Senator.

Mr. President, I have had my say. I think these gentlemen proposing the bill have done a marvelous job in getting it together and presenting it. I believe under the facts existing now this bill is the best that Congress can do and it is the best the Senate can do.

I speak with all deference to my friends for whom I have the greatest affection on this other committee, but we have been through all the processes here. The matter is still open to amendment and I do not see how we can reconcile ourselves to the responsibility to our people by doing nothing in this field. I do not think we can meet that responsibility unless we get some legislation and this bill is in good form.

If the bill passes here it will go to a conference with conferees from the House. They do not favor strong language as we have here. We know one of the great things about our system is that by means of a conference there is another forum where all points of view can be aired. But I believe we will regret the day, regardless of who is President—and I back the President to the limit—but regardless of who is President, the next President, we will regret the day if we fail to place something on the statute books. I do not believe we have any choice. I hope we meet our responsibility within a reasonable time on this matter. If the bill is referred to the other committee and is there for 6 weeks and it comes back in the middle of the SALT talks, and everything else, we will never get as good a chance as we have now to have sound action on this matter.

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

Mr. SPONG. I yield 3 minutes to the Senator from Montana.

Mr. MANSFIELD. I thank the Senator for yielding.

Mr. President, I commend the distinguished Senator from Mississippi, who has been a stalwart in supporting this legislation which, to repeat, seeks to take away nothing from the President, nothing at all which is constitutionally his, but gives to the representatives of the people of the several States the opportunity to be heard and to be considered in matters of great import such as this tragic war in which we are now engaged in Vietnam, although it is not included in the present legislation; we are looking to the future. But what we want to do is to try and correct by legislation some of the mistakes which have occurred in the past so that they will not occur again.

This is a matter of great import, it is a matter of accommodation between the President and Congress. It is a matter of partnership under the Constitution.

It appears to me that what we ought to do is stand up for the Senate because there are too many Presidents' men, people who have been close to Presidents and because they have been, anything that any President wants done should be done, and anything which the Senate or Congress attempts to correct is abhorrent to their thinking. Very few of these people were ever elected to public office; they do not have to go home and face their people; all they have to do is follow orders and most of them are just yes men to Presidents, anyway. But we have a responsibility; we have an institution we should fight to uphold. We should fight to uphold the integrity of the Senate at all times and we should not bow down to whoever happens to be President of the United States, but we should work in accord and partnership with him. We know he has grave responsibilities. The Constitution spells them out. But the Constitution also spells out our responsibilities and we have to answer to our people if we do good or if we do ill.

I am delighted that this issue, which is of such overriding constitutional importance, is before the Senate at this time and I hope that the Senate will not refer this to the Committee on the Judiciary come the hour of 2 o'clock because if it is referred, even with a time limitation, it will be only a stalling operation.

As the Senator from Mississippi has pointed out, we have a Democratic Convention ahead of us, which will take some weeks, and a Republican Convention, and the further down the road you get, the more an issue like this will become involved in politics.

It should be considered on its merits, and its merits only, and the spirit in which this measure is being offered should be understood. It is not one of antagonism toward a President—any President. It is a sharing of responsibility. It is an accommodation. It is a partnership proposal. It is one which I think will redound to the benefit of the country as a whole and will be very responsible for preventing mistakes of the kind which have been made in the past being made in the future.

Mr. SPONG. Mr. President, I yield myself such time as I may need.

I want to commend both the Senator from Mississippi and the Senator from Montana for their remarks here today.

The quesiton on which we will vote today—and the Senate should be mindful of this—is not on the bill itself, but on whether or not the bill should be referred to the Judiciary Committee. I think the debate on yesterday clearly established that the opponents and the proponents of this notion have been divided between those who believe this bill is an amendment to the Constitution of the United States and therefore oppose it, and the proponents, who have said over and over again that it is not a constitutional amendment. This is not the Luldlow amendment. This is not the Bricker amendment. This is a bill. This is a bill which seeks to set forth and to delineate a methodology whereby, as the Founding Fathers intended, Congress can share the warmaking powers with the President of the United States.

Those of us who espouse this legislation seek not to amend the Constitution but to fulfill it. Consequently, any Senator who votes to refer this bill to the Judiciary Committee would have to conclude that the bill is an outright amendment to the Constitution of the United States—which it is not.

Turning from the constitutional question, I am inclined to agree with what the Senator from Mississippi (Mr. STENNIS) said in his testimony before the committee and in his floor remarks on at least two occasions in this debate; that is, that this is not primarily a constitutional question. This is a question of public policy. This is a political question.

Furthermore, I agree with what the Senator from Montana has said. The people of the United States expect us, their representatives in Congress, to act. This issue may not be receiving all the public attention that other matters currently before the Congress are, such as the ITT matter which is before the Judiciary Committee, but out there in the States, after a long and divisive war, the people of this country expect some action to be taken which will restore the constitutional role of the Congress in the warmaking process.

But, what will we be doing today if we refer this bill to the Committee on the Judiciary? We will be sending it off for 45 more days, and when it comes back, it will come back at a time in this session when it would be very, very difficult indeed to weigh this legislation in the manner in which it deserves and to debate it as thoroughly as it has already been debated on the floor of the Senate.

It has been suggested that we have not

heard from enough legal experts on this question. The Senator from Arizona (Mr. GOLDWATER) wrote a Law Review article. The Senator from Missouri (Mr. EAGLETON) wrote a Law Review article. I wrote a Law Review article. All of this was in the course of the hearings and debate on this measure.

During our hearings, our writing of these articles, our preparation of the report, we invoked the experts and authorities from all over the United States.

Prof. John Norton Moore has been referred to by those who oppose the bill. He teaches at my alma mater, the University of Virginia. I am the one who invited him to testify. Professor Moore spoke not just for Professor Moore; he spoke, in many ways, for all those who have questions regarding this legislation. We have had some suggestions that we hear from Mr. Quincy Wright. Well, we would have to employ a medium to do that because, unfortunately, that very fine professor passed away 2 years ago. But I can say to all those who are interested that John Norton Moore is the spiritual descendant of Quincy Wright. Prof. Taylor Reveley wrote a very fine paper on war powers. For a while he was at the University of Virginia. He and Professor Moore agree. But the point is that the views of all of these men were represented before the Foreign Relations Committee in the consideration of this measure, whether the individuals testified in person or not.

Because the constitutionality of the pending legislation and the question of whether or not the proposed bill amends or modifies the Constitution have raised so much concern, I would like to discuss them in a little more detail.

As I noted before, the pending bill is not a constitutional amendment. It is, instead, a statute proposed pursuant to the necessary and proper clause of article I, section 8 of the Constitution.

In article I, section 8, the Constitution provides that Congress shall make all laws "necessary and proper for carrying into execution the foregoing powers"—which include its powers to declare war, to raise and support armies, to provide and maintain a navy, to make rules for the Government and regulation of the land and naval forces and to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions—and for carrying into execution "all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Thus, there are two points here. First, Congress can make laws necessary and proper for carrying into effect its own powers. As Prof. Richard Morris of Columbia University noted during committee hearings:

> Since Congress was given under the Constitution the right to declare war, it has the right to pass enabling legislation to indicate just what war is.

That is part of what this bill does. It indicates what Congress considers war to be and it establishes a procedure whereby Congress can exercise its power to declare war. It does this by giving Congress a voice in those decisions involving use of force abroad, which could be expected to lead to war.

Second, the necessary and proper clause authorizes Congress to make those laws necessary and proper for carrying into execution all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

This point was also covered during the hearings. Again, as Professor Morris noted:

> There is a long history of Congress enacting a certain measure of Executive accountability in legislation. Or, as William D. Rogers, of the Arnold and Porter law firm here in Washington said, Congress . . . has had the authority under the necessary and proper clause to lay down legislation with respect to the exercise of the President's commander-in-chief power.

It is perhaps important to note here that the Commander in Chief clause was modeled on the relationship which George Washington had had with the Continental Congress. That Congress expected to issue rules and regulations for Washington's conduct as indicated by his commission as Commander in Chief, which reads in part:

> And you are to regulate your conduct in every respect by the rules and discipline of war (as hereafter given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed.

The commission is an important precedent and one basis for an aspect of the bill. The legislation sets certain procedures for the President to follow in carrying out his role as Commander in Chief. This includes the 30-day provision. During this debate, questions have been raised as to whether or not the President could act at the end of 30 days to protect troops still in enemy territory, despite the fact that Congress may have disapproved the involvement in the specific hostilities. The answer is, of course, that he could take action—without enactment of the bill and if the bill were enacted. Likewise if a new threat of imminent attack arose at the end of the 30-day period, the President would be expected to act to defend our Nation and troops against that. But, the President would have to report to Congress.

Those of us who support the bill never intended that the constitutional prerogatives of the President be limited as a result of this bill. We do not believe that the provisions of the legislation infringe—or ever did—upon those rights. In order to clarify the matter, however, we adopted a perfecting amendment to the bill to specify that the President's defensive powers remained intact, even with the 30-day period.

In general, we view this legislation as simply a specification as to how the President shall carry out his authority as Commander in Chief and as to how the Congress shall participate in those decisions which are in effect or could lead to decisions to initiate offensive hostilities.

For the record, I would like to quote from several other witnesses regarding the constitutionality of the bill:

Prof. Alfred Kelly of Wayne State University:

> But the expression in the Constitution which defines the war declaring powers of Congress is so clear and unconditional that it gives me no constitutional pause at all to say that Congress can implement that (the proposed legislation), particularly when it does it in terms of a gesture toward the Executive in terms of depositing a certain trust in terms of implementation and the like.

Former Supreme Court Justice Arthur Goldberg:

> Under the Necessary and Proper Clause it seems to me very clear that Congress may enact laws which relate to this subject.

Now, I would like to turn again to the matter of referring this legislation to the Senate Judiciary Committee, which I mentioned earlier. I have great respect for those who serve on the Judiciary Committee. They have done a commendable job on many issues. I do not, however, believe there is any reason for this bill to be referred to that committee.

First, as I noted in debate yesterday, both the standing rules of the Senate and the actual referral of bills in the past suggest no reason for reference to the Committee on the Judiciary. The only legislation dealing with interventions abroad and declarations of war which have been referred to the Judiciary Committee were constitutional amendments and were proposed as such.

Second, war-powers legislation has been pending in the Senate for more than 2 years. Hearings on specific war-powers proposals began in the Senate Foreign Relations Committee over a year ago. The issue is not new. In fact, it was debated to some extent during consideration of the Church-Cooper amendment on Cambodia. Consequently, I find it hard to view the attempt to send the bill to the Judiciary Committee as anything other than a delaying tactic and an attempt to weaken the legislation.

Third, I do not believe that we can argue that this bill should be referred to the Judiciary Committee on the grounds that it relates to constitutional issues. Many bills relate to constitutional issues and are not sent to the Judiciary Committee. One example which comes to mind is the Taft-Hartley Act which dealt in part with the right of Congress to determine jurisdiction of courts under the Constitution. Yet, that bill came from the Labor and Public Welfare Committee, not the Judiciary Committee.

As the Senator from New York noted on April 4 (page 11480), there are bills which have been before the Finance Committee which have constitutional implications and as the Senator from Mississippi noted on yesterday, if we are to submit all legislation which seeks to put a gloss on the Constitution to the Committee on the Judiciary, we would by submitting practically all legislation. I do not believe there is either authority or precedence for that.

Fourth, I simply do not believe the questions which have thus far been raised concerning the legislation are sufficient to suggest that the bill should be returned to any committee. Much of the debate has concerned history—what has happened, rather than what the framers of the Constitution meant to happen and

rather than what should happen in the future as far as the committing of U.S. troops to hostilities is concerned. As I noted before, the Senator from Mississippi pointed out in his initial statement on this legislation that the question of the exercise of war powers is, to a large extent, a practical problem. Even the Senator from Nebraska, in his statement on Friday, admitted that the problem was partially a foreign policy question, rather than a constitutional matter. Consequently, it is, I believe, most important to bear in mind what we who support this bill intend for it to accomplish in the future, that is, to provide a process, a methodology, for the Congress to exercise the war powers granted to it by the Constitution and thereby to participate in decisions to commit U.S. servicemen to hostilities abroad. Those are, I believe, the important points and I believe the bill pending goes to the heart of those matters.

I hope it will be the pleasure of the Senate today not to refer this measure to the Judiciary Committee, but to let us go on. Let us oppose any amendment that is offered or accept any that will help the bill, but let us vote on this measure now. Two years of consideration is enough.

I yield the floor.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona will state it.

Mr. GOLDWATER. How much time remains on either side?

The PRESIDING OFFICER. The Senator from Nebraska has 7 minutes remaining.

Mr. ERVIN. Mr. President, on behalf of the Senator from Nebraska, I will yield that time to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, how much time do the proponents have?

The PRESIDING OFFICER. The Senator from Virginia has 17 minutes.

Mr. GOLDWATER. Mr. President, the sole question before us is whether or not the war powers bill is so steeped in constitutional issues that it should be studied further from this angle. We are not trying to sidetrack the bill. The motion before us includes a time certain by which the bill would be reported back to the Senate Calendar. The important matter to me is that the Senate, as a corporate body, shall be given a fair opportunity to have before it a balanced and objective record on the separation of powers implications of the legislation.

Mr. President, there are over 20 eminent authorities who believe the war powers bill is an unconstitutional invasion of the President's prerogatives, including two past presidents of the American Bar Association, the current chairman of the American Section of the International Law Association, and Professor McDougal, the preeminent expert in the law of nations. This is the caliber of people who could give us a balanced record, if the Senate would only take the time to hear them.

Mr. President, the policy questions have received a great deal of attention, that is true. But the separation of powers issue was only touched upon in passing at the hearings by the Senate Committee on Foreign Relations. What I am asking is for a fresh review concentrating strictly on the division of powers question surrounding the bill. For no legislation in the current Congress reaches more deeply to the very core of the separation of powers between the two political branches of Government than does the bill before us.

Mr. President, the war powers bill presents a direct challenge from one branch of Government to another. No matter how you label it, this legislation purports to restrain certain action of the Executive. He is told that he may commit Armed Forces only in certain situations, and he is told how long he may have for action. Those are limits on his freedom of action.

Whether the President can be controlled in this way is something that depends on the arrangement of the separation of powers by the Founding Fathers. This is not a policy question; it is a basic constitutional problem which falls squarely within the jurisdiction of the Subcommittee on Separation of Powers, chaired by the distinguished Senator from North Carolina (Mr. ERVIN).

Mr. President, the sponsors of the bill tell us there is no constitutional issue present. They claim it is obvious Congress has the power to regulate the introduction of troops into hostilities because Congress, and only Congress, can declare war. But, Mr. President, this reveals a major misconception of the sponsors of the bill. They assume the declaration clause gives Congress the sole power to commence war.

Mr. President, the declaration never had such a meaning. The framers deliberately rejected a clause giving Congress the power "to make war" and left with Congress only the power "to declare war." From this, it is obvious the framers had a difference in mind between the two powers.

Mr. President, one way we can learn or have a better idea of what the framers meant by inserting "declare" in place of "make" is to find out what those words meant at that time. I have already covered this point. The term "to declare" was understood as meaning "to make known" or "to proclaim," and that is the only power given to Congress. On the other hand, the power "to make war" referred to the power of the Commander in Chief, the President, and for nearly 200 years it has been so conceived.

How limited this feeling is or was is evident from the fact that declarations of war were already unusual in the 18th century, compared with the number of nondeclared hostilities in which nations were then engaged. That the framers were aware of this fact is proven by Hamilton's comment in the Federalist No. 25 that declarations of war were falling into disuse. Thus, there is no question the Founding Fathers knew that nations frequently engaged in hostilities without a declaration. Yet they vested Congress with no more than the power "to declare war." Surely this indicates the framers fully anticipated that the United States might become involved in war on frequent occasions even though Congress had not initiated it.

The truth is the Founding Fathers were very much concerned with preserving the safety of the Nation. For example, Jay wrote in the Federalist No. 3 that:

> Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first.

Hamilton indicates the overriding importance of this object of Government by adding, in the Federalist No. 23:

> The circumstances that endanger the safety of nations are infinite; and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed.

These passages must mean that the framers intended for the President, as well as the Congress, to possess extraordinary powers when necessary for the protection of the republic. If the President believes the safety of the Nation to be imperiled, he must react even though Congress has not authorized the specific action.

The Founding Fathers were well aware of the weakness which had accompanied the vesting in the legislature of the power to make war. In fact, they themselves had just emerged from a long war of independence, in which the Continental Congress, clothed with the power to make war, had interfered with Washington's military operations and caused him great trouble and embarrassment.

Far from wanting to continue the example of great weakness and lack of directness that the colonies had suffered under the articles of Confederation, I am convinced the framers intended to infuse a new unity and position of strength into the Republic through the Office of Chief Executive. To rely on the commission given to George Washington by the Continental Congress as a model for interpreting the powers of the new Office of Commander in Chief is to totally ignore the fact that the Constitution was written because of dissatisfaction with what had happened under the articles.

Mr. President, to me this is the basic question we are facing. There is no question about the intent. I find no quarrel with the sincerity of the men who propose this measure. I find myself in agreement with much they are attempting to achieve.

I have, however, suggested that the proper route would be an amendment to the Constitution; but I cannot find one single authority in the United States who would agree with me. I cannot find one single authority among the men who have served in these positions where they should know and have some feeling about it, that these powers should even be tampered with.

I do not charge that this is an amendment to the Constitution. We cannot legislate amendments to the Constitution. But we can come pretty close to it.

I do not think a matter such as this, which has received so little study, should be passed upon by this body. I would say, rather than just a brief review, I would

prefer a review in great depth by the Committee on the Judiciary, so that we will know what we are voting on when we get to the time of voting.

Mr. President, these are the kinds of materials which the Senate should reexamine before it acts on war powers legislation. Let us remember the Committee on Foreign Relations took 2 months to agree on its report on the bill, from December 7, when the bill was ordered reported, until February 9, when the report was filed in the Senate. If the committee itself kept the bill from coming to the Senate floor for over 60 days, should not the Senate as a body, in fairness, be granted an additional 45 days to study the separation of powers issue?

Mr. President, I believe deeply that the Senate should approve the referral motion.

Mr. President, I have diverted a bit from my prepared text but it will appear in the RECORD as if I had given it. I merely repeat what I have often said on this floor, that we cannot tie the hands of our President in the defense of liberty. If we do that, we are inviting real trouble—trouble that it will probably be too late for us to correct should the time ever come.

WAR POWERS BILL ILL ADVISED

Mr. ALLEN. Mr. President, the implications of the proposed war powers bill for the future security and independence of the State of Israel and the moderate Arab nations in the Middle East is alarming.

The provisions of the proposed legislation which require prior congressional approval for the deployment of U.S. forces to help stabilize situations in time of crisis could well result in tragedy for our friends.

One wonders what might have happened to the political independence and territorial integrity of Lebanon in 1958 if the United States had not been able to credibly and promptly assert its power in the service of peace and stability in the area.

One wonders what might have happened in the autumn of 1970 to the hundreds of innocent, civilian hostages—many of them Americans—held by extremist Arab guerrillas after the hijacking of commercial American airliners to a desert landing strip in Jordan, if the clear capability of U.S. forces to intervene for their protection had not been near at hand in the presence of the Sixth Fleet.

One wonders if the Syrian invaders of Jordan in September 1970 would have been withdrawn at a time when King Hussein was dealing with a full scale civil war initiated by extremist Arab forces if credible, promptly available U.S. power had not been present in the eastern Mediterranean.

One wonders what the dimensions of Soviet involvement in the June 1967 Arab-Israeli war might have been if the Washington-Moscow hotline had not conveyed a U.S. determination underlined by the presence of the 6th Fleet in the Mediterranean to avoid involvement so long as others avoided intervention.

The greater danger of the Middle East situation has always been the possibility of major power involvement and confrontation. Requiring, as it does, congressional approval for the deployment of U.S. forces in crisis situations, the war powers bill would paralyze the heretofore credible military power of the U.S. 6th Fleet as an instrument for restoring and maintaining stability in the area.

Mr. SPONG. Mr. President, I yield the Senator from New York such time as he may require.

Mr. JAVITS. I thank my colleague.

Mr. President, I feel that the Senate, on this vote, will really be facing the substantive issue. My colleagues, the Senator from Virginia (Mr. SPONG), the Senator from Missouri (Mr. EAGLETON), and the Senator from Mississippi (Mr. STENNIS) have very eloquently made that point perfectly clear. We made it clear in our discussions yesterday.

Mr. President, as to the constitutional issue: Every committee in Congress is charged with constitutional questions. That goes for all of them, from the Committee on Public Works to the Committee on Rules and Administration. Every one of the committees has to take into consideration the Constitution, whether it is the first 10 amendments, the Bill of Rights so fervently espoused by many committees, and particularly the Committee on the Judiciary and Senator ERVIN, a welfare matter which relates to the equal application of the laws, or a civil rights matter, which is handled in the Committee on Labor and Public Welfare, with reference to equal opportunity for employment. In short, Mr. President, every action of Congress, and of our entire Government, emanates from powers conferred upon it in the Constitution.

We have not heard, Mr. President, that those constitutional questions need to be or should be referred to the Committee on the Judiciary. Why, then, should this one? This is not a constitutional amendment. Every effort to make it appear to be such has failed.

Mr. President, we have considered this matter for 2 years. At the suggestion of the Senator from Mississippi (Mr. STENNIS) we took another year beyond the year we had already had last spring. We have a record here of more than 850 pages of testimony of the most closely considered kind before the Committee on Foreign Relations, with some of the most distinguished witnesses in the United States on both sides. Contrary to the assertion of some of the opponents, this bill has been closely scrutinized by virtually all the most recognized constitutional scholars in the Nation.

Mr. President, with all the things it has to do, what is the Committee on the Judiciary going to do in 45 days compared to what we have already done in 2 years? Why refer it?

Obviously, the only reason is to defer it, to put it off. Maybe it will be lost in the shuffle. Maybe it will come before the Senate when it is so busy it cannot deal with the matter, and it will be bypassed, instead of when the calendar is relatively clear and the Senate is able to face the issue.

Mr. President, I see no reason to favor this reference on the part of those who are in favor of the bill. I see every reason to favor the reference on the part of those opposed to it. So this is a substantive question. If you are for the bill, you should be against the reference; if you are against the bill, you would be for the reference. I understand that perfectly.

I turn now to a consideration of the merits of the proposal. I noticed one thing stated or implied in the distinguished speeches made by Senator ERVIN and Senator GOLDWATER today. That is the assertion that only the President of the United States is a great patriot who wants to protect the United States against an invasion; that somehow we are base villains and would allow the United States to be overrun by foreign forces.

What kind of nonsense is that? Do we we have any less sense of responsibility than this very mortal man who is President of the United States? Do we have any fewer principles, any less patriotism, or less conscience? Is that the Constitution of the United States?

Mr. President, we distinctly say "no." We say it is time that we define what war is. War is not an "incident" when it lasts 8 years and exacts such a toll as has been our Vietnam experience. We know that an appropriation cutoff has not proved to be practical and realistic.

Mr. President, no one claims this is the ideal arrangement, but it is a best effort. That is why it is proposed as a law, and not a constitutional amendment. It is an effort to do something about a situation which we regard, right now, as demanding some more provident arrangement than those which have prevailed for the past several decades.

Mr. President, I like the words of Washington Post editorial.

What it says is:

> It is quite so that it took the Vietnam war to bring to wide attention the erosion in congressional powers. Perhaps one should better say the erosion in congressional thoughtfulness and responsibility.

Mr. President, that is what is at issue here. Are we going to give ourselves a methodology by which we, too, are required to exercise that thoughtfulness and responsibility which inhere in the commitment of our people to this horrible ordeal which is war?

Senator ERVIN was perfectly right when he said—and I think I noted his words accurately—

> The Constitution cannot be improved on, in providing the war powers of the Congress and the war powers of the President.

Mr. President, I agree with that. But it is not a question of improving upon the Constitution; it is a question of using the powers which the Constitution gives us, and of delineating more clearly how those powers are to be operative, and how they are to mesh, in response to the demands of our contemporary world situation.

We have not used our powers. We have allowed them to slip away from us. Now we are simply recapturing what is ours; nothing more and nothing less. We are spurred to this effort to recapture by the demands and expectations of the citizens of our Nation. They demand an improvement over the procedures of the 1960's.

I do not agree with the distinguished

Senator from North Carolina that this means creating 535 other commanders in chief. We give ourselves so such power or authority. The President still will conduct the military operations of the country. The President will still command all the Armed Forces.

But, when in his judgment—Mr. President, look how we trust him; have we not the right to ask that he trust us at least as much?—there is a likelihood, an imminent likelihood, of hostilities, we say in this bill, "Mr. President, your decision is much too weighty for you to make it alone. We must join you in making it."

We have the full confidence that he will not cheat us when it comes to "imminent danger" and that he will truly and honestly and in good faith assess that danger. He is bound by the Constitution to "take care that the laws be faithfully executed." What can we do about it? We can impeach him. That is highly unlikely; we know that.

Mr. President, the Senate will be voting in a little while on a very substantive question, and that question is, Shall the Senate address itself to the issue of how the war powers of both Congress and the President can be reconciled? I profoundly believe that we have come up with a method to do that which is good for the country and good for the President as well.

Mr. FANNIN. Mr. President, the war powers bill, S. 2956, raises a number of serious problems for our consideration. Two of the more important questions—which I should like to consider briefly today—are, first, the effect of this legislation on our NATO allies and, second, the even broader and graver question of its dangerous inconsistency with the Constitution.

Turning first to the problem of NATO and the support of our oldest and most importance alliance, it seems clear to me that the drafters of the proposed legislation did not really consider carefully its effect on the viability and credibility of NATO. Not only does it impose serious specific limitations on the power of the President to deploy and commit American forces in Europe, in support of our deepest alliance commitments, but it also—and this is perhaps even more important—signals both our allies and our potential enemies that America's commitment to the defense of Western Europe will be harder to fulfill, and thus more likely left unfulfilled. By creating doubts among our allies, we obviously weaken NATO. And by weakening NATO, while at the same time suggesting to the Soviet Union that we are less capable of supporting Western Europe, we encourage just those hostile and aggressive pressures that the alliance was originally created to deter.

A few specific points come readily to mind. The proposed legislation clearly frustrates the President's ability to build up U.S. forces in Europe or to make a show of force in response to any Soviet concentration or threat where U.S. forces are not directly threatened, and also when there is danger that our reinforcements would risk imminent involvement in hostilities. It could rule out the whole reforger concept, under which we have removed some of our troops from Europe but pledged to our allies that they would be returned in case of need. We have no U.S. combat troops in most of Turkey or Greece, and none at all in Norway and Denmark. Do we want to forbid the President to make a move to strengthen NATO forces in those areas or in adjacent seas in time of crisis simply because they might run a real risk of hostilities? What would that signify to the world as to America's steadfastness? This would strike at the very heart of the NATO commitment by suggesting that an armed attack on our allies, or the threat thereof, if it did not specifically threaten our own forces, would not be regarded as an attack on us—and that American troops might, therefore, sit idly by and watch other allied forces be crushed. It shakes the entire structure of every NATO headquarters of which American officers are a part, since in case of attack their participation in integrated command functions could not be assured. How can NATO commanders make any realistic plans in the face of such uncertainties about the integrity and viability of their own headquarters?

Even should the Soviet Union make a direct armed attack on American forces overseas, it is not at all clear—to American commanders as well as to our allies—just what the United States might do. The proposed legislation authorizes "retaliatory actions" in the event of "an armed attack upon the United States, its territories and possessions," but, should this attack be aimed at U.S. forces outside this country or its territories and possessions, reaction is specifically limited to repelling this attack. In other words, under this concept, U.S. forces, if attacked, could only defend themselves, with no thought of retaliation against an enemy who might assault them in overwhelming strength. This restriction obviously destroys the whole fabric of nuclear deterrence, suggesting to the Soviet Union that it may attack our forces overseas with less fear of nuclear retaliation. The basic credibility—to both the U.S.S.R. and our European allies—of our long-pledged nuclear deterrent is thus called into question.

On the tactical level, there is also considerable doubt about even those actions U.S. forces under attack could be authorized to take to defend themselves. If Soviet aircraft attacked our troops, could an air strike at the enemy airfields on which these planes were based be considered repelling an attack? Or would this be considered retaliation, and thus be prohibited?

Finally, even if a direct attack on American forces should commit them to battle immediately, and overlooking such juridical hairsplitting as I have just suggested, there would still be considerable doubt in the minds of our allies about the reliability of the American contribution to the struggle. Under the proposed legislation, there is no guarantee that American forces would fight beside their allies for more than 30 days, much less that there would be any supporting rapid buildup of additional U.S. troops to help contain the enemy. Under these circumstances, what sort of integrated planning can take place in advance of emergencies, and just how much credence will our allies place in our pledge to support them?

It seems evident that the sponsors of the proposed legislation are at last beginning to acknowledge the validity of at least some of these points. The amendment proposed by the senior Senator from New York recognizes the problem of American participation in allied headquarters and seeks to resolve it. The Senator has taken a step in the right direction, but he still has a long way to go.

Beyond the very practical questions about the effect of the war powers bill on NATO and our security interests in Western Europe lies the more basic problem of the relation of this bill to the Constitution. Although the sponsors of this legislation have attempted to show a clear and specific constitutional division of the war powers between Congress and the President, with the latter restricted to a very limited role, both the propriety and the specificity of the division remain doubtful.

One of the strong points of the American Constitution is its lack of rigidity. Its approach to the problem of the system and process of government is in large measure, general and flexible, subject to the changing needs and interpretations of the passing years. It is this quality that has enabled it to endure so long with so little change. Had it been more precise, more specific, more rigid, it surely would have broken over the years in the face of the divergent views among the constituent branches of the U.S. Government. The Constitution has sometimes been referred to as not so much a document of separation of powers, but rather one of shared powers, in which the exact degree of the sharing is not precisely delineated, leaving this, instead, to the shaping powers of the political process to mold and change—and change again—the vital relationships within our very pragmatic system of government. This had the very great virtue of flexibility—both for developments and contingencies beyond the foresight of the Founding Fathers, and to allow the emergence of new and changing responsibilities in the exercise of political power as the Nation grew.

Among the shared powers within the U.S. Government, one of the most important is the war power. This the Constitution divides between Congress and the President—not precisely and immutably as the sponsors of the proposed legislation would have it, but rather according to broad principles and general guidelines. As I have suggested, this lack of precision was purposeful, and for good reason, and it has served to strengthen and preserve the Constitution where a precise delimitation might well have proved its undoing many years ago.

Now, the proposed war power bill does more than just support the constitutional definition of the authority of Congress and the President in this most important area of national policy. Indeed, it goes far beyond the Constitution in attempting to specify, by detailed restrictions and limitations, the precise role of the President. And some of these restraints, in fact, would place far greater limitations on the Chief Execu-

tive than the Constitution would permit. The 30-day restriction on the President's powers to repel attacks without congressional approval obviously infringes on his constitutional authority—indeed, mandate—to defend the United States and its forces. So not only does S. 2956 rush in where the Founding Fathers hesitated to tread, in attempting to enumerate a limitcd number of situations not written in the Constitution which would be the only ones in which the President could act on his own authority, but it is, in effect, an effort to amend the Constitution by legislation—which renders it clearly unconstitutional.

The points that I have just raised are obviously in dispute. Just as the argument over the respective war powers of Congress and the President have gone on since the birth of the Republic, so the argument over the constitutionality of the proposed war powers bill could last for ever. The very fact that it is in such dispute would seem to me to prove the need for more study of this legislation, of its implications, necessity, desirability, and ultimate form and scope.

If the proposed bill crosses the Constitution—and if, as I suggested with reference to NATO, it is too dangerously vague and contradictory for practical implementation—then surely it would be a mistake to act on it hastily here. At the very least, it should be referred to the Judiciary Committee for careful study and analysis. In its present form, for all of the reasons I have already stated, I cannot support it and must oppose it.

Mr. HANSEN. Mr. President, it is a measure of progress that the Senate Foreign Relations Committee reported out S. 2956 on February of this year. But it would be evidence of precipitate action to call for a vote at this time.

We have not yet had the advice of legal experts on the full implications of the war powers bill, either as to its implications domestically or in terms of the safe conduct of our foreign affairs.

My personal view is that the bill, as now drafted, would curtail Presidential action in many important situations that may prove vital to the Nation's interest. In my view, its effect would be to increase—not decrease—the risk of getting this country involved in more wars:

Imagine some equivalent of a renewed Berlin blockade. Would you prevent the President's initiative for a show of strength that might be decisive in warning the other side of our resolve—resolve that might be the critical factor in coming to a peaceful solution? I think not.

Or imagine armed attacks by another country against U.S. citizens abroad or against U.S. merchant vessels on the high seas. Would you wish to restrict the President's ability to deal firmly with such acts? I think not. The effect would be to make the likelihood of them greater.

What about the 30-day limitation clause on the involvement of U.S. Armed Forces in hostilities? I submit that there are built-in pressures here which would lead to the "acceleration of escalation" of military and perhaps nuclear conflicts.

Perhaps some further expert opinion is needed. The views of the American Bar Association should be worthy of consideration.

It seems hasty that we should proceed with a vote without the benefit of their concerned, highly-professional opinion.

Let us find out the real merits and deficiencies of S. 2956. Let us refer it to the Judiciary Committee for a deliberate and searching examination of the constitutional implications of this very important proposed legislation.

Mr. TOWER. Mr. President, I would like to add my voice to those urging that the war powers bill, S. 2956, be referred to the Judiciary Committee.

There are several important reasons for this, not the least of which is that so many Members of the Senate have pointed out the deep constitutional questions involved in this legislation.

First of all, it seems to me that the very philosophy at the root of the war powers bill is contradictory to the American constitutional tradition. The bill seeks a rigid definition of the powers of the President and of Congress, and attempts to draw a precise line of restraints and responsibilities. The Constitution, to the contrary, is nowhere near so explicit and constrictive as the proposed legislation would be. The authors of the Constitution wisely sought to create a document flexible enough to meet the changing needs of time, broad enough to meet the obvious unforeseen contingencies that would inevitably arise over the passage of the years, and subtle enough to allow for the continuing interplay of political forces which is the life-blood of this Nation.

No one would deny that the Constitution assigns certain specific powers—the power to declare war, or to raise and support armies—to the Congress, and that it specifically assigns to the President the role of Commander in Chief. Yet beyond that, it offers only general guidelines, and none of these suggest that the war powers were not to be shared by the executive and the legislature, rather than be strictly divided between the two. By attempting to so divide these powers and, in so doing, to seriously restrict those assigned to the President, the bill casts doubt on any Presidential actions in this area. It leaves the distinct impression, in the eyes of friend and foe alike, that the Chief Executive of this Nation is all but powerless to act—in a military sense—without the consent of Congress.

Surely we do not wish to suggest this. In its present form, the war powers bill would seriously restrict our ability to deploy the land, sea, and Air Forces of the United States. It would prevent, or seriously hamper, military deployments as a show of force or deterrent. It would affect our freedom to act in case of another Berlin blockade or Middle East crisis. It would prevent—even with the addition of an amendment by the senior Senator from New York—the participation of members of the U.S. Armed Forces in NATO integrated commands and, as a practical matter, in integrated military plans and preparations of the alliance.

The effect of these restrictions would be to seriously reduce the faith of our allies in America's capability to support them in the face of a Soviet threat or attack. It would suggest to both the nations of Western Europe and the Soviet Union that the United States was incapable of reacting quickly and decisively in an emergency. It would weaken the credibility of our deterrent and thus seriously affect the viability of the NATO alliance.

There seem, moreover, to be clear dangers in the 30-day limitation on the use by the President of our Armed Forces. In the first place, it suggests that American forces might engage in combat for no more than 30 days, thus leaving our allies with serious doubts about their reliability and commitment. By the same token, the 30-day limitation would in itself create strong pressures for the President to raise the level of hostilities, perhaps to very high extremes, in order to achieve certain military objectives before the expiration of the 30-dav limit. And finally, the 30-day limit seems to be a direct contradiction of the President's constitutional responsibility and authority to repel attacks, since the Constitution itself places no restriction on the length of time that military resistance may be carried on.

These are serious questions, which we must seek to answer before we proceed further with this legislation.

There is also the equally grave question of whether we are not trying to create a law in haste as an emotional reaction to the war in Vietnam. Good laws are rarely created out of hasty emotionalism. And it is clear that the political atmosphere of an election year will do little to slow our haste or calm our emotions.

It seems to me that a careful examination of the basic constitutional and practical problems involved is necessary. I understand that the American Bar Association is now undertaking just the sort of examination required. I feel that by referring the war powers bill to the Judiciary Committee, where it can be studied and analyzed in depth, a far better understanding of the problem can be achieved. And if it is determined that a war powers bill is necessary, the committee should be able to develop a piece of legislation that is in harmony with both the constitutional and practical requirements.

In its present form, I cannot support the bill. I urge its referral to the Judiciary Committee.

Mr. TUNNEY. Mr. President, America has not declared war in over 30 years. A generation of Americans have grown up since we last declared war on another country.

But America has not known peace. In the absence of any declaration of war, over a million Americans have borne arms in Korea, Vietnam, Cambodia, Laos, and the Dominicar. Republic. Close to 100,000 of these young men have died. That generation has experienced war and has suffered from it—but Congress has never declared it.

The War Powers Act responds to that curious anomaly.

The War Powers Act is one of the most important pieces of legislation to come before this Congress in a generation. It deals with an area which is central to the

life of every American, the power to make war. I have studied carefully the arguments for and against the War Powers Act. I have concluded that it serves well the Nation's interests.

The War Powers Act is, above all, a policy document. It attempts to balance, in a nuclear age, the demands of the Constitution with the demands of modern military technology. It strikes that balance extremely well.

The Constitution vests the power to make war in the Congress. Both the language of the Constitution and the historical records of the Constitutional Convention underline the unequivocal conclusion of the framers of the Constitution that the Congress—not the President—was granted the authority to engage our Nation in war. The Supreme Court affirmed that congressional power when it said in the "prize cases" that—

> By the Constitution, Congress alone has the power to declare a national or foreign war. . . . [at 67 U.S. 635 (1862)].

The Constitution recognizes, however, that while the Congress has the power to make war, the President has the power to execute it. The President, as Commander in Chief of the armed services, has the authority to respond to sudden attacks, conduct a war once it had started, and to command the Armed Forces once they are committed to action.

There is no reason that the warmaking powers, defined so clearly by the Constitution, should be altered. Neither modern military technology nor the demands of modern history render obsolete our constitutional tradition. They accentuate instead its wisdom.

In the 18th century, when the horrors of war could be confined to the field of battle, our Founding Fathers concluded that the representatives of all of the people must be involved in the decision to make war. In the 20th century, when the decision to go to war might preordain consequences whose devastating impact would reach every American home, it is even more important to assure the representatives of the people a role in any such determination.

Yet, today, with our people more vulnerable, more exposed than ever before, they feel less control, less ability to affect their destiny. They complain that Government is remote and uncontrollable. But they know that its decisions reach more deeply into their lives.

This has been especially evident in the warmaking area. Despite the Constitution, despite the consistent traditional separation of warmaking powers, affirmed by the courts, the executive branch, and the precedent of a century and a half of our history, the past generation has witnessed the dramatic expansion of the role of the Executive in the power to make war.

It has mattered not whether the President was a Democrat or a Republican. In Korea, in Vietnam, in the Dominican Republic, in Cambodia, and in Laos—a startling variety of locations and activities—the President of the United States has committed a large number of American troops—without congressional approval. Once the Congress was included in the process, it was faced with inadequate information, it was brought into the decisionmaking process well after the inception of the crisis, and often it was confronted with a fait accompli.

This is not to deny that many situations might require an American military presence. It is to stress that the methods selected by recent American Presidents—both Democratic and Republican—in Vietnam, Laos, and Cambodia, for introducing and maintaining American troops in hostilities indicate that defects exist in the process by which warmaking decisions are made. In response to the increasing preponderance of the Executive in this and related areas, it is essential for the Congress to be involved and to be aware.

The War Powers Act should help Congress in this effort. It should restore to the Congress its proper role in the warmaking process. While it may very well be true that the War Powers Act might not have alleviated the tragedy and the foolishness of Vietnam—"cannot create national wisdom where there is none" as Senator JAVITS said—its interposition in the warmaking process might very well have helped create an atmosphere where the Congress was involved from the outset in warmaking decision.

Our foreign policy can only be enhanced when individual members of Congress recognize that they have the responsibility, on an ongoing basis, for evaluating properly the foreign as well as the domestic policies in which our Nation is involved.

The War Powers Act not only restores the proper role of the Congress in the warmaking process. It also reaffirms the proper role of the Executive. It neither denies nor limits his authority. Section 3 of the bill defines the emergency conditions in which the Armed Forces of the United States may be introduced into hostilities in the absence of a declaration of war by Congress. Those conditions are: To repel an armed attack on the United States, and/or to retaliate thereto; to repel an armed attack against our Armed Forces; to protect U.S. citizens and nationals evacuating from other countries; or to protect Americans on the high seas. The President can respond to any of these emergencies for a period of 30 days, after which he must go to Congress—in the absence of certain extraordinary circumstances—to sustain the continued use of the Armed Forces.

Beyond these relatively limited and specific categories, the act provides a final, considerably broader, category which allows the President to introduce the Armed Forces in hostilities in the absence of a declaration of war for any reason—but pursuant to specific statutory authorization.

In other words, the President can respond to military emergencies without going to Congress. The language which allows him to exercise that response is sufficiently flexible. To engage American forces in any other situation he must first obtain the approval of the Congress.

Mr. President, this legislation is urgently needed. Had recent Presidents perceived their constitutional obligation differently and gone to the Congress before introducing our Armed Forces in hostilities, the war powers act might not have been necessary.

This act has been criticized as one which will expose any use of force to public debate. That is not a liability of the act, but an asset. The result should bring praise, not criticism. It should highlight the importance of the act.

Mr. President, the framers of the Constitution recognized that the people should not be insulated from the decision to make war. They constructed a government which had a separation of warmaking powers, in which decisions of war and peace could not be guarded in the secrecy of any one branch. We cannot allow matters of war and peace to be closed, disguised, affairs.

Regrettably, an atmosphere of mystery has overtaken the process by which our military decisions are made. Where candor is required, secrecy prevails. Where a dialog is urgently needed, a static resistance to new ideas is found.

Mr. President, the war powers act restores the constitutional balance; demands debate where it is needed; minimizes Executive secrecy where it is unnecessary and dangerous; and involves the Congress properly in the warmaking process. It is for these reasons that I give it my strong support.

Mr. THURMOND. Mr. President, much has already been said on both sides of the war powers question, but I think that we have not carefully examined the significant impact that this bill will have upon the President's power to conduct foreign relations generally. There is, I believe, general agreement that the primacy for the conduct of foreign relations rests with the President. That is settled constitutional doctrine.

Yet the conduct of foreign relations so as to support American interests ultimately implies the use of such force as is necessary to the situation. We may prefer to conduct international relations on some other basis. We may conclude that the use of force is counterproductive in a given circumstance. Yet we must concede that in some cases that may arise, the sanction of power is the only effective sanction that will keep this Nation from falling into jeopardy.

Moreover, it is clear—and even this bill provides—that the President will necessarily have to consider the use of force in emergency situations, and will have to put soldiers in the field. This bill describes the situations in which this would be allowed.

But then the question arises whether or not the bill's 30-day clauses wrongfully encroach upon the President's obligations as Commander in Chief and his duty to uphold the Constitution as a viability entity. The whole thrust of constitutional interpretation to date upholds the President's rights as Commander once troops are in the field. We have paid too much attention in this debate to the problem of the initiation of hostilities and the initiation of war. Yet this bill itself would allow the initiation of hostilities in certain circumstances, and then clamp restrictions, even including the threat of imminent termination, upon the President's actions.

Such restrictions would be disabling—not only upon the President's conduct of war, but upon the conduct of foreign relations generally. They are restrictions which are not only unconstitutional, but dangerous to this Nation.

Suppose Congress terminates a military action when soldiers are in the field? The President would be left with no other alternative than unconditional surrender or slaughter. The Congress cannot sue for peace, and it cannot command the President to sue for peace. If operations are terminated upon such a a basis, then the enemy—or other enemies—would surely be tempted to launch new aggression. Our enemies would rightly conclude that a Congress that forbade an operation under such circumstances would never approve any military operations.

Moreover, the War Powers Act would also attempt to alter the President's obligations under international law. The powers of any commander-in-chief are well defined in international law. Although the Constitution makes the President Commander-in-Chief, the substance and the contents of the command powers are already determined by international law, and the customary law of war. The President is under a constitutional obligation to apply the customary international law of land warfare in any international armed conflict regardless of whether war had been declared or not.

Mr. President, I have prepared a comprehensive memorandum which authoritatively sets forth the legal basis of the arguments I have been making. It gives in greater detail the constitutional background and the case history of these questions, and I ask unanimous consent that it be printed in the RECORD.

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

MEMORANDUM

This memorandum will attempt to analyze the Wars Powers Bill (S. 2956) under the following headings: I. The Powers of the Executive; II. Interrelations Between the Foreign Relations and the Command Powers of the President; III. The Foreign Relations Power of the President; IV. The Command Powers of the President; V. Limitations on Congressional Interference with the President's Foreign Relations and Command Powers; and VI. Substance and Contents of the President's Command Powers as Determined by International Law.

I. THE POWERS OF THE EXECUTIVE

It is well established that constitutional practice has been firmly based on the doctrine of executive power as originally stated by Alexander Hamilton. He said that:

"The general doctrine of our constitution then is, that the *executive power* of the nation is vested in the President, subject only to the *exceptions* and qualifications, which are expressed in the instruction." [1] (Hamilton's emphasis.)

Thomas Jefferson did not only support Hamilton's aforementioned doctrine but expressed it in even more explicit terms when he said that:

"The executive . . . possessing the rights of self-government from nature, cannot be controlled in the exercise of them but by a law, passed in the form of the Constitution." [2]

The prevailing constitutional doctrine was aptly summarized in the following words of the Solicitor of the Department of State when he said:

". . . where, by the terms of the constitution the national government is vested with control over a certain *sphere of action*, that portion of the field is the president's which is executive in character. . . ." [3] (Emphasis added.)

II. INTERRELATIONS BETWEEN THE FOREIGN RELATIONS AND THE COMMAND POWERS OF THE PRESIDENT

It is well established that the conduct of the foreign relations of the United States has been solely vested in the President.[4] One of the leading academic authorities on the Constitution, Edward S. Corwin, spoke in this connection of ". . . the President's monopoly of the function of international intercourse and his constitutional independence in the performance of that function." [5] In addition, the Constitution makes the President expressly the Commander-in-Chief of the Armed Forces.[6]

The fact that the President's foreign relations and command powers are closely interrelated to each other has been recognized since Hamilton wrote that the executive department was ". . . the organ of intercourse between the nation and foreign nations" and that it was "charged with command and disposition of the public force." [7] He, then, arrived at the conclusion that:

". . . it belongs to the 'executive power' to do whatever else [except a declaration of war] the law of nations, co-operating with the treaties of the country, enjoin in the intercourse of the United States with foreign powers." [8]

John Marshall, when a member of the House of Representatives, spoke of the interrelations between the aforementioned two powers of the President when he said that:

"The president is the sole organ of the nation in its external relations. . . . He possesses the whole Executive power. He holds and directs the force of the nation. Of consequence, any act to be performed by the force of the nation is to be performed through him." [9]

Similarly, Monroe, in his capacity as Secretary of War, advised Congress that "The power of command was vested in the President primarily for the purpose of giving him that control over military and naval operations which is a necessary attribute of the executive branch." [10]

Justice Nelson, sitting as Circuit Justice and speaking for the court, epitomized the interconnection between the foreign relations and command powers of the President in the following words:

"For this purpose the whole Executive power is placed in his [the President's] hands . . . and different departments of government have been organized, through which this power may be most conveniently executed *whether by negotiation or by force.*" [11] (Emphasis added.)

The reasons behind this combiation of foreign relations and command powers in the hands of the President were aptly stated by Justice Sutherland when he said for the Court that:

". . . he [the President], not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war." [12]

III. THE PRESIDENT'S FOREIGN RELATIONS POWERS

Constitutional doctrine, Congress, as well as the executive and judicial branches of the Government, have consistently maintained that the power to conduct the foreign relations of the United States (foreign relations power), with the exception *expressly* stated in the Constitution, is solely vested in the President. Alexander Hamilton emphasized this point when he said that: "the legislative department is not the organ of intercourse between the United States and foreign nations." [13]

Again, Jefferson emphasized Hamilton's point of view when he said that:

"The transaction of business with foreign nations is Executive altogether . . . except as to such portions of it as are specially submitted to the Senate. Exceptions are to be construed strictly." [14]

As early as 1816, the Senate Foreign Relations Committee in a report to the Senate warned against congressional interference with the President's exclusive powers in the foreign relations field on the ground that such interference was bound ". . . to impair the best security for the national safety." [15]

In 1897, the Senate Foreign Relations Committee made a thorough investigation of the question of presidential powers in the foreign policy field in connection with the question of the recognition of Cuba's independence. The Committee arrived at the following conclusions.

"The executive branch is the sole mouthpiece of the nation in communication with foreign sovereignties. . . . In the department of international law, therefore, properly speaking, a congressional recognition of belligerency or independence would be a nullity." [16]

About a decade later, Senator Spooner of the Foreign Relations Committee said in the Senate:

"The Senate has nothing whatever to do with . . . the conduct of our foreign intercourse and relations save the exercise of the one constitutional function of advice and consent which the Constitution requires . . . From the foundation of the Government it has been conceded in practice and in theory that the Constitution vests the power of negotiation and the various phases—and they are multifarious—of the conduct of our foreign relations exclusively in the President. And . . . he does not exercise that constitutional power, nor can he be made to do it, under the tutelage or guardianship of the Senate or of the House or of the Senate and House combined." [17]

Similarly, the executive branch stated its position clearly in a memorandum of the Solicitor of the Department of State when he said:

"In all cases the President could direct and control, but in the 'Presidential' Department he could determine *what should be done, as well as how it should be done.*" [18] (Memorandum's emphasis.)

The Supreme Court emphasized in *United States v. Curtiss-Wright Corp.*, the fact that:

"Not only is the federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm . . . the President alone has the power to speak or listen as a representative of the nation. . . . [H]e alone negotiates. Into the field of negotiations the Senate cannot intrude and Congress itself is powerless to invade it." [19]

The Supreme Court then elaborated upon the nature of the President's foreign relations power by referring to it as:

". . . the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations. . . ." [20]

IV. THE POWERS OF THE PRESIDENT AS COMMANDER IN CHIEF

In Federalist Paper No. 74, Alexander Hamilton stated the constitutional doctrine regarding the President's power as Commander-in-Chief clearly when he said:

"Even those of them which have, in other respects, coupled the chief magistrate with a council, have for the most part concentrated the military authority in him alone. Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exer-

Footnotes at end of article.

cise of power by a single hand. The direction of war implies the direction of common strength; and the power of directing and employing the common strength, forms a usual and essential part in the definition of executive authority."

This doctrine was reaffirmed by the Supreme Court in a case arising out of the occupation of Tampico in the Mexican War. Chief Justice Taney, for the Court, said:

"As commander-in-chief, he [the President] is authorized to direct the movements of the naval and military forces placed by law at his command and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy." [21]

In 1860, Francis Lieber summarized the doctrine in his *Remarks on Army Regulations*. In connection with his elaboration of the President's exclusive power to direct military movements, Lieber said that the war powers of Congress did not give ". . . it, command of the Army. Here the constitutional power of the President as Commander-in-Chief is exclusive." [22]

The following words of Senator O. H. Browning in the 1862 Senate debate between him and Senator Sumner state convincingly and clearly the reasons for the presidential command powers and the danger inherent in the attempt to interfere with them. In the Senate debate of June 25, 1862, Senator Browning said:

"And now, I again ask whether it is seriously contended that Congress has either the right or the power to judge of and determine upon any of them [i.e., military necessities] a month in advance of its occurrence? Whatever the seeming necessity be now, when the month has elapsed it may no longer exist.

"These necessities can be determined only by the military commander and to him the Constitution has entrusted the prerogative of judging them. When the Constitution made the President 'Commander-in-Chief of the Army and Navy of the United States' it clothed him with all the incidental powers necessary to a full, faithful and efficient performance of the duties of that high office; and to decide what are military necessities, and to devise and execute the requisite measures to meet them, is one of these incidents. It is not a legislative but an executive function, and Congress has nothing to do with it. . . . Nor can Congress control him in the command of the Army, for, if it can, then he is not Commander-in-Chief, and the assertion of the Constitution to that effect is a falsehood. And whenever Congress assumes control of the Army in the field, it usurps the powers of a coordinate department of government, destroys the checks and balances provided for the safety of the people, and subverts the Constitution.

"Congress is to raise and regulate the Army; when raised and regulated, the President is to have the supreme command and direction.

"He [the President] is as supreme in his sphere as the legislative department is in its sphere; and in the performance of his duties, he cannot, without abnegation of his authority, submit to the control of either Congress or the people." [23]

Several days later, on June 27, 1862, Senator Browning said in elaboration of this point:

"When we are engaged in war, and it [the army] is in the field marshaled for strife, I deny that Congress . . . has any power to say to the President, do this or do that . . . advance today and retreat tomorrow." [24]

This doctrine was upheld by the Supreme Court in the *Prize* cases where it said that "He [the President] must determine what degree of force the crisis demands." [25]

The scope of the command powers of the President over the armed forces in the field has to be understood in terms of the relationship between ends and appropriate means. Alexander Hamilton referred to this problem where he said that:

"The means ought to be proportioned to the end; the persons from whose agency the attainment of any end is expected, ought to possess the means by which it has to be attained." [26]

Once United States forces are involved in military operations against enemy forces, the President as Commander-in-Chief is constitutionally required ". . . to use all means calculated to weaken the enemy and to bring the struggle to a successful conclusion." [27]

In *Durant v. Hollins, supra,* Justice Nelson, for the court, said that the question whether it had been the duty of the President to interpose by force for the protection of American citizens in Greytown, Nicaragua, was a question of public policy ". . . which belonged to the executive to determine and his decision is final and conclusive." [28] The Court then held that the two principal means for conducting foreign relations were negotiation or force.

In *Lichter v. United States,* the Supreme Court quoted from an address by former Chief Justice Charles Evans Hughes that "The power to wage war is the power to wage war successfully." In elaborating upon the aforesaid statement the Court, then, held that ". . . the primary implication of a war power is that it should be an *effective power to wage war successfully.*" [29] (Emphasis added.)

In *United States v. Hirabayashi,* the District Court [30] pointed out that:

"The Constitution of the United States was intended by the fathers who framed it to be able to cope with war emergencies. This nation came into being as a result of a successful war. The Constitution was written shortly thereafter and at a time when its framers had every reason, by virtue of their experience and in the light of then world conditions, to expect that this nation be confronted by war in the future."

In the same case [*United States v. Hirabayashi*] the Supreme Court held that the war power of the national government which includes the President's command powers over armed forces in the field ". . . extends to every matter and activity so related to war as substantially to affect its conduct and progress. The power is not restricted to the winning of victories in the field and the repulse of the enemy forces. It embraces every phase of the national defense, *including the protection of war materials and the members of the armed forces from injury and from dangers which attend the rise, the execution and progress of war. . .*" (Emphasis added.)

Consequently, the Supreme Court concluded that the war powers, which include the Presidential command powers, provide a wide scope "for the exercise of judgment and discretion in determining the nature and extent of the threatened injury and danger and in the selection of the means for resisting it." [31] The constitutional doctrine and practice were aptly summarized in the following words:

"The President in time of war has entire control of the movements of the army and navy. Congress has, under the Constitution, the sole power to raise and support armies . . .; but after the forces have been provided and war has begun, the President may order them anywhere he will for the purpose of carrying the war to a successful conclusion.

* * * * *

". . . in time of war the authority of the President is recognized as being absolute as to where the war is to be conducted, whether . . . to carry on an offensive war in the enemy territory, in the territory of an ally, or perhaps even in the territory of a neutral.

* * * * *

"Just as the President decides when and where troops should be employed in time of war, so he alone likewise determines how the forces should be used, for what purposes, the manner and extent of their participation in campaigns and the *time of the withdrawal.*" [32] (Emphasis added.)

V. LIMITATIONS ON CONGRESSIONAL INTERFERENCE WITH THE PRESIDENT'S FOREIGN RELATIONS AND COMMAND POWERS

Already in 1789, the problem of congressional interference with the powers vested in the President and the dangers inherent in such interference were clearly visualized and precisely stated in the following words:

"He [Roger Sherman] seems to think . . . that the power of displacing from office is subject to legislative discretion; because, having a right to create, it may limit or modify as it thinks proper . . . [W]hen I consider that the constitution clearly intended to maintain a marked distinction between the Legislative, Executive and Judicial powers of Government; and when I consider that if the Legislature has a power, such as is contended for [*i.e.*, the power to make provisions for removal of officers appointed with the consent of the Senate], they may subject and transfer at discretion powers from one department of our Government to another; they may, on principle, exclude the Presidents altogether from exercising any authority . . . they may vest it in the whole Congress; or they may reserve it to be exercised by this House. When I consider the consequences of this doctrine and compare them with the true principles of the Constitution, I own that I cannot subscribe to it. . . ." [33]

President Taft stated clearly and precisely the narrow limits of permissible congressional interference with the President's foreign relations and command powers when he said:

"Two principles, limiting congressional interference with the Executive powers are clear. First, Congress may not exercise any of the powers vested in the President, and second, it may not prevent or obstruct the use of means given him by the Constitution for the exercise of those powers." [34]

Similarly, a distinguished former American ambassador to Germany who had been a life-long student of international affairs said that:

". . . the contention that one department of the government may in any way coerce another is a repudiation of the very purpose of the division of power and would result in the destruction of that freedom under law which the Constitution aims to establish." [35]

The Supreme Court has consistently held that the powers of Congress to interfere with the foreign relations and command powers of the President are strictly and narrowly limited. In 1914, the Supreme Court held that:

"It is settled beyond dispute that the Constitution is not self destructive. In other words, that the powers which it confers on the one hand, it does not take immediately away with the other." [36]

In the inter-war period, the Supreme Court reaffirmed the well-established constitutional practice and doctrine that:

". . . he [the President], not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries and especially is this true in time of war.

"This consideration discloses the unwisdom of requiring Congress in this field of governmental power [i.e., federal powers in the field of external affairs] to lay down narrowly definite standards by which the President is to be governed. As we said in *Mackenzie v. Hare,* 239 U.S. 299, 311, 'we should hesitate long before limiting or embarrassing such power.' . . ." [37]

Twelve years later, i.e., after the end of World War II, the Supreme Court held again in *Lichter* v. *United States* that:

". . . the primary implication of a war

Footnotes at end of article.

power is that it should be an effective power to wage the war successfully. Thus, while the constitutional structure and controls of our Government are our guides equally in war and in peace, *they must be read with the realistic purpose of the entire instrument in mind.*" [38] (Emphasis added.)

Finally, in 1958 the Supreme Court approached the same problem from a slightly different angle when it said:

"The restrictions confining Congress in the exercise of any of the powers expressly delegated to it in the Constitution apply with equal vigor when that body seeks to regulate our relations with foreign nations. *Since Congress may not act arbitrarily, a rational means must exist between the content of a specific power in Congress and the acts of Congress in carrying that power into execution. More simply stated, the means . . . must be reasonably related to the act*—here regulation of foreign affairs." [39] (Emphasis added.)

Doctrine and practice were aptly summarized when the court held in *Palmer v. United States Civil Service Commission* that:

"The Congress of the United States under the separation of powers in the federal constitution cannot require the President of the United States to surrender any of his executive powder [sic]." [40]

President Kennedy relied on the same well-established constitutional practice and doctrine when he said in a letter to the then Chairman of the House Armed Services Committee, the Honorable Carl Vinson, in connection with the RS–70 debate that:

"Each branch of the Government has a responsibility to 'preserve, protect and defend' the Constitution and the clear separation of legislative and executive powers it requires. I must, therefore, insist upon the full powers and discretions essential to the faithful execution of my responsibilities as President and Commander-in-Chief, under Article II, Sections 2 and 3 of the Constitution.

"Additionally, implicit in the Constitution, of course, is the intent that a spirit of comity govern relations between the executive and legislative. And while this makes unwise, *if not impossible any legislative effort to 'direct' the Executive on matters within the latter's jurisdiction . . .*" [41] (Emphasis added.)

VI. SUBSTANCE AND CONTENTS OF THE PRESIDENT'S COMMAND POWERS DETERMINED BY INTERNATIONAL LAW

As stated heretofore, Chief Justice Taney said for the Court in 1850:

"His [the President's] duty and his power are purely military. As Commander in Chief, he is authorized to direct the movements of the naval and military forces placed, by law at his command. . . ." [42]

In this connection, Attorney General Cushing said in 1855:

"So he [the President], and he alone is the supreme commander in chief of the Army and Navy. . . . That is a power constitutionally inherent in the person of the President." [43]

It is well established that the findings and determinations made by the President in his capacity as Commander-in-Chief are definite and final. The Supreme Court held already in 1827 that:

"We are all of opinion, that the authority to decide whether the exigency [i.e., the President's authority to call the militia into federal service] has arisen belongs exclusively to the President, and that his decision is conclusive upon all other persons." [44]

Specifically in regard to armed forces in the field, the constitutional practice and doctrine concerning the command power of the President has been authoritatively stated in the following words:

"As against an enemy in the field the President possesses all the powers which are accorded by International Law to any supreme commander." [45]

Since the substance and the contents of the powers of the President as Commander-in-Chief of the armed forces in the field are determined by international law, the President is under a constitutional obligation to see to it that international law is faithfully executed because the "take care" clause of Article II, Section 3 of the Constitution does not only apply to municipal but also to international law. In this connection, Alexander Hamilton stated already the well-established and generally accepted doctrine when he said:

"The Executive is charged with the execution of all laws, the law of nations, as well as the municipal, by which the former are recognized and adopted.

"The President is the constitutional Executor of the laws. Our treaties and the laws of nations form a part of the law of the land. He, who is to execute the laws, must first judge for himself or their meaning." [46]

Although the Constitution makes the President Commander-in-Chief of the armed forces, the substance and the contents of the command powers are, as heretofore stated, determined by international law. The United States Army Field Manual, The Law of Land Warfare (FM 27–10 (1956), hereinafter "Field Manual") is the principal source for ". . . authoritative guidance . . . on the customary and treaty law applicable to the conduct of warfare on land and the relationships between belligerents and neutral states." [47] The provisions of the Field Manual have "evidentiary value insofar as they bear upon questions of custom and practice." [48]

The President had to be guided by the customary law of war which ". . . applies to all cases of declared war or any other armed conflict which may arise between the United States and other nations." Therefore, the President is under a constitutional obligation to apply the customary international law of land warfare in any international armed conflict regardless of whether war had been declared or not.

CONCLUSION

On the aforementioned grounds, it is submitted that the War Powers Bill (S. 2956), if enacted, would constitute an interference with the foreign relations and command powers *exclusively* vested in the President in his respective capacities as Chief Executive and as Commander-in-Chief of the United States Armed Forces.

Since the substance and the contents of the President's command powers over the armed forces in the field are determined by international law, as authoritatively stated in the United States Army Field Manual, the Law of Land Warfare, the War Powers Bill would also, if enacted, constitute an interference with the rights and duties vested by international law in any supreme commander of armed forces in the field. Thus, the War Powers Bill, if enacted, would constitute an attempt to abrogate or change unilaterally norms and rules of international law. Clearly, this would effectively undermine the credibility of the United States which, as Rome and Britain in times past, has probably the greatest interest in protecting and developing generally accepted principles and rules governing international conduct in peace as well as in war.

FOOTNOTES

[1] 7 Works of Alexander Hamilton 81 (J. C. Hamilton ed., 1851) [Hereinafter "Hamilton, Works"].

[2] 5 Writings of Thomas Jefferson 272 (Ford ed., 1898) [Hereinafter "Jefferson, Writings"].

[3] Memorandum of the Solicitor of the Department of State, October 1, 1930, in connection with Sen. Res. 253. 71st Cong., 2d sess., as quoted in 4 Hackworth, Digest of International Law 643 (1942).

[4] Constitution, Art. II, sec. 2, cl. 2 and 3.

[5] Corwin, The President: Office and Powers 188 (1962).

[6] Constitution, Art. II, sec. 2, cl. 1.

[7] 7 Hamilton, Works, supra, at 79–80.

[8] Ibid., at 84.

[9] 2 Benton, Abridgements of the Debates of Congress 466–467 (1861). See also Annals of Cong., 6th Cong., col. 613, as quoted in *United States* v. *Curtiss-Wright*, 299 U.S. 304, 319 (1936).

[10] American State Papers, Military Affairs I, at 606.

[11] *Durand* v. *Hollins*, 8 Fed. Cas. 111, 112 C.C.S.D.N.Y., (1860).

[12] *United States* v. *Curtiss-Wright*, supra, at 320.

[13] 7 Hamilton, Works, supra, at 79.

[14] 5 Jefferson, Writings, supra, at 161–162.

[15] 8 U.S. Sen., Reports, Committee on Foreign Relations 24 (1816) as quoted in *United States* v. *Curtiss-Wright*, supra, at 319.

[16] Sen. Doc. No. 56, 54th Con., 2d sess., 20–22 (1897).

[17] 40 Cong. Rec., pt. 2, 1418–1419 (1906) as quoted in 5 Hackworth, supra, 28–30.

[18] Memorandum of October 1, 1930, supra, as quoted in 4 Hackworth, supra, at 644.

[19] *United States* v. *Curtiss-Wright*, supra, at 319.

[20] *Ibid.*, at 320.

[21] *Fleming* v. *Page*, 9 How. 603, 614 (1850).

[22] Lieber, Remarks on Army Regulations 18.

[23] Cong. Globe, 37th Cong., 2d Sess., at 2919–2120 (1862).

[24] *Ibid.*, at 2970.

[25] *Prize Cases*, 2 Bl. 635, 670 (1863).

[26] The Federalist, No. 23.

[27] 3 Willoughby, The Constitution of the United States, section 1033, as quoted in *Ebel* v. *Drum*, 52 F. Supp. 189, 194 (D.C. D. Mass. 1943).

[28] *Durand* v. *Hollins*, supra, at 112.

[29] *Lichter* v. *United States*, 334 U.S. 742, 782 (1948).

[30] *United States* v. *Hirabayashi*, 46 F. Supp. 657, 662 (D.C. W.D. Washington, N.D., 1943).

[31] *United States* v. *Hirabayashi*, 320 U.S. 81, 93 1943). See also *Brown* v. *Wright*, 137 F 2d 487, 489 (4 Cir., 1943).

[32] Berdahl, "War Powers of the Executive in the United States," 9 University of Illinois Studies in the Social Sciences 1, 121–122 (1920).

[33] Annals of Cong., 495, 496, as quoted in *Myers* v. *United States*, 272 U.S. 52, 125 (1926).

[34] Taft, Our Chief Magistrate and His Powers 126 (1916).

[35] Hill, Present Problems in Foreign Policy 163 (1919).

[36] *Billings* v. *United States*, 232 U.S. 261, 282 (1914).

[37] *United States* v. *Curtiss-Wright*, supra, at 321, 322.

[38] *Lichter* v. *United States*, supra, at 782.

[39] *Perez* v. *Brownell*, 356 U.S. 44, 58 (1958).

[40] *Palmer* v. *U.S. Civil Service Commission*, 191 F. Supp. 495, 511 (D.C. S.D. Illinois, S.D. 1961); reversed on other grounds, 297 F. 2d 450 (7 Cir., 1962); cert. den. 369 U.S. 849 (1962). See also *United States* v. *Carrollo*, 3 F. Supp. 3, 7 (D.C. W.D. Missouri, W.D. 1939); *Lutcher S. A. Cellulose* v. *Inter-American Development Bank*, 253 F. Supp. 570 (D.C. D.C. 1966).

[41] 108 Con. Rec. 4694 (1962).

[42] *Fleming* v. *Page*, supra, 614.

[43] 7 Ops. Atty. Gen. 453, 464–465 (1855).

[44] *Martin* v. *Mott*, 12 Wheat, 19, 30 (1827).

[45] Sen. Doc. No. 39; 88th Cong., 1st session 452 (1964).

[46] 7 Hamilton, Works, supra at 84.

[47] United States Army Field Manual, The Law of Land Warfare, FM 27–10 (1956) (hereinafter "Field Manual"), sec. 1.

[48] Ibid.

Mr. THURMOND. Mr. President, in the Washington Star on Wednesday, April 5, 1972, published an article by Mr. David Lawrence entitled "Danger in War-Powers Legislation."

Mr. Lawrence relates several of the

disadvantages involved in congressional approval of every U.S. military intervention.

Mr. President, I am sure that there is unanimous agreement that we should make every effort to avoid a third world war. Controversy arises, however, in determining the best way to accomplish this objective.

The article supports the meritorious position that a strong military posture is the best deterrent to armed conflict. We should not minimize our ability to maintain our treaty commitments. Nor should we give possible adversaries the feeling that intervention by the United States is unlikely when our allies need our support.

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:

DANGER IN WAR-POWERS LEGISLATION

(By David Lawrence)

The biggest question mark around the world today is whether the United States is going to repeat history—weaken its military position abroad and give the impression that it will not help to prevent another world war.

If there had been a strong Western Alliance which included the United States, there might have not been a World War I or II. In both instances, the assumption was that the American people were advocates of isolationism and would not participate.

What is happening in Congress, as various members sponsor legislation declaring the executive branch shall have authority to commit military forces for only 30 days and must get congressional permission for continuance of operations beyond that, is being taken to mean that the foreign policy of the United States hereafter will not be regarded abroad as enduring.

As long as the employment of military force by major powers can at any moment upset the peace of the world, the United States must do its planning through use of bases in other countries and by dispersing its submarines carrying polaris missiles, utilizing foreign ports where they are available.

The Germans were convinced that the United States would not enter World War I or II. When they read the American press, they noted that elections were being won in 1916 and 1940 by denouncing any involvement in the war then in progress and by promises of candidates for the presidency to "keep out of war."

There are still those in Congress who think that the United States can stay out of Europe and Asia altogether or that use of military forces should be authorized merely when the other side has begun a war against us. Military men, however, say that wars can be prevented only by having an army, navy and air force distributed in strategic locations and in such size that potential enemies will not dare to take chances and start a war against the United States.

If an adversary thinks that the Congress will have to give its consent for American action in any critical situation around the world, there will be built up a feeling that the United States will no longer be of assistance to smaller countries and will be reluctant to furnish aid even to larger ones.

While the Constitution stipulates that Congress shall have the power "to declare war," it doesn't give either the Senate or the House the right to conduct foreign policy. This is a delicate task and requires a secrecy in planning and in carrying out programs for cooperation with various allies.

If the consent of Congress were required for the presence of American military forces in a friendly country for possible help in certain emergencies involving a broad-gauged policy of protecting American interests and preventing a larger war, the United States would find itself blocked in its dealings with allied nations.

This becomes even more serious if senators insist that the President should have only 30 days in which to conduct a military operation. What is overlooked is that the planning and stationing of armed forces in different parts of the world must take place a long time before any emergency develops.

The prospects are that a third world war is much more likely if it is definitely established that the United States cannot make and commit itself to the necessary preparations with allied countries. Plans for military operations would have to be submitted to Congress in advance in order to be able to get congressional approval and assure allied nations that assistance would be continuous and would not be interrupted by any action of Congress.

There are many other problems that could arise. This is why the State Department and the Department of Defense are emphatic in their statements that the proposals to interfere with the operations of the chief executive in conducting foreign policy can only result in more difficulties. They insist that America's position could be weakened in the world with respect to treaties it has signed and agreements it has made with its allies in the past.

Mr. MATHIAS. Mr. President, I rise to express my support of S. 2956, the war powers bill. I am one of the cosponsors of legislation and was one of the initial supporters of an earlier version of this bill, S. 731, which the distinguished senior Senator from New York (Mr. JAVITS) introduced in January 1971. It is a source of deep satisfaction that S. 2956 incorporates into one bill the essence of Senator JAVITS' earlier version, as well as subsequent proposals of Senators TAFT, EAGLETON, STENNIS, and BENTSEN. It is also encouraging to note that S. 2956 has at present count 26 cosponsors.

Mr. President, it impresses me as particularly fitting that the fundamental issues raised in this bill should come forward at a time when we are approaching the bicentennial of the American Revolution. For, I believe this war powers bill will be an historic milestone along the road back to the balanced concept of government intended by the framers of the Constitution. It will return to the Congress the awesome responsibility for determining whether or not we shall engage in war. And, it will at last bring clarity and order to an area which has for too long been confused and murky, a no man's land which the late Justice Jackson called a "zone of twilight" between Congress and the President. Significantly, it will do all of these things while still reserving to our Chief Executive complete latitude to meet all of the fast moving emergencies and exigencies of a nuclear age.

Clearly, we have a long road to travel before we will have begun significantly to restore that clean balance of powers set forth in the Constitution between Congress and the Presidency. For under present circumstances, the Chief Executive can commit our military forces to battle virtually anywhere in the world in order to protect the countless gradations of our "vital interests" abroad. Indeed, by the simple expedient of declaring a national emergency, he can assume full war powers.

In this modern age, the formal declaration of war has, for all practical purposes, disappeared. Instead we are in an era of protective reaction strikes, of small wars, limited wars, nonwars, and nonpeace. It is an age in which our vital interests are not easy to distinguish and in which the degrees of danger and provocation are limitless and remain shrouded in uncertainty.

But while some of the extraordinary powers now exercised by the President were gained by arrogation, it was we in Congress who, all too willingly over the years, conferred much of our own authority for defense and national security on the Chief Executive. To be sure, each case seemed perfectly justified as Congress granted the President, one after another, emergency powers to meet the emergencies of the day.

But while these crises subsided and disappeared, the powers conferred on the Presidency to meet them did not. Quite to the contrary, they continued to flourish and are very much alive and well today.

All the more reason, therefore, to turn this important corner now and get on with the task of restoring that delicate balance prescribed by the Constitution.

Mr. President, I shall not at this time undertake a detailed examination of the merits of this legislation. These arguments have already been presented by my distinguished colleagues with consumate skill. I would, however, like to focus on what I believe to be the fundamental issue here: namely, the contention of the opponents of this bill that the extraordinary powers now exercised by the Chief Executive are "inherent powers of the President" deriving from his position as Commander in Chief and that it would be unconstitutional to delineate what authority he may discharge in the absence of a declaration of war. In support of this contention, they recite a lengthy litany of historic precedent, suggesting thereby they the so called "inherent powers" of the Executive have been sanctified by tradition and cemented in history.

Mr. President, I would be the last to deny that our history is saturated with cases of military actions undertaken by successive Presidents on their own authority.

It was just such a circumstance which moved Congressman Abraham Lincoln to write to his law partner complaining of President Polk's aggressive policies toward Mexico:

> Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion and you allow him to make war at his pleasure.

Lincoln's concerns were, of course, expressed by others throughout our history. And they bear prophetic similarity to the 1970 "incursion" into Cambodia, our secret war in Laos and the "protective reaction strikes" persisting today.

It should be noted that until World War II, the occasions of military actions undertaken by the President without congressional authorization were limited, almost entirely, to the Western Hemi-

sphere. For the most part, these military actions were in the nature of skirmishes and limited action. They did not have the potential for escalation to nuclear war which overshadows every military initiative this Nation undertakes today.

So, far from being enshrined as historic precedents guiding our course today, such occasions lend urgency to the need to restore clarity and definition to an area in which the constitutional intent has been thwarted and the delicate apportionment of powers thrown out of balance.

Moreover, the emergency powers which we conferred on the Presidency and allowed to remain on the books as the law of the land are not to be viewed as legal precedent but as further reason to hasten to restore the constitutional balance clearly intended by the Founding Fathers.

There is something additional that must be said, not so much to ourselves as to our successors. This bill does not amend the Constitution. It does not abrogate any treaties. It does not alter the chain of command. What it does do is to establish a review procedure.

Whether this procedure is effective or not will depend on the wisdom, the courage, and the tenacity of those who must apply it to an actual situation. It is possible, of course, that under an intense emotional stress, the Congress would be as swept away as we who served here in 1964 were carried astray by the first reports given us of the events in Tonkin Gulf. It will still depend on the character of the men and women who comprise the Congress at a critical moment.

But we are here setting up the guidelines of the responsibility that Congress failed to exercise after the action at Tonkin Gulf. Our experience in the past may illuminate their path in the future. Whether they will see the light will be up to them.

Mr. President, in closing, let me reiterate that the effect of this bill would not in the slightest limit the President's latitude to act instantly to meet any conceivable circumstance which may require his action. The only constraint is that, once he has acted, he must inform the Congress of the circumstances and obtain congressional approval. The distinguished Senator from Mississippi (Mr. STENNIS) put it most succinctly last week when he said:

> I do not want any one in the President's office to sit idly by with indecision or timidity . . . and fail to act in an emergency, fail to move in on a problem and let our country be a victim of aggression in war or in any other matter. . . . I merely want to put Congress back into the role of having to share in decisions as to whether or not our Nation will be committed to war.

Mr. President, in these few words, Senator STENNIS has said it all. And so unless we are willing to accept the concept of an optional Congress and an optional Constitution, we must enact S. 2956, the war powers bill.

Mr. SPONG. Mr. President, how much time remains to the Senator from Nebraska and to the floor manager?

The PRESIDING OFFICER. The Senator from Nebraska has 1 minute, and the Senator from Virginia has 4 minutes.

Mr. SPONG. The Senator from Virginia has nothing to add to the very fine statement made by the Senator from New York.

I hope it will be the pleasure of the Senate to vote down this motion.

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

The PRESIDING OFFICER. Time cannot be yielded back, since the time set for the vote is 2 o'clock, unless the Senator desires a unanimous-consent request.

Mr. SPONG. Mr. President, I suggest the absence of a quorum, the time to be divided as it remains.

The PRESIDING OFFICER. That would also require unanimous consent.

Mr. SPONG. Mr. President, I ask unanimous consent that we have a quorum call.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

All time on the motion has expired.

The question is on agreeing to the motion of the Senator from Nebraska (Mr. HRUSKA), as modified, that the pending bill be referred to the Committee on the Judiciary for a period not to exceed 45 days from the date of adoption, and that the said bill be deemed reported from the said committee at the end of the 45-day period.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. EASTLAND (when his name was called). On this vote I have a pair with the distinguished Senator from North Carolina (Mr. JORDAN). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senators from Indiana (Mr. BAYH and Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) is absent on official business.

I further announce that, if present and voting, the Senators from Indiana (Mr. BAYH and Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 26, nays 60, as follows:

[No. 137 Leg.]

YEAS—26

Allen	Curtis	Hansen
Allott	Dole	Hruska
Baker	Dominick	McGee
Beall	Ervin	Miller
Bellmon	Fannin	Scott
Bennett	Fong	Thurmond
Brock	Goldwater	Tower
Buckley	Griffin	Young
Cotton	Gurney	

NAYS—60

Aiken	Gravel	Percy
Anderson	Harris	Proxmire
Bentsen	Hart	Randolph
Bible	Hatfield	Ribicoff
Boggs	Hollings	Roth
Brooke	Hughes	Saxbe
Burdick	Inouye	Schweiker
Byrd, Harry F., Jr.	Javits	Smith
Byrd, Robert C.	Jordan, Idaho	Spong
Cannon	Kennedy	Stafford
Case	Magnuson	Stennis
Chiles	Mansfield	Stevens
Church	Mathias	Stevenson
Cook	Metcalf	Symington
Cooper	Mondale	Taft
Cranston	Montoya	Talmadge
Eagleton	Moss	Tunney
Ellender	Nelson	Weicker
Fulbright	Packwood	Williams
Gambrell	Pearson	
	Pell	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Eastland, for.

NOT VOTING—13

Bayh	Long	Muskie
Hartke	McClellan	Pastore
Humphrey	McGovern	Sparkman
Jackson	McIntyre	
Jordan, N.C.	Mundt	

So the motion of the Senator from Nebraska (Mr. HRUSKA), as modified, to refer the pending bill to the Committee on the Judiciary was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. SPONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

AMENDMENT NO. 1101

Mr. GRAVEL. Mr. President, I call up my amendment No. 1101.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

On page 13, line 6, strike out "but" and "not" and insert immediately before "shall" the word "and".

On page 13, line 8, strike out the period and insert in lieu thereof the following new language: "unless by not later than fifteen days after the date of enactment of this Act the Congress declares war against any foreign power with which the Armed Forces of the United States are engaged in hostilities.".

UNANIMOUS-CONSENT REQUEST

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

Mr. GRAVEL. I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I am about to make at least one unanimous-consent request, and maybe two or three if the Senate agrees to the first one.

It is my understanding that there are approximately 12 or 13 amendments at the desk. Therefore, without going into any amendments, including the Dominick amendments, which I think number six, the Pell amendment and the McGee amendment, I ask unanimous consent that on the pending amendment there be a time limitation of 60 minutes, the time to be equally divided between the sponsor of the amendment, the Senator from Alaska (Mr. GRAVEL), and the manager of the bill, the Senator from Virginia (Mr. SPONG).

Mr. GOLDWATER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST

The PRESIDING OFFICER. Does the Senator from Alaska wish to have his amendments considered en bloc?

Mr. GRAVEL. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

Mr. GOLDWATER. Mr. President, reserving the right to object, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Mr. President, I thought the Senator from Alaska called up an amendment. Can the Chair explain why there are two amendments?

The PRESIDING OFFICER. The amendment is an amendment to the bill in two places. Therefore, it takes unanimous consent to consider the amendments en bloc.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAVEL. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. Mr. President, it was my intention to have a time limitation of 1 hour on this amendment. On the other amendment, which I offer in tandem with this one, I was prepared to agree to a time limitation of 10 minutes. I understand that some of my colleagues now may want to discuss this amendment at length. I would be prepared to discuss it as long as they may want.

If the Chair will correct me, my interpretation is that we will have a vote on the first part, which would be the correction on line 6, and then vote on the second part on line 8.

The PRESIDING OFFICER. The Senator's understanding is correct.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRAVEL. Mr. President, I do not need even 1 hour to discuss this matter. It is very easy to understand. That is why I permitted the clerk to read the amendment.

The first part relates to whether or not this war power legislation will affect present hostilities. It strikes me as somewhat ridiculous if we think it important to reassert the prerogatives of the United States and then try not to look at the fact that these prerogatives are being eroded today. We have the power to stop the war, and I think it would be, to some degree, putting the American people on to look to the future and say, "We think Congress should have this power and we are going to pass this measure and make sure Congress does have this power; but because we are not exercising this power right now we are not going to have this apply to present hostilities."

I think when a wrong is recognized and we want to change that wrong, it should be changed now and not sometime in the future. We should not say, "We see the wrong but we will correct it at some future time."

That is the import of what we face here.

The second part is equally simple. It requires that if this legislation passes and it does apply to present hostilities, the Chief Executive of this country will have to bring the war to a halt unless this body, Congress, comes up with a declaration of war to sustain his activities.

Here again, if there is support for the activities that are going on in Indochina today, I would hope Congress would at least have the straightforwardness and candor with the American people to sanctify these activities, this action of the President, by at least declaring war.

That is the only comment I can make on this matter. I do not think I could elucidate any further on the intent of this legislation. If any of my colleagues would like to address questions to me, I would be happy to answer as to the intent of the legislation.

Mr. JAVITS. Mr. President, I rather hope we may avoid two rollcall votes on this particular amendment. Would the Senator accept my suggestion again to ask unanimous consent that the amendments may be considered en bloc, and that the order for the yeas and nays may apply to the amendment en bloc?

Mr. GRAVEL. I have no objection.

Mr. JAVITS. Would the Senator make the request?

Mr. GRAVEL. I so request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I am prepared to vote at this time.

Mr. SPONG. Mr. President, the Committee on Foreign Relations had before it three or four resolutions and bills dealing with the subject of war powers. Almost all of them with the exception of the one introduced by the Senator from Ohio (Mr. TAFT) were introduced with the specific statement by the sponsors that they hoped that the war powers legislation would be considered exclusive of the war in Southeast Asia.

This matter was thoroughly discussed by the Committee on Foreign Relations which had before it proposals similar in intent to that of the Senator from Alaska, and these were rejected.

Therefore, the managers of the bill, to be true to the deliberations and actions of the committee on this measure, would have to oppose the amendment proposed by the Senator from Alaska.

Mr. JAVITS. Mr. President, the Senator from Virginia has stated the situation very accurately.

With the greatest of respect for the Senator from Alaska, and his intentions in this matter, and the next amendment, and my own actions, votes, and advocacy with respect to the Vietnam war should leave no question on that score, I have been deeply convinced we must deal with the policy of the United States in respect of the war prospectively if we hope to obtain the passage of this measure.

Therefore, I oppose this amendment and I will similiarly oppose the next amendment because I believe they would be counterproductive and defeat the entire measure.

The PRESIDING OFFICER. Is there further discussion?

Mr. GRAVEL. Mr. President, I can only add that if bringing into perspective what we are doing today by this amendment would defeat the whole piece of legislation, I would think that would be a satisfactory occurrence. I must in all candor say I would be prepared to see that measure defeated if this body were not prepared to include it.

Again, let me underscore that we can be very verbose on this floor. But for the American people it is not a very complex issue. If we think there should be some control of a prospective nature with respect to the war powers of the Chief Executive, I can only say that it should also relate to the present situation, particularly in light of the escalation that has been taking place in the last few days.

I am prepared to yield back my time if the opponents are prepared to yield back their time.

Mr. SPONG. I yield back the remainder of my time on the amendment.

Mr. GRAVEL. I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing en bloc to the amendments of the Senator from Alaska. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senators from Indiana (Mr. BAYH and Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) is absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from South Dakota (Mr. MCGOVERN) would each vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BAKER) and the Senator from Oregon (Mr. PACKWOOD) are detained on official business.

The result was announced—yeas 11, nays 74, as follows:

[No. 138 Leg.]

YEAS—11

Cranston	Hart	Mondale
Fulbright	Hughes	Nelson
Gravel	Kennedy	Ribicoff
Harris	Mansfield	

NAYS—74

Aiken	Dole	Moss
Allen	Dominick	Pearson
Allott	Eagleton	Pell
Anderson	Eastland	Percy
Beall	Ellender	Proxmire
Bellmon	Ervin	Randolph
Bennett	Fannin	Roth
Bentsen	Fong	Saxbe
Bible	Gambrell	Schweiker
Boggs	Goldwater	Scott
Brock	Griffin	Smith
Brooke	Gurney	Spong
Buckley	Hansen	Stafford
Burdick	Hatfield	Stennis
Byrd, Harry F., Jr.	Hollings	Stevens
	Hruska	Stevenson
Byrd, Robert C.	Inouye	Symington
Cannon	Javits	Taft
Case	Jordan, Idaho	Talmadge
Chiles	Magnuson	Thurmond
Church	Mathias	Tower
Cook	McGee	Tunney
Cooper	Metcalf	Weicker
Cotton	Miller	Williams
Curtis	Montoya	Young

NOT VOTING—15

Baker	Jordan, N.C.	Mundt
Bayh	Long	Muskie
Hartke	McClellan	Packwood
Humphrey	McGovern	Pastore
Jackson	McIntyre	Sparkman

So Mr. GRAVEL's amendments were rejected.

Mr. SPONG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 13955) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1973, and for other purposes," agreed to the conference requested by the Senate on the disagreeing vote of the two Houses thereon, and that Mr. CASEY of Texas, Mr. EVANS of Colorado, Mr. HATHAWAY, Mr. ROUSH, Mr. BEVILL, Mr. MAHON, Mr. BOW, Mr. CEDERBERG, Mr. RHODES, and Mr. WYATT were appointed managers of the conference on the part of the House.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

BUDGET FOR THE DISTRICT OF COLUMBIA—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. BUCKLEY) laid before the Senate the following message from the President of the United States, which, with the accompanying budget, was referred to the Committee on Appropriations:

To the Congress of the United States:

I am transmitting to the Congress the budget for the District of Columbia for the fiscal year beginning July 1, 1972.

This budget reflects a careful allocation of limited resources among important services provided by the city government and among high priority public works projects. The Mayor and the City Council have thoroughly examined these budget proposals, effectively carrying out their responsibilities under Reorganization Plan No. 3 of 1967. In addition, the Office of Management and Budget has reviewed these proposals as specified in the District of Columbia Revenue Act of 1970.

The budget also reflects the city's actions consistent with the economic and Government personnel policies I established last year for Federal agencies. The District's base of authorized positions has been reduced by 5%, and further steps are being taken to improve the management and efficiency of the local government.

Most significantly, this budget does not request congressional approval of additional revenue proposals. Due to the intensive review by the Mayor and the City Council, the expenditure requests transmitted today can be completely balanced within current congressional revenue authorizations and anticipated revenue increases from local government actions.

Because this budget is not predicated on new congressional revenue action, I anticipate that the Congress should be able to complete action on the District's fiscal year 1973 budget by the beginning of the fiscal year. Such action would greatly facilitate more efficient budget planning by the District government in both the current and future fiscal years.

RICHARD NIXON.

THE WHITE HOUSE, *April 11, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. BUCKLEY) 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.)

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

(The remarks Mr. ERVIN made at this point on the introduction of S. 3475 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

LACK OF PROGRESS UNDER FLAMMABLE FABRICS ACT OF 1967

Mr. MAGNUSON. Mr. President, several weeks ago, the Department of Commerce held a hearing at which most of the witnesses, representing industry interests, criticized and castigated the Bureau of Standards for its flammability standard for children's sleepwear under size 6X. The standard, which was not to go into full effect for 2 years, was the first wearing apparel standard to be developed by Commerce under authority granted under the Flammable Fabrics Act of 1967. It has been no secret that I have been greatly frustrated and troubled by the lack of progress that we have made in the flammable fabrics area since the first act was passed in 1954. The Department of Commerce has been inhibited by a number of factors, including technical difficulties, their own narrow construction of the legislative mandate, an incredible barrage of industry pressure.

Amidst the cries of the industry at that hearing, however, was another voice, the voice of a citizen, a consumer, a mother of a little girl who survived third-degree burns over 50 percent of her body as a result of a fabric related fire. In a very rational and deliberate tone, Mrs. Marijean Brehm proceded to tell the story of her daughter, Elizabeth, and the excruciating pain, anxiety, and disfigurement with which she must live for the remainder of her life. But Mrs. Brehm's testimony was not only an emotional true-life tale designed to force the Department to stand firm with its flammability standard. Her statement also helped to refocus our attention on the reality of the problem; to remind us that we are dealing with a very real problem involving very real lives.

The Department of Health, Education, and Welfare estimates that 150,000 to 200,000 persons are injured annually from burns involving flammable fabrics. Mrs. Brehm reminded us that these are not just statistics, but are individuals. She helped to underscore the urgency of the problem which the Flammable Fabrics Act was programed to remedy. I ask unanimous consent that Mrs. Brehm's statement be printed in the RECORD.

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

STATEMENT OF MRS. MARIJEAN BREHM

Gentlemen: You have met here today to discuss the technical difficulties encountered in making children's nightwear flame-retardant. I have brought my child here today to show you the human difficulties encountered when children's nightwear is not flame-retardant—but is, in fact, highly flammable.

I am here as a self-appointed representative of the parents of children who have been injured, many fatally, in fabric fires. There are thousands of us; HEW estimates that 150,000 to 200,000 persons are injured annually from burns involving flammable fabrics and the vast majority of those injured are children. I do not claim to be the best representative of this group—I'm sure there are others who are far more articulate, far more accustomed to public speaking. I am here because I feared no one else would be. And I submit that holding hearings on flammability without burn victims or their parents present is like holding hearings on alcoholism without alcoholics! I am here to ask this committee to give long-overdue priority to the child inside that nightgown rather than to the technological difficulties the industry has flameproofing that gown—difficulties which I suspect are centered around the almighty dollar.

A child will die today, a child died yesterday, and a child will die tomorrow of burns involving a flammable fabric. In fact, at least one child dies every day of fabric-related burns. My child was one of the "lucky" ones; she survived third degree burns over 50% of her body. She was "lucky"; she lived, lived to face excruciating pain, incomparable anxiety, and permanent disfigurement. She survived, to find herself, at various times, unable to walk, unable to move her arms or her head with any facility. She has survived thirty surgeries, and awakened to find herself encased in a variety of casts—a body cast for over six months—to find pins through her fingers, to find herself minus one finger and most of her ears and, at one point, her entire scalp. To date, she has survived her physical wounds and the stares and comments of the curious. But, as she grows older and more vulnerable, will she still want to swim and dance when she considers the scars not covered by the swim suit and ballet costume, will she still wear short sleeves and open-necked tops, or will she hide herself as completely as possible? How deep will the psychological wounds be? Will they also be third degree and leave deep, irreparable scars? And I wonder how she'll cope with the agonizing knowledge that all her suffering was unnecessary, that her injuries need never have occurred if the garment industry had thought her life, her well-being was worth the few cents necessary to have flame-proofed the nightgown she was wearing, or the even lesser amount necessary to attach a warning label to the gown.

Beth's nightgown was 100% cotton flannelette, a name-brand product. It was a birthday present from a family that loves her very much. It had been worn once previous to her accident, on the night of her third birthday. It had been laundered only once. The next time she wore that gown was on the night of Friday the 13th of March, 1970. We had come to my parent's home in northwest Iowa to attend the funeral of my uncle who had been killed in a plane crash the previous Tuesday. After his burial a small dinner was served at my parent's home for close friends and family. Since I was busy and Beth was playing with her cousins, it was later than usual when I decided to put her to bed—it was 9:30 p.m. As I was telling her that it was bedtime, my son, Christopher, who was two months old that day, awoke. Someone then offered to feed Chris. My husband, Dennis, and I took Beth upstairs where I put double diapers and rubber pants on her, and put her nightgown on over her undershirt. We put her in her crib in my 16 year-old brother's room, the room she always slept in when we visited my parents. We then went downstairs, leaving a small hall light on and the door open. I picked up the baby, burped him, held him for a few minutes, and then put him in the bassinet. I walked to the kitchen and looked at the clock once again. I would like to say that I am not ordinarily a clock watcher, but I had just gotten Chris on schedule and was checking to see if he was still on schedule. It was about 10 p.m. As I turned from looking at the clock, I heard a scream. It was a scream like I had never heard before, full of terror and pain. I ran in to where the baby was, saw immediately that he was all right, and yelled for my husband to go to Beth. As he raced up the stairs, I heard her scream again. As I moved toward the stairs, I heard him scream my name. If I can ever forget the sound of her screams, I know I'll never forget the sound of his. Another uncle of mine and a close friend of the family, a registered nurse, were near the stairs and ran up ahead of me, and as they reached the room, Mary called for someone to get the doctor. I backtracked and relayed the message, and as I reached the top of the stairs again, I heard her say to forget the doctor and call the hospital. I also called those instructions down the stairs. So, by the time I finally did get upstairs, Mary and my uncle had placed Beth in a tub of cool water and were wrapping her in cool cloths.

My husband was clenching the towel rack for support and repeating over and over, "My god, the fire was all over her." He had put the flames out by flinging her down on the mattress and using the blanket and his hands to smother the fire. As I looked down at her, I noticed that some of her skin looked like it was peeling off, that it looked yellow and black, like she had been scorched, and that her lips were starting to swell. We rushed her to the nearest hospital and I carried her into the emergency room and started to remove her clothing. Her rubber pants were intact where the waist band and leg bands would be, and her diapers were blackened, but mostly intact. As I removed her diapers, I put one of the diaper pins in my pocket because I had noticed that the plastic safety head was pocked and melted and, in that sickening moment, I realized how hot the flames from that gown actually were. She received emergency treatment and we were told she probably would not live. The doctor explained to us that, considering how badly her mouth was burned, it did not seem possible that her lungs and throat would not be burned also, and that tends to be fatal. She was then flown to Iowa City where she received further emergency treatment and was put in the Burn Unit there. When we were allowed to see her, she was wrapped in stockinette from head to toe like a mummy, blood was being pumped from her stomach, she was being fed intravenously, and she was terribly swollen—her mouth was swollen to about four times its normal size. We then spoke with Dr. Charles Hartford, an extremely dedicated and skillful surgeon, who, as far as we're concerned, saved her life, and now works continuously to make that life worth having saved. The prognosis, again, was not good. She could die at any time—she would remain on the critical list almost to the day that she would leave the hospital. She could die of any number of causes—if she survived the tremendous infection caused by burns, she could die of cardiac arrest on the operating table, or of pneumonia, etc. If she lived, she faced countless, painful surgeries, and the possible loss of limbs. If she lived she certainly would be scarred, possibly horribly scarred. He said that she would have to face surgeries till she was full grown, and would be hospitalized almost constantly for at least two years. He indicated that it would be absolute hell, and it was.

Have you ever visited a burn unit or a Shrine Hospital? If not, then you really don't know what you're arguing against. Can you imagine how parched, how terribly thirsty a person must be after suffering a severe burn? Do you know what it's like to be unable to give your parched child the smallest drink of water for three days because she is bleeding internally from a burn ulcer? Knowing that the child has to have nourishment to live, have you ever force-fed a child whose G.I. tract has stopped functioning and thus has no appetite? Or worse, forced bottle after medicine bottle of vile tasting medicine down her? You have not known true agony until you've seen your child being wheeled out on a surgery cart—and know that you may never see her alive again. I've been there 30 times, and I've waited over a 100 hours for her to return from the operating room. Torture, gentlemen, is watching your child try to walk again and hearing her scream in pain with each step.

To hear her scream for five solid days when she lost chest grafts and lay there with that area raw or to hear her scream in pain every time her dressings were changed. Do you know what it's like to have your child wake in terror and ask if it's time to have her dressings changed—four months after she's released from the hospital? If the same gentlemen who encouraged their workers to write this commission in opposition to the new regulations would also take them and spend a day in a Burn Unit, I doubt that their employees would pick up their pens so fast.

During the time Beth was in the Burn Unit, we began to try to reconstruct what occurred during the ten minutes when she was alone upstairs. Her crib was about 2 feet away from a chest of drawers, on top of which was a dresser scarf and cufflink box. She pulled the dresser scarf toward her to enable her to reach the cufflink box which was on the far end of the dresser. The box was closed at the time. According to my brother Terry, the box contained cufflinks, a few kitchen matches, a couple match books (ironically my brother doesn't smoke, but it was his job to burn the garbage) and two lighters. One of the lighters was very old (my grandfather's) and inoperable. The other was a small souvenir lighter, the size found on keyrings. From this lighter, Beth evidently got enough of a spark to catch the bottom of her gown on fire. Unsolicited statements by Beth shortly after the accident confirmed our suspicions that it was the lighter. Also, she still exhibits a fear reaction toward lighters and, at no time, has she reacted that way toward a match flame.

It is also likely that the lighter merely sparked, since my brother cannot remember filling the lighter with fluid since the previous summer. After ignition, she stood up and the fire spread up the front of the gown first and when my husband reached her, the flames were shooting as high as the top of her head. We estimated that the time lapse between her first scream and my husband's extinguishing the fire as 10–15 seconds. This same estimate was arrived at by a professional testing laboratory where we sent the remainder of the gown and two others for testing. It is frightening to realize that, if we had been in the basement when she screamed, we could never have reached her in time.

It is agonizing for us to realize that, had this gown been flame-retardant, it probably would not have caught fire at all. It is maddening to know that new flammability standards could have been established in 1967, the year she was born, but there wasn't even a meeting held for 18 months. The garment industry has, for the most part, fought any attempt at instituting the new standards. They have insinuated that only children of negligent parents get burned, which is adding insult to injury. I am not a negligent parent; my child was in excellent physical and mental condition prior to March, 1970. My only negligence was in unknowingly putting your product on my child. By the way, gentlemen, would you consider it poetic justice for a child to be consumed by flames if he does happen to be the offspring of negligent parents? Or, if only children of negligent parents get burned, how do you explain away the large percentage of burns suffered

by the elderly—or do you consider being burned to death one of the unfortunate side effects of senility?

I fail to understand the logic of limiting the standards to cover garments only through size 6x—are you holding the average six year-old responsible for his decisions? I regret that you do not have the same concern for the lives of our children as the government of England does, as evidenced by their flammability laws of 1964?

I would agree that most consumers today, given the option, would not spend the extra money for flame-retardant nightwear, but only because they have no knowledge, no comprehension, of how fast non-retardant nightwear combusts or of the tremendous pain, expense, and side-effects of a burn injury. Most people, for example, think skin grafts are performed for strictly cosmetic purposes. People cannot comprehend the full ramifications of an automobile accident unless they experience one, but seat belts are required standard equipment. Similiarly, when buying children's nightwear, the consumer should have no choice between flame-retardant and non-retardant garments, for the life of that child has got to be protected.

It is difficult for me to believe that industry is really concerned about the costs that will be incurred by the consumer—I have never noticed any reluctance to raise consumer prices when the innovations was one they favored. I would like to ask just how much extra it does cost to flame-retard a nightgown?

You have seen my child. I am certain that at some point, possibly in adolescence, she will turn to me in sorrow and rage and frustration and say, "Why didn't you let me burn?" Now I turn to you in the same sorrow, rage, and frustration and ask, "How could you let her burn?" As for what you do in the future, I don't know why I care, for the children that these new standards will protect are your children, gentlemen, it's obviously too late for mine.

TRIBUTE TO LUKE QUINN

Mr. MAGNUSON. Mr. President, one day soon we will complete the conquest of cancer. When that day comes there is one man all of us will place at the very top of the honor roll of dedicated citizens responsible for that blessing to mankind: Luke Quinn. Because it was, after all, Luke who combined fierce commitment to the goals of cancer research with a diamond hard knowledge of the ways and byways of Congress. And it was Luke who channeled the enthusiasm and energies of cancer society volunteers to productive legislative efforts. I considered him always a good friend and a vital ally. His loss is already felt very deeply.

Mr. President, Claudia Levy wrote a most fitting obituary which appeared in the Washington Post, March 13. I ask unanimous consent that that obituary be printed in the RECORD.

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

LUKE C. QUINN, CANCER FIGHTER, DIES

(By Claudia Levy)

Col. Luke C. Quinn Jr., 64, a lobbyist for the American Cancer Society who played a major, behind-the-scenes role in the passage last year of the Conquest of Cancer bill, died Saturday at the Clinical Center of the National Institutes of Health.

A legislative representative for the society and other public health groups here for 20 years, he died of a cancer that was discovered last summer. The retired Air Force officer put off further treatment until the fall, his assistant said, because Congress was holding hearings on the cancer bill he had fought so hard for.

That bill, signed into law by President Nixon two days before Christmas, authorized a $1.6-billion federal crusade against cancer and gave the President a special responsibility for finding new research and treatment methods against a disease that kills 325,000 Americans a year.

The compromise legislation, Col. Quinn's associates said, was in part a tribute to the lobbyist's skill in encouraging both President Nixon and Sen. Edward Kennedy to join forces. He had also worked hard to marshal the support of citizens and scientists while the legislation was being fought out

"There were so many bills floating around, and unless there was a single person to coordinate, we could have ended up with a mess," said Dr. Solomon Garb, cochairman of the Citizens Committee for the Conquest of Cancer.

The colonel had asked him and others to form the committee in 1969, said Garb, science director for the American Medical Center in Denver, Colo., because he was alarmed at the continuing cutbacks in cancer research funding.

A native of New York City who had studied at Columbia and American universities and the City College of New York, Col. Quinn served during World War II as an intelligence officer in Italy and then was assigned to Capitol Hill as the Air Force liaison officer. In 1952, after he retired from the service, he became a registered lobbyist for a number of professional and scientific groups interested in expanding medical research, including the cancer society.

He lobbied successfully for a $10-million special task force on genetic diseases and was instrumental in the establishment of the National Eye Institute and the Fogarty International Center at the National Institutes of Health.

He also helped create the John E. Fogarty Foundation for research into children's diseases in Providence, R.I., an institute that is named for the late congressman who was among the first to urge Col. Quinn to take on health legislative work.

"Quinn carefully kept his name out of the news for the 20 years he spoke for health interests," his assistant, Noel Noel, said.

"There was an element of martyrdom in what he did (last summer)," Garb said. "I think he probably sacrificed his own chances for survival to insure that a good bill was passed."

"The historic Cancer Act passed last year in Congress will be a permanent memorial to Luke Quinn," Sen. Kennedy said. "Because of his tireless efforts, we enacted the most important milestone so far in our national effort to conquer cancer. The disease claimed his life, but because he lived, millions will be saved."

Col. Quinn, who lived at the Watergate Apartments, is survived by a sister, Dorothy Judge, of Caldwell, N.J.

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

AMENDMENT NO. 1102

Mr. GRAVEL. Mr. President, I call up my amendment No. 1102.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. GRAVEL. Mr. President, I ask unanimous consent to make a technical modification, in view of the fact that we have already adopted the Javits amendment dealing with that same section.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. GRAVEL. The technical modification is to insert, after the word "through" the following:

The word "Act." on line—

The modification is at the desk.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. GRAVEL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. GRAVEL. I yield.

Mr. JAVITS. May we have the amendment read as modified?

The assistant legislative clerk read as follows:

On page 13, strike out lines 4 through the word "Act." on line 8 and insert in lieu thereof the following:

SEC. 9. A state of war is hereby formally declared to exist between the United States and the Democratic Republic of Vietnam (North Vietnam); and the President is hereby authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Democratic Republic of Vietnam (North Vietnam); and, to bring the conflict to a successful termination, all of the resources of the country are hereby pledged by the Congress of the United States.

Mr. GRAVEL. Mr. President, obviously this amendment speaks very eloquently for itself without any words from me. I merely want to add that we have been waging war in Southeast Asia, but for some reason unknown to me we have never bothered to declare war. Yet Senators stand on this floor to insist and appeal that we should do more bombing, and that we should be putting forth a stronger effort to resolve that conflict.

The courts of this land have ruled that a de facto war exists, when they have been faced with the issue, on the simple basis that we, the Congress of the United States, though we have not declared war, have appropriated the money for it, and that means that we want to wage a war. We have had numerous efforts on this floor to try to stop it, to no avail. Perhaps this effort will bring about the candor and the straightforwardness that are needed in this day. If we are going to double, as we have done in the last few days, the number of B–52's with which we have been bombing these poor people, who represent not one iota of threat to our survival, then we at least ought to have the gumption, the honesty, and the straightforwardness to look them in the face and say, "We declare war against you. We know we are killing you now, but at least we will formalize it and declare war."

I do not know what a negative vote on this matter would mean, but I know

what my vote will mean. It will mean simply that I do not want any war there. So I am going to vote "No" on this amendment.

I want to make known loud and clear to the Chief Executive of this country, and make known to the American people, that I do not want a war there.

So if Senators will join me in this, I think we may show—if there are sufficient "no" votes—that the Chief Executive has no support for his activities. The American people may interpret a "no" vote to mean that the Senate does not want to continue to wage the war. Then, obviously, the question will occur, "Why do we continue?"

Mr. President, I have nothing more to add to this. If the manager of the bill is willing to yield back his time, I am willing to yield back my time, so that we can vote.

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

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is there any time limitation on this debate?

The PRESIDING OFFICER. There is no time limitation on the debate.

Mr. JAVITS. Mr. President, the Senator from Alaska, as is his right, has offered an amendment of the most portentous character in respect of this matter, going far beyond the amendment which he offered before and upon which we just voted.

The managers of the bill, Senator SPONG and I, have consulted about this matter. We felt that we could understand the substantive question raised, that this bill, in the view of the Senator from Alaska, should be made to apply to the Vietnam war, because, by its own terms, it does not apply if there is a declaration of war. "Unless there is a declaration of war," said the previous statement, and the Senate has rejected that, and therefore has voted on a substantive proposition which is directly related to this bill, and on which we did not prevent any substantive vote.

But, Mr. President, this is a declaration of war; and it seems to us that it is so much a matter apart from any consideration which goes to this bill that it really would be most unfair to compel Senators to vote "aye" or "nay" on this proposition in the context of the Senate's consideration of this bill.

I feel that my credentials in respect of opposition to the Vietnam war are certainly adequate. The Senator from Alaska, himself, says that he is going to vote "nay" on his own amendment.

So Senator SPONG and I have decided that it will be our duty to move to table this matter. I have not made the motion, and I will not make the motion until Senator GRAVEL has debated the matter to the full extent that he wishes to, in order to expose to the Senate his reasons for offering the amendment. I simply serve that notice at this time, on behalf of Senator SPONG and myself, for the information of the Senate and for the information of the Senator from Alaska, so that Senator GRAVEL may be guided accordingly.

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

Mr. JAVITS. I yield.

Mr. GOLDWATER. I think it is very wise that the managers of this bill have decided to move to table the amendment.

It is typical of the fears I have expressed on the floor during the debate that this approach could constantly bring up more or less frivolous attempts to get things said and get things done that would embarrass the Senate in the doing of them, not to mention the voting on them.

I hope the Senator from New York and the Senator from Virginia will make the motion to lay on the table. I certainly will support them, although they know that I am not in sympathy with their bill.

Mr. JAVITS. Mr. President, may I say in response that I do not believe this amendment is frivolous. On the contrary, it is with the deepest conviction and sincerity on the part of the Senator from Alaska. I would be the first to attest to that. But I do feel that it is imposing a burden upon the Members of the Senate to vote "Aye" or "Nay" upon a matter the implictions of which are not readily perceivable either way and that, therefore, the procedures of the Senate allow us a method by which that decision need not be made substantively, and Senator SPONG and I have decided to utilize that method in this case. We all are reluctant to do that, or to vote for it, but we feel that in this particular case there is no other course open to us.

Mr. GRAVEL. Mr. President, I can understand my colleague's desire not to vote on this issue on an up and down basis. However, I cannot think of—and I have searched my mind—a more proper piece of legislation upon which to have this type of amendment. Here is a piece of legislation that talks of the President's war powers. I think we are all prepared to agree privately, if not publicly, that we are at war. So it strikes me as a very logical consequence to offer an amendment to this bill.

Perhaps the Senator from New York could point out a piece of legislation that would be more apt to receive such an amendment. I know of none. It may be the military appropriations bill, but that would govern other facets of it. It would be most difficult to try to carve out the appropriation moneys that go directly to Indochina. In fact, it would be impossible to do it on a line item basis.

I think that when we are talking of declaring war, we are talking of a philosophical, ideological state that the country then develops. What better bill could there be in which to face this issue? And I use the terminology "face this issue."

I am distressed and chagrined that the Senator from Arizona would feel, ever so slightly, that this might be a frivolous amendment. I really cannot understand that from the Senator from Arizona, because it was he who advocated—at least, I read it in the press, and the reporting could have been erroneous—additional bombing in the north.

I think a child can understand that if you get on an airplane and take a bomb and bomb people and kill them, you are at war with them, that a state of war exists. What purpose does it serve us not to recognize this? Is there a game we play in our minds? I do not understand it. If we are doing something and there is a name for what we are doing, and it is waging war, why are we reluctant to make an official determination of that status?

The Senator from New York states that this would be a momentous decision and that it would send signals throughout the country. There is no question that it would send out signals. If we voted not to declare war, it would make our actions in Indochina look somewhat ridiculous to the world. If we voted to declare war, it would also send out a signal to North Vietnam that we stand foursquare behind the activities of the President.

I can only interpret a move not to face the issue straight on as a move to try to fuzz the issue, hoping that it will go away. I can assure my colleagues that it will not go away. I can assure my colleagues that for the remainder of 1972, as we move around the country, we will be faced with this question, "Why didn't you do something? Why didn't you stop the war?" I think we have a very polite and proper and effective way to do it, and that would be not to hamstring the President in any of his policies but just say, "We, the United States, do not want to wage war so, therefore, we will not vote to declare war." A simple no vote, up or down, on the issue, would send out the signals that should be sent out, that this insanity, this sickness which beleaguers us, must stop.

Certainly, South Vietnam, North Vietnam, Cambodia, and Laos do not represent a threat to our security. Certainly, we are sophisticated enough to appreciate that we are not being opposed by a monolithic system of communism.

What sense does it make to have the President of the United States, whom I applaud for his action, going to Peking and sitting down and supping with the Communist Chinese, a nation which by its sheer numbers does conceivably constitute a threat to us, while 600 miles away we kill people because, supposedly, they are Communists?

What sense does it make to have the Secretary of Commerce go to the Soviet Union to negotiate trade agreements, for the State Department to prepare a pamphlet telling our businessmen how to drink vodka so they will not have a hangover the next day and can cut a good Yankee deal?

What sense does it make to anyone to have that kind of relationship with the only nation in the world which can really threaten our safety, and then go to the other side of the world and kill human beings because they are Communists? It makes no sense at all.

I believe it makes no sense at all not to make a straightforward decision with the candor required in this day and age—with the candor demanded by the youth of this country. They do not want to see any more fudging or any more fuzzing. They want to see the issue decided straight out. So many times we in Congress have found ways to circumvent a straightforward decision.

I hope that today will not be one of them.

Mr. President, I have no further com-

ments to make. If my colleagues feel that they must take action on this amendment, I step aside.

Mr. CHILES. Mr. President, I am tempted to vote for the amendment to include the present conflict in Southeast Asia as a part of the war powers bill because it would again allow me to express my disappointment in our continued involvement long after we have realized it was not in our national interest and we should not have engaged our troops and expended the lives of American boys in this remote area of the world.

If Southeast Asia were included in the war powers bill and it passed, Congress would be required to perform the last of its proper constitutional role by expressing itself and sharing with the President the decisions in this war.

However, I realize we have a unique opportunity to pass the war powers bill by excluding the Southeast Asia conflict, and I know the chances are little or none that such a bill could pass which included Southeast Asia, so I shall vote against the amendment.

Mr. JAVITS. Mr. President, I believe that this debate has resolved the respective points of view. I should like to close by saying that if the signal the Senator from Alaska (Mr. GRAVEL) is seeking is that we do not want to declare war, certainly the refusal even to consider this amendment would be an even more decisive signal.

Accordingly, Mr. President, I move to table the amendment of the Senator from Alaska and ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BUCKLEY). The question is on agreeing to the motion of the Senator from New York to table the amendment of the Senator from Alaska (Mr. GRAVEL).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

I further announce that, if present and voting, the Senator from Indiana (Mr. HARTKE) and the Senator from South Dakota (Mr. MCGOVERN) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. PACKWOOD) is detained on official business.

The result was announced—yeas 78, nays 7, as follows:

[No. 139 Leg.]

YEAS—78

Aiken	Dominick	Pearson
Allen	Eagleton	Pell
Allott	Eastland	Percy
Anderson	Ellender	Proxmire
Baker	Ervin	Randolph
Beall	Fannin	Ribicoff
Bellmon	Fong	Roth
Bennett	Gambrell	Saxbe
Bentsen	Goldwater	Schweiker
Bible	Griffin	Scott
Boggs	Gurney	Smith
Brock	Hansen	Spong
Brooke	Hatfield	Stafford
Buckley	Hollings	Stennis
Burdick	Hruska	Stevens
Byrd, Harry F., Jr.	Hughes	Stevenson
Byrd, Robert C.	Inouye	Symington
Cannon	Javits	Taft
Case	Jordan, Idaho	Talmadge
Chiles	Magnuson	Thurmond
Church	Mansfield	Tower
Cook	Mathias	Tunney
Cooper	McGee	Weicker
Cotton	Miller	Williams
Curtis	Montoya	Young
Dole	Moss	
	Nelson	

NAYS—7

Cranston	Hart	Mondale
Gravel	Kennedy	
Harris	Metcalf	

NOT VOTING—15

Bayh	Jordan, N.C.	Mundt
Fulbright	Long	Muskie
Hartke	McClellan	Packwood
Humphrey	McGovern	Pastore
Jackson	McIntyre	Sparkman

So Mr. JAVITS' motion to lay Mr. GRAVEL's amendment on the table was agreed to.

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

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

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. BUCKLEY). The Chair, on behalf of the Vice President, and pursuant to Public Law 84–689, appoints the Senator from California (Mr. TUNNEY) to attend the North Atlantic Assembly.

EXTENSION OF TIME FOR FILING REPORT OF SPECIAL COMMITTEE ON AGING

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Idaho (Mr. CHURCH) I ask unanimous consent that the time for filing the report of the Special Committee on Aging "Developments in Age: 1971 and January–March 1972" be extended from April 15 to May 5, 1972. This additional time is needed to consider new developments, including the President's message of March 22, 1972.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3054) to amend the Manpower Development and Training Act of 1962.

QUORUM CALL

Mr. ROBERT C. BYRD. 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. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

AMENDMENT NO. 1084

Mr. FULBRIGHT. Mr. President, I call up my amendment No. 1084.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

Mr. FULBRIGHT. Mr. President, I send to the desk a substitute for that amendment.

The PRESIDING OFFICER. The clerk will read the amendment as modified.

The legislative clerk read the modified amendment, as follows:

On page 13, line 8, after the word "Act" insert the following:

SEC. 9. The preceding sentence, however, shall not be deemed in any manner to confer upon the President any authority to use the Armed Forces of the United States not otherwise conferred upon the President under the Constitution or other provision of law.

Mr. FULBRIGHT. Mr. President, this amendment to section 9 of the bill is designed to avoid any implications, even by indirection, that the Congress is giving negative or implicit sanction to the continuation of the war in Vietnam.

I realize the necessity of keeping the issue of the Vietnam war separate from the general issue of war powers. Nevertheless, I think it is possible that by stating that nothing in this bill should apply to present hostilities, we are by indirection indicating that the present hostilities are constitutional or endorsed by the Congress.

My amendment has the effect of keeping the controversy about the Vietnam war out of this bill, and yet at the same time avoiding any implication that we approve, or disapprove, of the legal basis upon which that war is being waged.

I realize that it is the intention of the sponsors of the bill, which, I think, has many virtues and many good aspects in it, not to have it apply to the Vietnam

war, but I see no reason to leave that in any way subject to doubt.

There are certain aspects of the bill which I shall consider and discuss in connection with my next amendment which might possibly allow some people to reason that there is some application of the bill to the present war in Vietnam.

I, of course, say this not because the present war in Vietnam should be approved in any way; it is for exactly the opposite reason that I offer the amendment. It is a very simple amendment. I hope the sponsors of the bill will accept it, because I do not think it is in any way inconsistent with their purposes, but up to now they have shown no disposition to do so.

I yield the floor.

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. SPONG. 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. SPONG. I wonder if I might put a question to the distinguished Senator from Arkansas, who is the sponsor of this amendment.

As I understand it, the Senator from Arkansas has now changed his original amendment No. 1084 so that it no longer has the effect of taking out those words which specifically excluded the hostilities in Southeast Asia.

Mr. FULBRIGHT. The Senator is correct; I do not strike the language in the bill on page 13. I simply add what I believe to be a bit more explicit statement that this bill is not to affect in any way the legality of the position of the President or Congress or anyone else with regard to the war in Vietnam, to go a step further, and make it more clear and more explicit that this bill is not designed in any way to endorse or in any other way affect the present war in Vietnam. I believe that was the intention of the sponsors. I think the language I add is simply clearer and more explicit.

Mr. SPONG. So, the amendment as now amended by the Senator from Arkansas would say, first, that the act shall take effect upon the date of enactment, second, that it does not apply to hostilities in which the Armed Forces of the United States are involved on the effective date of the act, which would exclude Southeast Asia, and third, that it is not the intent of the legislation to in any way confer additional powers, under the Constitution or under this bill, on the President of the United States insofar as the use of the Armed Forces is concerned.

Mr. FULBRIGHT. That is correct; in any respect, not only in South Vietnam but in any other respect.

Mr. SPONG. I thank the Senator from Arkansas for his responses.

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. SPONG. 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. SPONG. Mr. President, it is with some reluctance that I rise to oppose the modified amendment of the Senator from Arkansas. I recognize that, as chairman of the Committee on Foreign Relations, he has been interested in seeing that this legislation went in some direction toward achieving what he seeks with the modified language.

The principal opposition to his amendment, as amended, so far as the Senator from Virginia is concerned, is based upon the fact that it suggests that the bill adds something to the powers of the President. The entire thrust of the opposition arguments has been that not only have we limited the constitutional powers of the President, but also, in effect, that we are amending the Constitution by this bill.

Thus, if we were to adopt the language suggested by the Senator from Arkansas, it certainly would follow that others would want to come along and say that nothing in this bill takes away any constitutional powers from the President. Then, those who feel that the rights and the responsibilities of Congress may in some way be enlarged or diminished might ask for language concerning that.

On that basis, I believe that we should stand where we are. The bill does not confer any additional powers upon the President as Commander in Chief, which is what the Senator from Arkansas is, with his amendment, asking us to spell out, and the bill does not take away any powers from the President as Commander in Chief. Furthermore, the bill neither confers additional powers upon Congress nor limits Congress in any way.

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

Mr. SPONG. I yield.

Mr. FULBRIGHT. I submit that it is true that technically a bill such as this cannot constitutionally change the Constitution. I agree with that. But some of us think that in the interpretation of the Constitution in recent years—not, I may say, initially nor primarily by this administration—the executive has developed a rather enlarged view of his powers under the Constitution; and with regard to Vietnam in particular, there is great question as to his constitutional right to pursue this war as he is now pursuing it. It arises from the recent escalation or reescalation of the war.

There is no Gulf of Tonkin resolution; it has been repealed. There is no declaration of war. It is not a question of taking away his constitutional powers. It is taking away or removing any doubt about what they are. There is a great difference of opinion on that. There is a difference of opinion between Attorneys General or former Attorneys General such as Katzenbach and the present Secretary of State, who used to be Attorney General. It is in that area that I think it does not hurt anything to be explicit about it.

Mr. SPONG. I would say to the Senator from Arkansas that I concur that there is at present a vacuum, that the repeal of the Gulf of Tonkin resolution leaves it incumbent upon Congress in some way to express itself regarding Southeast Asia. But I would also say to the Senator from Arkansas that it has been the hope and intent of the principal sponsors of this bill that policy in Vietnam not be considered in connection with this legislation.

That is a very difficult thing to do, because the situation in Southeast Asia has cropped up constantly in the debate on this bill. But, this is a bill on methods, on procedures and not on policy.

It is the judgment of the Senator from Virginia that if we accepted this language, it would be, in effect, opening the bill to other amendments, amendments which we do not think are necessary. So, frankly, I think it is a case of Tweedledum and Tweedledee.

I can only say to the Senator from Arkansas exactly what we have been saying to the Senator from Arizona, the Senator from Colorado, and the Senator from North Carolina who have spoken against the bill, which is that we are not taking away anything from the President that he already has under the Constitution. And, I will also say to the Senator that we are not adding anything. Furthermore I think that in offering the modified amendment, the Senator from Arkansas has moved away from his original purpose with the amendment, which was to substitute this for the exclusion of current hostilities. He has instead brought in an amendment, which I will concede does little to the legislation, but which I fear, will open the door for many other amendments containing reassuring language that we do not believe is necessary.

Mr. FULBRIGHT. I do not say there should be any concern about this bill which is, after all, just a bill, removing any constitutional powers. It obviously is a bill that does not change the Constitution. It takes a constitutional amendment to do that. The bill itself does not obviously give or take away anything. If someone wants to put on a sentence about taking away anything, from the President's powers, I have no objection. He has usurped—he has exercised powers which I do not believe he legitimately has.

I repeat, I do not say this in any partisan manner, because his predecessor originated this course of action—not this President. I think it is partly due to carelessness or at least lack of judgment or lack of foresight on the part of Congress. I am not trying to assess any fault anywhere. I do not know why anyone should be worried about taking away any power when the President is exercising a power which I believe he does not have any constitutional basis to use.

Mr. SPONG. I should like to try to distinguish for the Senator from Arkansas the difference between a Presidential interpretation of the Constitution, which goes back to the Truman administration, or even beyond that, and an objective interpretation of the Constitution, which is based on several factors, including the intent of the framers of

the Constitution. The sponsors of the bill did not interpret the Constitution to give the President all the powers all Presidents have claimed. That is what led to this legislation.

I repeat, I must reluctantly oppose the amended amendment of the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I want to read one paragraph from a recent letter from the Director of Research, Hoch Reid, and Joseph H. Crown, the co-chairman of the Lawyers Committee on American Policy Towards Vietnam:

It is shocking—indeed incredible—to learn of Secretary Rogers' "warning" that the War Powers legislation "would violate the Constitution and, far from preventing future military involvement, would increase the likelihood of such involvement". In the face of the Indochina war initiated by President Johnson and now being pursued by President Nixon, and in the face of President Nixon's wanton violation of the Constitution and of the laws of the land in continuing to wage war in Indochina despite the Mansfield Amendment declaring it to be "the policy of the United States" to terminate all military operations in Indochina at the earliest practicable date and despite the repeal of the Tonkin Gulf Resolution which removed from an undeclared war its last vestige of legislative sanction, it is the sheerest effrontery—and an insult to the intelligence of those conversant with the Constitution—to hear such irresponsible expostulations. Indeed, it is well nigh obscene that a bill to correct presidential violation of the Constitution should be viewed as unconstitutional by a Secretary of State who has never raised his voice against the presidential usurpation of Congress's power to initiate war. Our Committee is confident that you will accord the Secretary of State's remarks the ignominy they deserve.

Mr. President, I do not wish to prolong this discussion. I think we should vote on the matter.

I believe that there is nothing more pressing today than the war in Vietnam. There was a period when the administration had apparently persuaded the American people that the war was disappearing, but the news in the past few days leads us to a very different conclusion. So, it is all the more important that we make it explicit the bill in no way confers or adds to, in any fashion whatever, his authority to continue the war in Vietnam.

Mr. President, I ask for the yeas and nays.

There was not a sufficient second, and the yeas and nays were not ordered.

Mr. STENNIS. Mr. President, I shall be quite brief. I have said many times that my idea was, if we passed anything, it should leave out the war entirely. I am proud that the Senate has voted that way. I understand that the Senator from Arkansas is agreeable to that, too. I appreciate very much the contribution the Senator has made in this field, and on this subject matter as a whole.

However, I am compelled, as the Senator from Virginia has said, reluctantly to conclude that it would be better to leave out this amendment from the bill.

All the way through, we have insisted over and over that we are not conferring anything on the President and that we are not taking anything away from him, that the purpose of the bill is merely to bring the legislative branch of Government back to its activities and responsibilities regarding the warmaking power.

So, with the greatest deference and really regret——

Mr. FULBRIGHT. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I feel that we should oppose the Senator's amendment and hope that he may wish to withdraw it, after he has made his position clear.

Mr. FULBRIGHT. If it is a question of depriving him, and that question is a serious one, I cannot imagine anyone so presumptuous as to think that we could deprive the President of anything under the present circumstances, but I would be willing to say, "to confer upon or to deprive the President of any authority." I am perfectly willing to make it even-handed, if that would add to it at all; but I wish to make it explicit, that no President in the future can in any fashion claim that this legislation confers or—I am not worried about its depriving him because we cannot make him do that now—but I am worried about his interpretation of the "conferring."

I may be unduly sensitive about this, but having been taken in with the Gulf of Tonkin resolution, having it been sold to me on a basis absolutely contrary to what the real purpose and intent was, I am sensitive to it. That is all. I would be willing to change it if the Senator thinks deprivation is any serious matter. I am perfectly willing to change it, if that is what the Senator wants, and have it changed by a voice vote.

Mr. STENNIS. If I may just finish my thoughts first, and then the Senator can get the floor again, let me say that the whole intent of the act, all the way through, is not an attempt to take away the President's constitutional powers in any way, and not trying to confer anything upon him. So, I think it is best to leave it with that express intent all the way through the bill. It is in the debates and in every other way.

I believe that if this amendment should be adopted, we will have others coming along on the same general course, but for a different purpose, and we had better leave them off.

I thank the Senator. Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, I would like to be positive about this matter. I think that the Senator from Arkansas knows that I would yield to no one in the Chamber in my sympathy for what I know is in his mind. So, as the manager of the bill on this side, I wish to state categorically and affirmatively, just so that it is in the RECORD, that this bill does not confer any additional power to the President, that he does not already have under the Constitution.

I have every confidence that the Senator from Virginia, the manager of the bill on the part of the majority, would join me in that flat declaration.

Also, and again on the positive side, I would like to point out to the Senator from Arkansas one thing that has not been stated here at all, and that is the purposes and policies of the act, especially the language found on page 7, lines 10 through 19, which read:

At the same time, this Act is not intended to encroach upon the recognized powers of the President, as Commander in Chief and Chief Executive, to conduct hostilities authorized by the Congress, to respond to attacks or the imminent threat of attacks upon the United States, including its territories and possessions, to repel attackers or forestall the imminent threat of attacks against the Armed Forces of the United States, and, under proper circumstances, to rescue endangered citizens and nationals of the United States located in foreign countries.

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

Mr. JAVITS. I yield to the distinguished Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, one would say about the Fulbright amendment, "Even though the amendment is from the chairman of the committee who brought about the bill, we do not need it. However, even though it is surplusage, why not put it in?"

Here is the difficulty that has been encountered. And again I repeat that I do not know of anyone in the Chamber who would be more reluctant to make that argument than I.

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

Mr. JAVITS. I yield.

Mr. FULBRIGHT. The language the Senator read says it is not intended to encroach upon the powers of the President. That is explicit in the bill. Many of us think the powers are already encroached upon by the President. I am saying that it shall not be deemed in any manner to confer upon the President any authority. I think that my amendment does make it evenhanded. It is already explicitly said that it does not intend to encroach upon his power—which would be included in my language. However, I want to make it explicit that we are not giving him some power.

In connection with my next amendment, I will cover that. Some people believe it is intended to specify, as section 3 does, that we are giving him some authority to act which he could assume in an incident similar to Tonkin Gulf. I object to that.

However, I do not want to elaborate on it at the moment. However, there is a probability that a President could act in accordance with what he thinks is certain authority. He could say, "I am authorized to do this." He is under no obligation to prove to the satisfaction of the Congress and the country that his actions were justified by the Constitution. He could cite this particular provision of the bill and say that he was authorized to act. That is an argument which I shall make on my next amendment.

I do not see, if Senators agree, and they do, that it is not intended to take away or to add powers—and it is already stated in here that it is not intended to encroach upon powers—why we cannot provide that it does not confer upon the President any authority.

We are merely trying to educate, as I understand the legislation, the House and the Senate and the people, upon the proper interpretation of the Constitution.

None of us believe that we can change

the Constitution in this manner. I do not believe it, and I do not believe the opponents believe it. This is an exercise that, to a very great extent, by virtue of the law, in my view reestablishes a traditional and sound interpretation on the Constitution.

I think this bill is in the best tradition of a strict constructionist of the Constitution, if I may say so. That is the purpose.

We want to get back to the proper interpretation of the Constitution. And, of course, being Members of the legislature, we particularly want to legislate in the matter so that the problem will be resolved.

We—a number of us are, at least, as shown by the vote—think that the Senate is an important instrument in the Government. We would like to see the Senate assume its role in the Government, especially in view of the tragedy which has already occurred.

We are not changing the Constitution or the President's powers. This is an educational venture. Therefore, the expression that we are not intending to confer any power upon him is just as important as saying that this is not intended to encroach upon his powers.

I think it is a very sensible and reasonable proposition.

Mr. JAVITS. No one is more pleased than I at the conviction with which the Senator from Arkansas has addressed this measure and its fundamental purposes.

We are dealing now with a specific addition to it. The question is whether we should add something which the sponsors of the bill say is so, notwithstanding the fact that it is surplusage, in my judgment.

This is what it gets into. I have just examined the six amendments introduced by the Senator from Colorado. Three of the six purport to do what the Senator from Arkansas is trying to do; to say that the bill does not say what it does not say.

For example, the Senator from Colorado (Mr. DOMINICK) would ask us to say, in amendment No. 1112:

> And nothing in this Act shall be construed as requiring prior statutory authorization for, or as imposing any time limitation on, the deployment of the Armed Forces of the United States by the President in any area of the world as a "show of force" . . .

In amendment No. 1110, the Senator from Colorado says:

> And nothing in this Act shall be construed to limit any authority which the President was authorized to exercise . . . pursuant to the North Atlantic Treaty.

In amendment No. 1113, the Senator from Colorado would provide:

> And nothing in this Act shall be construed to limit the authority of the President to carry out intelligence activities determined by him to be necessary to the interests of the United States.

Mr. President, there could be 20 of these. There could be all kinds of hypothetical situations. Nothing in this submission shall affect or change or confer or deny any power. It is interminable, Mr. President.

The minute we start along that route of trying to be sure that the bill does not say what we say it does not say, we will go on and on and on with these amendments. If we have one, why should we not take 20 of them? Finally, if each of these amendments presents a separate problem, we are opening a door to yet another problem.

They want to be sure, or at least they say they want to be sure, it does not do this, that, or the other, and we have limitless negatives. Simply to now negative every possibility anybody can dream up I think would get us into an interminable position to defeat the purpose we are trying to achieve.

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

Mr. JAVITS. I yield.

Mr. FULBRIGHT. What would be the Senator's attitude if on page 7, line 10, the language he referred to:

> At the same time, this act is not intended to encroach upon the—

and there add the word "constitutional" powers of the President as Commander in Chief.

Mr. JAVITS. Recognized powers.

Mr. FULBRIGHT. Recognized by whom? I do not like "recognized." The Secretary of State recognizes powers that are utterly inconsistent with the Constitution. I say constitutional powers. Who are they recognized by? The Secretary of State recognized some powers I do not admit, just as Mr. Katzenbach and Dean Acheson did. They assumed unlimited power of the Executive to do as he pleased. I do not recognize it. But "constitutional power" would reach the same point. The Senator says "encroach upon," and I say I do not want to add to it.

Mr. SPONG. This Senator, in his initial remarks, noted that we are not, by this legislation, adding to the "constitutional powers" of the President, but I would be happy to join the Senator from New York in reaffirming that.

Looking down the road, it seems to me the Senator from Arkansas may be working at cross purposes here if he is going to pursue both of his amendments. In his second amendment he seeks to substitute his section 3. I am only giving the Senator the benefit of my interpretation of his amendment, but I think that in his amendment he is giving to the President more power under the Constitution than I believe the President really has. I think he is opening the door for the President to continue almost as he has, by proposing to substitute for the specifics of section 3 of the pending bill a general authority.

I believe—although I do not think the language the Senator has suggested in his amended amendment does any violence to the bill—it could open the door for other amendments. Therefore, I continue to oppose it.

Mr. FULBRIGHT. I will not prolong the debate longer. I understand the addition of the short three or four words have no more appeal to the sponsors than my amendment. I assume that. It would reach the same purpose. I do not want to encroach upon nor do I wish to confer. That is the only purpose, but I do not want to prolong the debate. I thought that possibly might appeal to the sponsors of the bill because I detected a certain reluctance on the part of certain of them to oppose the amendment. If not, I am willing to go ahead with the vote.

I wish to make one further point. It is a peculiar thing what different language means to different people. That is the name of the game. We are supposed to be experts in the interpretation of words in this bill, but it is a strange thing that the Senator from Virginia thinks I am broadening it. I definitely think my next amendment removes the probability of a President using the specified language to justify actions which he would find it more difficult to do without specific authority. I want to take that up in the next amendment.

Mr. SPONG. I know the views of the Senator from Arkansas well enough to concede he does not think he is broadening the President's authority in the next amendment.

Mr. FULBRIGHT. That is right.

Mr. SPONG. I am simply trying to give him my interpretation of his next amendment, and I believe that, inadvertently, he would be broadening the President's prerogatives.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the amendment, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG), is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), and the Senator from South Dakota (Mr. MCGOVERN), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), and the Senator from Alaska (Mr. STEVENS), are detained on official business.

The Senator from South Carolina (Mr.

THURMOND) is necessarily absent, if present and voting, the Senator from Alaska (Mr. STEVENS), and the Senator from South Carolina (Mr. THURMOND), would each vote "nay."

The result was announced—yeas 28, nays 56, as follows:

[No. 140 Leg.]

YEAS—28

Aiken	Gravel	Moss
Brooke	Harris	Nelson
Burdick	Hart	Pell
Byrd, Robert C.	Hughes	Proxmire
Case	Kennedy	Ribicoff
Church	Mansfield	Stevenson
Cooper	Mathias	Symington
Cranston	Metcalf	Williams
Ervin	Mondale	
Fulbright	Montoya	

NAYS—56

Allen	Dole	Miller
Allott	Dominick	Packwood
Anderson	Eagleton	Pearson
Baker	Eastland	Percy
Beall	Ellender	Randolph
Bellmon	Fannin	Roth
Bennett	Fong	Saxbe
Bentsen	Gambrell	Schweiker
Bible	Griffin	Scott
Boggs	Gurney	Smith
Brock	Hansen	Spong
Buckley	Hatfield	Stafford
Byrd, Harry F., Jr.	Hollings	Stennis
	Hruska	Taft
Cannon	Inouye	Talmadge
Chiles	Javits	Tower
Cook	Jordan, Idaho	Tunney
Cotton	Magnuson	Weicker
Curtis	McGee	Young

NOT VOTING—16

Bayh	Long	Pastore
Goldwater	McClellan	Sparkman
Hartke	McGovern	Stevens
Humphrey	McIntyre	Thurmond
Jackson	Mundt	
Jordan, N.C.	Muskie	

So Mr. FULBRIGHT'S amendment (No. 1084), as modified, was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SPONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, there will be no more votes tonight. It is my understanding that the distinguished Senator from Maryland (Mr. BEALL) is prepared to call up his amendment, make his opening remarks thereon, and leave the vote until tomorrow. So, if the able Senator will now obtain recognition, I would like him to yield to me.

AMENDMENT NO. 1099

Mr. BEALL. Mr. President, I call up my amendment No. 1099.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

ESTABLISHMENT OF COMMISSION

SECTION 1. There is hereby established a commission to be known as the Commission on the Proper Roles of the Congress and the President in the Use of the Armed Forces Abroad and in Undeclared Wars (hereafter referred to in this Act as the "Commission").

MEMBERSHIP OF THE COMMISSION

SEC. 2. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of twenty-four members as follows:

(1) twelve appointed by the President, of which no more than four may come from the executive branch of the Government;

(2) six appointed by the President of the Senate, four from the Senate, and two from private life; and

(3) six appointed by the Speaker of the House of Representatives, four from the House and two from private life.

(b) POLITICAL AFFILIATION.—Of each class of members appointed under subsection (a), not more than one-half shall be from the same major political party.

(c) VACANCIES.—Any vacancies in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and a Vice Chairman from among its members.

(e) QUORUM.—Twelve members of the Commission constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 3. (a) MEMBERS OF CONGRESS.—Members of Congress who are members of the Commission shall serve without compensation in addition to that received from their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—The members of the Commission who are in the executive branch of the Government shall serve without compensation in addition to that received from their service in the executive branch, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall be compensated in accordance with section 3109 of title 5, United States Code, when engaged in the actual performance of duties vested in the Commission (including traveltime), plus reimbursement for actual travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

STAFF OF THE COMMISSION

SEC. 4. (a) STAFF.—The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, but at rates not to exceed the maximum daily rates prescribed for GS–15 under section 5332 of that title, except as may be authorized in accordance with section 5108 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may employ experts and consultants in accordance with section 3109 of title 5, United States Code.

DUTIES OF THE COMMISSION

SEC. 5. (a) SCOPE OF STUDY.—The Commission shall make a thorough study of the authority of the Congress and the President in the use of the Armed Forces abroad, including authority to pledge United States military assistance, authority to deploy the Armed Forces abroad, authority to commit the Armed Forces to combat abroad, authority to conduct hostilities, and authority to terminate hostilities. The Commission shall in making its study examine the constitutional structure and intent of the framers, constitutional history and practice, relevant judicial precedents, and relevant functional strengths of the President and Congress under present international conditions. The Commission shall undertake its study with a view to determining the proper role and relationship of the President and Congress in the modern world and shall recommend such measures in its judgment as are useful for strengthening the present structure.

(b) REPORTS.—The Commission shall submit its final report and recommendations to the President and Congress no later than one year after the date of enactment of this Act. The Commission shall cease to exist thirty days after submission of its final report. The final report of the Commission shall include, but not be limited to, such legislative proposals as in the judgment of the Commission are necessary to carry out its recommendations.

HEARINGS AND SESSIONS

SEC. 6. The Commission or, on the authorization of the Commission, any subcommittee thereof may, for the purpose of carrying out the provisions of this Act, hold such public hearings at such times and places as the Commission may deem advisable.

COOPERATION BY EXECUTIVE DEPARTMENTS AND AGENCIES

SEC. 7. The Commission is authorized to request, at the direction of the Chairman, from any executive department or agency any information and assistance deemed necessary to carry out its functions under this order. Each department or agency is requested, to the maximum extent permitted by law and within the limits of available funds, to furnish information and assistance to the Commission.

AUTHORIZATION

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Amend the title so as to read: "A bill to establish a Commission on the Proper Roles of the Congress and the President in the Use of the Armed Forces Abroad and in Undeclared Wars."

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield briefly to me?

Mr. BEALL. I yield.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M.

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATORS BEALL AND SPONG TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that following the recognition of the two leaders tomorrow under the standing order, the distinguished Senator from Maryland (Mr. BEALL) be recognized for not to exceed 15 minutes, and that he be followed by the able Senator from Virginia (Mr. SPONG) for not to exceed 15 minutes. These speeches, of course, will precede the two unanimous-consent orders for 15-minute speeches that have heretofore been entered.

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

WAR POWERS ACT

The Senate continued with the consideration of the bill (S. 2956) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

Mr. BEALL. Mr. President, the Sen-

ate finds itself in the midst of a long and spirited debate on the merits of the pending war powers bill, but I would point out that this is not a new debate in our Nation's history. It confronts the second session of the 92d Congress because the framers of the Constitution and subsequent generations have been unable to adequately clarify and codify the proper allocation of war-making powers. Clearly our Founding Fathers sought to avoid vesting in one man power comparable to that held by the British monarchs, from whom we had just obtained our independence. On the other hand, the framers of the Constitution were aware of the shortcomings of congressional government. During the Revolutionary War, the "central government" of the United Colonies or United States consisted of the Continental Congress. There was for all intents and purposes no national Executive and I think it could be said that there was very little "National Government." General Washington received his commission from the Continental Congress and he displayed a consistently high level or respect for an obedience to that body. I am inclined to believe that this is primarily because of his sense of duty and profound respect for representative government rather than a true recognition of either their prestige, their power, or their status in the eyes of the American people. Lesser men might well have "won the war" and then accepted the offer to establish a monarchy but we are fortunate that General Washington chose not to do so.

The Articles of Confederation, which succeeded the Revolutionary War form of government again provided our Nation with a weak national government primarily consisting of a Congress that elected a presiding officer who served a 1-year term as "President of the United States in Congress Assembled." In spite of the progress our Nation made in the period from 1781 to 1789, it is generally conceded that the Articles of Confederation failed to provide the Republic with the type of national leadership needed to insure its survival. Thus, the Constitution of 1789 was drafted and the framers of this document devoted considerable time and effort to the issue of who would be responsible for committing our Nation to war. The Constitutional Convention divided into two basic groups on this issue; one advocating that the primary responsibility for war-making powers should be vested in the executive branch of our Government while the others wished to make the legislative branch primarily responsible for this awesome responsibility. The compromise occurred on August 17, 1787 when the draft of the Constitution was changed so that Congress would have the power to "declare war" instead of the broader power to "make war" which had been incorporated into earlier drafts. Thus, the executive branch was given the power to defend our national interests whenever they were subjected to "sudden attacks." The Congress on the other hand was given the responsibility for declaring war, although the "conduct of the war" would be left in the hands of the executive branch. The Constitution went on to grant the Congress the power to "raise and support armies," "provide and maintain a navy," "to make rules for the government and the regulation of the land and naval forces," and to "make all laws which shall be necessary and proper for carrying into execution the foregoing powers." The Constitution determined that the executive power shall be invested in a President of the United States who "shall be Commander in Chief of the Army and Navy of the United States and of the militia of the several States, when called into the actual service of the United States." In addition, "he shall have power, by-and-with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by-and-with the advice and consent of the Senate, shall appoint Ambassadors and other public ministers and consuls." The President serves as the Chief of State and thus he is the embodiment of our Nation's sovereignty in our dealings with the outside world.

As we all know, the Constitution serves primarily as an outline for the powers, responsibilities, and structure of our Nation's Government. It makes general grants of authority but it also allows sufficient latitude so that our structure of government could accommodate the changes that have taken place since the founding of this Republic. In many areas, the Constitution is clearly neither black nor white and I think it is safe to say that we have been seeking for 183 years to understand and delineate the powers and responsibilities that our forefathers vested in the three branches of our Government. The distinguished Members of the Senate, who has worked long and hard drafting S. 2956 are sincere and able men who are clearly seeking to define, in law, the proper balance that should exist between the White House and Capitol Hill. I personally commend them for their efforts in this regard, but I am not at all certain that the legislation that is pending before us will, if enacted, achieve the objective of its sponsors.

As the situation stands today, no one questions the right of Congress to "declare war." Likewise, I have not heard a single Senator advocate any course of action that would deny the President the right to retain unrestricted and exclusive authority to repel a "sudden attack." The problem develops when we seek to outline in advance what the best course of action would be while dealing with a situation that falls between the two ends of this spectrum.

The framers of the Constitution, in effect, deliberately failed to draw the line between the authority of Congress and the authority of the Presidency. Even after almost two centuries of practical application, I think it is safe to say that this line of demarcation remains unclear. Mr. Justice Felix Frankfurter declared in his concurring opinion in the case of *Youngstown Sheet and Tube Company* v. *Sawyer*, 343 U.S. 579, 610 that "The Constitution is a framework for government. Therefore the way that the framework is consistently operated thoroughly establishes that it has operated according to its true nature. Deeply imbedded traditional ways of conducting government cannot supplant the Constitution or legislation, but they give meaning to the words of the text . . ."

In the very early days of this Republic, we began to get recognition by both Congress and the Supreme Court that the United States may legally become engaged in undeclared armed hostilities with foreign powers. Between 1798 and 1800, the United States became involved in "an undeclared naval conflict" with France which constituted a limited commitment on the part of the United States for limited objectives, and thus a full congressional declaration of war was considered unnecessary, inappropriate, and undesirable. The fifth Congress did, however, authorize President John Adams to "instruct the commanders of the public armed vessels which are, or which shall be employed in the service of the United States to subdue, seize and take any armed French vessel, which shall be found within the jurisdiction limits of the United States, or elsewhere on the high seas. . . ."

Thus, Congress was authorizing and sanctioning a middle latitude conflict which was limited in both its objectives and its nature. The Supreme Court further affirmed the existence of undeclared wars when it stated:

> If it be declared in form it is called solemn, and is of the perfect kind, because one whole nation is at war with another whole nation; and all the members of the nation declaring war are authorized to commit hostilities against all the members of the other, in every place and under every circumstance. In such a war, all the members act under every circumstance. In such a war, all the members act under a general authority, and all the rights and consequences of war attach to their condition.
>
> But hostilities may subsist between two nations, more confined in its nature and extent; being limited as to places, persons and things; and this is more properly termed imperfect war; because not solemn, and because those who are authorized to commit hostilities act under special authority and can go no further than to the extent of their commission. *The Eliza* 4 Dall. 37, 4041. (Date 1800.)

In countless incidents throughout the 19th century we see examples of presidential action sometimes subsequently ratified by Congress and sometimes not, being upheld by our Nation's judiciary.

President Jefferson committed us to war against the Barbary pirates, while President Polk ordered our military forces into action against the Republic of Mexico, thus triggering the Mexican War of 1845. It is interesting to note that President Polk ultimately received a declaration of war from the Congress and an ex post facto rebuff from the House of Representatives as a result of the boldness of his initiative. In 1854, President Pierce ordered a naval bombardment of Greytown, Nicaragua, as an act of retaliation against the revolutionary government of Nicaragua for refusing to protect American citizens from acts of violence and to make reparations for damages done to American property. In the case of *Durand* v. *Hollis*, 4 Blatch, 451 (1860), Judge Nelson—later a Justice of the U.S. Supreme Court—ruled:

As the Executive head of the Nation, the President is made the only legitimate organ of the general government, to open and carry on correspondence or negotiations with foreign nations, in matters concerning the interests of the country or of its citizens.

It is to him also, the citizens abroad must look for protection of person and of property, and for the faithful execution of the laws existing and intended for their protection. For this purpose, the whole executive power of the country is placed in his hands, under the Constitution, and the laws passed in pursuance thereof . . .

Acts of lawless violence, or of threatened violence to the citizen or his property, cannot be anticipated and provided for; and for the protection, to be effectual or of any avail, may, not unfrequently, require the most prompt and decided action . . .

The question whether it was the duty of the President to interpose for the protection of the citizens at Greytown against an irresponsible and marauding community that had established itself there, was a public political question, in which the government, as well as the citizens whose interests were involved, was concerned, and which belonged to the executive to determine; and his decision is final and conclusive, and justified the defendant in the execution of his orders given through the secretary of the Navy. 4 Blatch. 454–455.

In 1861, President Lincoln's military moves against the Confederacy were based solely upon his authority as Commander in Chief. In a Supreme Court decision by Justice Grier, the High Court ruled that the President's constitutional designation as Commander in Chief serves as a substantive source of authority:

Whether the President in fulfilling his duties, as commander-in-chief, in suppressing an insurrection, has met with such armed hostile resistance, and a civil war of such alarming proportions as will compel him to accord to them the character of belligerents, is a question to be decided by him, and this court must be governed by the decisions and acts of the political department of the Government to which this power was entrusted. "He must determine what degree of force the crisis demands." The proclamation of blockade is itself official and conclusive evidence to the court that a state of war existed which demanded and authorized a recourse to such a measure, under the circumstances peculiar to the case. 2 Black, 635, 670, (1863).

In a more recent ruling, Mr. Justice Jackson, in a concurring opinion in the Youngstown Sheet & Tube Co. against Sawyer case, clearly stated that the President gained very broad and sweeping powers from his position as Commander in Chief of our armed services:

We should not use this occasion to circumscribe, much less to contract, the lawful role of the President as commander in chief. I should indulge the widest latitude of interpretation to sustain his exclusive function to command the instruments of national force, at least when turned against the outside world for the security of our society. 343, U.S. 579, at 645 (1952).

In the 20th century, President McKinley sent 5,000 American troops to serve as part of an international force designed to suppress the Boxer Rebellion in China. His successor, President Roosevelt used American force to secure the independence of Panama from Colombia and boasted that he "took the Panama Canal while Congress debated."

President Wilson on several occasions committed American Armed Forces to suppressing revolutionary and bandit activity in Mexico as well as authorizing the arming of American merchant ships in clear defiance of the will of Congress. These actions were taken by President Wilson in accordance with his concept of his powers as the Commander in Chief of the armed services.

President Truman committed large-scale U.S. forces to the defense of South Korea without ever asking for congressional approval. In addition, the President made his initial moves prior to U.N. Security Council action which was later used as an additional basis to justify the President's military moves.

Perhaps the significance of the Korean conflict was the extent to which the President used his authority as Commander in Chief as well as his reliance upon the United Nations Charter as a basis for his actions. It is important to note that the U.N. Charter, while it was ratified by the Senate, does not override or supersede the constitutional processes of our Government. Thus, President Truman's actions serve as the "highwater mark" of presidential assertion of power under the provision of the Constitution designating him Commander in Chief.

In addition to these presidential commitments to armed hostilities, there have been many occasions when the President of the United States has deployed American forces in such a way as to run the risk of provoking armed conflict. Certainly President Wilson's decision to arm American merchant vessels before the U.S. entry in World War I was clearly an act hostile to the central powers. Likewise, President Wilson's occupation of sections of Siberia and North Central Russia at the conclusion of the First World War constituted the deployments of troops without a basis in congressional action. Prior to World War II, President Roosevelt ordered American troops to occupy numerous colonial possessions of European nations that had been overrun by Nazi expansionism as well as ordering American naval forces to "sink on sight" foreign submarines and war vessels that were found to be in the "defensive waters" of the United States. In addition, the famous lend-lease agreements with Great Britain were clearly an act designed to benefit that island nation's effort to resist Hitler's onslaught.

Following World War II, President Truman committed four U.S. divisions to the defense of Europe within the framework of NATO. Congress finally acquiesced to the President's actions and American forces have remained in Europe for over 20 years.

I assume that all of us believe that there are many circumstances that make a declaration of war undesirable because it gives the executive branch a completely blank check to conduct military operations against a foreign power that are designed ultimately to bring about the total subjugation of that nation. The more modern concept of limited war and limited objectives makes a middle latitude state of hostilities not only necessary but desirable and I am in full agreement with Yale University law professor, Alexander M. Bickel's contention that Congress has the authority under the Constitution to authorize conditions of hostilities short of a full declaration of war.

This, in effect, brings us to our consideration today of the pending legislation, and I must add, Mr. President, that the longer I have studied this bill the more inclined I am to believe that it is wrought with dangers that may well exceed the ability of its authors to correct. I have attempted, during my consideration of this bill, to determine whether or not Congress in 1972 can adequately outline all of the contingencies that might confront our Nation in the years to come. Some of the questions that have caused me the greatest concern, Mr. President, include the following:

First, the sponsors of this bill, during the recent debate on the perfecting or technical amendments which were approved by this body last week, provided that American forces that were in the process of being disengaged could continue to defend themselves after midnight on the 30th day if they were "fighting their way" out of a possible entrapment, and so forth. I am somewhat uncertain as to whether or not the President would be allowed to continue to conduct military activities if the personnel so entrapped were not military personnel but were instead civilians. American businessmen, or missionaries, or passengers on board a hijacked plane, and so forth might remain in the hands of a potentially hostile force. Also there is the distinct possibility that a spreading conflict might involve Americans in neighboring areas during the latter days of the 30-day presidential commitment, thus leaving the President with little opportunity to provide for their safety.

Second, I am wondering how free the President would be to protect these entrapped American military personnel in the process of being disengaged. Would he have the latitude to order retaliatory attacks or to undertake any type of offensive activity to protect these personnel?

Third, during the discussion of the amendment regarding American vessels on the high seas, I was wondering what would happen if an American ship were seized but no American personnel were endangered. This could come in the unlikely event that the crew was totally made up of non-American Nationals or one might also envision a circumstance where a ship could be seized and the Americans could immediately be released unharmed leaving the vessel in hostile hands and the President with unclear authority to take appropriate actions.

Fourth, another interesting potential situation that developed recently was when a Cuban gunboat seized a foreign flag vessel in the territorial waters of the Bahamas. On board this vessel was an American National who, I believe, is still being held by the Cuban authorities. I was wondering whether or not the provisions in S. 2956, even as amended, would provide for the protection of American citizens under such circumstances.

Fifth, in another area, the bill seeks to define when Americans may partici-

pate in integrated commands and I am afraid that two problems seem to be developing—one would be the simple defining of what is a "high level" military command and the other would be to determine at which point in a top-to-bottom integrated military command you would draw the horizontal line of demarcation below which American personnel could not participate in military activities. If the Americans had been deeply involved in planning and logistics, and so forth, prior to the outbreak of hostilities, this might prove to be extraordinarily disruptive to the unified military command. A third point along the same lines will be the inability of American personnel to participate in long-range planning when either they were not authorized to engage in hostilities or when their engagement was possibly of only a 30-day duration.

Sixth, on a wider scope involving hypothetical, although possible, circumstances that could develop in today's world, excluding for the time being attempts to make long-range predictions as to what our national security needs will be like in the coming decades, let us look at several of the trouble spots that have flared since 1960 or which could become troublesome in the coming months or years; the 81st Congress enacted Public Law 81–329 which permitted the United States to furnish military assistance to certain other nations. In accordance with this public law, President Truman negotiated an executive agreement providing for mutual defense assistance to Indochina. This agreement, known as the pentalateral agreement, which was signed in Saigon on December 23, 1950, established a framework for U.S. assistance to flow to the four Indochina states. Under the provisions of this law and this executive agreement, American military advisers in South Vietnam numbered 680 at the end of 1960. President Eisenhower, as expressed in his book "Mandate for Change" stated his desire to see America's commitment to Indochina limited primarily to low level military and economic aid plus the training of some military personnel in the United States. During the first year President Kennedy held office, he increased our military assistance advisory group to 3,200 military men, an increase of approximately fivefold. In light of the existence of Public Law 81–329 and the executive agreement negotiated in accordance with it, I question whether legislation such as S. 2956, had it been in effect in the early 1960's when we deepened our involvement to the defense of South Vietnam, would have or could have prevented such an increase in advisory personnel. Prior to 1961 our presence was clearly in accord with the Geneva agreement and even had the approval of the international control commission. 1961 was also a significant year in that at that point American helicopter and air support was provided in South Vietnam as well as the assignment of U.S. advisers down to the battalion level.

Can we assume that legislation such as this war powers bill would have prevented the gradual, almost inpreceptible change in our commitment which occurred in the period of 1961–62?

If this is the case, how would such a restriction affect our commitments pursuant to the pentalateral agreement—based on Public Law 81–329—and the SEATO treaty?

Seventh, if you assume that the basic premises which I have outlined in my immediately preceding remarks are correct, then one must assume that sufficient American air, naval and ground personnel were in combat areas so as to make an incident such as the shelling of the barracks at Pleiku or the Gulf of Tonkin occurrence almost unavoidable, such an incident obviously invokes the President's right to repel a sudden attack and it also gives him the perfect political moment to come to the Congress and receive congressional approval and support for the "determination of the President as Commander in Chief, to take all necessary measures to repel any armed attack against the United States and to prevent further aggression." The point I am making, Mr. President, is that the events which took place in Indo-China during the early 1960's, leading to our long and costly involvement could well have happened even if legislation such as S. 2956 was the law of the land over a decade ago.

Eighth, as we all know, war broke out in the Middle East in June of 1967. The United States has no formal treaty agreements with any of the nations in that area and there were relatively few American nationals or military personnel in this region that would clearly warrant large scale U.S. intervention under the provisions of this legislation. Yet the President of the United States moved the American fleet and other forces into position to exert an influence on the participants in this conflict, which has become known as the Six-Day War, and the U.S. Soviet hot line was employed to advise the Soviets that we did not want to become involved in this conflict but would do so if they intervened. As we all know, this war did not last very long and the Soviet Union stood aside while the Arab states took a very severe beating at the hands of Israel. While one might argue that the Soviets did not have the wherewithal in the immediate vicinity to effect the outcome of such a short conflict, I am inclined to think that they might have tried harder to do so if the United States had shown less firmness and determination at the outbreak of the crisis. I am wondering whether the existence of legislation, such as S. 2956, would have impaired the President's ability to move decisively at this critical moment in the history of the Middle East.

Ninth, since 1967, the Middle East has remained a very tense and potentially explosive area but we now find that the Soviet Union has established a very considerable and credible military force in the eastern Mediterranean. Soviet military personnel in Egypt alone number between 15,000 to 20,000 and they are serving not only as advisers but as active military participants in a number of ways. I have been advised that they man missile defenses—although the missile batteries along the Suez Canal appear to be manned primarily by Egyptians—they pilot at least some of the aircraft in the Egyptian Air Force, and they have considerable personnel in command positions in the Egyptian air defense system. If the cease-fire were to break down in the Middle East, we would find the Egyptians resuming the war of attrition along the Suez Canal. The Israelis could be expected to pursue such hostilities with their usual vigor and it is conceivable that the Egyptian position might well deteriorate before the onslaught of the Israeli counterthrusts. If this course of events develops, the Soviets might be placed in a position of assuming an active role in shoring up the position of their Egyptian allies. If this happened, would the President of the United States have the flexibility to respond to such developments in a credible and decisive way, thus containing a very dangerous situation?

Tenth, in September of 1970 King Hussein of Jordan sought to suppress the Palestinian guerrillas that were a threat to his government as well as to the State of Israel. During this internal conflict, forces of neighboring Syria crossed the Jordanian border and threatened the continued existence of the Hashemite kingdom. President Nixon moved the American fleet into the Eastern Mediterranean and clearly established in Damascus—and in Moscow—our determination to prevent such outside intervention in a purely Jordanian internal affair. The Israeli Government also mobilized forces to take action if the situation deteriorated further, and because of a combination of factors—not the least of which was vigorous Jordanian resistance—the Syrians withdrew and the crisis subsided. I for one would hate to see the President's freedom of action in such a crisis limited as it might well be by the passage of this legislation.

Mr. President, the Jordanian crisis was explained in detail by Benjamin Welles in an article in the New York Times of October 8, 1970, and I ask unanimous consent that the text of this article be printed in the CONGRESSIONAL RECORD at this point in my remarks.

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

UNITED STATES-ISRAELI MILITARY ACTION ON JORDAN WAS ENVISIONED

STEP-BY-STEP RECONSTRUCTION SHOWS HOW PLAN WOULD HAVE BEEN USED IF TANKS FROM SYRIA HAD NOT BEEN HALTED

(By Benjamin Welles)

WASHINGTON, Oct. 7.—The United States and Israel were preparing to take coordinated military action in the recent Jordanian crisis, according to American and Israeli sources.

This plan envisioned an Israeli attack on the Syrian tank forces that had entered Jordan if it appeared that King Hussein's army was incapable of stopping them. In this event, the United States would have used Sixth Fleet and other units to safeguard Israel's rear and flanks from Egyptian or Soviet attacks from the Suez Canal area.

The plan was not put into effect because the Syrian tanks, harassed by King Hussein's jets and armor, began retreating into Syria. Informed sources here believe that it was the combination of Israel's troop build-up

plus American military alerts—both well publicized—that sobered the Syrians and the Soviet Union.

President Nixon assumed personal direction of the intense diplomatic and military activity as the crisis approached its climax. As the United States-Israeli agreement was being negotiated here it was transmitted, step by step to the unified military commands overseas and major striking forces—notably the Sixth Fleet—thus committing American power to a contingency plan whose outcome was obscure.

The bond between the United States and Israel in this crisis was their joint determination that King Hussein must not be overthrown by outside intervention in Jordan because they assumed he would be replaced by a regime closely linked to Moscow.

In fact, an urgent message from King Hussein asking the United States and Britain to consider what military support they could provide him gave impetus to the American planning. But perhaps an equally strong force for quick action was the feeling in Washington that Israel would consider herself compelled to strike the Syrian forces if they continued to penetrate into Jordan in support of the guerrillas who were challenging King Hussein's authority.

Another, more publicized, factor was concern over some 400 United States citizens and 54 hostages, including 38 Americans, in the hands of Palestinian guerrillas in Jordan at the time.

The following reconstruction of the situation leading to the American-Israeli contingency agreement emerged from interviews with officials of the State and Defense Departments, members of the domestic and foreign intelligence communities here, from Arab and Israeli diplomats and from reports of correspondents of The New York Times with the Sixth Fleet, at the United Nations and in Beirut, Cairo, Jerusalem and Moscow.

The plan was worked out Monday, Sept. 21, in nonstop American-Israeli consultations at the White House. Many draft agreements passed back and forth as well as cablegrams to and from Israel. But events outraced the paperwork so, essentially, each government relied on the other's oral pledges for coordinated military action—in the event either had to use force. There was no signed agreement.

Both sides recognized that the following contingencies might prompt an Israeli military strike:

If Syria sent more of the 700 tanks she had in reserve to join the original 250 tanks that entered northern Jordan during the night of Sept. 19–20, and if they began driving south toward Amman.

If Syria sent units of her 195-MIG air force into action against Jordan's armed forces, thus dispelling any illusion that only "Palestinian fedayeen" were using Syrian equipment against King Hussein.

If the Iraqi force of perhaps 18,000 men with 200 Soviet-supplied tanks, based at Mafraq, in northern Jordan since the 1967 war, joined in the fighting.

The plan was defensive, it is stressed. At no time, sources here insist, did Israel contemplate attacking any targets except the two Syrian tank brigades that had crossed the Jordanian border and had occupied the Ramtha-Irbid-Jarash triangle. Israel would have attacked first by air, had this failed she would have used ground forces.

None of the sources suggested that Israel's action would have been other than defensive—aimed, that is, at preventing the overthrow of King Hussein and his replacement by a militant government backed by Moscow. There have been no suggestions that the Israeli action would have led to the acquisition of additional Jordanian territory by Israel.

At no time, it is said, did the United States contemplate attacks on Arabs—let alone Russians—except to protect Israel.

President Nixon assumed direction of the diplomatic activity on Monday morning, Sept. 21, and that day he and his advisers agreed that the United States might have to intervene militarily to safeguard King Hussein's Government and rescue the hostages.

A HOLDING OPERATION

Had a decision to actually intervene been reached, one of the two airborne battalions of the United States Eighth Infantry Division on alert at Mainz, West Germany, would have parachuted into the Amman airport to establish perimeter defenses. The other would have landed soon after in transport planes, guarded by Sixth Fleet fighters, with vehicles, weapons and materiel. This would have been primarily a holding operation until reinforcements from the Sixth Fleet, from West Germany or from the United States could arrive.

The principals in the drama were the President, Secretary of State William P. Rogers, Joseph J. Sisco, Assistant Secretary of State for Near Eastern and South Asian affairs, and Henry A. Kissinger, the President's adviser on national security.

Others involved included U. Alexis Johnson, Under Secretary for Political Affairs; Richard Helms, Director of Central Intelligence and Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff.

Of the non-Americans those most closely involved were Yuli M. Vorontsov, Soviet charge d'affaires in the absence of Ambassador Anatoly F. Dobrynin, who was on leave and has since returned; the Israeli Ambassador, Itzhak Rabin, and his deputy, Shlomo Argov and the Jordanian Ambassador, Abdul Hamid Sharaf.

The center of the United States activity was the "Situation Room" in the basement of the White House, one of a complex of specially-fitted rooms created for President Kennedy during the Cuban missile crisis in 1962 by McGeorge Bundy, his adviser on national security. The complex is manned around the clock by officials of the Central Intelligence Agency.

"SECURITY COUNCIL" MEETING

When President Nixon attended the sessions—and he constantly came and went—they became a "National Security Council" meeting. When Mr. Kissinger presided they dropped slightly in the terminological hierarchy to a "Wasag" meeting—an acronym for the Washington Special Action Group set up, just under the presidential level, for crisis management.

The Sit Room, as it is known has a rectangular table for about 14, sound-absorbing carpets, paneling and wall maps, indirect lights and—most important of all—it is tied electronically to the C.I.A. to the Pentagon's National Military Command Center, which tracks troop movements around the world and to its National Security Agency.

Here, in the soundproofed basement of his residence, the President and his senior aides followed the crisis via reports flowing in constantly from the State Department, the Pentagon, the C.I.A. and Israeli intelligence sources as well as from United States Embassies in Amman, Moscow, Tel Aviv, London, Bonn, Paris and elsewhere.

Here, and in his upstairs offices, President Nixon decided the balance of public and private diplomacy—public rumors about Sixth Fleet reinforcements balanced by private warnings to Moscow to "lean on" the Syrians; publicized alerts of the 82d Airborne Division and private intimations to King Hussein that he had nothing to fear from Israel on his flank.

During the crisis the 58 units of the Soviet Fifth Naval Squadron in the Mediterranean kept close to the United States Sixth Fleet, whose three aircraft carriers and 250 planes had started to concentrate between Crete and the Israeli coast from the start of the crisis in mid-September, Soviet warships intermingled with the United States warships, while United States helicopters for their part hovered over the Soviet vessels photographing them.

Moscow's degree of responsibility for Syria's initial tank incursion into Jordan and for her pullout 48 hours later remains unclear, although intelligence reports ranged between attributing to the Soviet Union total responsibility down to "marginal" responsibility.

The crisis began developing on Thursday, Sept. 17. On that day King Hussein's newly formed military Government struck against the armed fedayeen, the Palestinian extremists, in a bid to clear them out of Amman and the northern cities and to reassert the royal authority. The King was hoping to complete the operation within 48 hours.

On that same day President Nixon, talking to newspaper editors in Chicago, said that the United States might intervene if Syria or Iraq threatened King Hussein's Government. While the President's words were supposedly off the record. The Chicago Sun-Times printed his warning, and later Mr. Nixon was said to have praised the paper for giving his warning world attention.

TANK CROSSINGS REPORTED

On Friday, Sept. 18 the United States received from Jordanian and Israeli sources the first clear reports that some Syrian tanks had crossed into Jordan.

On Saturday both Ambassador Sharaf and Ambassador Rabin reported that a Syrian tank "brigade" of at least 100 tanks had crossed the border during the night.

By Sunday morning, Israel was reporting that Syrian armor and infantry forces were "pouring" into Jordan and the Amman radio said that a Syrian "division" had invaded Jordanian territory. This prompted Secretary Rogers to issue a statement denouncing the Syrian "invasion" as an "irresponsible and imprudent" act likely to widen the war. He called on Syria to withdraw.

On Sunday alarming reports continued to arrive from Jordan and Israel and Mr. Sisco called in Mr. Vorontsov, to warn him of the danger of Syria's action. Mr. Sisco is said to have implied that if the Syrians continued their invasion Israel would probably attack. The United States was calling on the Soviet Union to use its influence to persuade Syria to pull out.

A message from King Hussein that day asked the United States and Britain to consider what quick military support they could send him. His appeal, which some officials here termed "panicky," was made over an open, nonconfidential telephone line from the palace to the United States chancery in Amman, then ringed by armed Palestinian guerrillas. For security reasons this—and subsequent—royal messages to the United States had to be conducted in a sort of the English double-talk: "I'm O.K. up above but in bad trouble down below"—meaning his air force was intact but his armored forces were badly battered.

FREEMAN CALLS ON ROGERS

About 10 o'clock that night Israel reported that the Syrians had occupied Irbid, previously in guerrilla hands, and that Syria had 300 tanks in the country. This was viewed seriously by the State Department and for the first time since taking office Secretary Rogers remained at the department overnight, sleeping on a cot.

On Monday, Sept. 21, the issue clearly was whether the United States should intervene to shore up King Hussein's Government and, simultaneously, to try to rescue the hostages in guerrilla hands.

The British Ambassador, John Freeman, called on Secretary Rogers that day to state that Britain would not intervene militarily and to express hopes that the United States would not do so either.

It was evident also that other Western European governments would have opposed such United States action.

So, instead, the decision was taken to coordinate United States actions closely with those of the Israelis, who had already begun a partial mobilization and movements of tanks toward the northern part of the Jordan River Valley.

The Israeli-United States coordination proved successful. Within 24 hours of her "invasion," Syria had begun extricating her crippled or damaged tanks from Jordan. The remaining tanks in Jordan never resumed moving south.

The White House, meanwhile, ordered publicity on the movement of the second Sixth Fleet carrier—the Saratoga—to join the Independence off the Lebanese-Israeli coast; on the dispatch of the helicopter carrier Guam with 1,500 marines to join the Sixth Fleet; on the alerting of the 82d Airborne Division in Fort Bragg, N.C.; on the alerting of two airborne battalions of the Eighth Infantry Division in West Germany.

On Monday evening, there was the first glimmer of Soviet cooperation. Mr. Vorontsov called on Mr. Sisco to repeat Soviet warnings against "all" outside interference, to disclose that the Soviet Union was in touch with Syria and to urge the United States to restrain Israel from intervening.

HUSSEIN ORDERS ATTACK

On Tuesday, King Hussein, convinced that the United States was supporting him, ordered an attack.

Jordanian Hawker Hunter jets attacked the Syrian tanks while Jordanian armor rolled north. By the end of the day there were the first reports of Syrian withdrawal. Meanwhile, President Nixon had ordered a public de-emphasis of United States troop movements, and the emphasis switched to diplomacy.

By Wednesday, Sept. 23, Washington was confident that King Hussein had won despite the damage to Amman and the continuing sporadic resistance. Two days later on Friday, King Hussein and Yasir Arafat, the guerrilla chief, agreed on a cease-fire negotiated in Cairo by President Gamal Abdel Nasser of the United Arab Republic and other Arab leaders.

Israel was pleased with the outcome, and Premier Golda Meir praised the American role in the affair.

Mr. BEALL. Mr. President, in the much talked of Dominican Republic crisis of 1965, we remember that approximately 2,500 Americans were in the Dominican Republic when the Government of that nation advised the United States of its inability to protect the safety of American citizens. The landing of American forces enabled us to evacuate over 1,000 Americans plus 1,400 people of other nationalities. While this action on the part of former President Johnson remains highly controversial, I am not sure that S. 2956 would have prevented it nor am I at all certain that Congress would have withheld approval in the light of the presence there of a sizable American community as well as a diverse international community that was clearly endangered by the breakdown of civil order.

Mr. President, let me restate the basic reasons why I have proposed this amendment. After considerable study and reexamination, I have concluded that the passage of S. 2956 is unwise and undesirable for the following reasons:

First, there is considerable evidence that the other body will refuse to approve a bill such as the one that is presently pending before the Senate. The chairman of the House Foreign Affairs Committee's Subcommittee on National Security Policy and Scientific Developments recently stated that even if the Senate passes S. 2956—

It is very unlikely that war powers legislation will be taken up again.

He went on to say that the Senate bill—

Presents a number of constitutional and practical difficulties which make its passage undesirable.

Today the Washington Post contains an editorial which, needless to say, endorses the concept of the War Powers bill but it concedes that—

To become law, of course, the bill must not only pass the Senate, but the less independent-minded House; if that happens, a presidential veto could be anticipated.

Mr. President, I ask unanimous consent that the full text of this editorial be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BEALL. Mr. President, second, we cannot overlook the issue of this bill's constitutionality. The constitutionality question, which hangs like a cloud over S. 2956, is in itself an interesting "double edged sword." Either we are significantly curtailing the powers of the President as Commander in Chief—thus running the risk of violating his constitutional mandate or else we are leaving his powers as Commander in Chief intact which means we are failing to substantively alter the President's ability to "make war." Since 1789, Chief Executives have deployed American forces abroad over 150 times without a congressional declaration of war. The absence of significant legislative or judicial efforts to define or curb this Presidential power lends credence to the argument that our forefathers meant to invest the President of the United States with broad authority to make and carry out our Nation's foreign policy. On an issue of this magnitude, it is important for us to do more than simply "posture" the Senate. We must ultimately decide upon a course of action that is clearly constitutional, completely compatible with our national security interests, and unquestionably credible to the people of this Republic.

Third, I believe that there is a possibility that we could see an "extended debate" develop in this body over the merits of this "war powers" legislation. Since this is a presidential election year, the Congress must complete its important tasks between now and early July. Since even its supporters doubt that this proposal stands any serious chance of being enacted into law in 1972, I suggest that it would be prudent for us to follow the course of action I have outlined in my proposed substitute amendment and then proceed with the other pressing measures that directly affect the health, safety, and welfare of our 200 million people.

Fourth, the power of the President in foreign affairs and military matters stems from the recognition that he is Chief of State, Chief Executive of the Government, and Commander in Chief of our armed services. I am inclinded to believe that the President, or any of his 35 predecessors, would be very reluctant to sign this measure into law. The President is responsible for preserving the prerogatives and integrity of the Presidency.

Fifth, I believe that this bill is an aftermath of the tragic conflict in Southeast Asia even though its sponsors have seriously tried to detach the two. In spite of the care taken by the drafters of this bill, I do not believe that we have or can divorce it from the emotionalism that has resulted from the conflict in Indochina. I do not believe that we can constructively legislate on a matter of such importance under present circumstances and I fear that we may all regret such action should it become law. The National Commission, composed of outstanding scholars, would study this issue in a scholarly way and make recommendations that would be free from the political pressures that are at work on the Congress. With a balanced study, clearly laying out the pros and cons of this issue, the 93d Congress would be in a far better position to define the division of the warmaking power than we are today.

Sixth, as I have studied this legislation, I have tried to determine whether S. 2956 is going to seriously tie the President's hands in a highly undesirable way or whether we are simply posturing the Senate without truly altering the power of the Commander in Chief to "make war." Either outcome, in the extreme, would be undesirable and we must never underestimate its impact on foreign powers, who could misinterpret our actions and thus miscalculate in terms of their dealing with us in the future.

Seventh, lastly, I believe that the Congress has lost much of its say in shaping our foreign policy because we have not used the authority granted to us in the Constitution. We have abused our power by failing to use it in the vigorous way envisioned by the Framers of the Constitution. The Senate and the House can begin today to take meaningful steps designed to restore the balance between Capitol Hill and the White House on matters of foreign and military policy. For instance, we could:

First, we can avoid the open ended—blank check—resolutions, such as the Middle East resolution, the Formosa resolution, and so forth, that have remained in effect long after the initial crisis has subsided, thus forming the base for future Presidential actions.

Second, we can avoid the indiscriminate use of the national security waiver which has become a current device for allowing the Congress to appear to be making a foreign policy decision when such is not the case. For example, the Congress recently voted to terminate aid to Greece when everyone in this body was certain that the President would invoke the waiver. Thus we postured ourselves but we did not really add credibility to the claim that Congress contributes to the making of foreign policy. We asserted ourselves on the issue of the importation of Rhodesian chrome ore and the foreign policy of the United States

was adjusted in accordance with the will of the Congress.

It is substantive actions on the part of the Congress that will redress the current imbalance in power between the legislative and executive branches of our Government. I believe that the pending bill is a substitute for meaningful congressional action. We will not recover our authority by standing on the beach and telling the tide to recede.

Mr. President, we are dealing with an extremely volatile matter, with its passionate fires fanned by the issues of the day. This is no ordinary piece of legislation. What we have before us is, in effect, a de facto amendment to our Constitution. Such an important step, I believe, demands that we not hasten into a course of action which may well come back to haunt us at some future date.

In today's Washington Post column entitled "'Hot-Stove' Legislation: Bill Would Curb Warmaking Power of Past Presidents," Kenneth Crawford reminds us that earlier Congresses have responded to similar pressures by enacting legislation based on hindsight that proved to be detrimental in a rapidly changing world. In his article he states that—

After the first world war and a Senate investigation of "merchants of death," the House and Senate wrote a set of neutrality laws to prevent President Wilson, then long dead, from involving the U.S. in a European war. The effect of these laws was to hamstring President Roosevelt in his attempt to help contain Adolph Hitler before the Nazis could overrun all of Europe and precipitate another world war. Obviously, Hitler posed a different and more serious threat to the world than Kaiser Wilhelm had. Fortunately, Roosevelt, before it was too late, found ways through, over and around the neutrality laws.

Mr. President, I ask unanimous consent that the full text of Mr. Crawford's column be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BEALL. Mr. President, my amendment is not intended to push this matter "under the rug." On the contrary, it is designated to bring it further into public view and study. Many of us in this Chamber, and a great many knowledgeable persons outside these legislative halls, consider this bill to be one of the most important measures Congress will examine in this session.

Thus, it is pure folly to rush this matter to a decision when so little objectivity has been given to the compilation of data. No attempt was apparently made to gain the views of our former Presidents, former Secretaries of State, former White House staff people such as Eugene Rostow, et cetera. To the best of my knowledge, only one current professor of constitutional law was called before the Foreign Relations Committee to testify in opposition to this measure.

I think our interests are best served when a thorough public airing is given a proposal of this sort.

It is essential that adequate time be spent listening to the various legal, constitutional, historical, diplomatic, and practical objectives being raised by thoughtful dissenters.

Mr. President, no one is more concerned in this Chamber than I regarding the war powers issue. No one is more concerned about reasserting the responsibility of Congress in this most crucial area. We need legislation to clarify this complex matter. But it must be good legislation. I, for one, am not convinced that we in the Congress have taken the necessary steps yet to insure that all contingencies have been covered, that all parties have been heard from, or that we even realize the full impact of our work. The significance of this legislation was summed up in a letter to the editor of the Sunday Star by Walter Sterling Surrey, who is a distinguished lawyer, a law professor at Tufts University—formerly at George Washington Law School—and a former Foreign Service officer.

In his letter Dr. Surrey states:

It is not enough to say, as has been stated on the Senate floor, that we are dealing with a political and not a legal issue. We are dealing in effect with an amendment to the Constitution and with a radical change in the historical relationship between the President and Congress in relation to foreign policy which will have widespread effects on the whole pattern of the conduct of our international relations.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the full text of Dr. Surrey's letter.

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

(See exhibit 3.)

Mr. BEALL. Mr. President, all I ask is that we slow down long enough to give serious consideration to this matter. For that reason I am proposing as a substitute for this legislation that there be appointed jointly by the President and Congress a Commission to give further study to legislation on which we can legislate in this important field.

EXHIBIT 1

[From the Washington Post, Apr. 11, 1972]

THE WAR POWERS BILL

The Senate's war powers bill represents a long and well considered effort to end the 20th century practice of presidential wars by restoring to Congress the basic right of deciding whether the nation should be committed to war. It would let the President take military action—in the absence of a congressional declaration of war—to repel or forestall an attack on the United States or on American forces overseas; to protect endangered American citizens abroad; or "pursuant to specific statutory authorization." To fight longer than 30 days, however, for purposes other than disengagement, the President would have to win congressional sanction in the meantime, as Kenneth Crawford notes in his criticism of the bill elsewhere on this page today.

It is quite so that it took the Vietnam war to bring to wide attention the erosion in congressional powers—perhaps one should better say, the erosion in congressional thoughtfulness and responsibility—which underlies the current bill. It would be quite misleading, however, to view the war powers bill—which does not apply to Vietnam, in any event—as an instrument of liberal catharsis or institutional revenge or partisan challenge. Senator Javits drafted the bill but nine Republicans and 16 Democrats, including the likes of John Stennis, Herman Talmadge, Everett Jordan and Lloyd Bentsen, are co-sponsors. What unites these men is a common belief that legislation is required to bring Congress its larger and rightful role in war decisions.

The administration has made any number of claims about the alleged unconstitutionality and unwisdom of the war powers bill. Suffice it here to note that it has been unable to win audible support for its claims from any senator recognized for expertise in either the constitutional or foreign-policy field. One should not be surprised that a President would instruct his lieutenants to fight hard for presidential powers. Still, the caliber of argument is embarrassing: the Secretary of State, for instance, professes to believe that the bill would limit the President's authority to defend American territory. The administration is expected to try today to kill the bill. Few think it will succeed.

To become law, of course, the bill must not only pass the Senate, but the less independent-minded House; if that happens, a presidential veto could be anticipated. So the bill is a long, long way from enactment. That means, in turn, that what is involved now is not a fundamental "reaffirmation" or "rearrangement" of presidential and congressional powers in respect to war-making. The Senate bill is essentially an exercise in educating the Congress and the country and the President in what are the appropriate limits within which foreign policy must henceforth be made and implemented. Indeed, it is essentially no more than an attempt to make somewhat more explicit the guidelines for the very "consultation and cooperation" which the President constantly insists are the preferred substitutes to new legislation. This makes it all the more unfortunate that Mr. Nixon should choose to view the bill—gratuitously, in our judgment—as a political and constitutional challenge.

EXHIBIT 2

"HOT-STOVE" LEGISLATION: BILL WOULD CURB WARMAKING POWER OF PAST PRESIDENTS

(By Kenneth Crawford)

Congress is now working on a law to prevent President Kennedy and Johnson from involving the United States in the defense of South Vietnam. Since the effort comes ten years or so late, the law's sponsors explain that their object is to forestall "another Vietnam."

The chance that any President would so ignore tragic experience as to undertake again anything remotely like the Vietnam intervention is about the same as the chance that a child who has burned his hand on a hot stove would do the same thing a second time.

Yet there is always someone, after a burning, who feels that there ought to be a law against hot stoves. This time it is Sen. Jacob Javits of New York, author of the so-called war powers bill, now under debate in the Senate and scheduled for a vote today. His measure seems to have majority support in the Senate, though perhaps not in the House. In any case, a presidential veto is virtually certain if it gets as far as the White House.

This is not the first time hot-stove legislation has been handled by Congress. After the first world war and a Senate investigation of "merchants of death", the House and Senate wrote a set of neutrality laws to prevent President Wilson, then long dead, from involving the U.S. in a European war.

The effect of these laws was to hamstring President Roosevelt in his attempt to help contain Adolph Hitler before the Nazis could overrun all of Europe and precipitate another world war. Obviously, Hitler posed a different and more serious threat to the world than Kaiser Wilhelm had. Fortunately, Roosevelt, before it was too late, found ways through, over and around the neutrality laws.

What the Javits bill would do is limit a

President's authority to employ armed forces abroad. In emergencies he could order the Army, Navy, Air Force or Marine Corps, or all four, into action overseas. But he could not keep them in action for more than 30 days without specific congressional sanction. Pending amendments would not substantially change the purpose and thrust of the legislation.

Opponents argue that the war powers bill, like the neutrality laws, however well intentioned, would only straightjacket future administrations by undertaking to anticipate unpredictable international developments. They even doubt the constitutionality of the proposed redistribution or war-making powers. Why, they ask, change a system that has served the nation well for almost 200 years? Why abandon flexibility in favor of rigidity at a time when world affairs are as chaotic as they are now?

Proponents counter with the argument that Vietnam has demonstrated the necessity of "redressing" the balance of war powers between Congress and the President. The Constitution gives Congress the exclusive right to declare war but the present war has never been declared. It has been fought by executive decree. What this overlooks is that this country has engaged in armed conflict more than 200 times, going all the way back to George Washington, even though Congress has declared war only five times. A balance that never has existed can't be redressed.

Not all members of the Senate have made up their minds about war powers. Some of them consider the Javits bill innocuous on the assumption that Congress would never in any conceivable circumstance pull the rug from under a President once U.S. military forces were committed. They point out that Congress already has ample authority to stop an American shooting war. Its control of the purse strings could have been used to stop American operations in Vietnam at any point.

When Congress adopted the Bay of Tonkin resolution in 1964 with only two dissenting votes in the Senate and none in the House it was approving President Johnson's escalation as surely as it could have with the Javits bill in effect. Within a year, moreover, Johnson asked for an additional $700 million for iVetnam operations in a message specifically inviting Congress to withhold the funds if it disapproved of his war policy. Again the approving vote was almost unanimous.

Several senators are skeptical of the notion that Congress would be more restrained than a President in the face of provocation. It never has been in the past, not even in the case of Vietnam. Some of the skeptics will nevertheless vote for the Javits bill. Such a vote for them will be a gesture denoting second thoughts about Vietnam. A post facto vote against an unpopular war can't do them any harm.

Both advocates and foes of the Javits bill are convinced that it is the most important legislation Congress will consider at this session. Advocates believe it can help heal the Vietnam sickness that has infected American society. Foes are equally convinced that it would undermine this country's diplomatic credibility. Yet Senate debate on the issue has attracted a minimum of attention from media and public.

Perhaps this is because, like all debates on Constitution-related questions, this one has been serious and unspectacular. War powers lack the spice of an ITT investigation. [Indifference may be partially explained, too, by doubts that Cogress could pass the Javits bill over a presidential veto. Secretary of State William Rogers, obviously speaking for the White House, has challenged both the validity and the practicality of the proposed legislation.]

However, neither in floor debate nor in Rogers' statements has the most telling cloakroom argument against the bill been mentioned. It is that passage would be regarded by America's allies as a signal that Chairman William Fulbright and his Senate Foreign Relations committee are about to assume control of American foreign policy. Fulbright has been taking positions so extreme and so suggestive of an American retreat into isolationism that they frighten friendly world capitals.

He regards American overseas broadcasts as relics of a cold war that never should have been a war. He proposes to cut off funds for Vietnam as it faces the threat of extermination by an invading army. His recent article in the New Yorker, "In Thrall to Fear," argues that American intrasigence was primarily responsible for the enmity of the Soviet Union and China after the second word war. Nikita Khrushchev's Cuban missiles, he writes, were merely a gesture of appeasement for the benefit of unhappy Soviet generals.

EXHIBIT NO. 3

LETTERS TO THE EDITOR—WAR POWERS BILL

SIR: As one who for many years has practiced and taught in the field of international law, I can only view the Javits War Powers Bill as raising most serious constitutional law issues and as substituting for presidential flexibility in the conduct of our foreign policy an inflexible limitation on the president's power and capacities to act as the principal spokesman for the United States in the field of foreign relations and as the commander-in-chief of the armed forces of the United States.

One can identify, as a citizen, with the frustrations of many congressmen and senators on the position in which we find ourselves in Vietnam; one can, as a citizen, identify with the frustrations of a congressman or senator who today seeks assurances of better, more complete and prompter communications on significant foreign policy matters by the executive to the responsible committees of Congress; one can share with the congressmen and senators—and a large section of the American public—the concerns with the changes in the fabric of our society which Vietnam has caused, and abhor the unknowns that could be brought about in our society and on our form of government by another Vietnam.

However, these frustrations and deep concerns cannot serve as justifications by Congress to seek through legislation, rather than by constitutional amendment, a drastic rearrangement of the constitutional relationships in the conduct of foreign policy between the Congress and the president, arrangements which will seriously affect the capabilities nad flexibilities in our conduct of international relations.

Others have documented the specifics that may be made against the bill—its annulment of the Middle East Resolution and of our commitments to NATO, its limitations on the powers of the president as commander-in-chief, which were used so effectively by President Eisenhower in the Lebanese intervention, by President Kennedy in the Cuban missile crisis, by constant presidential actions with respect to Berlin, by President Johnson in the use of the fleet to deter Soviet intervention in the six-day war in 1967, by President Nixon's comparable action in the same Middle East area for the same purpose—to identify only a sampling.

However, at this stage of the legislative history of the Javits bill, it is important that the Congress focus on its course of conduct in order that it may provide full consideration to the terms and consequences of the proposed legislation. The Senate is scheduled to act on the legislation this week.

One can only hope that the leadership of both parties will recognize the full consequences of what the legislation seeks to do and at the very least will want to assure the fullest consideration in both houses of the constitutional implications of the legislation. This could be accomplished in part by the Senate referring the bill to the Senate Judiciary Committee with a 60-day time limit to examine and report to the full Senate the committee's views on the constitutional questions raised by the bill.

In addition, it is important that the House recognize that the Javits bill is very different from the Zablocki bill passed in August 1970. The Zablocki bill provided that wherever feasible the President should seek appropriate consideration by the Congress before involving the United States in armed conflict, and it required the President, in the event of his use of armed forces, to report to the Congress full on such use.

It is important that the House recognize the grave differences between the two bills and that whether on the floor of the House, in considering the Javits bill, or in a House-Senate conference committee, in the event the Javits bill is handled as an amendment to the Zablocki bill, that these differences be given serious consideration by the House members or the House conferees. It is not enough to say, as has been stated on the Senate floor, that we are dealing with a political and not a legal issue. We are dealing in effect with an amendment to the Constitution and with a radical change in the historical relationship between the President and Congress in relation to foreign policy which will have widespread effects on the whole pattern of the conduct of our international relations.

WALTER STERLING SURREY.

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

Mr. BEALL. I am happy to yield to the Senator from Virginia.

Mr. SPONG. Mr. President, I have listened with great interest to the speech of the able Senator from Maryland. I know that the proponents of this measure will want to respond in detail later in the debate. I would only make one observation at this time and that is that, in my judgment, the matter of whether or not this legislation constitutes an amendment to the Constitution was decided this morning by the first vote we took. I recognize that is contrary to what Mr. Surrey said in his letter, what Mr. Rostow said and what the Senator from Maryland said, but nevertheless I believe that the debate in the past 2 days narrowed to one issue, which was decided by the vote on the referral motion that was before us. Those who wished to have this matter referred to the Committee on the Judiciary argued that we were amending the Constitution.

I would like to ask the Senator from Maryland one question so that the record will be clear.

The Senator from Wyoming has introduced an amendment which also calls for a study commission. Is the Senator from Virginia correct in stating that the essential difference between the amendment now before the Senate, introduced by the Senator from Maryland, and the amendment of the Senator from Wyoming, is that the amendment of the Senator from Maryland is a substitute for the bill or an alternative proposal, whereas the proposal of the Senator from Wyoming is an amendment and an addendum to the bill which concedes its passage, at least by this body, and states this matter should be studied during the early years after the bill's enactment?

Mr. BEALL. The Senator from Vir-

ginia is substantially correct. My amendment is a substitute amendment for the whole bill. I am offering it in the hope that as a result of the study that would take place the issue can be studied in depth, we can have the kind of testimony that will answer the questions I have in my mind, and we can proceed next year. The committee is requested to report back 1 year from the date of establishment of the commission.

The Senator from Wyoming has a similar amendment which is in the sense of the bill sponsored by the Senator from Virginia now under consideration.

Mr. SPONG. I thank the Senator from Maryland. I commend him on his very thorough presentation. I assure him the proponents will respond later.

Mr. BEALL. I thank the Senator from Virginia. I have no doubt there will be responses.

I also wish to state that it is true the Senate did act earlier today on a supposedly constitutional question. I am not a lawyer. It is difficult for me to answer these constitutional questions. But I have read the Constitution. Not being a lawyer I have raised these questions that I have not had answered. Even though it might not be studied by the Committee on the Judiciary, that has not answered for me the questions. Not being a lawyer, I need more elementary explanations than I received that that section would or would not be constitutional.

My prime objective is to get answers to questions regarding how this legislation affects our ongoing foreign policy and the future relationship of this country with other countries of the world, and where we stand if we legislate in this manner. That is what I hope to clear up in the discussion.

Mr. SPONG. I thank the Senator from Maryland for his response.

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

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

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 12 o'clock meridian on Thursday.

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

ORDER FOR ADJOURNMENT FROM THURSDAY UNTIL FRIDAY, APRIL 14, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Thursday, it stand in adjournment until 10 o'clock a.m. on Friday.

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

ORDER FOR ADJOURNMENT FROM FRIDAY UNTIL MONDAY, APRIL 17, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in adjournment until 10 o'clock a.m. on Monday next.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:30 a.m. tomorrow. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senators BEALL SPONG, BROCK, and TUNNEY.

At the conclusion of the speeches of the aforenamed Senators, there will be a period for the transaction of routine business for not to exceed 30 minutes, with statements limited to 3 minutes therein, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 2956, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The pending question at that time will be on the adoption of the amendment that has been offered by the distinguished junior Senator from Maryland (Mr. BEALL). The yeas and nays have not been ordered on that amendment, but it is the intention of the author of the amendment to ask for the yeas and nays. Therefore, there will be a yea-and-nay vote on that amendment. It is hoped that a vote will occur on that amendment sometime during the early afternoon tomorrow.

Other votes on other amendments are anticipated for tomorrow.

ADJOURNMENT UNTIL 9:30 A.M.

Mr. GRIFFIN. Mr. President, I move that the Senate stand in adjournment, in accordance with the previous order.

The motion was agreed to; and at 5:34 p.m. the Senate adjourned until tomorrow, Wednesday, April 12, 1972, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 11, 1972:

SUBVERSIVE ACTIVITIES CONTROL BOARD

Timothy J. Murphy, of Massachusetts, to be a member of the subversive Activities Control Board for a term of 5 years expiring April 9, 1977, vice Simon F. McHugh, Jr., term expired.

DEPARTMENT OF JUSTICE

John T. Elfvin, of New York, to be U.S. attorney for the western district of New York for the term of 4 years, vice H. Kenneth Schroeder, Jr., resigned.

IN THE ARMY

The U.S. Army Reserve officers named herein for promotion as Reserve Commissioned officers of the Army, under provisions of title 10, United States Code, section 593(a) and 3384:

To be major general

Brig. Gen. Constant Collin Delwiche, SSAN [redacted].

Brig. Gen. Frederick William Duncan, Jr., SSAN [redacted].

Brig. Gen. George Fleming Hamner, SSAN [redacted].

Brig. Gen. Albert Bruce Jones, SSAN [redacted].

Brig. Gen. Cyrille Pierce LaPorte, SSAN [redacted].

Brig. Gen. Charles Stockard LeCraw, Jr., SSAN [redacted].

To be brigadier general

Col. Lawrence Holt Allen, Jr., SSAN [redacted] Infantry.

Col. Raymond Astumian, SSAN [redacted] Infantry.

Col. Charles Beach, Jr., SSAN [redacted] Field Artillery.

Col. Edward James Joseph Breen, SSAN [redacted] Infantry.

Col. Michael Paul Lagana, SSAN [redacted] Corps of Engineers.

Col. Lee Lawrence, SSAN [redacted] Infantry.

Col. John Ryle McKee, SSAN [redacted] Infantry.

Col. Willard Phaup Milby, Jr., SSAN [redacted] Infantry.

Col. Gorman Curtis Smith, SSAN [redacted] Infantry.

Col. Robert Murray Sutton, SSAN [redacted] Infantry.

I nominate the Army National Guard of the United States officers named herein for promotion as Reserve Commissioned officers of the Army under the provisions of title 10, United States Code, section 593(a) and 3385:

To be major general

Brig. Gen. Austin Clifford Chidester, Jr., SSAN [redacted].

Brig. Gen. Paul Victor Meyer, SSAN [redacted].

Brig. Gen. John Joseph Remetta, SSAN [redacted].

To be brigadier general

Col. Harry Warren Barnes, SSAN [redacted] Infantry.

Col. Stephen Samuel Crane, SSAN [redacted] Infantry.

Col. George Melvin Donovan, SSAN [redacted] Armor.

Col. Merril Wetzler Goss, SSAN [redacted] Armor.

Col. Guy J. Gravlee, Jr., SSAN [redacted] Armor.

Col. Helmut Joseph Haag, SSAN [redacted] Ordnance Corps.

Col. Robert Archibald Hughes, SSAN [redacted] Armor.

Col. Merritt Alden Johnson, SSAN [redacted] Infantry.

Col. Charles Hayden Jones, SSAN [redacted] Corps of Engineers.

Col. James Simonet O'Brien, SSAN [redacted] Infantry.

Col. Jean Gordon Peltier, SSAN [redacted] Field Artillery.

Col. Harold Roden Story, SSAN [redacted] Field Artillery.

Col. William Harrison Vanderlinden, Jr., SSAN [redacted] Infantry.

Col. Frederick John Van Roo, SSAN [redacted] Field Artillery.

I nominate the Army National Guard of the United States officers named herein for appointment as Reserve Commissioned officers of the Army under provisions of title 10, United States Code, section 593(a) and 3392:

To be major general

Brig. Gen. David C. Matthews, SSAN [redacted].

To be brigadier general

Col. William Harold Cheeseman, SSAN xxx-xx-x... Field Artillery.

Col. Edgar LeRoy DeGraw, SSAN xxx-xx-x... Field Artillery.

Col. William Porter Marshall, SSAN xxx-xx-... Armor.

Col. Robert William Steele, SSAN xxx-xx-x... Infantry.

Col. Harry Wellington Thode, SSAN xxx-xx-x... Finance Corps.

Col. William Lawrence Youell, SSAN xxx-... Field Artillery.

IN THE COAST GUARD

The following officers of the United States Coast Guard for promotion to the grade of lieutenant (junior grade):

Charles E. Sibre
Joseph G. Milo
Robert H. Trainor
Kelly S. Callison
Kenneth P. Rothhaar
Alan Gracewski
James T. Clarke
Charles D. Wurster
Ronald H. Frazier
Thomas M. Gemmell
Kenneth W. Bicknell
Roger W. Coursey
Charles D. Pike
William R. Phillips
Charles C. Beck
William J. Gamble
John P. Wiese
John T. Orchard
Peter A. Tebeau
Joseph T. Kuchin
Paul H. Millewich
Donald C. Gerber
Gordon D. Marsh
Donald B. Gilbert
Stewart I. Marsh
Stephen C. Ploszaj
Richard V. Harding
Michael M. Leone
Ronald F. Silva
Daniel E. Kalletta
Bo C. Josephson
Robert W. Gulick
Robert N. Tabor
Jay E. Taylor
James T. Armstrong
Larry M. Wilson
Wayne E. Varry
Stanley J. Norman
Charles H. King
Laurance H. Howell
John G. Hersh
William J. Inmon
Daniel R. Whicker
Kenneth R. Borden
Henry P. Libuda
Edward F. Murphy
Gregory S. Cope
Larry H. Gibson
David E. Henrickson
Bruce W. Platz
Gerald G. Kokos
James R. Riesz
Carl A. Swedberg
William E. Willis
Alan L. Klingensmith
Richard A. Myszka
Richard E. Cox
Tom R. Wilson
Patrick A. Turlo
Ralph D. Lewis
Donald E. Plake
David J. Ramsey
Robert C. Foley
Stephen J. Decesare
Bryant M. Nodine
Jonathan K. Waldron
Michael A. Conway
Charles S. Harris
Wynn O. Harper
Ray W. Coye
James A. Kinghorn
Tony E. Hart
Charles D. Kroll
Kenneth R. Mass
Thomas J. Marhevko
Thad W. Allen
Dennis W. Cleaveland
James A. Sylvester
James A. Brokenik
Carl R. Schramm
Albert F. Sganga
Kenneth M. Coffland
Paul D. Barlow
Fred S. Fox
Robert J. Camuccio
Gregory D. Mucci
Richard D. Phillips
Norman L. Sealander
Richard X. Engdahl
Timothy J. Flanagan
Anthony Bordieri
Robert F. Gonor
Steven A. Wallace
David J. Isbell
Hallie D. Bohan
Peter A. Barrett
Norman J. Dufour
Charles S. Allen
John P. Wood
Robert P. Moore
Jon E. Rosselle
David L. Edwards
Steven J. Cornell
Brian T. Kingsbury
David F. Wallace
Thomas A. Rummel
Robert A. Gau
Donald T. Wetters
Philip C. Volk
Michael M. Krystkiewicz
Frank J. Kline
Paul W. Ljunggren
Richard C. Sasse
Terry A. Robertson
Robert W. Slack
Bradley R. Troth
Henry R. Przelomski
John M. Smith
Robert D. Alling
Don E. Bumps
James B. Willis
William M. Miller
Gary R. McCaffrey
John K. Roberts
Philip J. Cappel
Robert A. Kasper
George E. Bills
Bruce E. Lee
Rand D. Lymangrover
Robert M. Bush
Craig D. Eide
Alan R. Dujenski
Robin A. Wendt
James R. McGuiness
Daniel F. Shotwell
John R. Walters
Albert A. Joens
Robert M. Letourneau
Donald E. Estes
Melvin L. Kankelfritz
Perry W. Campbell
Robert W. Zimmer
Robert E. Carmen
Duane E. Sulerud
Milton D. Moore
Frederick F. Lieder
Roger D. Holmes
Charles K. Bell
William T. Horan
Harold B. Morton
Edward J. Park
William G. Shorter
Edson J. Reeves
Joseph H. Thompson Jr.
Charles T. Winfrey
Clyde R. Keller Jr.
John G. Witherspoon
David C. Nelson
Alvin A. Sarra Jr.
William J. Seney
David L. Robinson
Robert C. Dorfler
Charles R. Mumford
Thomas Heald III
John D. Leslie
James R. Nagle II

HOUSE OF REPRESENTATIVES—*Tuesday, April 11, 1972*

Rev. Howard R. Peters, Ghent United Methodist Church, Norfolk, Va., offered the following prayer:

Almighty and Eternal God, as we meet here today—the elected Representatives from every part of this great Nation—we acknowledge once more that ours is a nation "under God." We believe that Thou art the Creator and Source of all our liberties, even as the Founding Fathers affirmed: "We hold these truths to be self-evident that all men are created equal and are endowed by their Creator with certain inalienable rights among which are life, liberty, and the pursuit of happiness."

Help us, O God, to deal wisely with the weighty problems which are constantly before us. Grant unto us a spirit of appreciation and respect for each other. Though there may be diversity of opinion, may there be no difference in our aim or purpose to make this Nation the finest country it can be.

This, too, is our prayer, that as a nation we may prove to be a benediction to all the rest of the world, promoting peace and good will among peoples everywhere.

In the name of Jesus Christ. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13361. An act to amend section 316 (c) of the Agricultural Adjustment Act of 1938, as amended.

The message also announced that the Vice President, pursuant to Public Law 91-129, appointed Mr. CHILES to the Commission on Government Procurement in lieu of Mr. JACKSON, resigned.

REV. HOWARD PETERS, MINISTER OF GHENT UNITED METHODIST CHURCH, NORFOLK, VA.

(Mr. WHITEHURST asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. WHITEHURST. Mr. Speaker, we have been pleased this morning to have the Reverend Howard Peters, minister of Ghent United Methodist Church in Norfolk, Va., deliver our prayer.

Howard Peters is my pastor. He has been with us at Ghent for almost a year, having served his previous church in Charlottesville for a number of years. His effectiveness from the pulpit has already won wide admiration for him in Norfolk, and I am particularly moved by the close rapport he has achieved with his new congregation in so short a period of time.

It is therefore with great pride that I welcome him as my guest in Washington today and have him offer our daily prayer in this Chamber.

THE HONORABLE CLIFFARD D. CARLSON

Mr. ARENDS. Mr. Speaker, I ask unanimous consent that the gentleman from Illinois, Mr. CLIFFARD D. CARLSON, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. Will the Member-elect present himself in the Well of the House to take the oath of office.

Mr. CLIFFARD D. CARLSON appeared at the bar of the House and took the oath of office.

INTRODUCTION OF RESOLUTION OF INQUIRY ON U.S. ESCALATION OF ITS COMBAT ROLE IN INDOCHINA

(Mrs. ABZUG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ABZUG. Mr. Speaker, the American people have made it clear that they want this Nation to stop the bombing and to withdraw—now—from Vietnam.

They want us to set a date for total and complete withdrawal, contingent only upon the return of our prisoners. They want to stop the bombing, to withdraw our support from the Thieu dictatorship, and to get out. Section 601 of the Military Procurement Act of 1971 makes this the policy of the United States, and President Nixon is violating the law by his failure to carry it out.

I am today introducing a resolution of inquiry seeking information on the nature and extent of our current involvement in Indochina. It makes 10 specific and detailed requests for information from the President and the Secretary of Defense, for the American people and the