aides in the Interior Department), who went to the meeting hoping to redraw the jurisdictional lines on energy coordination within the administration.

Morton, who went to that meeting believing other Cabinet members would be present, and where "decisions" would be made on the issue of liquid imports for domestic SNG gasification, expressed some irritation at the fact he was the ony Cabinet member there.

However, his main pitch was that the Interior Department, traditionally, had been the Cabinet agency that has been most intimately involved with resource development in the U.S. and it should be the coordinator now of energy issues within the government.

Flanigan's stand-in at the meeting (James B. Loken, an assistant to Flanigan) made it clear, however, that Flanigan was the coordinator of energy policy—and that he intended to be an activist in that post.

Flanigan, it is understood, is now planning to circulate requests to every Cabinet head, whose agency has an interest in energy, seeking not just their opinions and recommendations—but facts, as well, on the energy situation.

Flanigan, apparently, intends to do a government counter job to the National Petroleum Council's "energy outlook" study, which already has spawned volumes of facts and opinions by oil executives, in task-force reports to the Interior Department.

Thus, Flanigan will want to know each agency's views—and the facts they have—on supply and demand, domestic potentials for development of all types of energy, possible incentive programs to stimulate development (including tax incentives), security storage (for oil), and many other facets of the energy picture.

The prime agencies involved will be Interior, Defense, State, Commerce and the Office of Emergency Preparedness.

Just how long Flanigan intends to take in gathering facts within the government is not known—but the agencies will be expected to respond promptly and fully.

Indications are that Flanigan wants to have ready, for President Nixon, solid programs that he can support—perhaps during the campaigning next fall (and for inclusion in the Republican platform for the campaign), and for implementation, as required, in legislative recommendations to Congress early in 1973.

Flanigan, it is believed, is tired of criticism that the administration is "doing nothing, just wringing its hands" over the emerging energy crisis in the United States—and wants to get moving with programs that will alleviate the shortage of natural gas, and prospective rising shortages of domestic oil, which can only be filled with ever-increasing imports.

In the oil-gas area, Flanigan is believed to be looking at the next 10 to 20 years—the period when the crunch on oil and gas will hit the nation hardest, before other forms of energy, or synthetic fuels, can be developed, in quantity.

The long-range outlook—for nuclear power, "synthetic" fuels from shale and coal, and other more exotic forms of potential energy—will not be ignored, however. But, these will have longer-run implications for the nation, as compared with the pressing immediate problems involving gas and oil.

Secretary Morton could become the strong man on energy policy and coordination—but only if President Nixon should decide to delegate to him such authority, by executive order, or if Congress should enact Nixon's program for making the Interior Department an enlarged "department of natural resources" under a reorganization plan which has been on file on the hill for more than a year, but on which only one brief hearing was held by the Senate Interior Committee.

There is little chance this bill can pass this year, although Nixon has been pressing, in recent weeks, for action on this and other reorganization plans.

The President has also made it clear to GOP hill leaders that he intends to call Congress back into session this fall—if it adjourns sine die early after the nomination conventions and if the Democrats have not made more progress on the President's legislative program.

It is possible heavy pressure by Nixon might spur action on his DNR proposal, as well as other legislative programs now moldering on the hill—but it is not likely.

Thus, Flanagan is expected to remain the top man on energy policy within the White House, and, as an overseer of Cabinet department activities and policies in the energy field, at least for the rest of 1972.

ORION ON THE MOON

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 25, 1972

Mr. TEAGUE of Texas. Mr. Speaker, Apollo 16 is on its long way home after having added not only knowledge of the lunar surface, but added skill in mastering the difficulties of space. Only one lunar mission remains and all have been conducted with determination while being well balanced with a consciousness of safe operation. The New York Times editorial of April 22 discusses the fine line between overconservatism and high risk. This editorial aptly points out that the leadership and organization of Apollo has been well done. As the last flight—Apollo 17—approaches in December of this year, the experience of the current Apollo 16 and the previous flights will undoubtedly help the leadership of Apollo continue in this same outstanding mode of operation. The editorial follows:

ORION ON THE MOON

For the fifth time in all history men are working on the moon this weekend. The superb television pictures sent back by the crew of Orion, astronauts Young and Duke, were sharper and clearer than any previous televised views of the lunar surface. And the austere, craterpocked, rock-strewn landscape of the Descartes area seen yesterday was also different in quality from the earlier vistas of other lunar regions visited by Orion's predecessors.

Even a layman could see that this first visit to the lunar highlands had brought men to a significantly different region of the moon than any explored previously. Most important, yesterday's initial activity outside the lunar module provided every reason for expecting major scientific gains from this expedition despite the unfortunate accident that ruined the important heat probe experiment.

The worth of the extensive back-up facilities created by NASA was dramatically demonstrated in the tension-filled hours Thursday when the world held its breath while Project Apollo officials debated whether to abort the mission in the wake of indications of trouble in the engine control system of the command module. Hundreds of scientists and technicians in Texas and California, working feverishly under great time pressure, determined that the indicated malfunction was of no importance and could be disregarded. Had the project been less well prepared for emergencies, the decision might have been made not to land on the moon and the vast cost and effort of Apollo 16 rendered valueless.

The safety of the astronauts must be and is the first priority on the Apollo flights. Yet Thursday's dilemma and its solution were particularly useful in reminding all concerned that there are two kinds of errors that can be made in situations of this type. The possibility on which most attention, understandably, has been focused is that of an Apollo expedition's directors deciding to continue the journey in the face of a danger that brings disaster. Against that is the alternate risk of being overly cautious and aborting a mission unnecessarily, at huge financial and scientific loss. It is a delicate dilemma, and it is a tribute to the Project Apollo leadership and organization that to date these voyages have foundered on neither rock.

HOUSE OF REPRESENTATIVES—*Wednesday, April 26, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Lift up your heads, O ye gates; and be ye lifted up ye everlasting doors; and the King of Glory shall come in.—Psalms 24: 7.

Help us, we pray Thee, to lift up our heads and to open wide the doors of our hearts that the King whose glory is ever about us may come in and live in us, that we may render unto Thee a faithful service and give to our fellow men the best that is within us.

By Thy Spirit may we take up the work of this day with good hearts and generous minds, that Thy purposes may be fulfilled in us and in all men; for Thine is the kingdom and the power and the glory forever. 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 bills of the following titles, in which the concurrence of the House is requested:

S. 2013. An act to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans;

S. 3343. An act to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans; and

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

S. 3507. An act to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.

FREEDOM DIMINISHED AT THE WHITE HOUSE

(Mr. DOW asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DOW. Mr. Speaker, last week another evidence of the oppressive atmosphere created by the present administration to discourage freedom of expression, came to light in a shameful episode at the White House. The innocent victim was a constituent of my district.

This was Mrs. Avrom Romm, wife of the editor of the Middletown, N.Y. Times-Herald-Record. Attending the conference of the American Society of Newspaper Editors, Mr. and Mrs. Romm were invited to a White House reception. Mrs. Romm was intercepted by a White House Secret Service officer and advised not to speak in the reception line to the President about anything controversial. Mrs. Romm had earlier indicated to wives of several Cabinet members that she would like to mention her views to the President.

While under no obligation to do so, the Romms left the White House, feeling that their welcome had been diminished if not retracted and that they had undergone a rather chilling experience. They have received only a verbal apology from the White House.

Mr. and Mrs. Romm are stable people. I am sure they can survive this experience. But the real question, Mr. Speaker, is: How often is this kind of suffocating pressure put upon other American citizens who come to the White House to exchange a word with their President in this supposedly free society?

LEAVE OF ABSENCE

Mr. CONTE. Mr. Speaker, I ask unanimous consent for leave of absence on tomorrow to attend the funeral of my dear friend, Dr. Frank Boyden, at Deerfield, Mass.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DIRECTING THE PRESIDENT AND THE SECRETARY OF DEFENSE TO FURNISH TO THE HOUSE OF REPRESENTATIVES FULL AND COMPLETE INFORMATION CONCERNING CERTAIN SPECIFIC MILITARY ACTIVITIES OF THE UNITED STATES IN SOUTHEAST ASIA

Mr. HÉBERT. Mr. Speaker, I call up a privileged resolution, House Resolution 918, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 918

Resolved, That the President and the Secretary of Defense be, and they are hereby, directed to furnish the House of Representatives, within ten days after the adoption of this resolution, with full and complete information on the following—

(1) (a) The number of United States military personnel in South Vietnam at the present time;

(b) The number of these individuals who are combat personnel;

(2) (a) The number of sorties flown by United States military airplanes, for bombing purposes, in and over North Vietnam during the first ten days of March 1972;

(b) The number of sorties flown by United States military airplanes, for bombing purposes, in and over North Vietnam during the first ten days of April 1972;

(c) The number of sorties flown by United States military airplanes, for bombing purposes, in and over South Vietnam during the first ten days of March 1972;

(d) The number of sorties flown by United States military airplanes, for bombing purposes, in and over South Vietnam during the first ten days of April 1972;

(3) (a) The tonnage of bombs and shells fired or dropped into North Vietnam by the United States during the first ten days of March 1972;

(b) The tonnage of bombs and shells fired or dropped into North Vietnam by the United States during the first ten days of April 1972;

(c) The tonnage of bombs and shells fired or dropped into South Vietnam by the United States during the first ten days of March 1972;

(d) The tonnage of bombs and shells fired or dropped into South Vietnam by the United States during the first ten days of April 1972;

(5) (a) The cost of all bombing and shelling carried on by the United States in or over North Vietnam during the first ten days of March 1972, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(b) The cost of all bombing and shelling carried on by the United States in or over North Vietnam during the first ten days of April 1972, including the costs of bombs and shells, ships, and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(c) The cost of all bombing and shelling carried on by the United States in or over South Vietnam during the first ten days of March 1972, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(d) The cost of all bombing and shelling carried on by the United States in or over South Vietnam during the first ten days of April 1972, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(6) List separately the number of United States military personnel (if any) killed, wounded or reported missing in action during (a) the first ten days of March 1972 and (b) the first ten days of April 1972, specifying how many in each such category were killed, wounded or reported missing in action in or over South Vietnam and how many in each such category were killed, wounded or reported missing in action in or over North Vietnam;

(7) Whether there is a target date for the achievement by the Army of the Republic of Vietnam of complete military independence of United States air, naval, and ground support and participation and, if so, what date;

(8) Whether there has been any bombing or shelling carried on by the United States in or over Laos or Cambodia since January 1, 1972, and, if so, the number of sorties flown by United States military airplanes, for bombing purposes, in or over Laos or Cambodia since that date, the tonnage of bombs and shells fired or dropped by the United States into or over Laos or Cambodia since that date, and the cost of all bombing and shelling carried on by the United States in or over Laos or Cambodia since that date, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(9) Whether there has been an increase in the movement of military airplanes, military ships, other military equipment, military supplies, or military personnel of the United States to Southeast Asia, including the islands of the South Pacific Ocean, since March 15, 1972 (relative to the thirty-day period immediately preceding that date), and, if so, the nature and extent of the increase in each such category; and

(10) What actions, if any, have been taken to comply with the provisions of section 601 of Public Law 92–156, approved November 17, 1971.

The SPEAKER. The gentleman from Louisiana (Mr. HÉBERT) is recognized for 1 hour.

CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 122]

Abourezk	Gaydos	Morse
Anderson, Ill.	Gray	Nix
Ashley	Hagan	O'Hara
Badillo	Hall	Patman
Blanton	Hanna	Poage
Blatnik	Hastings	Pryor, Ark.
Byrne, Pa.	Hawkins	Rees
Carney	Heinz	Reid
Celler	Jarman	Rooney, Pa.
Chamberlain	Johnson, Pa.	Runnels
Chisholm	Jones, Ala.	Sandman
Clark	Jones, N.C.	Sisk
Clay	Jones, Tenn.	Springer
Davis, S.C.	Kee	Staggers
Dent	Kluczynski	Stanton,
Diggs	Kuykendall	James V.
Dingell	Kyl	Steed
Dowdy	Long, La.	Stokes
Edwards, La.	Lujan	Stubblefield
Esch	Macdonald,	Teague, Tex.
Eshleman	Mass.	Thompson, N.J.
Flowers	Madden	Vander Jagt
Fountain	Mayne	Winn
Galifianakis	Miller, Calif.	Young, Tex.
Gallagher	Moorhead	

The SPEAKER. On this rollcall 361 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DIRECTING THE PRESIDENT AND THE SECRETARY OF DEFENSE TO FURNISH TO THE HOUSE OF REPRESENTATIVES FULL AND COMPLETE INFORMATION CONCERNING CERTAIN SPECIFIC MILITARY ACTIVITIES OF THE UNITED STATES IN SOUTHEAST ASIA

Mr. HÉBERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Armed Services, to which was referred the resolution—House Resolution 918—directing the President and the Secretary of Defense to furnish the House of Representatives, within 10 days after the adoption of the resolution "full and complete information" concerning the specifics of various military operations in Southeast Asia, having considered the same, reports unfavorably thereon without amendment and recommends that the resolution be not agreed to.

The Committee on Armed Services met on April 18, 1972, to consider the resolution, House Resolution 918, and after full and complete hearings on the subject matter of the resolution, a quorum being present, ordered it adversely reported by a rollcall vote of 32 to 4.

The Department of Defense, reflecting the views of the executive branch, also recommends against favorable action on the resolution since such action "would, in the judgment of the Department of Defense, be incompatible with the public interest to provide the information in the manner directed by the resolution."

Mr. Speaker, the Committee on Armed Services spent an entire day in acting on the subject matter of the resolution sponsored by the gentlewoman from New York.

The committee began its hearings in open session at 10 a.m. on April 18 and finally, after a number of interruptions, including a break for lunch, concluded its hearings in executive session at 5:17 p.m.

As I have previously indicated, 34 members were present to vote on the resolution, with 30 members voting against it and only four voting to support it.

It is, therefore, evident that the overwhelming majority of members on the Committee on Armed Services see no reason to support the resolution. Many of the questions in the resolution involve information of a highly sensitive nature. Frankly, despite the fact that the Department responded specifically, in executive session, to each of the questions contained in the resolution, I see precious little purpose in having most of this statistical data available to the Congress since its availability will in no way, in my judgment, change any policy action which may confront the Congress.

Nonetheless, this information, contained in the committee files, is now, under the rules of the House of Representatives, available to any Member of the House for his examination, subject, of course, to the rules established by the committee which preclude the release or public use of such information without the consent of the committee.

The committee is mindful that it, along with other committees of the Congress, has received this information and will continue to receive similar information responsive to the legislative purposes sought by the resolution.

Therefore, the Committee on Armed Services believes that under existing rules and procedures of this body, every Member has adequate access to the type of information sought by this resolution.

I, therefore, have no hesitation in joining with the vast majority of the members of my committee in urging the House to support the committee's action.

Now, as an example of the thoroughness in which this matter was gone into by the Committee on Armed Services, I am sure that Members will agree that the House Committee on Armed Services has jealously and zealously protected its own integrity and discharged its responsibility on every occasion. Not only were all the questions answered in executive and public session, but also I hold in my hand the printed record of that hearing which is available at the moment to anybody who desires to read it. This is the testimony taken, exclusive only of the sensitive classified data which the Department refuses to make public, and justly so.

Here was an entire day spent by the committee. This entire document was printed at high cost to the taxpayers, serving no real, useful purpose. The committee's time was taken up at a moment when we are trying our best, doing our level best, to bring before this House the defense procurement bill. We are interrupted by such actions as these.

Only this morning the committee was thoroughly briefed on the present status of the situation in Southeast Asia and Vietnam. The Members were allowed to ask any questions they desired to ask at the briefing.

We have attempted to bring everything into the open as far as possible that would be useful to the Congress in making its decisions.

We have been just as mindful of not tipping our hand, if you will, or giving the game plan to the enemy.

Only recently in a paper in California there appeared information concerning the sailing of a U.S. naval vessel headed for Vietnam, telling the date it was sailing and what it was carrying. You know what would happen. The potential was there to follow that ship through its course. Certainly if the enemy were able to bomb it they could bomb that vessel on the sea.

This is giving information to the enemy ahead of time by irresponsible media.

I believe everybody will agree—and I hope they do—that the House Armed Services Committee chairman has tried in every way he can to be fair and impartial in discussing legislation on this floor. Not one time since I became chairman of this committee have I cut anybody off on free and open debate on a bill before the body.

I must say in all candor, not without threat or intimidation by me, I will not be as tolerant in the future relating to resolutions of this nature. It would be perfectly possible that a privileged resolution of this type could be introduced every day, and our committee would be tied up every day. If any similar resolution is introduced in the future, I am going to move to table it immediately, because there is no use in standing up and making repetitious speeches where we can anticipate what is going to be said by the same individuals who make the same statements. No minds are changed by it. This is only a tantalizing and irritating method of holding up the work of a committee that has to report to the House. We are not only holding up our committee by this type of action, but the Committee on Appropriations cannot act because they cannot act until they get the authorization bill.

Mr. FINDLEY. Will the gentleman yield?

Mr. HÉBERT. Yes. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Speaker, I want to thank the gentleman for permitting this 1-hour discussion. I think it is very helpful.

Also I would like to ask a question or two.

Let us assume this resolution passes. Is it the chairman's interpretation of the resolution that the President and the Secretary of Defense would be required to furnish this information on request by any individual Member of the Congress.

Mr. HÉBERT. The information is available to any Member of the Congress at this time. Every question raised in the resolution has been answered, and any Member of this body can come to the Committee on Armed Services room and read the entire text of the sessions held by the committee both in open and closed sessions. The unclassified portion of that session is printed here already, and there is very little that is classified now.

However, I must warn that the rules will prevail. No information taken from the classified data can be published without violating the rules of the House.

Mr. FINDLEY. If the gentleman will yield further, what I was trying to get at is that this resolution would not, as I understand it, require that the President and the Secretary of Defense supply this information upon the request of an individual Member of Congress. It is a directive to the President and the Secretary of Defense to supply the information to the institutions of the House of Representatives; namely, to the Speaker of the House, for transmittal as he sees fit. Am I correct on that point?

Mr. HÉBERT. The decision as to what to give to an individual Member of Congress is determined by the executive branch of the Government and not by the committee. Nor is it controlled by the individual Member. This resolution is directed to giving the Congress the information which is here printed for them to see. Every question is answered. If an individual Member of this body is not satisfied, having read the complete hearings, the complete text, and if he still wants to look at the executive sessions,

then he is privileged to do so, provided he does so under the rules of the House.

Mr. FINDLEY. May I ask a further question?

Mr. HÉBERT. Yes.

Mr. FINDLEY. If this resolution is enacted, is it your interpretation that the information supplied to the Congress by the executive branch would have to be in unclassified form?

Mr. HÉBERT. No, it would not have to be in unclassified form, because the power of classification lies within the executive branch in this particular department, but all questions are answered. That is what I am trying to say here. It is all in this document that is available to everybody.

Mr. LATTA. Will the gentleman yield?

Mr. HÉBERT. Yes. I yield to the gentleman.

Mr. LATTA. I want to thank the chairman for yielding. Not being a member of the Armed Services Committee, I wish to say I have not had the opportunity to read the report of the committee, but I would like to pose this question: During your hearing on this resolution, did the question ever cross your mind as to why a Member of Congress would pose these questions to our Government and not pose similar questions to North Vietnam?

Can anyone in the Chamber dispute the fact that it is North Vietnam which is invading South Vietnam and not vice versa; that North Vietnam switched from guerrilla warfare to large scale conventional warfare and invaded South Vietnam in strength on March, 30 1972; that there are 13 regular North Vietnamese Army and two Vietcong divisions operating outside North Vietnam at this very moment with the takeover of South Vietnam as their objective; that the United States will have 69,000 troops in South Vietnam on May 1, 1972—down from 543,000 when President Nixon assumed office—which must be protected from these invading troops from the North; that the North Vietnamese are conducting major conventional warfare—with Soviet-made tanks, armored vehicles, anti-aircraft guns, surface-to-air missiles, Soviet-made aircraft, et cetera—in South Vietnam in three separate sections of the country—Quang Tri, Kontum, and Bing Long Provinces; that the North Vietnamese have killed or wounded thousands of innocent civilians, including children, by their heavy mortar and artillery attacks on population centers in South Vietnam and have caused an estimated quarter million South Vietnamese to flee their homes since this invasion began? With all of this going on in South Vietnam, Mr. Speaker, how can a Member of this Chamber ask our Government to publicize sensitive information which could only be used for the benefit of the enemy and against the best interests of our remaining troops. Item (9) of this resolution seeks to ascertain "Whether there has been an increase in the movement of military airplanes, military ships, other military equipment, military supplies, or military personnel of the United States, to Southeast Asia, including the islands of the South Pacific Ocean, since March 15, 1972—relative to the 30-day period immediately preceding that date—and, if so, the nature and extent of the increase in each such category." Now wouldn't the enemy love to have that information and wouldn't it work to the disadvantage of our American troops? Why doesn't the sponsor of this resolution or one of its supporters, ask this question of the North Vietnamese? It would be a futile gesture and everyone in this chamber knows that but are we so naive as to believe that the American people—and especially the mothers and fathers of our servicemen still in South Vietnam—want us to give this information to the enemy. I think not.

Members of this Congress should be asking when the enemy is going to halt its invasion and return to the north so we can continue with our troop withdrawal program. The invasion should be condemned—not the measures being taken by our Government to protect American troops.

Did the chairman's committee wonder why this question was not being raised instead of the pending resolution?

Mr. HÉBERT. If I understand the gentleman correctly, we were not privy to what the North Vietnamese are going to do as they are privy to what we plan to do or what the South Vietnamese plan to do.

Mr. LATTA. Mr. Speaker, if the gentleman will yield further, I want to say that what he says is absolutely true.

However, it seems to me as an American that we ought to be asking these questions of the enemy not of our own Government.

It seems to me that certain people keep asking questions of the wrong government.

Mr. HÉBERT. This information is available as of this morning and I would ask the gentleman to look at it.

Mr. LATTA. I shall be happy to look at it.

Mr. HÉBERT. The latest information on Vietnam is available as of this morning.

Mr. Speaker, the Committee on Armed Services is trying to do a responsible job and to discharge its duty. The chairman of the committee has insisted all the time that the Members be recognized, and any time that I have control of the time, I shall be glad to give every Member an opportunity, within the limits of that time, to speak.

Mr. LATTA. As I understand it, this information will be available to Members today. So, I may point out that the North Vietnamese now have 13 regular North Vietnamese divisions and the Vietcong has two divisions and all of these, with the exception of one, are invading South Vietnam?

Mr. HÉBERT. It is my understanding that only one regular North Vietnamese division remains in North Vietnam. The rest are invading South Vietnam.

Mr. LATTA. Are they also invading Laos?

Mr. HÉBERT. I cannot speak to that.

Mr. LATTA. I thank the gentleman and I commend him for his statement.

Mr. HÉBERT. However, the invasion is going on and the invasion is continuing by the North Vietnamese. The North Vietnamese regulars are in South Vietnam killing civilians by the hundreds every day, as well as the troops that they shoot at in battle. They have invaded South Vietnam.

Mr. Speaker, I now yield 10 minutes to the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Speaker, this administration is carrying out massive B–52 and jet strikes in North Vietnam. Many of these strikes are carried out at night in the most densely populated areas in Indochina. These attacks constitute dramatic proof that the administration is committed to a full-scale, long-term U.S. air war in Indochina instead of terminating all military operations there and negotiating a full withdrawal in return for the release of our prisoners of war as required under section 601 of the Military Procurement Act of 1971.

Mr. Speaker, I am not sure that you would agree with me that such high-level saturation bombings of heavily populated areas must kill and maim thousands of civilians.

Nor do I know if you will concur that these bombings serve no useful military end, as we have learned from previous experience. We have known this before, but, certainly, based upon the reports of the last few days in the newspapers with reference to National Security Study Memorandum No. 1, we know for certain that massive bombing has failed to hamper the enemy. It only leads to the capture of more of our airmen, prolongs the captivity of those already interned and endangers the physical safety of both. Far from protecting our ground troops in the southern part of Vietnam, the bombings increase the danger to them.

I do not know if you will agree with me that in the light of the repeal of the Gulf of Tonkin resolution, the bombing of North Vietnam by the Nixon administration is without constitutional sanction or authority and ignores the exclusive power of Congress to declare war.

Finally, I do not know if you accept my belief that these bombings—and the air war in general—represent an inexcusable and totalitarian indifference to the desire of the American people to withdraw from Indochina if our prisoners can be released.

But I think we can agree on one basic point: the American people have the right to know what administration officials are doing in their name.

There is no principle more basic to our democracy than the separation of powers between the executive, legislative and judicial branches. The concept of democracy demands that the Congress and the people have access to information on which policy is made. If Congress and the public are kept in the dark about matters of high policy, how can they participate in democratic decision-making?

The fact that there is some information available in the back rooms of the Armed Services Committee does not satisfy the American peoples' right to know.

I think this kind of secrecy in govern-

ment is the kind of thing that can destroy the basic concept of democracy.

The Vietnam war itself is one of the most dramatic examples of what can occur when this democratic process breaks down. The vast majority of the American people agree that our original involvement in Vietnam was a tragic error. The Pentagon papers make it clear that top officials in the executive branch unilaterally plunged this country into Vietnam by hiding the facts of our intervention from the rest of the country. Had Congress and the people been informed about the real nature of the regimes we supported in Vietnam, the facts of the Gulf of Tonkin incident, we might well have avoided the Vietnam quagmire.

Of all the executive deceptions about the war over the last decade, however, none has been more blatant than this administration's management of information about its air war.

Since taking office, the Nixon administration has dropped over 3.2 millions of tons of bombs on Indochina, bombing more than any government has done in the history of warfare.

It has doubled the bombing of Laos.

It has initiated full-scale air war in Cambodia.

It had bombed North Vietnam on 328 admitted occasions even before the recent counter-offensive began in South Vietnam.

It has spent over $10 million on this bombing.

Hundreds of airmen who were alive and well when this administration took office are now listed as captured or missing in action.

The air war under President Nixon has destroyed hundreds, if not thousands, of villages, killed and wounded tens of thousands of civilians, and altered the land of Indochina itself. Rather than winding down the war, the administration has substituted highly sophisticated automated war for the ground warfare of the Johnson years.

The "NSSM–1" study, which was commissioned by Henry Kissinger when Mr. Nixon took office in 1969 and published in yesterday's Washington Post, indicates that this kind of raiding and bombing has failed to reduce the flow of supplies to North Vietnamese and Vietcong troops operating in South Vietnam. According to the report, the Secretary of Defense and the CIA find that enemy needs in South Vietnam—10 to 15 trucks of supplies per day—are so small and his supply of war material so large that the enemy can replace his losses easily, increase his traffic flows slightly, and get through as much supplies to South Vietnam as he wants to in spite of the bombing.

This latest revelation of the confusion and doubt within our councils of war makes our need to know even more crucial. We are the Representatives of the people, and the people want their country to withdraw from Indochina.

We and our constituents must be informed as to what is being done in our name. Despite the massive dimensions of President Nixon's air war, however, few of us in Congress and even fewer of the general public have received more than the scantiest of information about it from official sources. On the contrary, the administration has made strenuous efforts to keep the facts about the bombing hidden from the American public so as to diminish its effect on domestic opinion.

Some of the means it has used to manage news about the air war include the following:

First. It has prohibited newsmen from going out on bombing raids or being flown to the front outside of South Vietnam. Until recent months, the vast majority of U.S. air sorties, and some of the bloodiest fighting, has taken place outside of South Vietnam. Newsmen, however, are prohibited from going out on bombing raids in these countries or from flying to the front when U.S. supported Asian armies retake bombed-out villages. The DOD has an expressed policy of not announcing specific missions over North Vietnam, even long after they take place. Since the North Vietnamese obviously know where these missions are flown and where the bombs are dropped, it is difficult to imagine any legitimate reason for keeping them a secret.

As a result, the war has been largely taken off the front pages and TV screens, thereby deluding many Americans into thinking it has been "winding down." This prevention of newsmen from observing the war does not appear to be for fear that they would violate military security. Reporters had always been allowed into the air and to the front in South Vietnam under President Johnson. Rather, it is an attempt to muffle domestic dissent by making the war invisible. A recent New York Times story revealed that this policy is not only continuing, but being extended, and that the Nixon administration is even now attempting to limit access of reporters to the war in South Vietnam.

Second. It has classified much important information, most of which is already known to our adversaries. Such crucial issues as the amount of bombing going on outside of South Vietnam in any given month, the incidence of use of anti-personnel and incendiary weapons, the real cost of the air war, the locations and circumstances surrounding our aircraft and pilot losses in the skies over Indochina, and a host of other air war information such as that requested in this resolution has been kept secret by the administration.

This is not information which would help our adversaries. They know what kind of weapons are being used against them, when attacks are escalated, how and where they shoot down our pilots. The only people to whom this information is "classified" are the American people. This policy, too, continues until this very moment. An April 12 New York Times dispatch revealed that the administration had extended its classification policy to shield all details of the bombing of North Vietnam, even the few that had been revealed under President Johnson.

Third. It has deliberately created a false image of a sterile and antiseptic air war, conducted solely against military targets. Time and again, administration officials proclaim before Congress, the American people, and the world that they do not bomb civilian targets in Indochina. They refuse to reveal any estimates of the civilian casualties caused by our bombing, although the Pentagon Papers reveal that such estimates are available—as when Robert McNamara estimated that the bombing was causing 1,000 civilian casualties a week in North Vietnam.

An authoritative study of the air war by the Center for International Studies of Cornell University noted that:

> In a strategic bombing campaign, strategic targets are located near predominately civilian areas.

The claim that the recent saturation bombings of the Haiphong area, a region inhabited by over 300,000 people, were carried out only against military targets cannot be true.

Such management of information about the air war is antithetical to the principles upon which this country was founded.

Accordingly, I have introduced this resolution of inquiry seeking some of the information we need to have in order to properly represent our constituents. I hope the House will in turn submit it to the executive branch for public reply.

The questions in this resolution are simple and straightforward. They do not seek information that could be of value to our adversaries. They do not reveal future plans that could endanger our pilots.

Indeed, the answer to these questions to which the public is entitled constitute the barest minimum of knowledge about the air war. They deal primarily with the physical dimensions of our bombing and shelling and the general areas in which they are being carried out. Far more important questions—such as the incidence of use of antipersonnel and incendiary weapons, the numbers of villages, schools and hospitals we have bombed, the estimated numbers of civilians who have been killed and wounded by the bombing and shelling—could and should be asked. But I have decided to begin with the rather basic and elemental questions contained in this resolution.

Mr. Dennis Doolin, representing the Department of Defense at last week's hearings on this resolution, testified that to give the cost of the bombings would threaten our national security and endanger our troops; even this statement was difficult to get from him, as his basic position was that he could not even tell an open hearing why the DOD opposed being asked to reply to the questions in the resolution.

Mr. Doolin, as well as a number of members of the Armed Services Committee, made the suggestion that "data concerning specific sortied statistics by country, rates against specific target areas or other detailed data about our airmen who are facing these strong air defense units" would be of assistance to the North Vietnamese. For one thing, it is difficult to imagine that the North Vietnamese do not know where the bombs are falling. Second, and more important, this resolution does not ask for any such information. All it requests is numbers:

The number of sorties flown over North and South Vietnam in two 10-day periods;

The number of tons of bombs dropped in each category;

The number of American dollars expended on this new adventure;

The number of Americans killed, wounded, or reported missing in action during the same two 10-days periods.

The only two exceptions to this are requests seven and 10—the first of these asks for the target date for total South Vietnamese independence of American military support; the second asks for a recital of actions taken by the Nixon administration to comply with the mandate of section 601 of Public Law 92–156, the Military Procurement Act of 1971, which makes it "the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all U.S. military forces at a date certain, subject to the release of all American prisoners of war held by the Government of North Vietnam."

The Defense Department's statement that responding to the questions posed in this resolution of inquiry would "be incompatible with the public interest" constitutes a most cavalier brushoff of the the Congress. The fact of the matter is that, as the National Security Study Memorandum 1 indicates, the Thieu regime in South Vietnam cannot remain in power without continued American military support, including massive bombing raids, and it will take between 8 and 13 years to complete "pacification" of South Vietnam. I think that the responses to the questions in this resolution would indicate that the administration has decided to ignore section 601 of Public Law 92–156 and the will of the American people by continuing our role in Indochina in an effort to save the Thieu dictatorship. That is why the Department of Defense does not want to reply to these questions.

Let us put aside partisan judgments today and take this one small step to reverse this trend, this beginning step toward the freedom of information of which this country has been so justly proud in the past.

If we cannot agree that this bombing is wrong, and I think we should, let us at least agree that the secrecy surrounding it is wrong.

Let us at least agree that we have a right to know.

Let us at least agree that the responses to the questions in this resolution would indicate whether this administration is carrying out the mandate of the Congress.

There is no information sought here which could in any way be beneficial to our adversaries.

The purpose of a resolution of inquiry is to provide an opportunity for Members of Congress to have access to the information sought in a meaningful way. The responses to the questions propounded by this resolution cannot be made in the back room. That sort of procedure does violence to the purpose and the history of the resolution of inquiry.

Under the rules and the precedents of this House, we have a right to ask the executive branch of the Government to provide us with information necessary for the performance of our duties and the representation of our constituents.

When the executive branch transmits such information to the Speaker in response to such a resolution, the Speaker "lays it before the House," customarily by reading it.

The procedure suggested by the chairman of the Armed Services Committee (Mr. HÉBERT) comes nowhere near being an effective "laying before the House." We will not be able to take notes on the transcript, or even quote it from memory. We will not be able to have the assistance of experts or of our own staff members in evaluating it. I suppose that, as was the case with the Pentagon Papers, we will get the the information in a useful manner as newspaper readers before we get it in such a manner as Members of Congress.

I do not believe that the limited access which we will have to this information satisfies either the language of this resolution or the right, guaranteed us under the rules, to make effective use of it.

I urge my colleagues here today to begin acting as a responsible body and to restore and preserve our constitutional right to secure the information we need in order to represent our constituents.

Mr. Speaker, I insert the text of the hearings on this resolution at this point in the RECORD. If you look at Mr. Doolin's testimony during the executive session held in the afternoon, you will see the word "deleted" several dozen times; these deletions, while they do not give the public the information it should have, speak eloquently of the policies of the Nixon administration with respect to the people's right to know:

FULL COMMITTEE HEARING AND CONSIDERATION OF H. RES. 918, A RESOLUTION OF INQUIRY CONCERNING THE BOMBING IN VIETNAM BY THE U.S. GOVERNMENT

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., Tuesday, April 18, 1972.

The Committee met, pursuant to adjournment, at 10:07 a.m., in room 2118, Rayburn House Office Building, the Honorable F. Edward Hébert, chairman, presiding.

The CHAIRMAN. The committee will be in order.

Members of the committee, we are meeting this morning on a resolution introduced by the gentle lady from New York, Mrs. Abzug, H. Res. 918. You have the resolutions asking for certain information, and Mrs. Abzug is here to testify.

We will put the resolution in the record at this point.

(H. Res. 918 reads as follows:)

RESOLUTION

Resolved, That the President and the Secretary of Defense be, and they are hereby, directed to furnish the House of Representatives, within ten days after the adoption of this resolution, with full and complete information on the following—

(1) (a) The number of United States military personnel in South Vietnam at the present time;

(b) The number of these individuals who are combat personnel;

(2) (a) The number of sorties flown by United States military airplanes, for bombing purposes, in and over North Vietnam during the first ten days of March 1972;

(b) The number of sorties flown by United States military airplanes, for bombing purposes, in and over North Vietnam during the first ten days of April 1972;

(c) The number of sorties flown by United States military airplanes, for bombing purposes, in and over South Vietnam during the first ten days of March 1972;

(d) The number of sorties flown by United States military airplanes, for bombing purposes, in and over South Vietnam during the first ten days of April 1972;

(3) (a) Tonnage of bombs and shells fired or dropped into North Vietnam by the United States during the first ten days of March 1972;

(b) The tonnage of bombs and shells fired or dropped into North Vietnam by the United States during the first ten days of April 1972;

(c) The tonnage of bombs and shells fired or dropped into South Vietnam by the United States during the first ten days of March 1972;

(b) The tonnage of bombs and shells fired or dropped into South Vietnam by the United States during the first ten days of April 1972;

(5) (a) The cost of all bombing and shelling carried on by the United States in or over North Vietnam during the first ten days of March 1972, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(b) The cost of all bombing and shelling carried on by the United States in or over North Vietnam during the first ten days of April 1972, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(c) The cost of all bombing and shelling carried on by the United States in or over South Vietnam during the first ten days of March 1972, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(d) The cost of all bombing and shelling carried on by the United States in or over South Vietnam during the first ten days of April 1972, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(6) List separately the number of United States military personnel (if any) killed, wounded or reported missing in action during (a) the first ten days of March 1972 and (b) the first ten days of April 1972, specifying how many in each such category were killed, wounded or reported missing in action in or over South Vietnam and how many in each such category were killed, wounded or reported missing in action in or over North Vietnam;

(7) Whether there is a target date for the achievement by the Army of the Republic of Vietnam of complete military independence of United States air, naval, and ground support and participation and, if so, what date;

(8) Whether there has been any bombing or shelling carried on by the United States in or over Laos or Cambodia since January 1, 1972, and, if so, the number of sorties flown by United States military airplanes, for bombing purposes, in or over Laos or Cambodia since that date, the tonnage of bombs and shells fired or dropped by the United States into or over Laos or Cambodia since that date, and the cost of all bombing and shelling carried on by the United States in or over Laos or Cambodia since that date, including the costs of bombs and shells, ships and airplanes employed in the transportation and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling;

(9) Whether there has been an increase in the movement of military airplanes, military ships, other military equipment, military supplies, or military personnel of the United States to Southeast Asia, including the islands of the South Pacific Ocean, since March 15, 1972 (relative to the thirty-day period immediately preceding that date), and, if so, the nature and extent of the increase in each such category; and

(10) What actions, if any, have been taken to comply with the provisions of section 601 of Public Law 92–156, approved November 17, 1971.

The CHAIRMAN. Under the rules of the committee, in accordance with the procedure, we usually recognize a member of the committee who desires to testify on a bill first. However, Mr. Harrington has asked to testify but has waived his request in deference to the fact that Mrs. Abzug has introduced the bill.

So, Mrs. Abzug, will you come around?

You have appeared before the committee before, you will be allowed to present your statement without interruption after which the members will ask questions as they desire.

Mrs. ABZUG. Mr. Chairman, I was awaiting distribution of my statement to the committee, Mr. Chairman. Do you want me to proceed?

The CHAIRMAN. Go ahead, please.

STATEMENT OF HON. BELLA S. ABZUG, A REPRESENTATIVE FROM NEW YORK

Mrs. ABZUG. Mr. Chairman, members of the committee, I want to thank you for having me appear before you on H. Res. 918 which is a resolution of inquirying concerning the bombing in Vietnam by the United States Government.

Four days ago, the Nixon administration carried out massive B–52 and jetstrikes against Haiphong and Hanoi. Hitting late at night in the most densely populated areas in Indochina, these sneak attacks constitute the most dramatic proof yet that the Nixon administration is entirely committed to a fullscale and longterm U.S. air war in Indochina instead of negotiating a full withdrawal in return for the release of our captured pilots.

I do not know if you will agree with me that such highlevel saturation bombings of heavily populated areas must necessarily have killed and maimed thousands of civilians.

Nor do I know if you will concur that these bombings serve no useful military end as we have learned from previous experience; that they lead to the capture of more of our airmen, the prolongation of the captivity of those already interned and endanger their physical safety, and that far from protecting our ground troops in the southern part of Vietnam, the bombing of Hanoi and Haiphong will increase danger to them.

And finally, I do not know if you accept my belief that these bombings—and the war in general—represent a totalitarian indifference to the clear desire of the American people to wtihdraw from Indochina if our captured pilots can be released; that by continuing these acts of indiscriminate aerial slaughter the Nixon administration will irrevocably split this country apart in the months to come.

But I am certain that we can agree on one basic point; the American people have a right to know what administration officials are doing in their name.

There is no principle more basic to our democracy than the separation of powers between the Executive, legislative, and judicial branches, undergirded by a fully enlightened electorate with the right to select leaders who will represent their desires. Yet this concept of democracy absolutely demands that all branches of our society have access to the information on which policy is made. If Congress and the public are kept in the dark about matters of high policy, how can they participate in democratic decisionmaking?

One of the most dramatic examples of the horrors that can occur when this democratic process breaks down is the Vietnam war itself. The vast majority of the American people and their Congressional representatives are now agreed that our original involvement in Vietnam was a tragic error. The Pentagon Papers make it unmistakably clear, however, that our involvement in Vietnam did not arise out of the acts of Congress or the American people.

It was, rather, top officials of the Executive branch who unilaterally plunged this country into Vietnam by systematically hiding the real facts of our intervention from the rest of the country.

Can anyone doubt that had Congress and the people been informed about the real nature of the regimes we supported in Vietnam, the facts of the Gulf of Tonkin incident, the popular appeal of our adversaries there, that we might well have avoided the Vietnam quagmire?

Of all the Executive deception about the war over over the last decade, however, none has been more catastrophic in its consequences than the Nixon administration's blatant management of information about its air war.

Since taking office, the Nixon administration has dropped over 3.2 millions tons of bombs on Indochina, bombing more than any government has done in the history of warfare; it has doubled the bombing of Laos; it has initiated a fullscale air war in Cambodia; it has already bombed North Vietnam on 328 admitted occasions before the recent counteroffensive began in South Vietnam; it has spent well over $10 billion on this bombing; well over 300 airmen who are alive and well when the administration took office are now listed as captured or missing in action.

The evidence is overwhelming that this air war under President Nixon has destroyed hundreds if not thousands of villages, killed and wounded tens of thousands of other civilians, underground, or into refugee camps, and that it has altered the very land of Indochina itself. (See appendixes).* There can be no doubt that far from winding down the war, the administration has simply substituted highly sophisticated automated war for the ground warfare of the Johnson years.

Despite the massive dimensions of President Nixon's air war, however, few of us in Congress and even fewer of the general public have received more than the scantiest of information about it from official sources.

On the contrary. The Nixon administration has made strenuous efforts to keep the facts about the bombing hidden from the American public so as to diminish its effect on domestic opinion.

Some of the means it has used to manage news about the air war include the following:

1. It has prohibited newsmen from going out on bombing raids or being flown to the front outside of South Vietnam. Until recent months, the vast majority of U.S. air sorties, and some of the bloodiest fighting, has taken place outside of South Vietnam. Newsmen, however, are prohibited from going out on bombing raids in these countries, or from flying to the front when U.S.-supported Asian armies retake bombed-out villages.

As a result, the war has been largely taken off the front pages and TV screens, thereby deluding many Americans into thinking it has been "winding down".

This prevention of newsmen from observing the war does not appear to be for fear that they would violate military security. Reporters had always been allowed into the air and to the front in South Vietnam under President Johnson.

Rather, it is clearly an attempt to muffle domestic dissent by waging an invisible war. And a recent New York Times story revealed that this policy is notably continuing, but being extended; that the Nixon administration is even now attempting to limit access of reporters to the war in South Vietnam.

2. It has classified much important information, most of which is already known to our adversaries, out of public reach. Such crucial issues as the amount of bombing going on outside of South Vietnam in any given month, the incidence of use of antipersonnel and incendiary weapons, the real cost of the air war, the locations and circumstances surrounding our aircraft and pilot losses in the skies over Indochina, and a host of other air war information such as that requested in my resolution of inquiry has been kept secret by the administration.

Once again, this is not information which would help our adversaries. They know what kind of weapons are being used against them, when attacks are escalated, how and where they shoot down our pilots. The only people to whom this information is "classified" are the American people. This policy, too, continues until this very moment. On April 12 the New York Times dispatch revealed that the administration had extended its "classification" policy to any details of the bombing of North Vietnam, even the few that had been revealed under President Johnson.

3. It has deliberately created a false image of a sterile and antiseptic air war conducted solely against military targets—time and again administration officials tirelessly proclaim before Congress, the American people and the world, that they do not bomb civilian targets in Indochina, that the only targets hit are military.

They refuse to reveal any estimates of the civilian casualties bombing causes, although the Pentagon Papers reveal that such estimates are available—as when Robert McNamara estimated that the bombing was causing 1,000 civilian casualties a week in North Vietnam. They create such Orwellian terms as "protective reaction strikes", implying that loosing hundreds of tons of bombs on the rural society of North Vietnam is somehow defensive in nature.

Even the massive Christmas 1971 bombings, involving several hundreds aircraft striking at North Vietnam for five days in succession, were classified as just one of these protective reaction strikes, termed a "limited duration protective reaction strike".

An authoritative study of the air war by the Center for International Studies of Cornell University noted that "in a strategic bombing campaign, strategic targets are located near predominantly civilian areas". For the administration to claim, as it has, that the recent saturation bombings of the Haiphong area, a region inhabited by over 300,000 people, were carried out only against military targets is more than just a half-truth. It is part of a conscious and Orwellian pattern of thought control about the air war which once again continues until the present moment.

*Not received at time of printing.

I believe it is clear that such management of information about the air war is antithetical to the principles upon which this country was founded: that such information control is not only unworthy of a great democracy, but presents a clear and present danger to it; that unless the American people and we in Congress can receive far more information than we are now getting about the air war, it will lead not only to even greater physical destruction of Indochina, but to an increasing trend to the destruction of democracy here at home as we now know it.

Accordingly, I am today submitting to this committee a number of questions about the air war which I hope will in turn submit to the executive branch for public answer.

These questions are simple and straightforward. They do not ask for information that could be of value to our adversaries. They do not reveal future plans that could endanger our pilots.

Indeed, these questions in and of themselves are but a minimal beginning to fuller public understanding of the air war. They deal primarily with the physical dimensions of our bombing and shelling and the areas in which they are being carried out. Far more important questions—such as the incidence of use of antipersonnel and incendiary weapons, the numbers of villages, schools, and hospitals we have bombed, the estimated numbers of civilians who have been killed and wounded by the bombing and shelling—could and should be asked. But I have decided to begin with the rather basic and elemental questions appended to this statement.

I hope that you will assist me in attempting to get answers to these questions, not only for the sake of the people of Indochina, but for the sake of the continuation of democracy in this land.

Every word of every chapter of every book on totalitarianism that has ever been written stresses that totalitarian control begins with the management of information. It is my belief that the present secrecy concerning the Nixon administration's air war in Indochina is the most dramatic example of growing domestic authoritarianism in the history of this Republic.

Let us put aside partisan judgments today and take this one small step to reverse this trend, this beginning step toward the freedom of information of which this country has been so justly proud.

Let us realize that if history may well pass a harsh judgment of those of us who have supported indiscriminate aerial slaughter in Indochina, it will surely have no forgiveness for those who would not even fully inform the American people about it.

If we cannot agree that this bombing is wrong, let us at least all agree that the secrecy surrounding it is wrong.

This is the least we owe our country.

The CHAIRMAN. Thank you very much.

Mrs. ABZUG. I would like to suggest, Mr. Chairman, in the consideration of this resolution which was submitted on April 11th, that the committee consider bringing it up to date by amending sections of it to include a new 2(e), the tonnage of bombs and shells fired or dropped into North Vietnam by the United States during the second ten days of April 1972, and that a new 5(e), which would add the cost of all bombing and shelling carried on by the United States in or over North Vietnam during the second day of April 1972, including the cost of bombs and shells, ships, and airplanes, employed in the transportation in dropping and firing of such bombs and shells, maintenance of such ships and airplanes, salaries of United States military personnel involved in operating and maintaining such ships and airplanes, and all other expenses attributable to such bombing and shelling in section 6, section 11, add second ten days of April 1972.

If the committee is to act on this I think in view of the events that occurred since the filing of this resolution 918 that the information that this committee should act upon should be brought up to date.

The CHAIRMAN. We will consider that when we consider the resolution. Will you pass your proposed amendment to Mr. Slatinshek? The committee will consider it when we take action on the resolution. Mr. Arends?

Mr. ARENDS. No questions.

The CHAIRMAN. Mr. Price.

Mr. PRICE. No questions.

The CHAIRMAN. Mr. Bray?

Mr. Bennett.

Mr. BENNETT. No questions.

The CHAIRMAN. Mr. Pike.

Mr. PIKE. No questions.

The CHAIRMAN. Mr. King?

Mr. KING. No questions.

The CHAIRMAN. Mr. Dickinson?

Mr. DICKINSON. No questions.

The CHAIRMAN. Mr. Spence?

Mr. SPENCE. No questions.

The CHAIRMAN. Mr. Powell?

Mr. POWELL. No questions.

The CHAIRMAN. Mr. Nichols.

Mr. Brinkley, Mr. Monohan, Mr. Daniel, Mr. Montgomery, Mr. Harrington.

Mr. HARRINGTON. I wonder if you would state whether the efforts, with the gentleman behind you, with Mr. Doolin—on the question of getting information from the Department of Defense prior to introducing this resolution?

Mrs. ABZUG. No, there wasn't enough time. I frankly was quite shocked at the continuing and accelerating bombing that was taking place and brought this resolution on immediately when the House returned from its recess, and as is sometimes the practice after a resolution is filed, there is some effort made to offer information, but no one has been offered and I have not had the time, frankly, in order to expedite the information for the use of the resolution of inquiry I felt that it was within the province of this committee to secure that information.

Mr. HARRINGTON. Are you familiar with Mr. Doolin's response to your request before the committee this morning?

Mrs. ABZUG. No, I am not.

Mr. HARRINGTON. If I could, I would like to read it for both your benefit and for the benefit of the committee. This is addressed to our chairman, Mr. Hébert, dated April 14th, and it isn't Mr. Doolin, it is Mr. Buzhardt's, the language is so remarkably similar, I was in error.

"DEAR MR. CHAIRMAN. Reference is made to your request for the views of the Department of Defense with respect to H. Res. 918 which would direct the President and the Secretary of Defense to furnish the House of Representatives full and complete information concerning the specifics of various military operations in Southeast Asia.

"In view of the fact that the Armed Forces of the Republic of Vietnam are now actively engaged, with United States assistance, in repelling an armed attack in force across the Demilitarized Zone, it would in the judgment of the Department of Defense be incompatible with the public interest to provide the information in the manner directed by the resolution.

"We will, of course, continue to provide briefings to your Committee in order to keep them current on all military operations including the matters which are the subject of H. Res. 918.

"The office of Management and Budget advises that there is no objection to the presentation of this report for the consideration of the Committee.

"Sincerely,

"(signed) J. FRED BUZHARDT."

That, I think, speaks for itself, but I thought it would be helpful for you to know this.

Mrs. ABZUG. Thank you, Mr. Harrington.

Mr. HARRINGTON. It is very similar to the treatment received by Congressman Aspin and myself to date, attempting to get similar information.

The CHAIRMAN. Mr. Aspin.

Mr. ASPIN. No questions.

The CHAIRMAN. Dr. Hall.

Mr. HALL. Mr. Chairman, I have no questions.

The CHAIRMAN. Mr. White.

Mr. WHITE. Thank you, Mr. Chairman, I have no questions.

The CHAIRMAN. Mr. Ichord.

Mr. ICHORD. No questions.

The CHAIRMAN. Mr. Hunt.

Mr. HUNT. No questions.

The CHAIRMAN. Mr. Runnels.

Mr. RUNNELS. Mr. Chairman, I would like to ask what the provisions of section 61 of Public Law 92–156 are, that you are requesting in this bill?

Mrs. ABZUG. The provisions provided under the Military Procurement Act that the President should set a date negotiated withdrawal of our troops solely upon release of our—contingent solely upon the release of our prisoners.

I submit that that was the policy of the Congress of the United States. It was a law which was signed by the President and I see no evidence that the President has in any way carried out the law as provided under section 601, and as a matter of fact, my comments on that have been the subject of another motion, previous to this time.

If you want me to read it to you it provides——

Mr. RUNNELS. No, I think you have answered the question, and I appreciate it.

The CHAIRMAN. Mr. Gubser?

Mr. GUBSER. No questions.

The CHAIRMAN. Mr. Whitehurst?

Mr. WHITEHURST. No questions.

The CHAIRMAN. Mr. Fisher. Mr. Young. Mr. Clancy.

Mr. FISHER. No questions.

Mr. YOUNG. No questions.

Mr. CLANCY. No questions.

The CHAIRMAN. Thank you.

Mrs. Abzug, thank you very much for your appearance this morning.

Mrs. ABZUG. Thank you, Mr. Chairman. I would like to ask unanimous consent to submit some accompanying material to my statement.

The CHAIRMAN. You may. Without objection you may submit it at this point in the record.

Mrs. ABZUG. Thank you, sir.

(The material had not been received at the time hearing went to press.)

The CHAIRMAN. Mr. Harrington, you asked to be recognized as a witness.

Mr. Harrington, you may proceed as a witness.

STATEMENT OF HON. MICHAEL HARRINGTON, A REPRESENTATIVE FROM MASSACHUSETTS

Mr. HARRINGTON. Thank you, Mr. Chairman.

Mr. Chairman, thank you for the chance to testify this morning. I come without a prepared statement, simply because I decided at the last moment that as futile as it may be, that it was worth at least attempting to do something that I think this committee particularly but the Congress itself has been remiss in doing.

Let me, if I can review my concern, and make some observations which I feel at least momentarily based on my limited service on this committee I have a right to make.

From the last public pronouncement of the President on January 25th, which I thought in its candor was both desirable and healthy in outlining the efforts at secret negotiations, and the failure of those negotiations, I become increasingly concerned that we were committed in Indochina in general to a long, indefinite, and very costly commitment.

The dimensions of this commitment the American public were not aware of. The dimensions of which the Congress, to its own discredit, were not aware of. And I become

concerned enough to begin to try to reflect on what might be done given the limitations of both my own presence in the Congress, but more importantly the inordinately broad subject matter, to broaden the awareness.

I say it because I think whether it be by design or it be by an effort in the usual political sense to create optimism where none should exist, or to take credit where perhaps there should be an effort made at more balance, there had been an effort to encourage the brief that with a diminution of our force level from approximately 555,000 in the Johnson administration, which the spokesmen are always careful to point out, to approximately 69,000 by May 1st, that somehow our effort in Vietnam was going to come to an end, and the public was encouraged to believe that Vietnamization at least measured that way was successful.

It seemed to me, with the knowledge that I had, that came from both this committee and in general, the existence of five air bases in Thailand, with the presence of anywhere from two to four carriers off the coast of South Vietnam and North Vietnam, that that was not necessarily in keeping with the dimensions of our involvement, and that efforts ought to be made if this is the course we are embarking on, to get both the Congress and the people of this country to face the consequences of this policy.

Accordingly, in the course of the hearings that we have had to date, I asked both Secretary Froehlke and General Westmoreland what portion of the total Army budget, including that which we have before us and in general the total overall request for fiscal 1973 was to be committed to South Vietnam.

Neither at the time professed to know, but agreed to provide it for the record—which they did, classified as usual "secret".

The Navy has given me in classified fashion the patently absurd figure of about 253 million dollars of incremental cost which they attribute to the cost of their presence in Southeast Asia for the next calendar year.

I have not yet received a response from the Air Force.

In keeping with this I wrote to Secretary Laird, I would say approximately six weeks ago, and in general ask general information about the magnitude of the bombing, the costs of it, where it was going, and received a letter which I believe Congressman Aspin had received prior to mine and which others have received since that time, which cited an inability to be precise and in general a reference to the sensitivity of the material being such that it could only be given perhaps to this committee in a secret session or a closed session.

I therefore reluctantly, because I did not think it was responsively answered, ask the chairman of this committee to call for a closed session at which Mr. Doolin or others might be present to provide us with the information.

A reasonably lengthy period of time expired from that request, and while I was traveling in Southeast Asia—which is another story I hope to relate to this committee and to the Congress at some point in the future—a letter was received from the chairman of the committee, and from the Department of Defense indicating that both in terms of my traveling in Asia to the areas affected, and in addition the material that was sent me by the Department of Defense at the request of the chairman, I should be in general satisfied they had been responsive.

I obviously am not. I don't think that sending me testimony from the Secretary of the Air Force, Mr. Seamans, which was given in this committee, and other material which was mimeographed with pencil markings on it is responsive to certain specific questions.

I say these things not because they are new to you people, and perhaps new to those who follow the Congress, but I say them only because I think they have to be said again and again. If the policy we pursue makes any sense, then I don't know why those who defend it with vigor don't open up the closed doors of this committee, don't make an effort as was suggested during the course of one of those briefings that is supposed to be so substantial which in my opinion are not—and I am referring specifically to the Admiral Moorer briefing last week—don't make an effort to take their case as they profess they want to behind the closed doors of this committee to the American people.

If they are made to understand the costs which are so far, I think, concealed to a degree, and if they are made to understand the dimensions of the risks that are involved, and in general the stakes that I think we have committed ourselves to, not only in Vietnam, but in Laos, in Cambodia, and more interestingly in Thailand, then I think perhaps there will be a degree of vindication on the part of what is the obvious majority view of this committee. But I can't help but feel—and I say this not because I occupy a very, very minority point of view on the committee but because I share, I hope, an institutional concern where an increasing lack of identity on the part of this Congress, that perhaps the other requisite equipment that should come with service in the committee is a bucket of whitewash and a brush.

I say it because I think that we are regularly too responsive and I cite this as a particular example, to what the Department of Defense wants done. They know it. And they use it that way. And that we legitimatize perhaps not only to the disadvantage of those who share the Department of Defense view, but certainly from the point of view of the broad public which is not aware of this day-to-day nature of our committee, actions which I think just in the course of adversary procedings deserve more substantial treatment than they are given.

I don't expect that this morning I am going to change the way of life. I don't expect this morning that all of you all of a sudden are going to agree with me on the committee on perhaps in the House, but I would suggest we have a broad obligation and one that I don't think we do a very good job meeting day to day to inform people. That we have a broad obligation, also, to be independent of the executive branch and not refer by mail and not refer other requests to the Department of Defense for response. But to have that healthy adversary nature of the proceedings which might lead to enlightenment on the part of the Congress if they want that enlightenment, and more importantly awareness on the part of the public.

I am not here this morning contending for the point of view that what Bella Abzug is suggesting is all that is needed or that is correct or that I endorse her language in every respect. I just suggest it is endemic to what is wrong with the institution we are a part of and I suggest further that this committee reflect that to a greater degree than it should.

And again, if the committee majority wishes to endorse what was said to the committee and what I can sense its general feeling is about what we should be doing in this area, then let's adopt the suggestion Mr. Lennon made last week of opening up this process to broad public exposure and not join with each other behind closed doors regularly in railing against the Senate, in railing against the people in the media, and the peace forces that somehow are blamed for the disruptions that occur in the country.

I think it would be healthy from every respect and I think it might frankly bring the Congress and bring this committee to the point where we can make a substantial contribution and not be a pale carbon copy of what DOD wish to have the American people believe is an endorsement of their point of view.

Mr. Doolin is here this morning and I assume—or Mr. Buzhardt, I am not sure—and can speak for himself.

But I hope whether you agree with my position, or whether you agree with the position of the committee as stated by some of its spokesmen, we can have more substantiality attached to what goes on.

This war has been very costly. The dimensions of it have been spelled out. My concern is only that we contribute in misleading the American people, that somehow we are getting out when the opposite is the case, and I think we have that obligation that exists independent of the executive branch to inform them as fully as we can of the nature, the scope, and the cost of this involvement.

It is for this reason that I join with Mrs. Abzug in asking this committee to give more than pro forma consideration to the request and to force the executive department to do something more than ritualistically invoke national security for the reason for not giving this information. I think the time has long passed where stamping something confidential, will suffice on the part of the Congress and the people of this country, to keep them from knowing what their business is. Thank you.

The CHAIRMAN. Thank you, Mr. Harrington, for your observations and your criticism of the committee.

Each man is a keeper of his own conscience, of course.

Mr. HARRINGTON. I am aware of that, Mr. Chairman.

The CHAIRMAN. I am sure while we may disagree in philosophy, and may disagree in objectives, those who agree in the democratic form of government do believe in the rule of the majority.

Mr. HARRINGTON. I never disputed it, and I appreciate your administration of it with the fairness that characterized my service on the committee, and that has never been the subject, I hope, of any implied or direct criticism I made of the function of this committee.

The CHAIRMAN. This committee is run by the rules of the majority. Any time the majority changes its views the Chair will change his position with the rule of the majority. I may say, too, this is no way personal or anything, but you seem very uncomfortable on the committee. Remember you came on this committee as a supplicant, pleading, crying, begging to get on it. And any day you don't like the way the committee is run, or it makes you uncomfortable here, you have the same privilege of leaving the committee.

Mr. HARRINGTON. I appreciate the directness of the message, Mr. Chairman. I didn't realize it was going to be a——

The CHAIRMAN. I think you have been on the committee long enough to know I am direct.

Mr. HARRINGTON. I informed or propagandized in general on this subject. I don't know I would characterize my discomfort as being personal but more perhaps institutional as to what I think the committee does not do. I have really never had a quarrel with the formal extension of equality to me, and have never been in doubt at all as to the outcome of most of the situations we find ourselves in would be either. I enjoyed the experience. It has been interesting to me, representing that section, the Eastern liberal fringe of the body politic, and I think it has been very healthy for me to be exposed to other points of view, and I expect to have at least through the rest of this year an enjoyable tenure on the committee and hope to return to it.

The CHAIRMAN. Well, of course, as I say, this committee, as you have heard us say so many times, is a nonpartisan committee and ruled by the majority, and if there is any criticism, I am not going to get out of the kitchen. I can stand the heat.

Mr. HARRINGTON. You demonstrated that, Mr. Chairman. I won't get out of the kitchen.

The CHAIRMAN. Every member of this committee is treated as any other member,

whether they agree with the position of the chairman or not. I follow the rules here.

Mr. HARRINGTON. I am only puzzled because in private conversation and in general you made it clear you do. My criticism, I hope, is not construed to be directed to that facet of the committee. I made it clear we operate in my opinion as an extension of the Department of Defense. That is very subjective and perhaps unpopular. But I think to a degree, in terms of at least my observations, something that I have a substantial point of view.

The CHAIRMAN. Again the Chair is constrained to respond. That seems to be the hew and cry of those who have nothing else to say without foundation or documentation. As the gentleman knows right now, we are sitting in a very critical situation as related to the Department of Defense. I don't think the interest we have demonstrated in the condition of the Litton contract in particular, in the shipbuilding contract, indicates we are rubberstamping the Department of Defense. I don't think the 8 months' conduct of the My Lai investigation was a stamping of the Department of Defense. I don't think that the double amount of money which this committee gave the troops was a position of the administration. It was contrary to the position of the administration, and before you got here to the Congress, you were probably still in college at the time, this committee gave the Polaris submarine to America.

Without this committee against the opposition of those in the Pentagon, you would have had no Polaris submarine.

The Investigations Committee of this committee made a name for itself long before those on the other side of the Hill even knew the word "waste" what it meant, or knew where the capital was. So the whole history of this committee is not one—it is one of understanding and partnership.

But as I say, this is a matter that you address yourself to the whole committee, I don't take it as being addressed to the chairman. But if the majority think like you think, maybe you will sit in this chair.

Mr. Pike.

Mr. PIKE. Thank you, Mr. Chairman. I have no questions, but I would like to make a couple of comments.

First of all, I think personally that the presence of Mr. Harrington on this committee has been a great blessing to this committee. He has brought——

Mr. HARRINGTON. I wouldn't want to submit that to vote, Mr. Pike.

Mr. PIKE. I wouldn't want to submit it to a vote either, Mr. Harrington, but I submitted so many kinds of votes on this committee, that I have lost, that it wouldn't come as any shock to me to play it either way.

I would simply like to say that the general comments which you have made regarding secrecy in the Pentagon and "closed doors" in the committee, are items with which I agree with you completely. I think we are far too secretive. I think we are just painfully defensive. And I think that the business of using the phrase "national defense" as an adequate justification to keep from the American people about 90 percent of what we do keep from them, is a great mistake.

After the generalizations, however, we have before us a resolution, and it is a specific resolution, and I am probably going to vote for it, but I am concerned about this resolution because I think that first of all, while it would be perfectly feasible for the Pentagon, the Department of Defense, to answer parts 1, 2, and 3, thereof—for some reason there is no part 4—when you get down to part 5, I think that the answers would be, first "impossible to deliver", and second, "would not give an accurate statement of what apparently we are trying to get at."

We are talking about, in part 5, the cost of all bombing and shelling. I happen to agree that there is no reason whatsoever that the Pentagon couldn't provide number of sorties, and the tonnage of bombs and the tonnage of shells.

But if we try to say that the cost of the bombing and shelling includes, quote, "the costs of bombs and shells, ships, and airplanes, employed in the transportation, and dropping or firing of such bombs and shells, maintenance of such ships and airplanes, salaries * * *", et cetera, and all other expenses attributable to such bombing and shelling, I think we are not being fair to the Pentagon.

I don't think that you can say that the cost of bombing and shelling includes in each case the cost of not only the ship that fired the shells, but also the ship that transported the shells to the ship that fired the shells.

We are getting into a situation here where if we would do it this way it is going to cost a million dollars to fire each shell. I just don't think that happens to be the case. I think, as I said, I am going to vote for this resolution, but I think that as to this part of it, first it would be just impossible. What it would mean is that you would have to know when you dropped a shell, the name of every ship which had transported that shell up to the time that it was fired.

You would have to keep books on every ship that touched the shell. You would have to do all kinds of things in trying to compute these figures that I think would be impossible to do, and second, when you got all done, I think you would have an inaccurate, rather than an accurate picture of what you are trying to accomplish here.

I would be happy to hear your comments.

Mr. HARRINGTON. No, I fully concur with you. I appreciate your initial comments, Mr. Pike, but I would like to get into the substance of what you just said. I think it is very important. My concern is not as I said, indicating I was endorsing everything Mrs. Abzug was seeking. It is a general feeling we have not even begun to get the general dimensions with all the constraints that you feel and I feel should be imposed in attempting to arrive at them, to the point where we, in the Congress, and where more importantly those who send us here, can fully appreciate the dimensions of this activity.

And I think concurrent with that, there has been an effort on the part of the administration in the repeated use of media to suggest somehow the absence of an American ground presence is also concurrent with the absence of any American costs of a substantial nature.

And I think that the important part of this is not necessarily whether each of the sections bear proper attention or could be responded to fairly, but that overall we have an obligation on us and on the Department of Defense to be far more candid and more obviously open than we have been in outlining the dimensions of the overall cost.

Mr. PIKE. I would agree with you, but I think the end result ought to be to get an accurate cost figure rather than as I read this language an inaccurate cost figure.

The CHAIRMAN. Mr. King.

Mr. KING. No questions.

The CHAIRMAN. Mr. Brinkley.

Mr. BRINKLEY. Yes, sir. I have a question.

Mr. Harrington, I appreciate the statement which you made, certainly it ought to give all of us room for reflection, and of course you know the views of many of us which are fairly counter to yours in many respects.

But I would like to ask one question. You say we should proceed in an adversary manner with the executive branch.

Mr. HARRINGTON. I don't mean that in a partisan sense. Have you finished the question? I will try to respond to it.

Mr. BRINKLEY. I was going to ask you about that.

This committee, and the executive branch, I do not believe, should proceed in an adversary manner. I think we have the same good goals, and I think it is our opportunity not only to question those witnesses who might reflect a particular point of view, but other witnesses, which we try to do, I believe, in the procurement hearings—and in the classic legal sense I don't believe we proceed in an adversary manner.

Mr. HARRINGTON. If I could I would like to respond briefly to that. I perhaps could have chosen a different word, but let me use the analogy if I could of sports. It seems to me if there is a vigorous degree of opposition on the other side, and I say other side in an institutional rather than a partisan sense, that both partners, are both parties to the arrangements, are strentghened rather than having one so preponderant and the other is never able to prevail and never able to really make a meaningful effort at prevailing. I am not suggesting that everything we do, and I don't want to have it construed as Republican versus Democrat or this committee versus the Congress or the executive, I just that it is healthy in the form of government we have to have as much strength accrue independent of what the executive branch can provide for us as possible. And I don't blame the executive branch. If I were there I would be doing exactly the same thing. I blame us when it comes to failure frankly to not equip ourselves properly to be independent of the executive branch for information.

I don't mean this committee either. I think there is a broader culpability. We should do much more to have independent sources of information either individually or institutionally than we do. That is the adversary proceeding I am talking about rather than a legalistic one. One that might end up making us a better prepared able branch of government, not one rooted in the past, but I don't see that really happening.

Mr. BRINKLEY. I thank the gentleman.

The CHAIRMAN. Mr. Montgomery.

Mr. MONTGOMERY. Mr. Chairman, I just have a brief comment. The year and a half I have had the privilege of sitting next to the gentleman that is a witness today, and probably know him as well as anyone on the committee, as some members have said you all certainly talk a lot together, I might say the gentleman does more talking and I do more listening. I don't agree with most of his philosophy, but I have enjoyed serving with him on the committee.

Mr. HARRINGTON. Thank you, Mr. Montgomery. I hope that that guilt by association doesn't impair your effectiveness here or elsewhere.

(Laughter.)

The CHAIRMAN. Mr. Harrington, do you have any questions to ask yourself or your conscience?

(Laughter.)

The CHAIRMAN. You are next on the list.

Mr. HARRINGTON. Those have all been asked.

The CHAIRMAN. Mr. Aspin.

Mr. ASPIN. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Gubser.

Mr. GUBSER. I have a question, Mr. Chairman.

Mr. Harrington, have you read the report issued by a subcommittee of this committee having to do with the Aerospace Corporation?

Mr. HARRINGTON. Not by that description, Mr. Gubser, I haven't.

Mr. GUBSER. Have you read the report issued by a subcommittee of this committee on the Sheridan-Shillelagh weapons system?

Mr. HARRINGTON. Parts of it, Mr. Gubser; to my memory that would be over a year ago.

Mr. GUBSER. Have you read the report issued by a subcommittee concerning the main battle tank?

Mr. HARRINGTON. No.

Mr. GUBSER. Have you read the report by the Marine Corps—on the Marine Corps generator procurement?

Mr. HARRINGTON. I suppose we can go down the list.

Mr. GUBSER. I intend to. Have you read the report on the M–16 rifle procurement?

Mr. HARRINGTON. Yes, some time ago.

Mr. GUBSER. Have you read the report on the light observation helicopter procurement?

Mr. HARRINGTON. Again, some time ago, last year.

Mr. GUBSER. Have you read the report on the My Lai incident?

Mr. HARRINGTON. Yes.

Mr. GUBSER. I think you will agree with me, particularly if you read these reports, that every one of them places this committee in a distinct adversary position with the Department of Defense.

Now, some people, I am sure, not the gentleman currently in the witness stand, but some people make a profession out of presenting a puristic image of themselves by besmirching the image of those around them, and I am sure that doesn't apply to the gentleman in the witness stand.

Mr. HARRINGTON. I hope it doesn't Mr. Gubser.

Mr. GUBSER. But I would respectfully suggest before this gentleman comes before the committee and says all the rest of us are intellectual prostitutes for the Department of Defense, he ought to read the reports put out by this committee.

Mr. HARRINGTON. I read the book directed to the recent remarks directed to me. Those come to mind, the innuendos used rather indiscriminately by yourself.

Mr. GUBSER. If the shoe fits, I hope you wear it with comfort.

Mr. HARRINGTON. That was a shoe directed toward you.

The CHAIRMAN. Mr. Whitehurst, Mr. Nedzi.

Mr. NEDZI. Thank you, Mr. Chairman.

Mr Chairman, I would just like to take this opportunity to concur in the remarks made by Mr. Pike with respect to Mr. Harrington's service. And as I read this resolution, I think it is regrettable that such a resolution even has to be introduced. I don't see anything in it that shouldn't be available routinely to every Member of Congress, indeed to the press. And when the Department of Defense witness takes the stand, I would like to have him respond just as to what part of this resolution should not be disclosed to either Members of Congress or members of the press. I have no further questions.

The CHAIRMAN. Thank you very much, Mr. Harrington. We appreciate your remarks and advice and consent and counsel.

The next witness, Mr. Slatinshek.

Mr. SLATINSHEK. The next witness represents the Department of Defense, Mr. Dennis J. Doolin, Deputy Assistant Secretary for East Asia and Pacific Affairs, Department of Defense.

Mr. Doolin, would you come forward?

STATEMENT OF HON. DENNIS J. DOOLIN, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR EAST ASIA AND PACIFIC AFFAIRS

Mr. DOOLIN. Mr. Chairman, members of the committee, Mr. Harrington has already read into the record the letter from our general counsel, Mr. Buzhardt. I would like to give the original copy to Mr. Slatinshek for the chairman.

Mr. Chairman, if it meets with your approval, I would like to address items 7 and 10 in Mrs. Abzug's resolution, and then read into the record some correspondence that I have had both with yourself and with Mr. Harrington on the subject of available information.

The CHAIRMAN. Proceed.

Mr. DOOLIN. Thank you.

Section 7 of the resolution under consideration, requests the information, "Whether there is a target date for the achievement by the Army of the Republic of Vietnam of complete military independence of United States Air, Naval and ground support and participation, and if so what date?"

Mr. Chairman, one of our major goals in Indochina has been the transfer of military responsibility to the Republic of Vietnam, in a way that provides the South Vietnamese with a realistic capability to defend itself from aggression.

Our activity in Indochina has been and will continue to be in consonance with that goal.

To achieve our goal, the Vietnamization program was planned in three phases. Phase 1, assumption by the South Vietnamese of the ground combat role against the Vietcong and North Vietnamese forces.

Phase 2, the development by South Vietnam of those capabilities, air, naval, artillery, logistics and other support necessary to maintain security.

Major progress was made last year notably including the turnover of in-country naval operations and a very substantial portion of the in-country air combat responsibilities.

Phase 3, reduction of American presence to a military advisory mission, with whatever small security forces are needed to protect this mission, and then further reductions as South Vietnam becomes capable of handling the threat with no U.S. military presence required.

We are closer now to meeting these goals than at any time in the past, as evidenced by our major reduction in the U.S. force levels. Specifically, phase 1 of Vietnamization is completed, with only a small U.S. ground combat force remaining in a security role to protect U.S. forces as phase 2 progresses.

Phase 2 is progressing ahead of schedule as the Vietnamese themselves work hard to complete the complex training required before they can fully assume an effective support role.

Phase 3 has begun with the reorganization of our corps and field force headquarters to assistance commands and with the reductions contemplated in our military headquarters in Saigon.

In sum, the major part of our Vietnamization program has been accomplished and we are ahead of schedule on the tasks that remain.

Turning now, if I may, to item 10 in the resolution under consideration, and I think that this will also, Mr. Chairman, be responsive to Mr. Runnell's question directed to Mrs. Abzug, namely, what actions, if any, have been taken to comply with the provisions of section 601 of Public Law 92–156, approved November 17, 1971.

The following actions have been taken.

With regard to withdrawal, on 31 May, 1971, at one of the secret negotiating meetings in Paris, the administration offered "A total U.S. withdrawal in return for a prisoner exchange and an Indochina cease fire."

On 16 August, 1971, the administration tabled a new 8 point proposal offering "To withdraw all U.S. and allied forces within 9 months of the date of an agreement."

"We suggested a terminal date of August 1, 1972, provided an agreement was signed by November 1, 1971."

On 25 January, 1972, the President publicly offered a new 8 point peace proposal which provided and I quote the President, "That within 6 months of an agreement, there shall be a complete withdrawal of all U.S. and allied forces from South Vietnam and exchange of all prisoners throughout Indochina."

On 9 February, 1972, in his report to the Congress, the President stated that "The U.S. and the other countries allied with the Republic of Vietnam offer a fixed date of 6 months for total withdrawal either as part of an overall agreement or an agreement on military issues alone."

With regard to negotiation for a cease fire, on 7 October, 1970, the President presented a five point peace plan that included "An internationally supervised cease-fire in-place throughout Indochina, governed by principles which would make it acceptable and credible to both sides."

On 25 February, 1971, in his report to the Congress, the President stated and I quote, "We will not be content until all conflict is stilled. This sentiment was the driving force behind our proposal for a cease fire. It is still at the core of our policy."

On 31 May, 1971, at one of the secret negotiating meetings in Paris the administration "Offered a total U.S. withdrawal in return for a prisoner exchange and an Indochina cease fire."

On 25 January, 1972, as I indicated earlier, the President publically offered a new 8 point peace proposal which provided for "a cease fire throughout Indochina."

On 9 February, 1972, in his report to the Congress, the President again stated that "We remain willing, as proposed secretly last May, to settle only the military issues and leave the political issues to be resolved separately. Under this approach we would withdraw all U.S. and Allied Forces within six months in exchange for an Indochina-wide cease fire and the release of all prisoners."

With regard to negotiations for withdrawal and the release of prisoners of war, I have already covered this in some detail. This administration has demonstrated periodically its intent to withdraw its forces from the Republic of Vietnam. This intent has been made unmistakably clear, highly visible, and openly evident, thus demonstrating on the basis of deeds the credibility of the United States policy.

Specifically, since the period of peak authorized strength in July 1969, or 549,500 men, U.S. force reductions now stand at over 450,000 and are continuing. As of 1 May, 1972 when we are down to a new ceiling of 69,000 we will have effected an 87.5 percent reduction in the U.S. forces and the President has stated that another announcement will be made regarding the further withdrawal of U.S. forces before May 1.

If I may now, Mr. Chairman, turn to the question of availability of information: On the 15th of March, I received further correspondence from Mr. Harrington. I responded to Mr. Harrington on the 30th of March, which I hope the Congressman will allow was not in my view an unreasonable length of time. And I would like to say, Mr. Harrington, that we do give full consideration to your requests and we are trying to provide you with the best information that we can in an open manner.

If I may, I would like to read my letter to Mr. Harrington of 30 March.

Dear Mr. Harrington: Secretary Laird has asked me to reply to your letter of March 15, 1972, concerning the public release of statistics on the bombing in Southeast Asia.

We share your objective of providing the public with "full information" on the air war in Southeast Asia so long as the public release of this information is not detrimental to the safety and security of our Armed Forces and is not of value to the enemy. You may not be fully aware of the numerous reports that have been made by the Department of Defense on the scope of U.S. air activities.

These include periodically-released testimony we have provided to Congress, public press conferences, and television appearances by the Secretary of Defense Laird. Secretary of the Air Force Seamans and other government officials have also discussed air operations in Southeast Asia. For example, on March 2, 1972, Secretary of the Air Force Robert C. Seamans, Jr., in his presentation

to the House Armed Services Committee, discussed in detail the declining role of U.S. air assets and activities in Southeast Asia. I would like to invite your attention to the discussion and accompanying charts on pages 3 through 6 of Secretary Seamans' attached statement[1] (enclosure 1). This testimony updates statistics provided to the press and the public by Secretary Seamans at a 16 December 1971 Pentagon news conference (enclosure 2).

"In addition to such comprehensive statements, the following specific information is regularly and routinely released to world news media and through them to the public:

"1. The number of attack sorties flown in South Vietnam, where enemy air defenses are minimal, are announced daily in Saigon (enclosures 3 and 4) and are also available in a regular monthly format for all types of missions (enclosure 5).

"2. Air operations in Laos and Cambodia are announced daily in Saigon, although specific numbers of sorties are not given (enclosures 3 and 4). These sortie statistics are classified to prevent the enemy from discerning trends, tactics, and capabilities which U.S. commanders feel could endanger the American crewmen flying those Laos and Cambodia missions, where enemy air defenses are stronger.

"3. Protective reaction strikes in North Vietnam are announced in Saigon (enclosures 3 and 4). Numbers of escort aircraft flying with unarmed reconnaissance aircraft in this high-threat environment are classified and never have been announced. The mission of these escort aircraft is to deter enemy action against the unarmed reconnaissance aircraft which help us guard against enemy buildups and surprises and to protect the U.S. airmen in the event they are fired upon. The U.S. Command does not intend to provide useful information to the enemy on exactly how this protection is afforded.

"4. Munitions expenditures in Southeast Asia are regularly and routinely available to the media on a monthly basis (enclosure 6).

"Announcements of aircraft losses and crew losses are also regularly made in Saigon. MACV announces, when it is safe to do so, all aircraft downed by hostile action (enclosures 3 and 4). In order not to jeopardize rescue operations, such announcements are withheld until the search and rescue has been completed. Throughout the war U.S. news correspondents have voluntarily adhered to this reporting ground rule. Additionally, a weekly summary of aircraft losses in Southeast Asia is announced each Friday in Saigon (enclosure 4). This summary is also available to media representatives in Washington. The status of crew members associated with these losses is announced in Saigon when it is safe to do so (enclosures 3 and 4) and, by name in Washington after next-of-kin have been notified (enclosure 9). A weekly casualty summary released each Thursday in Saigon and in Washington covers losses reported to the Department of Defense during the previous weekly reporting period (enclosures 8 and 9). Cumulative statistics on personnel missing and captured are also available in a monthly format (enclosure 5A).

You are, of course, aware that the North Vietnamese have deployed an extensive and sophisticated air defense network to protect their forces and infiltration operations located outside of North Vietnam. The Department of Defense feels it is essential to protect data concerning specific sortie statistics by country, raids against specific target areas or other detailed data about our airmen who are facing these strong air defense units. U.S. commanders feel that such information would fill gaps in the enemy's intelligence collection efforts and confirm some data which he may already have obtained but which remains still unverifiable. These confirmations could be used by the enemy to increase the danger to our airmen because such data would provide more refined planning data for enemy air defense commanders.

"I hope that this letter has indicated to you that our Department does make a considerable amount of unclassified information available to the Congress and to the public on the air war in Southeast Asia. Also, I hope that we have provided you with a satisfactory explanation as to why we believe the release of additional data on the bombing in Southeast Asia would be useful to the enemy and detrimental to the safety of our forces. Sincerely, (Signed) Dennis J. Doolin, Deputy Assistant Secretary."

That is the end of the letter. I sent a copy of this letter, together with a cover letter to you, Mr. Chairman, the same day, which I would also like to read into the record.

"Dear Mr. Chairman: Congressman Michael J. Harrington has informed us that he has written to you asking that a classified briefing on United States air activities in Southeast Asia be requested from the Department of Defense during an executive session of the Armed Services Committee (Tab A).

"On this date, I have responded to Congressman Harrington's letter with a detailed accounting of the data on the air war that are regularly and routinely released to world news media and through them to the public. Also, I have provided him with additional rationale as to the necessity of keeping these data classified in order to preclude any possibility of compromising the security and safety of our forces and to preclude assisting the enemy in devising his counter-actions (Tab B).

"There are other aspects to consider in not releasing additional data on air activities in Southeast Asia. Generally, we cannot provide information on the air activities of other countries since we do not have the permission of those governments to do so. Furthermore, certain statistics on our air activities are misleading. A significant number of sorties, flown in support of operations over North Vietnam, have not involved overflight of the North Vietnamese land mass. For example, many of the CAP sorties are flown offshore over the Gulf of Tonkin as are a considerable number of A-4 refueling missions. We are taking steps to assure that future information retrievals will allow discrimination of all flights which actually overfly the North Vietnamese land mass.

"We understand that Mr. Harrington is currently in Southeast Asia and possibly his visit to that area will obviate the need for a briefing. Sincerely, Dennis J. Doolin."

Mr. Slatinshek. Mr. Doolin, at this point in the record there were several enclosures attached to the letter that you sent to the chariman.

Mr. Doolin. Yes, sir.

Mr. Slatinshek. Could you provide these to the reporter for inclusion in the record at this point?

Mr. Doolin. I will.

(The following information was received for the record:)

Hon. F. Edward Hébert,
Chairman of the House Armed Services Committee, House of Representatives, Washington, D.C.

Dear Mr. Chairman: Congressman Michael J. Harrington has informed us that he has written to you asking that a classified briefing on United States air activities in Southeast Asia be requested from the Department of Defense during an executive session of the Armed Services Committee (TAB A).

On this date, I have responded to Congressman Harrington's letter with a detailed accounting of the data on the air war that are regularly and routinely released to world news media and through them to the public. Also, I have provided him with additional rationale as to the necessity of keeping these data classified in order to preclude any possibility of compromising the security and safety of our forces and to preclude assisting the enemy in devising his counter-actions (TAB B).

There are other aspects to consider in not releasing additional data on air activities in Southeast Asia. Generally, we can not provide information on the air activities of other countries since we do not have the permission of these governments to do so. Furthermore, certain statistics on our air activities are misleading. A significant number of sorties, flown in support of operations over North Vietnam, have not involved overflight of the North Vietnamese land mass. For example, many of the CAP sorties are flown offshore, over the Gulf of Tonkin, as are a considerable number of A-4 refueling missions. We are taking steps to assure that future information retrievals will allow discrimination of all flights which actually overfly the North Vietnamese land mass.

We understand that Mr. Harrington is currently in Southeast Asia and possibly his visit to that area will obviate the need for a briefing.

Sincerely,

(signed) Dennis J. Doolin.

Attachments:

1. TAB A—Ltr from Mr. Harrington
2. TAB B—Ltr to Mr. Harrington, w/enclosures

Tab A

Congress of the United States,
House of Representatives,
March 15, 1972.

Hon. F. Edward Hébert,
Chairman, House Armed Services Committee, Rayburn House Office Building, Washington, D.C.

Dear Mr. Chairman: I have become concerned at the refusal of the Defense Department to release statistics on past bombing activities by our armed forces in Indochina. On February 29th I wrote to Secretary Laird asking that he release biweekly bombing totals broken down according to country—Laos, Cambodia, North Vietnam, and South Vietnam. In return, I received a letter from Deputy Assistant Secretary Doolin declining to make the figures public, on grounds of national security. Secretary Doolin did not explain the reason for his invocation of the security argument, but he did say that the Defense Department would be willing to discuss the matter in an executive session of the Armed Services Committee.

Therefore, I am writing to ask that you invite the Defense Department to a session of the Armed Services Committee to review with us the pattern of bombing activities in Southeast Asia.

I wish to stress that I made this request to you only because there is no other way for me to receive any information on the subject. Secretary Seamans had offered to provide me with a briefing on the matter and General Bray of his staff and made an appointment with me for that purpose. But on the day before he was to come, General Bray phoned to say he could not discuss the subject of my letter to Secretary Laird and Secretary Doolin's letter explicitly says, as you see, "that it could only appropriately be discussed in an executive session of the Committee . . . should the chairman so desire." I do not understand the reason for this unduly restrictive decision, but I have no choice but to abide by it at present.

I wish to stress that at no time have I requested any information about prospective bombing activities, for I fully concur that to divulge such information could violate security considerations. But I am most eager that the Committee have the opportunity to discuss this subject with responsible Defense Department officials, since it represents by far

[1] See subsequent pages for statement.

the most important military activity in which we are currently engaged.

Yours sincerely,

MICHAEL J. HARRINGTON.

Enclosures.

Mr. Chairman: For your information, I enclose this list which illustrates the kind of information I am seeking, although, of course, it is not exclusive and related matters might also be relevant.

INFORMATION REQUESTED ON THE WAR IN INDOCHINA

(*All data by month and year, 1965–1971*)

1. Fighter-bomber attack sorties rate, broken down by theater.[1]

(a) United States (broken down by service).

(b) VNAF.

(c) Royal Lao Air Force.

(d) Royal Thai Air Force.

(e) other 3rd nation (indicate by country).

2. B–52 sortie rates.

3. Gunship sortie rates (by type of gunship):

(a) United States.

(b) VNAF.

(c) other 3rd nation (indicate by country).

4. Reconnaissance sortie rates:

(a) United States.

(b) VNAF.

(c) other 3rd nation (indicate by country).

5. Helicopter sortie rates:

(a) Attack.

(b) Nonhostile.

6. Tonnage of aerial munitions:

(a) Total S.E. Asia.

(1) United States.

(2) VNAF.

(3) Royal Lao Air Force.

(4) Royal Thai Air Force.

(5) Other 3rd nation (indicated by country).

(b) Broken down by category (e.g. high explosive, antipersonnel, fragmentation, napalm, white phosphorus, straffing), other, (specify):

(c) Broken down by delivery vehicle (e.g., fighter-bomber, B–52, gunship, helicopter).

TAB B

MARCH 30, 1972.

Hon. MICHAEL J. HARRINGTON,
House of Representatives,
Washington, D.C.

DEAR MR. HARRINGTON: Secretary Laird has asked me to reply to your letter of March 15, 1972, concerning the public release of statistics on the bombing in Southeast Asia.

We share your objective of providing the public with full information on the air war in Southeast Asia so long as the public release of this information is not detrimental to the safety and security of our armed forces and is not of value to the enemy. You may not be fully aware of the numerous reports that have been made by the Department of Defense on the scope of U.S. air activities. These include periodically-released testimony we have provided to Congress, public press conferences, and television appearances by Secretary of Defense Laird. Secretary of the Air Force Seamans and other government officials have also discussed air operations in Southeast Asia. For example, on 2 March 1972, Secretary of the Air Force, Robert C. Seamans, Jr., in his presentation to the House Armed Services Committee, discussed in detail the declining role of U.S. air assets and activities in Southeast Asia. I would like to invite your attention to the discussion and accompanying charts on pages 3 through 6 of Secretary Seamans' attached statement (enclosure 1). This testimony updates statistics provided to the press and the public by Secretary Seamans at a 16 December 1971, Pentagon news conference (enclosure 2).

In addition to such comprehensive statements, the following specific information is regularly and routinely released to world news media and through them to the public:

1. The number of attack sorties flown in South Vietnam, where enemy air defenses are minimal, are announced daily in Saigon (enclosures 3 and 4) and are also available in a regular monthly format for all types of missions. (enclosure 5).

2. Air operations in Laos and Cambodia are announced daily in Saigon, although specific numbers of sorties are not given (enclosures 3 and 4). These sortie statistics are classified to prevent the enemy from discerning trends, tactics, and capabilities which U.S. commanders feel could endanger the American crewmen flying those Laos and Cambodia missions, where air defenses are stronger.

3. Protective reaction strikes in North Vietnam are announced in Saigon (enclosures 3 and 4). Numbers of escort aircraft flying with unarmed reconnaissance aircraft in this high-threat environment are classified and never have been announced. The mission of these escort aircraft is to deter enemy action against the unarmed reconnaissance aircraft which help us guard against enemy buildups and surprises and to protect the U.S. airmen in the event they are fired upon. The U.S. Command does not intend to provide useful information to the enemy on exactly how this protection is afforded.

4. Munitions expenditures in Southeast Asia are regularly and routinely available to the media on a monthly basis (enclosure 6).

Announcements of aircraft losses and crew losses are also regularly made in Saigon. MACV announces, when it is safe to do so, all aircraft downed by hostile action (enclosures 3 and 4). In order not to jeopardize rescue operations, such announcements are withheld until the search and rescue has been completed. Throughout the war U.S. news correspondents have voluntarily adhered to this reporting ground rule. Additionally, a weekly summary of aircraft losses in Southeast Asia is announced each Friday in Saigon (enclosure 4). This summary is also available to media representatives in Washington. The status of crewmembers associated with these lossees is announced in Saigon when it is safe to do so (enclosures 3 and 4) and, by name in Washington after next-of-kin have been notified (enclosure 9). A weekly casualty summary released each Thursday in Saigon and in Washington covers losses reported to the Department of Defense during the previous weekly reporting period (enclosures 8 and 9). Cumulative statistics on personnel missing and captured are also available in a monthly format (enclosure 5A).

You are, of course, aware that the North Vietnamese have deployed an extensive and sophisticated air defense network to protect their forces and infiltration operations located outside of North Vietnam. The Department of Defense feels it is essential to protect data concerning specific sortie statistics by country, rates against specific target areas or other detailed data about our airmen who are facing these strong air defense units. U.S. commanders feel that such information would fill gaps in the enemy's intelligence collection efforts and confirm some data which he may already have obtained but which remains still unverifiable. These confirmations could be used by the enemy to increase the danger to our airmen because such data would provide more refined planning data for enemy air defense commanders.

I hope that this letter has indicated to you that our Department does make a considerable amount of unclassified information available to the Congress and to the public on the air war in Southeast Asia. Also, I hope that we have provided you with a satisfactory explanation as to why we believe the release of additional data on the bombing in Southeast Asia would be useful to the enemy and detrimental to the safety of our forces.

Sincerely,

(Signed) DENNIS J. DOOLIN,
Deputy Assistant Secretary.

Attachments

DEPARTMENT OF THE AIR FORCE PRESENTATION TO THE HOUSE ARMED SERVICES COMMITTEE

AIR FORCE AUTHORIZATION REQUEST, FY 1973

Statement of Honorable Robert C. Seamans, Jr., Secretary of the Air Force, March 2, 1972

(NOTE.—Charts referred to are not printed in the RECORD.)

Mr. Chairman and members of the committee: I am pleased to have this opportunity to meet with you again. In the course of three years as Secretary of the Air Force, this is my fourth appearance to testify concerning the Air Force Budget.

During the last three years, President Nixon has taken a number of important peace initiatives. He has announced withdrawal of nearly 90% of the American forces that were in Vietnam when he took office. Through the on-going Strategic Arms Limitation Talks, we hope to achieve an effective agreement that will improve the security of both nations. With our NATO allies we are hoping to pursue negotiations on Mutual and Balanced Force Reductions between NATO and the Warsaw Pact.

But as we move further in our negotiations, we must continue to maintain adequate defenses as a necessary foundation for peace. In structuring our military forces we are implementing the Nixon Doctrine, which calls for a more balanced partnership with our allies. And we are following a Strategy of Realistic Deterrence—one which involves a continuing evaluation of the military threat together with the Total Force capabilities of the United States *and* its allies. Under this strategy we have helped our friends in Asia strengthen their forces and take over more of their own defense. And in Europe, our NATO allies have agreed to increase their defense efforts.

With respect to our own Air Force, we have gained considerable strength in the past year. In the strategic area, the first wing of Minuteman III missiles became operational, and our FB–111 force was fully deployed. In the tactical area, we completed our F–111A and E force and deployed an F–111E wing to England in support of NATO. Almost two-thirds of the A–7 force was deployed, and our new AC–130 gunships went into service in Southeast Asia. And in the airlift area, the C–5 force was doubled in size, with 41 aircraft now in operational airlift units.

We have adopted policies designed to achieve more effective use of our people and equipment. We are improving our personnel management and human relations programs. We are also providing more modern equipment and better manning for our Guard and Reserve units. And most important we are emphasizing the need for steady, step-by-step modernization that should provide more ready and stable defense, at less cost, than stop-and-go defense programs geared to emergency situations.

In my statement today, I will briefly cover the Air Force role in Vietnamization and then focus on four critical areas of resource management: (1) organization and personnel policy, (2) weapons procurement, (3) research and development, and (4) installations and logistics.

In Vietnam we believe that we are successfully meeting the first test of the Nixon Doctrine. We have moved steadily toward full South Vietnamese responsibility for their

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[1] Theaters: South Vietnam (including DMZ and DMZ separately); North Vietnam; Laos (Ho Chi Minh Trail region only); Laos (all except Trail—usually called Northern Laos); Cambodia.

own defense. For example, last December, I participated in a ceremony which turned over Phu Cat, one of our most modern air bases, to the South Vietnamese Air Force, thus reducing the number of U.S. Air Force bases in South Vietnam from a high of 10 in 1968 to the present level of four.

During that latest trip, I concluded that the South Vietnamese have made a great deal of progress. The growth of their Air Force can be seen from Chart I. In the past year they activated 12 new squadrons—meeting or exceeding every operational ready date. They now have over 40 squadrons with more than 1,000 aircraft and 2,500 pilots. As they improve their capabilities, they are assuming more of the combat role. Since November 1 they have been flying about 90% of the attack sorties in South Vietnam and nearly 70% of the sorties in Cambodia and South Vietnam taken together. And during FY 1973 they should reach a strength of over 50 squadrons and more than 50,000 airmen.

And as the Vietnamese Air Force has increased, the number of U.S. attack aircraft in Southeast Asia has steadily declined. The drop in U.S. attack aircraft and sorties flown can be seen from Charts II, III, and IV.

U.S. attack sorties in South Vietnam also were reduced in 1971 and 35% in all of Southeast Asia, and the latter includes a drop of 17% in B–52 sorties. The reduction in air munitions delivered by all allied forces in Southeast Asia is shown by Chart V.

At the same time our interdiction efforts have increased in effectiveness. This is due partly to the use of gunships with rapid firing cannon and advanced optical and electronic sensors. We now have 18 of our AC–130 gunships in operation. Our laser-guided bombs are also making an important contribution to the interdiction effort. And our ground sensors and aircraft control systems are playing an important role.

Chart VI shows the effect that interdiction is having on the flow of supplies along the Ho Chi Minh Trail. In the last year, we estimate that only about 9,500 tons got through of the 68,000 tons that entered the trail. Of course, this does not mean that enemy troops are completely out of supplies. In fact, we believe that they have been conserving supplies for possible offensives this year. But there were no major attacks in all of 1971, and our interdiction efforts must have been an important factor in bringing that situation about.

Before leaving the subject of Vietnam, I again want to express the Air Force's concern for our prisoners of war and men missing in action. We will continue to assist the families here at home in every possible way, and we will see to it that the men will not be at a disadvantage when they resume their careers. These men deserve and will receive all possible help and consideration when they return.

Except for this brief review of progress in Vietnamization, I will leave the subject of military operations and force structure to General Ryan and subsequent witnesses, and will focus on the four critical areas of Air Force management that I mentioned earlier. How well we manage these four areas will largely determine whether we can continue to provide adequate security with the resources available. The broad tasks before us can be summarized as follows:

Improve our *organization and personnel policies*. We must tighten up our organizational structure and individual assignments so that our mission can be accomplished with minimum manpower. And we must improve our Service living conditions and human relations techniques so that our personnel will be able to carry out their assignments in the best possible manner.

Manage our *weapons procurement programs* in such a way that necessary weapon systems are available to meet our security needs and that these weapons are properly tested and provided at minimum cost.

Provide *research and development programs* that will make available an adequate range of new capabilities that can be selected, if necessary, in order to maintain our security in future years. Research and development should be a steady, step-by-step process, managed in a way that will make best use of available resources.

Implement *installations and logistics* policies that will permit us to support our operating Air Forces in the most efficient manner possible.

In carrying out each of these tasks we are stressing improved management of resources. Emphasis on economy is increasingly important at this time in view of budget trends. The Air Force FY 73 budget of $24.4 billion is actually about $900 million lower than the FY 72 budget when the effects of increased pay and price inflation are taken into account. The following table shows that our funding reached a peak in FY 68, but has fallen back well below the pre-war FY 64 level when corrected for past inflation.

TABLE I.—AIR FORCE BUDGET

[Dollars in billions]

	Fiscal year—				
	1964	1968	1971	1972	1973
Current dollars	$20.0	$25.0	$23.2	$23.8	[1] $24.4
Constant fiscal year 1973 dollars	30.8	33.9	26.5	25.3	24.4

[1] Includes $0.4 billion for estimated fiscal year 1973 pay increases carried in DOD totals not distributed to Air Force appropriations.

The authorization requested for FY 73 are shown in Table II, along with those approved for FY 71 and 72.

TABLE II.—AIR FORCE AUTHORIZATIONS

[Millions of dollars]

	Fiscal year—		
	Actual 1971	Estimate 1972	Request 1973
Aircraft procurement	$3,589.5	$3,196.5	$2,612.7
Missile procurement	1,492.1	1,683.7	1,772.3
R.D.T. & E	2,827.2	2,960.4	3,193.2
Total	7,908.8	7,840.6	7,578.2

I would now like to discuss each of the four critical management areas that I mentioned earlier.

I. Organization and Personnel Policy

With respect to organization and personnel policy, I want to outline our progress in streamlining our headquarters and discuss our need for adequate grade authorizations; then touch upon our Personnel Plan as a management tool and our related recruiting efforts; next cover some of our important human relations efforts; and lastly mention the increasing role of our Air Reserve and Guard forces. In each of these areas our primary goal is to further increase the effectiveness of our people.

Headquarters organization

Throughout the Air Force we have already completed or are now completing the broad Air Force initiatives undertaken in late 1970 to streamline our headquarters management structure. This effort entailed fundamental restructuring of each of our principal command and management echelons. Our intermediate headquarters are being realigned to emphasize their operational mission, eliminating support staff functions wherever possible. While some degree of centralization at Major Command headquarters will result, the projected net savings should be approximately 1,800 manpower spaces. Our overall headquarters streamlining actions will produce dollar savings well in excess of the $5.6 million directed by the Congress last year.

Table III shows that even with reduced personnel strength, personnel costs are increasing. The pay raises to achieve comparability with the private sector have greatly increased the cost of personnel during the past few years. As a result, our projected military end strength for FY 73 is 21% below the 1968 level, but the estimated cost is 28% higher.

TABLE III

MILITARY PERSONNEL STRENGTHS AND COSTS

	Fiscal year—				
	1964	1968	1971	1972	1973
End strengths (thousands)	856	905	755	730	717
Cost (millions of current dollars)	$4,423	$5,687	$6,524	$7,028	$7,251

CIVILIAN PERSONNEL STRENGTHS AND COSTS

	Fiscal year—				
	1964	1968	1971	1972	1973
End strengths (thousands)	338	356	313	302	299
Cost (millions of current dollars)	$2,256	$2,667	$3,299	$3,514	$3,409

We are requesting authorization for a FY 73 end strength of 717,210 military personnel.

Officer grade authorizations

In addition to the numerical strength of our forces we must maintain the high experience levels, technical competence, and military expertise of our Air Force people. To do this we need to obtain new grade legislation. The Grade Limitation Act of 1954 provided lower authorizations for the Air Force than for the other Services, reflecting the fact that the Air Force was a younger Service with lower experience levels. Congress has recognized the growing needs of the Air Force through the years by providing grade relief, which will expire this year. Without new legislation, during FY 73 we will have no promotions to Major, Lt. Colonel, or Colonel, and we would also have to demote, retire early, or involuntarily separate some 3,000 field grade officers whom we need.

Increases in the percentage of field grade officers during the 25 year history of the Air Force are directly related to greater responsibilities, more sophisticated weapon systems and difficult logistical support functions, and a need to provide promotion opportunity comparable to that of the other Services. In view of the importance of national security tasks and decisions in terms of national resources expended, it is clear that we need highly qualified and experienced people to fulfill these responsibilities.

TABLE IV.—AIR FORCE GENERAL AND FIELD GRADE OFFICERS

End fiscal year	Total officers	Percent of total Air Force personnel	Percent of officer strength			
			General	Colonel	Lieutenant colonel	Major
1947	42,745	14.0	0.5	3.7	6.4	13.2
1953	130,769	13.4	.3	3.3	6.4	15.9
1963	133,763	15.4	.3	4.0	11.0	17.9
1968	139,600	15.4	0.3	4.8	12.1	21.5
1971	125,726	16.66	.3	5.0	12.3	19.9
1972	121,462	16.63	.3	5.2	12.5	19.4

Our total field grade officer needs stem not only from the technological changes that have occurred in our mission, but from the requirement to provide unified direction of the Services through joint staffs, both in the Pentagon and in the field. And the Air Force provides officers for many responsible positions in international organizations, especially NATO which did not exist in 1947. At the present time we have a total of about 5,500 officers assigned to other than Air Force activities, with approximately 4,400 of them being field grade personnel. This represents over 10% of the total Air Force field grade authorizations.

I have attempted to characterize an Air Force that has matured significantly since the original Officer Grade Legislation was passed. We have taken great care in the preparation of the requested new grade authorizations. The latter are based on our need for management skills and experience necessary to carry out the Air Force mission as well as providing our people with reasonable and predictable career opportunities.

The Air Force personnel plan

The need for responsive personnel management takes on ever-increasing importance as we move further toward a zero-draft environment. In this connection the Air Force has developed a comprehensive long-range plan as its principal management tool. Our Personnel Plan, developed with the extensive use of computer analysis and simulation over the past four years, includes both qualitative and quantitative objectives for each element of the force—officer, airman, civilian and reserve. This document constitutes a breakthrough in our personnel management and gives us a basis for evaluating the effects of strength and policy changes on the total force long-range goals.

Our personnel managers can use this new management tool to help determine Air Force needs and assist the individual to more accurately plan his career. We are convinced that this capability, which General Ryan will discuss further, constitutes one of the most important steps toward achieving a truly all-volunteer force.

Recruitment and retention

To successfully implement our planning, however, we must make the Air Force more attractive and thus improve our recruitment and retention. Among our important goals are better family housing and expansion of in-service education.

The provision of adequate housing for our families is a prime factor in attaining all-volunteer military forces. Unfortunately, families of approximately 70,000 lower grade personnel are not eligible for military housing under current rules. These young airmen are now getting married and having families at an earlier age than in the past. A large percentage of these families are unable to find adequate homes in local communities. In addition, we have a shortage of over 40,000 family housing units for eligible personnel. These combined shortages have a marked adverse effect on progress toward all-volunteer military forces.

In the last six years, we have programmed only 11,310 new housing units. However, we are most pleased that Congress has set aside 3,450 units of Public Law 236 housing for our lower grade airmen. We also have 3,168 new family housing units in our FY 73 housing program which I will discuss later in the Installations and Logistics section of my statement.

Next I would like to mention our education and training programs, which provide key incentives for service in the Air Force. Many thousands of our men and women have taken advantage of a wide range of off-duty educational programs to complete the requirements for high school or higher educational levels. Moreover, our formal military training provides about 90% of our Air Force people with a skill which has direct civilian utility. For example, we are emphasizing the development of various para-medical capabilities to complement the unique skill of our doctors, and we hope that these skills also will prove valuable to the civilian community. To provide the individual airman with the full advantage of his training, we are seeking further affiliation of our technical schools with regional college and university accrediting associations.

In our recruiting efforts, we also hope to bring more women into the Air Force. We have already made considerable progress, having more than doubled the number of Air Force women in the last five years, and we anticipate additional increases. The rank, responsibility, and assignment opportunities for women in non-combatant roles will be commensurate with that of our male personnel. Toward this objective we have opened the AFROTC program to women, and now have more than 900 women enrolled.

Human relations programs

Ultimately, proper treatment of each individual is the critical factor in both retention of good people and achieving effective job performance. We are trying to improve all facets of our human relations programs. Here are some of the things we are doing.

First, we are broadening communications within our Air Force units. We now have a Social Actions office at base and major command levels, and at Headquarters USAF. The Social Actions officer is directly responsible to the wing commander, who chairs a Human Relations Council. Some commanders have telephone Hotlines to enable their men to get immediate responses to problems. In addition, Junior Officer, Non-Commissioned Officer, and Airmen Councils are becoming increasingly active with respect to many social action programs.

One of our most crucial goals is to achieve racial harmony. To reach this goal, we are relying heavily on effective leadership at all levels, backed up by strong education programs. But we know that we have more to do.

Racial incidents have increased, and surveys indicate that some of our Air Force people believe racial discrimination is a serious problem in the Air Force. Young minority group members are becoming increasingly intolerant of what they perceive as racial injustice. We have established Air Force standards for command which emphasize the critical importance of sentive leadership in improving race relations. And the performance of our commanders and supervisors will be judged, in part, on how effectively they promote equal opportunity for all of their people. This includes not only recognizing such problems, but heading them off whenever possible.

An important part of our race relations program is the commissioning of additional black officers. At the present time our black officer strength is still less than 2% of our total officer force. Our objective is to increase the number of black officers in both our active and Reserve forces. To help achieve this goal, we added three AFROTC detachments last year at predominantly black colleges, and we will add another this year, making a total of eight. Still, we need an across-the-board increase in the number of black and other minority group officers from our commissioning programs: the Air Force Academy, Air Force ROTC, Officer Training School, the Airman Commissioning Program, and the Bootstrap Commissioning Program. And we are emphasizing recruitment and individual personal contacts in minority groups.

Another human problem we share with our civilian society is drug abuse. The Air Force measured worldwide drug abuse rate is only about one-half of 1% as indicated by urinalysis testing for narcotics, barbituates and amphetamines. We, nevertheless, recognize that any drug usage constitutes a serious matter. Therefore, we have taken a number of steps in accordance with Department of Defense and other Administration efforts to deal with this social problem confronting our nation.

Drug abuse committees have been established and drug abuse personnel at all levels are active in prevention and education programs. A five-phase rehabilitation program has recently been developed with a one-year follow-on support phase subsequent to successful completion of the initial treatment and rehabilitation training.

Our human relations efforts are part of a long-term, continuing program to face our problems in a responsible manner. We recognize that a better Air Force must rely upon people who understand and respect each other—certainly all of our people have a key role to play in building a better Air Force.

Relationship with the civilian sector

The Air Force, along with other agencies in the Department of Defense, recognizes that a responsibility exists not only to perform our assigned military missions, but to contribute whenever we can to domestic improvement. This is a most exciting area and much could be included in my statement in this regard if the time permitted.

The Air Force is a large community with one half of 1% of the total U.S. population. We have within the Air Force all the aspirations and concerns of the country: the need to improve training, education, health service, housing and to reduce air and water pollution. As a result, much of what we learn from our military programs is also useful in the civilian sector. Some domestic benefits result from exchange of information with other departments of government, some through our people as they leave military life, and other exchanges result from specific projects for which we may be reimbursed.

Our Domestic Action Programs also contribute to a better society. In these we stress summer youth employment and recreation, as well as providing additional training for underskilled workers.

Most of these programs directly benefit our equal opportunity goals. Over 80% of the youths participating in our summer activities are from disadvantaged homes and our educational and vocational training is geared

to improving minority skills in adjacent communities.

We believe that our nation is stronger for these domestic contributions.

Air Reserve and National Guard

As my final item in the area of organization and personnel policy I want to emphasize the increasingly important role of our Air Guard and Reserve forces. The Personnel Plan which I discussed earlier integrates planning for these components with that for our active units under the Total Force Concept.

Our objective is to improve manning for Reserve and Guard components in order for these units to be able to respond immediately and effectively. While our officer personnel strength is encouraging at this time, we must continue to particularly stress the recruitment of highly qualified enlisted personnel. We are now counseling all personnel, prior to their leaving the active forces, concerning their opportunities in the Air Force Reserve and National Guard.

We feel that we are making significant progress concerning both recruiting and equipment modernization. In FY 73, the Air Force Reserve will reach a strength level of 53 units, including 13 MAC C–141 and one C–9 associate squadrons. We will activate three new Reserve units and convert 7 of our flying units to more modern aircraft. This will make a total of 73% of our units converted since the beginning of FY 71.

With respect to the Air National Guard, in FY 73 we will convert 10 additional units to more modern aircraft, making 60% of our Guard units that will have been converted during fiscal years 71 through 73. These steps will better enable the Guard and Reserve components to serve as the primary source of any future rapid augmentation of the active forces, a key objective of the new strategy now being implemented.

II. Weapons Procurement

The Air Force is structuring its procurement and R&D efforts in a way that will provide steady modernization of its forces over the long run. Since we cannot be certain in advance about either exact military requirements or the feasibility of particular development programs, we must maintain flexibility in our planning. We are striving to achieve this sort of flexibility through prototype programs that will provide options that can be picked up in the future, if necessary.

Table V shows the full range of our programs from development prototypes through deployments that have already received necessary funding and will be completed this year. We believe we have a reasonable effort on both strategic and general purpose forces, as well as a suitable flow of new developments and deployments of the various types of systems.

TABLE V.—SUMMARY OF MAJOR WEAPON SYSTEM PROGRAMS

	In development		In production, weapons	Recently deployed or undergoing deployment		
Advanced prototype programs	Delivery systems	Sensing and control		Delivery systems	Sensing	Weapons
Strategic	B–1	Airborne command post	SRAM	MM III	Satellite	
				FB–111		
AWACS	SCAD (decoy)					
General purpose:						
Light weight fighter	F–15		Maverick	Gunships		Laser guided and electro-optical guided bombs.
STOL transport	A–X			F–111		
				A–7		
				C–5		

Aircraft procurement

We are asking for a total buy of 251 aircraft, of which only 73 are for the U.S. Air Force (we are buying one small trainer for Laos, 57 F–5Es for South Vietnam, and 120 helicopters for the U.S. Army as replacements for those turned over to the Vietnamese Air Force). These 73 aircraft for the U.S. Air Force include limited numbers of the F–15 and AWACs, which I will discuss in conjunction with our R&D programs. I will now review the status of the following procurement programs: the F–111, C–5, F–5E International Fighter, and the Advanced Airborne Command Post. Table VI outlines the minor aircraft programs.

TABLE VI.—AIRCRAFT PROCUREMENT

[Dollar amounts in millions]

	Fiscal year—					
	1971		1972		1973	
	Number	Amount	Number	Amount	Number	Amount
A–7D	88	240.3	97	209.5	.....	.....
F–111A/D/E/F	12	596.8	12	481.3	12	160.3
F–5E	.....	8.8	21	70.4	57	92.7
F–15	.....	.....	.....	.....	30	421.6
C–5	.....	544.4	.....	299.1	.....	207.6
AWACS	.....	.....	.....	.....	3	309.9
Advance airborne command post	.....	.....	4	113.8	2	103.8
Other tactical aircraft	155	177.6	60	218.1	.....	.....
Miscellaneous Sp aircraft	69	74.5	11	53.1	27	.573
Helicopters	300	71.8	.....	.....	120	35.9
Modifications	.....	538.0	.....	563.7	.....	465.6
Spares/parts	.....	494.4	.....	397.9	.....	504.1
Support	.....	842.9	.....	789.6	.....	237.7
Total (TOA)	624	3,589.5	205[1]	3,196.5	251	2,612.7
Aircraft for allies/U.S. Army	475	.....	24	.....	178	.....
Aircraft for USAF	149	.....	181	.....	73	.....

[1] Includes fiscal year 1972 supplemental.

F/FB–111

Despite past problems with the F–111, our rapidly accumulating operational experience is proving this aircraft to be a very important addition to our force. We now have over 145,000 flight hours on the aircraft and are quite satisfied with the capabilities being demonstrated by our operational units. All F–111Es have been delivered, and the F–111E wing at Upper Heyford, England is now operationally ready and supporting our NATO commitment. All of the F–111As and FB–111s have been delivered and are combat ready. The special structural cold proof load test program has been completed for all deployed F–111s and has been integrated into the remainder of the production program.

The F–111F is the last of the series. The 12 aircraft which were added to the contract in November 1971 will be delivered by December 1973. The FY 73 budget request includes $160.3 million for 12 additional F–111Fs and $5 million to complete Category I and II flight tests.

I would like to add that the Government of Australia announced in December that they will accept delivery in 1973 of the 24 F–111Cs built for them.

Last year I addressed the difficulties in developing the Mark II avionics system for the F–111D. Seven F–111Ds with the Mark II have now been delivered to operational units at Cannon AFB, New Mexico. We have relaxed specifications for some of the less critical back-up modes of operation, but flight tests show that its present performance provides a greatly improved capability for tactical missions. Our problem is to keep the procurement cost of this system from increasing still further, and to improve reliability in order to reduce maintenance costs.

The Mark II has a better capability for detecting small tactical targets, is effective against moving targets, and reduces navigation error by one-half. Also the advanced cockpit display simplifies crew tasks.

The C–5 heavy logistics transport

We have doubled the C–5 operational force during the past year with 42 aircraft now operating on trans-Atlantic and trans-Pacific missions. Additionally, six are allocated for initial training of aircrews, and six are in test status. With the C–5 we have the capability to airlift a mechanized or armored division overseas with virtually all of its heavy equipment in a ready-to-go condition. The C–5s, C–141s and the Civil Reserve Air Fleet provide us with the ability to rapidly deploy a balanced force to any portion of the globe.

Last year we executed a new contractual arrangement with Lockheed under which they accepted a $200 million fixed loss. This agreement eliminated litigation then outstanding between Lockheed and the Government and provided a workable basis for management of the C–5 contract by the Air Force.

Remaining problems are chiefly related to the static strength and fatigue life of the aircraft. The possibility of installing a new wing to increase static strength was rejected because of the cost involved. Alternatives such as special flight management, including reduced load factors and payloads; design changes; and incorporating a Lift Distribution Control System are being examined as means of extending the operational life of the C–5.

As a result of the C–5's structural problems, we have established a review team to conduct an in-depth assessment of the entire airplane structure. This effort should require one year to complete, but it should provide us with a clearer indication of the structural life expectancy of the aircraft,

identify the most cost effective approach to future modification efforts and indicate operational procedures to conserve the life of the aircraft.

In view of these structural problems, as well as the reduced airlift requirements for Southeast Asia, we are not operating the C–5 at initially programmed rates. However, the C–5 is capable of meeting its primary purpose which is wartime strategic airlift. And the peacetime use of these aircraft will be suitable to maintain combat readiness, while conserving their operational life.

We are requesting $207.6 million in FY 73 to cover prior year unfunded deficiencies. It is our intention to buy out the program with this amount.

F–5E, international fighter

The F–5E International Fighter is designed to support the aims of the Nixon Doctrine in assisting our allies to shoulder more of their own defense. The F–5E will be used initially to improve the capabilities of South Vietnam as part of the Vietnamization program. We are expediting procurement of this aircraft to provide an early air defense capability for the South Vietnamese.

The International Fighter is of simple design and will be easy to maintain. It is an outgrowth of the older twin jet Northrop F–5. Its primary role will be to provide an air superiority capability for our allies but it will have a secondary role of ground support.

We are requesting $92.7 million for procurement of 57 aircraft plus an additional $7.9 million for spares, and $17.7 million for development.

Advanced airborne command post

Our FY 73 budget request also includes funds for procurement of a new Advanced Airborne Command Post to be used by the National Military Command System and Strategic Air Command. The present EC–135s do not have the growth potential to accommodate improved communications and data processing equipment, and the needed battle staff. General Ryan will discuss this subject in more detail.

The FY 72 supplemental request includes $113.8 million for four 747 aircraft, plus $6 million for R&D. One of these aircraft will be used as a test bed, and the other three will be equipped initially with the EC–135 communication and command and control package and will be deployed in 1973. This is an interim measure to improve the National Military Command System capabilities.

We are asking $103.8 million in FY 73 for the procurement of two advanced aircraft, and $26 million for research and development. Our R&D efforts will be directed primarily toward initiation of designs for the command and control equipment and airframe modification. The total program includes seven aircraft which will be fully deployed during 1975.

In a related program we must develop a facility to test Electromagnetic Pulse (EMP) effects on aircraft systems. These are effects which could result from a nuclear explosion. The FY 72 Supplemental contains $9 million for the facilities and for determining EMP hardness design criteria. There is an additional $10.5 million in the FY 73 R&D budget request. This capability will enable us to test the Airborne Command Post and other strategic systems to insure that they could function properly in a nuclear environment.

Missile procurement

Our missile procurement request is summarized in Table VII. Minuteman III is our largest missile procurement program. With the Mark 12 multiple reentry system, a single Minuteman III missile could attack more than one target, with a major improvement in penetration capability. This strengthens our deterrence by complicating enemy defenses and insuring our chances of having a credible retaliatory capability in the event of an attack against our strategic forces. Over half of our ICBMs will be Minuteman IIIs by the mid–1970s, with the remaining being improved Minuteman IIs and a small number of Titan IIs.

TABLE VII.—MISSILE PROCUREMENT

[In millions of dollars]

	Fiscal year		
	1971	1972	1973
Minuteman III procurement	$497.8	$471.1	$419.3
MM force modernization	84.8	270.0	273.6
Shrike	9.7	12.1	10.8
Maverick	3.1	77.9	61.2
Sram	112.9	222.0	202.5
Sparrow			19.5
Sidewinder			14.3
Target drones	11.0	7.5	7.7
Modifications	100.7	53.8	43.9
Spares and parts	47.7	43.6	46.7
Other support	624.4	525.7	672.8
Total (TOA)	1,492.1	1,683.7	1,772.3

The first wing of Minuteman III missiles was turned over to the Strategic Air Command last December, some seven weeks ahead of schedule, and with a projected savings to the Air Force of about $4 million.

We are requesting $419.3 million for Minuteman III procurement and we are also asking $173.6 million to continue the Minuteman force modernization program. This includes modifying the Minuteman I silos to accommodate Minuteman II and III missiles and improving the prelaunch survivability of the entire Minuteman force.

Turning to nuclear missiles for our strategic aircraft, we are programing the Short Range Attack Missile (SRAM) for the B–52 and FB–111. And, if we decide to deploy the B–1, it will also use the SRAM. This air-to-ground missile is designed to suppress enemy defenses as well as attack primary targets. It is a small high-velocity missile capable of a low trajectory and will be difficult to defend against.

The final scheduled launch in the SRAM development test program was accomplished last July. Some 38 firings were completed during these tests and all specifications were met or exceeded. We expect to have a SRAM capability on some of our B–52s and FB–111s this calendar year.

In the tactical area, we have completed Category II testing of the Maverick air-to-ground non-nuclear missile. This weapon is designed for use on the A–7D and F–4 and will be compatible with the A–X. It has television homing guidance and the warhead will be capable of penetrating heavy armor and triple reinforced concrete. It will be effective against hard targets such as tanks and field fortifications and can also be used effectively against SAMs, radars, and mobile missiles.

Category II testing was completed in September and we achieved hits on nearly all of the firings, with an average error of only a few feet. We have now begun the first phase of Category III tests, which will run until May of 1972.

We will also conduct joint tests with the Army to further validate the Maverick performance under various operational conditions before exercising Option B production in October of 1972. The FY 73 budget includes $61.2 million for missile procurement and $4.9 million for initial spares.

III. Research and Development

Our research and development programs insure that we will have sufficient options to meet the threats which may arise in the future. The Air Force R&D budget request of $3.2 billion in FY 73 is about 35% less in purchasing power than the Air Force FY 64 R&D budget, just prior to the Vietnam war.

In order to meet our requirements within this budget squeeze, we are improving our R&D management. Perhaps most important, we are on guard against "gold plating." We cannot afford to spend large sums of money on design features that are "nice," but not absolutely essential to better combat performance. Then we are insisting on early hardware demonstrations with improved testing and evaluation. And we are making tough decisions, trading off performance, cost, and schedules as necessary to make available the best possible weapons alternatives for the resources expended.

In carrying out these policies, we have given primary responsibility to our program directors, who have direct access to the top leadership of the Air Force. In addition, we are giving particular emphasis to increased involvement of our Laboratories in all phases of the R&D process.

Table VIII shows our FY 73 RDT&E request along with a breakout of major programs and a comparison of the same data for the previous two years.

TABLE VIII.—RESEARCH AND DEVELOPMENT

[In millions of dollars, funds in parentheses show funding for major systems]

	Fiscal year—		
	1971	1972	1973
Aircraft	$767.1	$1,197.3	$1,327.1
B–1	(75.0)	(370.3)	(444.5)
F–15	(349.5)	(419.9)	(454.5)
A–X	(27.9)	(47.0)	(48.1)
Advanced prototypes		(17.8)	[1] (92.0)
Missiles	691.5	418.1	387.4
Minuteman	(270.2)	(181.6)	(154.7)
Astronautics	429.7	341.1	345.7
Ordnance and combat vehicles	89.2	92.5	+100.6
Other equipment	374.6	419.4	502.0
AWACS	(87.0)	(139.3)	(160.0)
Defense suppression	(14.0)	(16.1)	(11.0)
Military sciences	141.9	142.7	146.3
Management and support	333.2	349.3	384.1
Total (TOA)	2,827.2	[2] 2,960.4	3,193.2

[1] Includes $46,000,000 for lightweight fighter and $46,000,000 for medium STOL transport.
[2] Includes fiscal year 1972 supplemental.

R&D expenditures in the missile field continue to show a decrease. This is primarily due to progress in the Minuteman program. Our primary efforts here involve work on a remote retargeting capability for Minuteman III, continued development of the silo modifications to insure prelaunch survivability, and a new instrumentation package to get a more precise measurement of Minuteman III guidance system performance. These programs are adequate for making necessary ICBM improvements in the next few years. We must, however, insure that our technology will remain strong enough to provide long-term improvements which may be needed in the 1980s.

With respect to aircraft development, we are continuing four major programs: the B–1, the F–15, the A–X, and the AWACS. And we have initiated advanced prototype development of a Lightweight Fighter and a medium STOL transport.

The B–1 strategic bomber

The deterrence of strategic war depends on convincing any would-be attacker that effective retaliation would be certain. The United States continues to deter aggression by maintaining three different types of retaliatory forces: land-based missiles, sea-based missiles, and long range bombers. An enemy might be able to develop ways of neutralizing one or even two of these forces, but it is extremely unlikely that he could find methods of negating all three at the same time.

We are proceeding with the development of the B–1 to be certain that we can main-

tain the bomber portion of our deterrent capability in the 1980s.

The B–52 was designed in the late 1940s and built in the 1950s and early 60s. While we have continually upgraded the B–52, we will not be able to maintain the mission capability of the aircraft indefinitely. To date, we have spent about $2.7 billion dollars on B–52 modifications. And even if we were to spend larger sums for beefing up the B–52 structure and retrofitting it with more efficient engines, its ability to survive an enemy attack and penetrate the air defenses expected during the 1980s would be questionable.

Of course, the FB–111 is also an important element of our bomber force, but it cannot fulfill the strategic bomber mission by itself. Against typical target systems it would take six times as many FB–111's as B–1's and require six times the tanker support. And due to its relatively small size, there is little growth potential for penetration aids in the FB–111.

As you know, North American Rockwell was selected as the prime contractor for the B–1. And, General Electric won the engine contract. Each is working under a cost plus incentive fee contract in the development phase.

Although the B–1 contracts have been in effect for less than two years, we are encouraged by the progress we have made to date. The Preliminary Design Review, the first major milestone, was completed on schedule last July. The Mockup Review, considered the second milestone, was completed on schedule in October. Also, over 10,000 wind tunnel test hours for design validation have been completed. And we are well along with engine tests necessary for preliminary flight rating. Present B–1 contracts call for design and fabrication of three development aircraft plus 27 flight rated engines.

In September the Request for Proposal for the B–1 avionics contract was released. We plan to make maximum use of existing components and proven technology. Newly developed components will be used only where needed to meet the basic requirement.

Our FY 73 request of $444.5 million for the B–1 program will help us complete Design Validation and Critical Design Review. These steps, coupled with the completion of engine inlet wind tunnel tests, will enable us to make full release of engineering drawings and specifications. Also, we expect to have the first aircraft in final assembly during FY 73.

Our goal for first flight of the B–1 is April 1974. We will then test the system for a full year before making the production decision. If we decide to go ahead with production, an initial operational capability could be reached in the late 1970s.

F–15 air-to-air fighter

The F–15 is being developed to provide all weather air-to-air combat capability during the post-1975 time frame. McDonnell Douglas was awarded the prime contract for the F–15 and Pratt and Whitney won the engine contract. Hughes was selected to build the attack radar system after a fly-off competition.

We have made careful studies to weigh the relative performance and cost trade-offs. For example, a simplified structural design was selected and we deleted those avionics requirements which did not specifically contribute to the aircraft's air-to-air capability. Also, the AIM–82 missile was cancelled in favor of a much simpler advanced Sidewinder. All of these adjustments were made to achieve the desired degree of capability within the limits of technology and acceptable costs.

We are using cost plus incentive fee contracts for the development portion of the program and a fixed price with successive targets for the production phase. This program was the first to implement the demonstration milestone concept in system acquisition, and we are pleased at the progress we have achieved to date.

The first four milestones have been met on time or ahead of schedule: Preliminary Design Review in 1970 and the last three—the Radar Contractor Selection, the Critical Design Review of engine and airframe, and the Avionics Equipment Development Review—during the past year. Also, approximately 95% of the contracts for components and subsystems development have been released.

As part of the F–15 structural integrity program, McDonnell Douglas has completed 16,000 hours of fatigue tests of a stabilizer, which is the rotating elevator back of the tail. These tests would amount to four operational lifetimes of the production article. This was followed by static testing of the same stabilator to 200 percent of design load without failure. In November, however, after 4,000 hours of fatigue testing, we experienced a failure in the outboard wing section of the wing subsystem test article. We identified the cause and took corrective measures which enabled us to complete the fatigue tests to the full four lifetimes of the test article. The same article is now undergoing static tests. Component testing confirms that the failure was due to a peculiar test overload condition which resulted in repeated buckling of the shear webbs. We have increased the thickness of the shear webb and corrected the test loading condition.

The purpose of these thorough-going structural tests early in the program is to identify weaknesses in the design and to make corrections before extensive retrofitting is required. The first flight is scheduled for mid-1972.

Pratt and Whitney has conducted over 3,000 hours of engine running time, completing the Preliminary Flight Rating Tests. The engineering radar model is currently being fabricated to final pre-production configuration. Following initial integration and flight testing in a WB–66, the avionics will be further validated in an F–15 test aircraft.

With respect to the cost of engine development programs, increases have resulted from the Navy's decision not to exercise its initial production option and follow-on requirements for the F–14B engine. This decision increased the Air Force F–15 RDT&E costs by $26.3 million in order to absorb overhead and tooling costs that would have been charged to the Navy. Our FY 73 budget request includes $20.6 million of this increase with the remainder to be included in FY 74 funds. We estimate that the total increase in the engine program cost to the Air Force, including procurement, will be somewhat over $500 million due to the Navy's decision.

Our FY 73 budget request includes $454.5 million for the F–15 development program plus $421.6 million for procurement of the first 30 production aircraft. The ultimate cost for our planned buy is expected to be about $10½ million per aircraft.

In FY 73 we will acquire actual flight test experience on the Category I test aircraft. After seven months of testing, we expect to be ready for a production decision in February 1973. And if a go-ahead is given we could have an initial operational capability for the first squadron in the mid-1970s.

A–X close air support aircraft

Development work on two competitive prototype close air support aircraft is progressing toward our goal of first flight in June. Fairchild Industries and Northrop Corporation were chosen to develop two prototype aircraft each under fixed price contracts. We hope to begin a competitive fly-off in October of this year. During these tests the Air Force plans to fly about 120 hours on each of the two competitive systems. After complete evaluation of the performance characteristics of the aircraft and a detailed review and appraisal of each contractor's development and production proposals and cost estimates, we will decide which prototype is the best and whether to initiate the full scale development program.

Our objective is to develop an aircraft that will be: (1) optimized to perform close air support with high survivability; (2) relatively inexpensive; and (3) easy to maintain in an austere environment. To minimize development and procurement costs, we are using current technology and available equipment wherever possible.

The design specifications call for the A–X to provide improved close-in support under low ceilings and poor visibility conditions—where our present higher performance aircraft are less effective. The A–X will also be designed with a 1,000 foot take-off capability and will be able to loiter in the battle area for long periods of time when necessary.

For high survivability, this aircraft will have redundant systems, self sealing fuel tanks which contain foam to suppress fire or explosions and armor plating for the cockpit and other critical areas. To insure maintainability and low operating costs, we are emphasizing simplicity throughout the entire system.

The FY 73 request of $48.1 million will be used to complete the fly-off competition and, if the decision is made to go ahead, to initiate full-scale development and production in early 1973. We could then have an initial operating capability in the mid-1970s.

AWACS

In the air defense area, our most important program is the Airborne Warning and Control System (AWACS). Our present ground based systems are vulnerable to enemy missile attack, and they have a limited capability to detect low altitude bomber penetrations. Also, they are costly to operate.

The AWACS will be relatively invulnerable to enemy attacks, and it will be able to remain airborne on station from seven to nine hours, at 1,000 miles from its operating base. It will have a radar look-down capability for detecting low altitude penetrations.

The AWACS will also provide an improved command and control capability for our tactical forces.

Boeing Company was selected as the prime contractor for AWACS. The development phase is under a cost plus incentive contract while production will be on a fixed price basis. Boeing will use the commercial 707 as the basic airframe. For the radars, Hughes and Westinghouse are participating in a competitive prototype development program.

Two 707s have been modified as testbed aircraft and the prototype radars are presently being tested in ground facilities. In late March, we will begin extensive competitive radar flight testing. Based on these test results, the Air Force will select the winning radar which will be used in the second phase of the program when the total system will be developed.

Most of the $160.0 million R&D funds requested for FY 73 will be used to complete the prototype flight test programs. After that we will decide whether to proceed with full design and engineering development. The $309.9 million in the FY 73 procurement budget will be used to buy three test aircraft and AWACS peculiar operational and maintenance support equipment required for the test phase. These aircraft and support equipment would eventualy enter the operational inventory. Our current goal is to achieve an initial operational capability in the mid-1970s.

Advanced prototypes

In other areas, we are pursuing advanced prototype work, as encouraged by former Secretary Packard. We believe that selected prototype projects are warranted to obtain

better information on costs and operational suitability before beginning new weapon development and procurement programs. This will help assure that we have an adequate base of demonstrated technology and a sufficient number of alternative approaches for meeting requirements.

The Air Force is proceeding with two aircraft projects. These prototypes will be "bare bones" models, without the subsystem necessary for a fully operational system.

Congress has approved $12 million for FY 72 development work on demonstration prototypes for the Lightweight Fighter and the Medium STOL Transport, and the FY 72 Supplemental includes an additional $5.8 million. In FY 73 we are requesting $92 million to continue these two projects.

In the Lightweight Fighter prototype our objective is to achieve extremely high maneuverability and good control. It will incorporate design ideas which we were unable to use in past development programs due to high technical risk.

Our goal in Advanced STOL Transport prototypes is to provide data on the cost and design features associated with short field performance in an aircraft with an operational weight of around 150,000 pounds, about the same as the C–130.

The expanded use of prototype development will help in selecting and managing the technology used in weapon systems. What we are trying to do is put ourselves into a position where we have data to make sounder decisions. Prototyping will provide demonstrated technology options from which we can select programs to go into engineering development.

Aeronautics

In addition to aeronautical research going on in our present Air Force facilities, we are working closely with NASA and DOD in the joint planning for a new National Test Facilities Program. In 1967, a study was initiated to identify, on a national basis, aeronautical test facilities which will satisfy requirements for new technology in the 1980–2000 time period. The Office of the Secretary of Defense advised the Congress on January 7 of this year that the Air Force will undertake detailed planning and preliminary design of an Aeropropulsion Systems Test Facility and a High Reynolds Number Transonic Tunnel at the Arnold Engineering Development Center, Tennessee. These projects, with other essential R&D facilities to be provided by NASA, will give the nation the means to obtain sound technological support for future systems.

Astronautics

We are requesting $345.7 million for our space R&D programs.

In the field of early warning satellite, the system has progressed during the last year. The sensor fields of these satellites will encompass almost half the surface of the earth. These systems are for the purpose of detecting ICBM and SLBM launches and to report atmospheric nuclear explosions.

We are continuing our development of satellites for the Defense Communications System. The initial space system has been operational for several years. In November we deployed the first two satellites of a follow-on system, however, both satellites malfunctioned. We have been successful in returning one of these satellites to limited operational status and have turned it over to the Defense Communications Agency which is the operational user. We will continue our efforts to determine the causes of these malfunctions, in order to get both satellites into full operation if possible, and to effect design corrections in subsequent satellites.

A need exists to provide improved worldwide navigation support for all our forces. We have completed studies which indicate that a satellite system can be developed which meets the needs of all users. This system can provide accurate position and velocity data to users located anywhere in the world. In addition, it will minimize the complexity of user equipment.

The concept we are pursuing is based upon having four satellites in view of any user continuously any place in the world. To confirm the study results and better understand the technological problems and costs involved, we are undertaking a demonstration program through a ground-based simulation of the concept. We are also developing and flight testing some of the more critical components of the system. If these steps prove successful, we would consider further development.

In addition to the space systems I described above, the Air Force has an active program to develop the technology required for future space systems. Advancements are being made in space guidance, communications, power supplies and propulsion. The more critical subsystem developments are space tested prior to being committed to a system.

This technology program, we believe, will permit us to reduce the technical uncertainties associated with future space system development and enable us to have the necessary building blocks in hand when the decision is made to go ahead with new programs.

In the future we would like more flexibility and eventually lower costs in our space programs. The high cost of space operations, however, still prevents us from developing a space capability in all the areas where we think satellites could enhance our national defense. Therefore, we are very interested in the Space Transportation System concept now being developed by NASA. We are working closely with NASA to assure that the configuration of the Space Transportation System will also satisfy DOD needs.

IV. Installations and logistics

Now let me comment on our efforts to improve Air Force logistics operations and military construction. Last year I mentioned the development of an Advanced Logistics System to streamline the management of Air Force wholesale logistics. This system will result in a considerable savings in manpower and dollars and will be operational on schedule in 1973.

In another area, we are concerned with the increasing costs of supporting our weapon systems over their entire life cycle. Not only have these costs increased due to the age of many of our aircraft, but the per flying hour cost of supporting new weapons continues to rise. Because of this we are involved in a concerted effort to improve the reliability and maintainability of both new and existing systems. During development and production of new systems we are placing more emphasis on system reliability and its impact on O&M costs. For example, in the A–X program we are requiring mandatory use of life cycle cost formulas as an aid to making design decisions and as a factor in source selection.

On older systems, our revised world-wide maintenance data collection system gives us detailed information on each specific system. We can then focus our efforts to reduce operating costs on the high cost systems first. For example, recent investment in modifications to improve reliability show us we can gain a return many times over within a few years.

Military construction

In 1973 we will begin to realize the benefits of our long-range depot modernization program. For FY 72, the Congress approved $52.5 million for military construction and $22.1 million for equipment as the first phase of this program. These funds are providing for the replacement of outdated or inefficient maintenance and distribution tools and facilities. This year we are requesting $41 million under military construction and $25.8 million for procurement of equipment to continue this effort. This will allow us to improve quality and worker productivity. Our objective is to insure that our depots maintain the capability to provide responsive and economical support for our latest weapon systems.

The FY 1973 Military Construction Program will also help us improve career incentives by providing a better living and working environment for our people. We know that the provision of adequate, modern structures can make a very substantial contribution to the retention of our personnel. Therefore, we are requesting $98 million in FY 73 for bachelor housing, dependent schools, medical construction, and related community facilities.

With respect to family housing, the 200-unit industrialized housing demonstration project at George AFB, which I described to you last year, has been successfully completed. Our airmen who occupy this housing are well satisfied. Moreover, the entire project was accepted, without deficiency, in October of last year and was completed within the original cost estimate.

In the FY 1972 construction program, we have 12 family housing projects totaling 3,600 units. Of these, 2,900 units at nine locations will be industrially manufactured and relocatable.

The FY 73 program includes 3,168 units at 11 locations and the large majority of these also will employ the industrialized concept. The civilian construction industry has shown increasing interest in this approach, and we hope that our experience will be of direct benefit in helping to solve domestic housing problems.

V. Conclusion

We believe the Air Force has made significant progress during the last year. I have discussed four major management areas: organization and personnel policy, weapons procurement, research and development, and installations and logistics.

We are improving our organization and planning to provide more effective use of manpower and better career opportunities. We are also stressing policies and programs which will make professional careers in the Air Force more appealing through such incentives as better housing and expanded educational opportunities. Most important, we are emphasizing the need for improvement in human relations, including the need to provide equal opportunity.

With respect to procurement, we are pursuing programs which will achieve incremental modernization of our forces at what we believe to be the least possible cost. And when evaluating the need for new weapon systems, we are making careful assessments of our own capabilities and those of our allies and are ruling out capabilities that are not essential to performance of assigned missions.

In our research and development programs, we are providing as much hardware competition and evaluation as feasible so that a determination of operational suitability can be made before making a full development and production commitment. We are also expanding our use of the prototype technique to give us sound technological options, as well as analyses of cost and operational data, prior to initiating new development programs.

In order to hold down our operational support costs, we are streamlining our logistics system to provide responsive support and reduce expensive inventories of spares and supplies.

These steps should help us to meet our primary objective of providing essential and ready forces at the minimum possible expenditure of our nation's resources.

In conclusion, I believe that the request we have presented to you is the lowest which can get the job done. It represents a bal-

anced effort to meet the present and future challenge to our national security.

NEWS BRIEFING, SECRETARY OF THE AIR FORCE SEAMANS

Dr. SEAMANS. First, let me say that coming downstairs I found that the Australians have just announced that they are taking the 24 F-111-Cs at a press statement this morning. I have not actually seen it. It is a matter that has been under discussion with the Australians for some time and frankly, I am very gratified that the decision has finally been made and we can put the aircraft in shape for them and get them over to Australia.

The reason I am here this morning is to discuss with you my recent trip to Southeast Asia. I got back just about a week ago, and I was gone about 12 days. The reason for going, obviously, was to take a look at the Air Force operation.

We have three major responsibilities in Southeast Asia.

One is to support troops, by close support for our own troops and for those of our allies.

Second, is interdiction to stop the flow of supplies from North Vietnam down into Cambodia and South Vietnam as well as to the request of the Laotians to stop the flow of supplies to the westward in Northern Laos.

And, third, we have the responsibility to help and assist the Vietnamese in the buildup of their capability.

Now, I have some charts and I am just going to flip through them very fast. There are copies of all these so that you can have them for your own use and any questions you may have on the basis of these charts, I will be happy to try and answer them.

There has been a lot of discussion about the air war in Southeast Asia and the question of whether we are building up or doing more, and these charts show that no matter how you slice it, no matter how you look at the air activity of the U.S. over there, the trend is definitely downward and it is downward by these various indices by 50 per cent or more in the last three years.

This first one adds up all attack sorties including B-52s, all the attack aircraft, shows that on the basis of 68 we are down to roughly 39 to 40 per cent. The figure 35 per cent is only through November. Obviously it will take another few weeks before we will have the final number. But if you annualiz it it is around 38 or 39 per cent.

If you look at the numbers of aircraft that we have in Southeast Asia for attack purposes, again the same kind of aircraft, you can see that we have gone from roughly 1200 down to, I don't know, 350 or so and this—we are talking here about South Vietnam and Thailand aircraft, Thailand based.

In terms of basing in South Vietnam, we were operating out of 15 bases, and we are operating now out of five. In Thailand, we were operating out of seven; we are now operating out of five.

While I was over there, the timing was right that I could participate in the transfer of Phu Cat, where we had F-4s flying until November. We have taken those squadrons out of there, and we turned over during the time that I was in South Vietnam, Phu Cat to the South Vietnamese, and they are already operating out of that base with A-37s.

Next chart shows munitions delivered in terms of tons and shows again that there has been a substantial reduction during the same period of time. This includes all munitions delivered, including not only ourselves, but the South Vietnamese and we only have those figures, and the Navy of course, and we only have those figures through October, so this will increase when the final figures are in for the year, but will still be substantially below 70, and, of course, well below the '68 figure.

QUESTION. Do these charts include the Navy?

ANSWER. Yes, they do.

Dr. SEAMANS. Now, you say—

QUESTION. (Inaudible)?

ANSWER. Yes, they do. I can go back over them.

QUESTION. Except the Air Force first——

ANSWER. Except for the Air F—obviously the Air For—that is—I will have to get some help on that. I think this is all U.S. attack aircraft in Southeast Asia, including the Navy.

QUESTION. (Inaudible)?

ANSWER. Now, you say—what has been going on over there that permits us to make these reductions. I want to talk a little bit about the interdiction campaign, and you will see that has been going better the last couple of years. Now that has been going better because, even though there have been some reductions in sorties, we have been using gunships, the AC-130 gunship is the one that has proven to be extremely effective. But if you look at the total pattern over there, the reduction is possible also by virtue of the buildup in the Vietnamese Air Force and this just shows the buildup in terms of numbers of aircraft during the same period of time in terms of squadrons that has gone from under 20 to now, I think it is either 41 or 42, and, as you know, the plan is to build up to 50. Fifty-one, I believe it is, during the next year and a half.

Now, this just shows really the impact of the Vietnamese Air Force. Here we have listed total numbers of sorties per year fixed-wing aircraft by the U.S. in South Vietnam. And you can see that it has gone down very substantially in 71. As a matter of fact, this last month the South Vietnamese flew over 90 per cent of the in-country missions, and, if you include Cambodia and South Vietnam, it is well over 50 per cent for the year '71.

Finally, just a word about the operation of the Ho Chi Minh Trail. This is not an exact science. We do have sensor trails; along the input to the traits we have sensor strings at the output end and we of course, have sensor strings in the middle of the trails to try to keep track to where all the trucks are, where they are moving, where they are parked and so on.

But to the best of our ability this shows in tons, the input and the output in '68 for the year—and here you have to talk about a year beginning the first of November, because that is when the dry season starts, and these run for 12 months. And the input was 61—a little over 61,000 tons. The output was 13,000 tons. Now this year, the '69 year, they still had the port in Cambodia, so they were probably getting twice as much as this figure, total tonnage, supplies, ammunition, food, available for their purposes.

During this year they lost the use of the port. They made obviously a tremendous effort to get more supplies down the trail. They put in somewhat more, and you can see they had better success in getting supplies through to Cambodia and South Vietnam, 21,000.

This last year that has just ended, we had the new type 130 gunships over there, and we had 12 of them in operation. We had the B-57 in operation. We had the smart bombs—laser-guided bombs, and we exacted quite a toll. About 9500 tons got through of 68,000 that entered the trail.

In the trail itself they have to have the order of 40 to 50,000 men to actualy operate the trucks, to operate the anti-aircraft and so on, and that takes a considerable amount of supply that is used up in the trail operation that doesn't really do them any good. Obviously their objective is to get supplies through to harass the South Vietnamese and the Cambodians.

QUESTION. Secretary Seamans, when you talk about the through output to 9500 tons, is that into South Vietnam and Cambodia?

ANSWER. Yes, it is.

QUESTION. And into Laos?

ANSWER. No, I am not talking about Northern Laos. We don't have sensor strings up there in Northern Laos, we do not have those kind of figures up there.

This year that is just starting, we have six additional AC-130 gunships. These happen to be the "E" version. This gives us more endurance. They have even more effective sensors, and the thing that I found when I was over there, is that more and more of the fighters, the F-4s, are working closely with the gunships where a gunship will not only use its own armament to destroy trucks, but will designate trucks for the F-4. There is much more of a team operation than we have ever had before.

It is really too, of course, this year to say how well we are going to do or make any predictions. The buildup in the flow of trucks this year, I categorize it as comparable to last year. It is still building up. There was bad weather in the beginning of the season for them. I anticipate, just looking at the numbers of trucks in North Vietnam and the supplies coming in, that they will build up to the same level as last year.

The truck damage this year by our forces is about three times what it was last year. At the same time—but I want to use caution when I say that. Last year we had just brought over some new gunships, the crews were not as well checked out as they are this year, but I have—I believe we are going to have a very, very effective interdiction campaign this year.

Now that is the end of these charts, and I would be happy to answer any questions that you have.

QUESTION. How many numbers can you put on those trucks?

ANSWER. As to the numbers of trucks, it is our estimate that they have in the panhandle of Laos at any one time of the order of 3,000 trucks. You know, they shuttle back and forth relatively short distances. Any one night, they probably have something like a thousand of these trucks in motion. They have, of course, many more trucks in North Vietnam. As a matter of fact, one of the things that we have watched very closely has been the buildup of new trucks in the truck parks around Haiphong, Hanoi, and north of Hanoi, and the truck parks now have on the order of 7 or 8,000 where six months ago they had very few. And of course they are using the trucks to move supplies down from that region down to the various passes that go into the panhandle.

Last year, we sighted—and obviously sighting one truck more than once—but the truck sightings during the dry season last year were of the order of 30,000. These are sightings by our aircraft. We estimate that we hit on the order of 23 to 25,000 trucks. What you don't really know is how many of these trucks you have actually destroyed, but our estimate is that we have destroyed somewhat, some figure like half that number.

The North Vietnamese are extremely good at taking parts from a number of trucks and putting them together. They are extremely good, incidentally, at camouflaging their trucks when we hit them so it is sometimes difficult to assess the damage that we have done.

But those are the best numbers that I have available.

QUESTION. Those new trucks in the truck parks, north of Hanoi, would they have been Russian or Chinese?

ANSWER. Both.

QUESTION. Both?

You are getting a net reduction on trucks getting through even with less sorties?

ANSWER. Yes.

QUESTION. And less tonnage dropped?

ANSWER. Less tonnage dropped, yes. But I would say that the 50 per cent reduction that I discussed with you is overall, and the reductions that we made in our operations in Laos are less than pronounced than that over the same period of time, probably in the order of, say, 25 per cent.

QUESTION. Does the new presence of enemy aircraft over the Laotian field, make any difference in U.S. tactics?

ANSWER. Yes, of course it does in the sense that we have the job of protecting our aircraft, our B–52s, and our gunships—are using even the F–4s, so we have MIG capability. We have F–4s available in case the MIGs do appear. However, as to forcing us during this campaign to divert on a continuing basis our key attack aircraft, no. We will still be able to carry out the attacks as we planned. However, we obviously must keep watching the MIG operations and we, as yet, don't know to what extent they are planning to build up that operation.

QUESTION. When your——

QUESTION (continuing):—(drowned out) Soviets' alleged difficulties in building trucks at any time, how—I am really puzzled how they can have 7 or 8,000 trucks in their truck parks now, when three months ago they had very few.

QUESTION. That is an enormous number of trucks to be delivered in a very short time by countries that aren't noted for large-scale truck production.

ANSWER. Well, I have not had an opportunity to get into the—I haven't investigated the production figures in China and Russia and deliveries. All I know is that our reconnaissance aircraft have photographed these trucks and there they are, and they weren't there six months ago.

QUESTION. Do you think they might be replacements for trucks lost on the Trail, they look like they are going to have an increased number of trucks overall?

ANSWER. I think it is a replacement for attrition purposes. Last year they had, I don't know the number last year that they had built up at the same time, but the truck parks as the dry season went on were depleted and got down very close to zero by the end of the dry season.

QUESTION. When your air strength in South Vietnam and in Thailand is removed as part of the Vietnamization program, what will the South Vietnamese Air Force have in the way of airpower to deal with the trail system?

ANSWER. Well, we, for the first time are involving the Vietnamese in the interdiction effort this year. I guess it is the history of all air corps that they start out as appendages of armies and there is no exception. In South Vietnam their air force really consisted of aircraft assigned to each one of the four military regions. We have been encouraging them to use their airpower in a more flexible fashion. They are starting to do that, and, as part of that process, their general staff are providing on the order of 5 to 10 percent of their aircraft for interdiction this year. The aircraft that they have for this purpose are the A–1s and the A–37s, as well as the two types of gunship, the AC–47 and the AC–119s. The operation with us will be partly for educational purposes and will be, of course—it will be carried out in the more benign areas of the trails, and this is something that is just in the process of starting right now.

QUESTION. How many airplanes are there in this thing, a dozen, two dozen?

ANSWER. I forget the exact number. They have got a squadron of AC–47s, and a squadron of 119s with—we are trying to provide them with another squadron of more up-to-date version of the 119. They are not all used for this purpose and I guess they are on the order of six A–37s they are currently using and maybe a comparable number of A–1s.

As in all cases with the Vietnamese, they have to start in and learn the process with relatively few, and then build up as they gain confidence.

QUESTION. Mr. Secretary, have you changed your estimates of how many, in view of the buildup of the South Vietnamese Air Force, how much residual air forces, will have to stay after the army leaves?

ANSWER. My point here is that we have—we have come down dramatically in the last three years—projection of where we go from here is a matter that is under consideration by the President and Mr. Laird, and I would just as soon not comment on where it might go, because I just don't know.

QUESTION. Sir, Mr. Packard is leaving and your name has been prominently mentioned as a possible replacement. Has anybody said anything to you about this?

ANSWER. Well, I believe a lot of names are being mentioned as possibilities to move into Mr. Packard's job. Nobody is ever going to replace him; he is a very unique man and we are going to miss him very much.

QUESTION. You didn't answer the question. (Laughter)

ANSWER. It's as complete as I can make it.

QUESTION. How many enemy aircraft have been sighted so far over Laos?

ANSWER. Let's see, when I was there there had been in of the order of 12 to 15 incursions into one part or another of Laos over a two-month period. Since then there have been a number more. It is that order of magnitude so far.

QUESTION. Are they serious or just experimental?

ANSWER. It is very hard, of course, because we don't know what their intention is. It certainly is partly experimental. They are using their ground control to vector the aircraft. There are a number of ways of coming in. One of the tactics is to come at fairly low altitude until they are in close proximity and then zoom up and close in, and, as you know, on one occasion they flew essentially right through a cell of three B–52s. They did fire air-to-air missile and they did miss by a significant amount.

QUESTION. We didn't know that.

ANSWER. Well, I'm sorry.

QUESTION. Are they attempting ambush around the sensor patterns?

ANSWER. They seem to be trying these maneuvers at various places along the North Vietnamese-Laotian border. Myself, I don't know of any specific pattern for any one particular location.

QUESTION. When was that attack on the B–52s, Mr. Seamans?

ANSWER. Well, it occurred—it—just prior to the time that I got out there. I can't give you the exact date.

When I was there two to three weeks ago, something of that order.

QUESTION. (Unintelligible) through this, I think you called it a cell of B–52s?

ANSWER. We are flying the B–52s normally in cells of three.

QUESTION. Did this come through this when it was gaining altitude or—you said they came in low—did this happen?

ANSWER. Well, they will fly out from their base at relatively low—this—they have got to clear mountains and so on, but low compared to B–52s who are flying at altitudes in excess of 30,000 feet, and then they will zoom up and they are on such a course that, with their ground control, they come in presumably at a point where they can lock on their radar on our aircraft and fire their missiles.

QUESTION. Were there interceptors on this attempt by (drowned out)?

ANSWER. There were not, no. No, there were not.

QUESTION. Was there more than one (unintelligible)? You say they?

ANSWER. I am using they in describing the North Vietnamese. There was only one aircraft in this case.

QUESTION. When you say——

ANSWER. As a matter of fact, I know of no case where they come in with more than one at a time.

QUESTION. Well, when you say they flew through the cell, did it actually——

ANSWER. Well, the B–52s had some warning and they were splitting apart and the plane went right through the middle.

QUESTION. Mr. Secretary, (unintelligible) if you were to make a chart of this one trend that wouldn't follow that pattern, would be the number of protective reaction raids on North Vietnam. I think the last number given us was 87 this year. What (inaudible) was different from last year? Are they getting more aggressive or are—

ANSWER. Well, they—they have got—

QUESTION. The weapons?

ANSWER. They have built up their defensive capability in terms of anti-aircraft, everything from 23 MM up to 100 MM. They are building up their surface-to-air missile capability. The anti-aircraft is, a lot of that is right in the trails themselves, where the surface-to-air is over in North Vietnam, and they have sufficient range so that they can attack our aircraft when we are over the Ho Chi Minh Trail, and our policy is that when that takes place we attack the SAM site.

QUESTION. Our standards for—do our pilots have the same standing orders that they had last year and the year before?

ANSWER. As far as I know they do.

QUESTION. What is your overall evaluation of this reduction of supplies coming down the trail as far as the Viet Cong capability in South Vietnam?

ANSWER. Well, this gets into an estimate of what would they like to get through, what do they feel they need? We believe, adding up the numbers of people that they have in Cambodia and South Vietnam, including the Viet Cong, that they would like to have of the order of at least twice that number. I think that maybe a better way of looking at it is to note what they have been able or not been able to do in the last year. They have not been able to mount any major offensive that has had any significance really whatsoever in South Vietnam. And, although they have had—they have been more aggressive in Cambodia, it is being a relatively minor operation.

QUESTION. You speak twice, which figure, the 9500?

ANSWER. Yes, the 9500.

QUESTION. Thank you very much, sir.

ANSWER. Okay, you're welcome.

MACV EVENING RELEASE NO. 32–72, FEBRUARY 1, 1972

(The following is a summary of significant items released to news correspondents in Saigon at 1630H this date)

In Thua Thein province, military region 1, in the afternoon on 30 January, a U.S. Army AH–1 helicopter while on a visual reconnaissance, received enemy ground fire, crashed, and was destroyed in a area 16 miles south of Hue. Two U.S. crewmembers were wounded.

In Long Khanh Province military region 3 yesterday afternoon, an element of the 3rd brigade, 1st cavalry division (airmobile), while on a ground reconnaissance mission, observed and engaged four enemy in an area nine miles southeast of Zuan Loc, two of the enemy were killed, one U.S. soldier was killed in the incident.

In Long Khanh province, military region 3, this morning an element of the 3rd brigade 1st cavalry division (airmobile), while on a reconnaissance patrol, observed and engaged an undetermined enemy force in an area 11 miles south of Zuan Loc. Enemy casualties are unknown. One U.S. soldier was killed in the contact.

The U.S. Air Force flew two B–52 missions in the republic of Vietnam during the 24 hour period ending at noon today. One mission was flown in an area 14 miles North-Northwest of Khe Sanh against suspected enemy locations. The other mission was flown in an area 10 miles North-Northwest of A Luoi against enemy bunkers and storage areas.

During the 24 hour period ending at 0600

this morning U.S. Air Force and Navy fighter-bomber crews flew 19 (USAF 15 USN4) tactical air strikes in the Republic of Vietnam. Thirteen missions were flown in MR 1, four in MR 2, and two in MR 3.

Early this morning while supporting interdiction missions over Laos, a U.S. Air Force F-105 aircraft in a flight of two, conducted a protective reaction against the hostile action of an enemy surface-to-air missile (SAM) radar site located 11 miles East-Northeast of the Ban Raving pass in North Vietnam. The aircraft fired AM missile at the site with unknown results. There was no damage to the U.S. aircraft. (This is the 28th protective reaction announced this year.)

About ten minutes later, the second aircraft in the flight observed a surface-to-air missile (SAM) being fired from the same general location as the radar site. The F-105 conducted a protective reaction firing a missile at the site with unknown results. The aircraft then successfully evaded the SAM. There was no damage to the U.S. aircraft. (This is the 29th protective reaction announced this year.)

LAOS

Yesterday U.S. aircraft including U.S. Air Force B-52's continued air operations along the Ho Chi Minh trail in Laos. In addition U.S. aircraft flew combat missions in support of Royal Laotian forces in Laos.

CAMBODIA

Yesterday U.S. aircraft, including U.S. Air Force B-52's continued air operations against enemy forces and their lines of supply and communications in Cambodia.

MACV Evening Release No. 70-10 of March 10, 1972

(The following is a summary of significant items released to news correspondents in Saigon at 1630h this date.)

1. In Long Khanh Province, military region 3, at approximately 1300 yesterday, an element of the 3rd Brigade, 1st Cavalry Division while on a reconnaissance patrol, observed and engaged an undetermined size enemy force in an area 32 miles northeast of Saigon. Enemy casualties are unknown. One U.S. soldier was wounded in the contact.

2. During the 24-hour period ending at 0600 this morning, U.S. Air Force and U.S. Navy fighter-bomber crews flew six tactical air strikes in the Republic of Vietnam (USAF 2, USN 4), the six strikes were flown in military region 1).

3. Yesterday afternoon at approximately 1700, a U.S. Army OH-6 helicopter on a visual reconnaissance mission received enemy ground fire, crashed and was destroyed 21 miles northeast of Saigon in Bien Hoa Province. One U.S. was wounded in the action.

4. Yesterday morning at approximately 1000, a U.S. Air Force RF-4 while on an unarmed reconnaissance mission over North Vietnam, was fired upon by an ememy anti-aircraft artillery site located in an area five miles northwest of Dong Hoi in North Vietnam. U.S. Air Force F-4 escort aircraft conducted a protective reaction attacking the site with bombs. Results of the strike are unknown. There was no damage to the U.S. aircraft. (This is the 90th protective reaction announced this year. Note: Protective reaction #90 called out yesterday evening was in error. This was a repeat of protective reaction #89 which was reported in yesterday's communique. The reason for this error was a misreading of the target location coordinates which made it appear as a separate protective reaction very close to protective reaction 089 in time and location.)

5. Yesterday, ships of the U.S. Seventh Fleet reported firing at enemy targets located in the southern half of the DMZ.

LAOS

6, Yesterday, U.S. aircraft, including U.S. Air Force B-52's, continued air operations along the Ho Chi Minh Trail in Laos. In addition, U.S. aircraft flew combat missions in support of Royal Laotian forces in Laos.

CAMBODIA

7. Yesterday, U.S. aircraft, including U.S. Air Force B-52's, continued air operations against enemy forces and their lines of supply and communications in Cambodia.

TROOP REDEPLOYMENT

8. Six U.S. Army detachments: the 236th Medical Detachment, the 346th Aviation Detachment, the 261st Field Artillery Detachment, the 83rd Medical Detachment, the 5th Quartermaster Detachment, and the 53rd Quartermaster Detachment have commenced stand down as a part of troop redeployment. Personnel within these detachments will be reassigned within the Republic of Vietnam or returned to the United States using normal returnee procedures. The approximate total number of space reductions is 100.

Memorandum to correspondents.

Subject: Weekly status reports—Aircraft losses.

Macoi—Official U.S. aircraft losses in connection with the war in Southeast Asia through 7 March 1972.

Fixed wing aircraft:
Category I: 1,453 (one loss).
NVN: 937 (no change).
RNV. 434 (no change).
Laos: 82 (one loss).
Category II: 1,953 (2 losses).
Helicopters:
Category I: 2,176 (no change).
NVN: 10 (no change).
RNV: 2,068 (no change).
Laos: 98 (no change).
Category II: 2,547 (no change).

Definitions:

Category I—Combat type aircraft lost to hostile action while flying missions over either North Vietnam, the Republic of Vietnam, or since 10 March 1970, over Laos.

Category II—Combat type aircraft lost to non-hostile action, support aircraft losses, and other losses in connection with the war.

Starting dates for reporting aircraft losses:
North Vietnam—August 5, 1964.
Republic of Vietnam—January 1, 1961.
Laos—March 10, 1970.

AMERICAN PRISONERS OF WAR AND MISSING IN ACTION IN SOUTHEAST ASIA (AS OF MAR. 11, 1972)

	Missing	Captured	Total
By country:			
North Vietnam	411	388	799
South Vietnam	456	96	552
Laos	262	5	67
Total	1,129	489	1,618

	Missing	Captured	Total
By service:			
Army	353	75	428
Navy	109	145	254
Marine Corps	90	25	115
Air Force	577	244	821
Total	1,129	489	1,618

STATISTICAL RECAPITULATION BY YEAR LOST

	1964	1965	1966	1967	1968	1969	1970	1971	1972	Total
Missing	4	54	204	226	294	176	85	79	7	1,129
Captured	3	74	97	179	95	13	12	11	5	489
Total	7	128	301	405	389	189	97	90	12	1,618

DECEMBER 8, 1971

No. 1026-71 C-232)
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U.S. MILITARY CASUALTIES—SOUTHEAST ASIA

The Department of Defense today announced the following casualties in connection with the conflict in Southeast Asia.

KILLED AS A RESULT OF HOSTILE ACTION

Army: California

SP4 Dennis R. STEWART, husband of Mrs. Mary A. STEWART, 2909 Occidental Drive, Sacramento, 95826.

Air Force: Maryland

Sgt. Thomas E. FIKE, son of Mr. & Mrs. Emerson T. FIKE, Friendsville, 21531.

DIED NOT AS A RESULT OF HOSTILE ACTION

Army: Arkansas

SP4 Marvin R. KEETER, son of Mrs. & Mrs. Luther C. KEETER, Route 6, Fayetteville, 72701.

Kentucky

SP4 William T. WARREN, Jr., husband of Mrs. Joyce A. WARREN, 6315 Mount Everest Drive, Louisville, 40216.

Missouri

SP4 Ronald REMBOLDT, son of Mrs. Mabel C. REMBOLDT, 1018 Jefferson Street, Union, 63084.

Air Force: Kentucky

CPT Charles P. RUSSELL, son of Mr. & Mrs. Lee R. RUSSELL, 813 Stanley Street, Hepkinsville, 42240.

FEBRUARY 29, 1972

No. 142-72 (C-287)
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U.S. MILITARY CASUALTIES—SOUTHEAST ASIA

The Department of Defense today announced the following casualties in connection with the conflict in Southeast Asia.

KILLED AS A RESULT OF HOSTILE ACTION

Air Force: Ohio

1LT Richard N. Christy, II, son of Mr. and Mrs. Richard Christy, Route 3, Marietta, 45750.

DEPARTMENT OF DEFENSE, NATIONAL MILITARY COMMAND CENTER, MESSAGE CENTER

UNCLASSIFIED

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RUMUJEA/315th TAW Phan Rang AB
RUHHHBRA/ CincPac Flt
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Unclas (01)
Subject: MACV weekly summary release number 69–72 of 9 Mar 1972

The following is a summary of significant items released to news correspondents INS Saigon at 1630H this date

Casualties—Military

Following are the casualty statistics reported during the period 27 February 1972 through 4 Mar. 1972 to the Department of Defense by the Military Services during the week ending Saturday. Delayed reports and status changes for earlier weeks are included as they are received. Totals (shown in parentheses) are cumulative figures for Southeast Asia from 1 January 1961 through 4 Mar 1972

U.S.

5 (45,661) deaths resulting.
38 (302,745) total wounded.
14 (152,913) wounded (hospital care required).
24 (149,832) wounded (hospital care not required.
1,498 current missing/captured/interned.
9 (10,095) deaths not as a result of hostile action.

Missing not as a result of hostile action.

Following are U.S. losses in Laos as a result of action by hostile forces for the period 27 February 1972 through 4 Mar. 1972. All figures below are included in the totals on the preceding page. The "on ground" category refers to casualties to U.S. military personnel stationed in Laos. "Air operations refers to casualties to U.S. military personnel incident to air operations over Laos. Figures in parentheses are cumulative totals since 10 March 1970."

AIR OPERATIONS

0 (100) deaths resulting from hostile action.
4 (279) total wounded.
0 (113) wounded (hospital care required).
4 (166) wounded (hospital care not required).

SOUTHEAST ASIA CASUALTIES STATISTICAL SUMMARY

The Department of Defense released today the cumulative casualties reported in connection with the conflict in Southeast Asia as of 11 March 1972.

Total U.S. deaths from action by hostile forces is the sum of the following categories: Killed in Action, Died of Wounds, Died While Missing, and Died While Captured. Lines 1 through 4 subdivide casualties by cause or category. Line 5 provides an additional breakdown of the same total by environment (air or ground). Totals are cumulative from January 1, 1961 through March 11, 1972.

B—U.S. CASUALTIES RESULTING FROM ACTION BY HOSTILE FORCES

	Army	Navy [1]	Marine Corps	Air Force	Total
1. Killed	25,277	1,057	11,468	462	38,264
2. Wounded or injured:					
(a) Died of wounds	3,506	141	1,449	44	5,140
(b) Nonfatal wounds:					
Hospital care required	96,640	4,099	51,360	827	152,926
Hospital care not required	104,471	5,862	37,167	2,338	149,838
3. Missing:					
(a) Died while missing	1,652	182	5	400	2,239
(b) Returned to control	48	7	6	28	89
(c) Current missing	240	114	78	577	1,009
4. Captured or interned:					
(a) Died while captured or interned	15	.....	3	2	20
(b) Returned to control	57	3	5	6	71
(c) Current captured or interned	75	146	25	245	491
5. Deaths:					
(a) From aircraft accidents/incidents:					
Fixed wing	90	157	140	704	1,091
Helicopter	2,294	66	429	63	2,852
(b) From ground action	28,066	1,157	12,356	141	41,720
Total deaths [2]	30,450	1,380	12,925	908	45,663

[1] Navy figures include Coast Guard.

[2] Sum of lines 1, 2a, 3a, and 4a.

B—COMBAT DEATHS FOR OTHER FORCES IN VIETNAM SINCE JAN. 1, 1961

Force	RVNAF [1 2]	Other Free world forces	Enemy [2]
6. Total deaths	146,735	4,855	799,826

C—U.S. CASUALTIES NOT THE RESULT OF HOSTILE ACTION SINCE JAN. 1, 1961

	Army	Navy	Marine Corps	Air Force	Total
7. Current missing	113	.....	12	.....	125
8. Deaths:					
(a) From aircraft accidents/incidents:					
Fixed wing	260	176	45	281	762
Helicopter	1,811	52	242	18	2,123
(b) From other causes	4,931	617	1,391	276	7,215
Total deaths	7,002	845	1,678	575	10,100

[1] Does not include paramilitary losses.
[2] Included in adjustments from previous periods and is subject to later adjustment in turn.
[3] Navy figures include Coast Guard.

RESUMPTION OF HEARING

Mr. SLATINSHEK. To bring the record up to date, the chairman did respond to Mr. Harrington's letter by letter dated April 7, 1972, and with the permission of the Chair I would like to read the response into the record.

"Dear Mr. Harrington: I have reference to your letter of March 15, 1972, concerning the public release of statistics on the bombing in Southeast Asia.

"In view of the subject matter of your letter, I immediately referred the matter to Secretary of Defense Laird for his personal attention.

"I now understand that by letter dated 30 March 1972 the Department of Defense has written a direct response to you.

"I trust that your recent trip to Southeast Asia together with the Department's response to your inquiry of March 15, 1972 will provide you with the information you desire. I might also point out that the full Committee on Armed Services is scheduled to receive an operational briefing on the current situation in Vietnam on Tuesday, April 11, 1972."

Mr. DOOLIN. Mr. Chairman, if you wish I am now prepared to address the other aspects in Mrs. Abzug's proposed resolution in an executive session.

The CHAIRMAN. Before we go into executive session, the members should be allowed to ask you questions, about which you testified in public, then we will go to the executive session.

Mr. Bennett.

Mr. BENNETT. I have enjoyed and gained from the testimony you have given, but I note it was mostly to explain what you have done with regard to Mr. Harrington. I am glad to know you have been cooperative with Mr. Harrington, but in a few minutes or some short period of time, I am going to have to vote on H. Res. 918. And therefore I am very anxious—I don't know whether you can do it in open sessions or not but I would like to discuss this resolution and tell me why this is not a good resolution, or what is dangerous about it? Why you can't agree to let this resolution or some amendment in that nature be passed.

So, if you could address yourself to that I would appreciate it.

Mr. DOOLIN. Mr. Bennett, that was addressed in the letter provided by Mr. Buzhardt which Mr. Harrington read into the record.

Mr. BENNETT. It addresses an inquiry to Mr. Harrington, that Mr. Harrington made, but it doesn't address this resolution, does it?

Mr. DOOLIN. Yes, sir, this is specifically addressed to the resolution.

Mr. BENNETT. Even if it is repetitious, I haven't understood you to say to any particular section of this bill you find the section is objectionable. Just because somebody has introduced something in the record which I haven't had the opportunity to read, it is not very illuminating to me. I would like to know why you think this is a bad resolution.

Mr. DOOLIN. If I may read one section from Mr. Buzhardt's letter again.

Mr. BENNETT. I want you to tell me why you think this resolution is not good, because I don't know what Mr. Buzhardt's letter addresses itself to. I want to know why this resolution is not a good resolution.

Mr. DOOLIN. Mr. Buzhardt's letter represents the position of the Department of Defense.

Mr. BENNETT. To this resolution?

Mr. DOOLIN. It says it would in the judgment of the Department of Defense be incompatible with the public interest to provide the information in the matter directed by the resolution. I am prepared today, sir, to address in an executive session the specific requirements laid down by the proposed resolution and to provide the data.

Mr. BENNETT. But you are not prepared to say why a particular section is objectionable, because you feel like saying it is objectionable might reveal information helpful to the enemy; is that it?

Mr. DOOLIN. We do not feel that the information requested by Mrs. Abzug in her resolution should be made available in an unclassified format.

Mr. BENNETT. That is not the question I asked you. I asked you whether or not, even stating why you cannot be critical of H. Res. 918, is in itself damaging to the national defense and, if it is not, I would like to hear

you say why it is something that we shouldn't know about.

All you told me was that the information sought would be damaging.

Mr. DOOLIN. No, sir; I said delivery of the information in the manner directed by the resolution would be damaging.

Mr. BENNETT. But you have not told me publicly, and I am not asking you to do anything publicly that is damaging to our country—but you have not told me publicly why it is you can't say this resolution is bad and good in particular sections.

Mr. Buzhardt's letter is a very brief letter, it's just without detail. Maybe you can't do this.

The CHAIRMAN. Mr. Bennett, maybe I can be of a little help. The witness was trying to convey that in executive session he can tell you the reasons why which will help you make up your mind whether you vote for the resolution or not.

Mr. BENNETT. I understand he is willing to tell me that in executive session. I am wondering now if you can tell me in open session why it is you can't respond to these certain sections of this resolution telling me why they would be bad or good. Can you tell me anything about this that would be good? I don't want you to tell me anything destructive to the national defense of our country. Can't you make any comment on this thing in open session?

Mr. DOOLIN. Mr. Bennett, I addressed item 7 and item 10 in the resolution, and with regard to the other items I have to accept my guidance, sir, from the letter of Mr. Buzhardt, our general counsel, that simply says we can't provide it in open session.

Mr. BENNETT. I beg your pardon, you didn't address why it would be bad to pass this resolution. You just gave information that the resolution asked for. You didn't address why it would be bad to pass the resolution asking for the information.

Mr. DOOLIN. On that point, Mr. Bennett, I would offer the same reasons that I listed in my letter to Mr. Harrington, that this information would provide more refined planning data to enemy commanders.

Mr. BENNETT. So you can't at least state as the resolution now stands, it is objectionable to the Department of Defense because it gives too much planning data?

Mr. DOOLIN. Yes, in an open session, that is correct, sir.

Mr. BENNETT. Thank you.

The CHAIRMAN. Mr. Pike.

Mr. PIKE. Thank you, Mr. Chairman.

Mr. Secretary, is there any part of this resolution which could be responded to in open session?

Mr. DOOLIN. I responded to items 7 and 10, Mr. Pike.

Mr. PIKE. You addressed items 7 and 10, you did not respond to item 7. I think you did respond to item 10. Item 7 has to do with whether there is a target date. You can answer that yes or no. Is there a target date?

Mr. DOOLIN. Yes, there are target dates.

Mr. PIKE. The other half of the question is: What is the target date? Can you answer that?

Mr. DOOLIN. I cannot provide the target dates; no.

Mr. PIKE. Can you answer that question in executive session?

Mr. DOOLIN. Yes, sir.

Mr. PIKE. The target date—all right.

We will be provided the target date in executive session, then, is that what you are saying, Mr. Secretary?

Mr. DOOLIN. I can give you some concrete information on that Mr. Pike.

Mr. PIKE. All right.

Now, let's just go through this resolution.

As to question 1, why can't we tell the American people the number of American military personnel in South Vietnam at the present time—the President makes these announcements from time to time with great fanfare and very happily. Why can't Congress be told right now?

Mr. DOOLIN. I think it is fairly common knowledge, Mr. Pike, that it is somewhere under 90,000.

Mr. PIKE. That is not the question. Why can't question 1 be responded to right now in open session?

Mr. DOOLIN. Mr. Pike, I am simply under guidance not to get into specific force levels in open session.

Mr. PIKE. Well, let's go to question No. 2. Is the position of the Department of Defense that the enemy doesn't know when we are conducting sorties against them?

Mr. DOOLIN. Obviously they do.

Mr. PIKE. Then why shouldn't the American people know the number of these sorties?

Mr. DOOLIN. As I pointed out, Mr. Pike, in my letter to Mr. Harrington, these figures are provided on a regular basis, but I don't want to get into, in open session, specific areas of operation.

Mr. PIKE. The question doesn't ask for specific mix or anything, except the number of sorties for bombing purposes on and in North Vietnam. Why shouldn't the American people know it?

Mr. DOOLIN. I think there has been quite a bit already provided on that—in Saigon, and here.

Mr. PIKE. There has been a great deal of mush with all due respect, Mr. Secretary, but as to specifics, I think there has been a great absence, and I am just asking you if there is anything in the number of sorties flown in the past in a certain ten-day period—why can't the American people know this?

Mr. DOOLIN. Sir, I can only say announcements are made at MAC–V in Saigon. Announcements are made here, but in terms of a complete statement as to the number of sorties flown, I am under direction not to address that in open session.

I must say, Mr. Pike, if I may, sir, having before I came into this job, been a professor at Stanford University and a researcher, I have never seen a conflict or in many ways, a research problem, where there are such data available.

Mr. PIKE. Are you telling me that the Department of Defense doesn't know the answer to the question—the conflict on the research data? Surely the Department of Defense does know the answers to these questions, doesn't it?

Mr. DOOLIN. Yes, sir.

Mr. PIKE. Well, then, if they know the answer to the question, then it is not a conflict in the research data which prevents their being answered. It is because somebody has decided that they should not be answered.

Mr. DOOLIN. No, sir, certain of the data are classified.

Mr. PIKE. Oh, I know it, but good Lord, we classify everything. We classify the biographies of witnesses. We classify bows and arrows, if we were using any.

Don't we have in the Department of Defense, figures on how much it costs to drop one ton of bombs, or one pound of bombs? Don't we have an overall figure in this regard?

Mr. DOOLIN. Sir, I thought you answered that very effectively to Mrs. Abzug.

Mr. PIKE. I am asking you whether we don't have an overall figure. Don't slough it off.

Mr. DOOLIN. I am not sure.

Mr. PIKE. I am trying to get some information from you. Do we not have overall figures as to what the costs to drop a pound of bombs or a ton of bombs or whatever they are?

Mr. DOOLIN. I can give you some estimates, sir, yes.

Mr. PIKE. Are they up to date?

Mr. DOOLIN. Yes, sir.

The CHAIRMAN. Mr. King.

Mr. KING. I simply want to congratulate this witness, Mr. Chairman. I think he has given out entirely too much information already. That has been the trouble with us from the start of this conflict. We have violated every sensible rule, to wage a war, a successful war. I think it is high time the American people be told we are going to get out of there and get out of there safely.

We have got to keep our mouths shut. I think this man is absolutely right. I think the State Department is right and the Defense Department is right. And I think this committee has been right.

The CHAIRMAN. Mr. Harrington.

Mr. HARRINGTON. Mr. Doolin, I feel after listening to you, listening to a ping pong ball. You told me initially in a letter in February last year or thereabouts you would give this information to me if we had an executive session at the wish of the chairman. We went to great lengths while I was absent on my fact-finding tour of Southeast Asia—I want to address myself to this committee and Congress as a whole on the particular travel arrangements.

Somehow the information that you are giving me now which apparently is public record suffices, and either meets the sensitivity or security admonition that was a part of the letter. I find myself you are making the best point I can make when it comes to the kind of regular unwillingness bordering on certainly a predetermination beforehand to make sure that we are kept as much as possible ignorant of what is going on.

I know it is complex. I am not expecting to try to pin you down or to make it awkward or difficult for the Defense Department or to try to use any information that is going to in any way jeopardize the security of those people there. But I listened to the most twisted and distorted logic when it comes to the kind of activity that has no remote bearing at all on the question of protecting American lives in the area, listened to a briefing last Tuesday which did not even make reference until asked about it to the increased activity as far as protecting American lives. And it becomes very obvious to me the sanguine statements made by the executive branch, and I will be bipartisan because the mess we are in was not started in the last three and a half years, despite the plan to get out of it, I can't understand why we can't get a definition of what our role is in a specific way from you in open session so people can understand exactly what we are committing people to and their resources and not nit-pick through a lot of letters and correspondence and point fingers back and forth as to whose responsibility it is.

I know full well there are problems. And I know full well how it will be used by the press and people adversary to you but that is the name of the business we are in. We are held accountable. I think you ought to be, and it ought not to be by stamping everything around this place secret. I can't see any reason why you can't level with us and the American public about what is going on over there. I don't see any justification even remotely for suggesting a lot of these things involving our allies, particularly the Thai bases which the press has been excluded from, can't with the kind of pressure we can exert on our client's governments, be made public.

If there is a rationale that has long since ended for American security, I wish you would spell it out to me, but not just hide me behind the kind of language I have seen used with me and Congressman Aspin and others, when it comes to the sort of thing I think we have a right to know and should know if we are going to function properly.

Mr. DOOLIN. Mr. Harrington, if I may, in terms of providing this information, I frankly am not concerned at all how that informa-

tion would be used by either a supporter of our policies in Vietnam or by our opponents of our policies in Vietnam. I am concerned about whether this information would be of value to the enemy. It is the considered judgment of the Department of Defense it would be, and I wholeheartedly share this judgment.

Mr. HARRINGTON. Even after the fact, even after the enemy has been recipient of tonnage which now exceeds the tonnage of the first five years, and I am talking until the last two weeks, eastern Laos and parts of Cambodia, and no talks going on involving activities in Laos. How in the world can that harm our ability to have us understand where we are at this situation in that I know the troop withdrawals situation?

I also know how many Air Force men are in Thailand. And I know with the buildup everybody is certainly not given the kind of attention it should be given in the Congress, what it means as far as we won't have in Vietnam but elsewhere after May 1st. That is the thing we should know and know where we are going with it, and not have this thing drawn out in some political charade, which winds itself down about November 7th of this year. I don't see any logic to it. And I don't see why the information can't be made known without the security being effective, and you can't give it out in open session and not in executive session. No other questions, Mr. Chairman.

The CHAIRMAN. Mr. Aspin.

Mr. ASPIN. Yes, I would like to just ask one question here, Mr. Chairman. In the letter from Mr. Buzhardt, it says in view of the fact that the Armed Forces of the Republic of Vietnam are now actively engaged with United States assistance in repelling an armed attack across the demilitarized zone it would be in the judgment of the Department of Defense incompatible with the public interest to provide the information in the manner directed by the resolution. Am I to imply by that if the attack had not come across the demilitarized zone you would be in fact in favor of the Abzug resolution?

Mr. DOOLIN. No.

Mr. ASPIN. Then this is not the reason why?

Mr. DOOLIN. What Mr. Buzhardt is saying there, Mr. Aspin, is that to provide real time information, on the levels of our activity during the first ten days of April, coming right on the heels, I wouldn't frankly have used——

Mr. ASPIN. Wait a minute. You tried to tell Mr. Bennett here all of the reasons why the Department of Defense was not in agreement with the Abzug resolution was here in Mr. Buzhardt's letter. On the other hand the only point Mr. Buzhardt makes you now say would not be enough. In fact, the attack didn't come. That you would still not be in agreement with providing information in the Abzug resolution. What I am puzzled by is what are the reasons? The resolution that we have here we are soon to go into executive session. When we go into executive session, people will leave. Nobody will know why this resolution has been turned down, why you do not agree with it.

Mr. Buzhardt's one reason which you say is not the complete reason. In answer to Mr. Pike you sometimes imply it would be dangerous to give the information out. At other times you imply that the information is already available. I am puzzled as to what—you give us cogently and coherently if Mr. Buzhardt's letter is not correct—give us cogently and clearly and concisely why the Department of Defense does not want to release the information.

Mr. DOOLIN. Well, Mr. Aspin, Mr. Buzhardt's letter was correct. I was addressing myself specifically to his statement in which he says the Armed Forces of the Republic of Vietnam, are now actively engaged, with U.S. assistance, in repelling an armed attack in force across the demilitarized zone. I would have used the word invasion, but that aside, if the level of enemy activity in the south had come around the edge instead of across the demilitarized zone, our position, I feel, would still be valid.

Mr. ASPIN. Suppose there hadn't been an attack recently. Suppose this resolution in fact came last month. What would you have said to the resolution then?

Mr. DOOLIN. I would have said simply that we would be as responsive as we could.

Mr. ASPIN. Never mind that. Would you have agreed that the Abzug resolution should pass?

Mr. DOOLIN. If it had been brought to the attention of this committee before the attack?

Mr. ASPIN. Exactly.

Mr. DOOLIN. No.

Mr. ASPIN. Then I am back to the same point. You say the Buzhardt letter is the reason why—you keep quoting Mr. Bennett and what-not—the Buzhardt letter is the reason why the DOD does not want the Abzug resolution to pass, yet the only point in the Buzhardt letter you make you now say is not the reason?

Mr. DOOLIN. I said it is not the total reason.

Mr. ASPIN. Well, what is the total reason, is what I am asking?

Mr. DOOLIN. Simply, Mr. Aspin, I would not provide these detailed figures to an enemy commander.

Mr. ASPIN. On the other hand at times you implied to Mr. Pike there was more detail available now than any other time?

Mr. DOOLIN. There is a tremendous—as I said, there is a tremendous amount of material available to the public and to the press. But some of the information that is requested we do not in good conscience—we are not trying to hide anything for the sake of hiding something. We are trying to protect the remaining U.S. forces there. We are trying to permit the continuation of our redeployments. We are trying to give the Vietnamese a try at Vietnamization and I don't think this should be provided in an open session.

Mr. ASPIN. I am puzzled, as is Congressman Pike, as to what the rationale is. You won't discuss it on a point by point item as Mr. Pike wanted you to. You kept trying to refer to this letter from Mr. Buzhardt when Congressman Bennett was asking questions, and yet now when I ask you about the letter, you say that is not the complete reason. You seem to be bound by your superiors not to be able to talk about detail, and yet the general statements you refute as not being the real reasons.

I don't think we are going to give anything that the public here is going to be able to take away as to any knowledge why you are opposed to this resolution. Maybe in the executive session we will get more information.

Thank you, Mr. Chairman.

The CHAIRMAN. Dr. Hall.

Mr. HALL. Mr. Chairman, the need for military and national security has many times been affirmed by this legislative branch of Government, and by the highest judicial tribunal.

Second, as a preamble, there is never any complete explanation to the reaction of the electorate.

Finally, the action of that electorate does not necessarily impose complete right to know for those who might be disgusted, even by those who have the Constitutional power to handle foreign diplomacy or under the Logan Act or amendments thereunder, too.

I think in spite of the repetitiveness, in spite of harassment, that does no service to the national interest. There are times when those who do not become privy to all information or indeed evaluated intelligence should come to the firm realization that it is based on distrust of the ultimate objectives. Thank you.

The CHAIRMAN. Mr. Hunt.

Mr. HUNT. Thank you, Mr. Chairman.

I just have an observation to make in regard to the witness. I want to commend you for your forthright statements insofar as simply saying it becomes a matter pertaining to military security, and that was your answer this morning, as to not answering specific questions at this time. I want to commend you for that, and I take exception to some of the bantering that has taken place in this committee this morning in regard to you, and I apologize to you for the bantering that has taken place. Thank you.

The CHAIRMAN. Mr. Gubser.

Mr. GUBSER. Yes.

Mr. Secretary, by way of preface to my question, which will be more of a statement than a question, I say at the outset I think it is pretty evident that the current scenario of certain groups is that as the ground war has wound down, that the emphasis upon the air war has been built up, and in fact this was apparent over a year ago when an organization was formed here in Washington called Project Air War under the direction of Mr. Branfman who just in February has become an official delegate to this Communist-dominated Versailles conference held in Versailles, France, who I understand was evicted from Laos because of suspected collaboration with the communists at Laos.

So it has been obvious this is the scenario, we are going to get across the idea that even though the ground war has wound down the air war has been stepped up.

Now, in light of that, I would like to remind you of some problems that I had with you a few moments back when I challenged a statement by another Member of Congress that we were in effect practicing the policy of genocide in our bombing policy in Laos, and indiscriminately bombing civilians.

First of all I didn't believe it, and I set out to try to prove that this allegation was totally false. And in my efforts to secure proof, I contacted you considerably, a considerable number of times, and the thing I wanted the record to show is that never at any time was I, who was trying to fight the battle in favor of the policy which is current policy, and which you are obligated to defend—never at any time could I get any information from you that hadn't already been available to the persons who were making the opposite charge, and in fact you will recall that I had to go to Secretary Seamans in order to get the release of a chart which would show the incidents of bombing as compared to population density. And you will recall we had a great deal of trouble in getting that released, but when it was released—and this is the important thing, and I want to emphasize this—when it was released it was agreed it would also be released to Representative McCloskey, should he request it. So there wasn't a blamed thing that I, as a supporter of your policy, could get, that anybody else didn't have. Isn't that right?

Mr. DOOLIN. That is absolutely right, sir.

Mr. GUBSER. Now, the question of whether or not we have too much censorship is a legitimate question. Sometimes I am inclined to agree in some instances with Mr. Harrington. But the point I want to make is that those who are on one side of this argument are not given anything that is the least bit different from those on the other side of the argument.

I had that personal experience and I want to show it. I sincerely hope that those who are now promoting this new scenario, Mr. Branfman and his ilk, would be as objective as I found the Department of Defense to be.

That was my question.

The CHAIRMAN. Mr. Young?

Mr. YOUNG. Thank you very much, Mr. Chairman.

Mr. Doolin, would it be helpful to the South Vietnamese or to our interests in Southeast Asia to have known in advance

when and where the Communists were going to deploy their troops in this invasion?

Would it be of some help to the effort in Southeast Asia to know where their tanks were going to be launched from, what their destination would be?

Mr. DOOLIN. Of course.

Mr. YOUNG. What about their SAM's and antiaircraft pieces?

Mr. DOOLIN. We take any and all information we can get.

Mr. YOUNG. Would it be helpful to the South Vietnamese effort to have some idea in advance which civilian government leaders were going to be assassinated and when?

Mr. DOOLIN. Yes, sir.

Mr. YOUNG. Would it be helpful to know where the mortar would be fired from and to and rockets launched to and from?

Mr. DOOLIN. Yes, sir.

Mr. YOUNG. Has any of this information been provided to us or to the South Vietnamese by the Commuists?

Mr. DOOLIN. Not by conscious decision of them.

Mr. YOUNG. Thank you.

The CHAIRMAN. Mr. Nedzi.

Mr. NEDZI. Mr. Secretary, do you think that the American people should know what it is costing us to wage the war in Vietnam?

Mr. DOOLIN. I think, Mr. Nedzi, that can be determined on the basis of our budget request.

Mr. NEDZI. I asked you whether you think they should know what it costs us? Do you think that should be kept classified?

Mr. DOOLIN. Sir, I would have to provide that answer for the record.

Mr. NEDZI. You don't have a personal opinion.

Mr. DOOLIN. I don't know what the exact sensitivity of some of the cost figures are. I honestly do not.

Mr. NEDZI. In response to Mr. Pike, you stated that you do have an estimate of the cost of the delivery of bombs. Are you prepared to tell us that estimate?

Mr. DOOLIN. I can provide information on the incremental costs in executive session; yes, sir.

Mr. NEDZI. You can't tell us in public session?

Mr. DOOLIN. I cannot.

Mr. NEDZI. I have no further questions, Mr. Chairman.

The CHAIRMAN. Mr. Bob Wilson.

Mr. WILSON. Mr. Chairman, I want to commend the witness for handling himself under rather difficult circumstances. Obviously, you come here under wraps and these are very key questions that are being asked that revolve around the actions over there today. If one person's life might be jeopardized by making a public statement, I appreciate the fact that you are restraining.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Stratton?

Mr. STRATTON. Thank you, Mr. Chairman.

I want to make mainly a couple of comments. I had hoped to be able to question Mr. Harrington, but I was called out for a very important phone call.

I want to say first of all that I think Mr. Doolin has given us some of the major reasons why this information cannot be released. We don't make a habit of announcing what our activities are to the enemy in the middle of a war. And I think sometimes some of those who have introduced resolutions in this Congress, including the one before us, overlook the fact that we are confronted with a conventional invasion supported by Soviet equipment on the eve of a supposed summit meeting in Moscow designed to improve relations.

I don't see how we could hope to have any kind of effective summit meeting if our forces were to be surrounded and perhaps slaughtered by some kind of military blitzkrieg in South Vietnam, particularly when on the basis of the geography in South Vietnam the enemy line is always at least not less than 30 miles away from Saigon. I think some of the efforts to try to confront Mr. Doolin with embarrassing situations have not been helpful.

Secondly, I would like to say, Mr. Chairman, that I can't seriously believe that this resolution has a legitimate legislative purpose. This is a device; it has been dug up by my distinguished colleague from New York. And this is either the fourth or fifth time it has been used in the past 14 or 15 months.

But I don't think this really serves any useful purpose. We all want to get out of Vietnam. I would hope that we want to get out of there with our 95,000 troops who are still there, still alive, and intact, and I don't think that all of this information, if it was laid here before the Congress, is really going to solve that question about how we can successfully withdraw, and continue to withdraw from Vietnam, at the same time we are confronted with an all-out military invasion supported by sophisticated military equipment from a country that pretends to be interested in friendly relations, and wants to latch on to the advantages of American trade.

The distinguished gentleman from Massachusetts has been a member of this committee. He sat in on the briefing we had from Admiral Moorer the other day. We got a lot of information from Admiral Moorer. I don't see that that alters his view of our position in the war. And I don't think that full compliance with this resolution is going to be used for anything more than to create additional divisions in this Congress and in this country at a time when we are confronting, I believe, a very grave military situation.

I wanted to ask the gentleman from Massachusetts whether he recognized the difference between an invasion and a civil war. I listened to the television this morning. I have been listening to it for the past few days. It is almost impossible to tell from the comments that are made by the commentators, and also by some of the other members of the other bodies, that we have an invasion going on.

This entire solution is addressed to the United States. No talk about the fact that South Vietnam has been invaded at a time when 95,000 Americans are located there, and most of them only 30 miles from the enemy front lines at the Parrots Beak. I saw a picture in the Washington Post this morning of a South Vietnamese man who was crying because his wife had been killed by an enemy ambush, and yet I haven't found any indication from those who support this legislation that there is anything wrong about killing South Vietnamese. Apparently, it is only the residents of Hanoi and Haiphong that we are concerned about.

I would like at least a little kind of balance in this effort. And while I would agree with other gentlemen who have spoken that sometimes the Pentagon overclassifies statistics, I think particularly on the part of members of this committee to demand that everything be presented on the line, including what has happened in the last ten days, can only jeopardize our position in Vietnam.

The CHAIRMAN. Members of the committee, it is obvious we have to recess at this time, and there is also a policy meeting on the Republican side later during the day.

So the committee will stand recessed until 3:00 this afternoon, at which time we will go into executive session.

(Whereupon, at 11:55 a.m. the committee recessed.)

AFTERNOON SESSION

The committee met pursuant to recess, at 3:07 p.m. in room 2118, Rayburn House Office Building, the Honorable F. Edward Hébert (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Members of the committee, I have to alert you there will be a vote pretty soon on the floor, a yea and nay vote on the bill pending. When that vote does come, we will recess and return immediately afterwards.

We are picking up where we left off this morning.

Mr. Slatinshek.

Mr. SLATINSHEK. When the committee adjourned this morning, the Secretary had requested the opportunity to go into executive session to provide responsive replies to the various materials in the resolution pending before the committee.

Mr. DOOLIN. Mr. Chairman and members of the committee, during the opening session of the committee hearings this morning, several questions and comments from members of the committee, and possibly my responses to those questions may have suggested that selected information was being withheld from the public domain for reasons other than national security interest.

I wish to make clear that it is the national security interest, and only that interest that constrains us from providing a full disclosure for the public record concerning the questions contained in H. Res. 918. As it was stated in Mr. Buzhardt's letter, and I quote: "In view of the fact the armed forces of the Republic of Vietnam are actively engaged, with United States assistance, in repelling an armed attack in force across the Demilitarized Zone, it would in the judgment of the Department of Defense be incompatible with the public interest to provide the information in the manner directed by the Resolution."

I fully appreciate, sir, the right and need of the members of this committee to be furnished with factual information on which to base their decisions. My purpose in being here is to give you that information as fully and frankly as I can.

My personal preference would be to avoid the broader questions involving disclosure policy and confine my remarks to those specific questions addressed in H. Res. 918.

Having said that, I now wish to assure the members of this committee that I am prepared to address as fully as possible the questions which appear in H. Res. 918. There are, of course, limits to my knowledge of certain details. In the event other questions occur for which I do not have the information here, I will be happy to try to provide it for the record.

Would it be your desire, Mr. Chairman, for me to take the items point by point and simply provide the information?

The CHAIRMAN. Or shall we go to the briefing first? What do you want? Shall we have the briefing?

I think it would be more expeditious and more beneficial if we have the briefing first, because the briefing undoubtedly will generate questions which we will ask you.

Mr. DOOLIN. Certainly, Mr. Chairman.

Mr. SLATINSHEK. Mr. Chairman, the briefing is designed to bring the committee up to date on our air activity in Vietnam, particularly over North Vietnam, and General Pauly is here prepared to respond to committee questions on that. His group has briefed the Senate Armed Services Committee this morning on this subject. We thought we would like to get that before the committee prior to final action on the resolution.

The CHAIRMAN. Yes.

Mr. DICKINSON. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. DICKINSON. I want to apologize. I had to leave earlier today. One of my constituents is getting a citation from the Secretary of the Navy. I was not here for the last hour.

I want to know what the parliamentary situation is. We did not vote on the resolution but we will have a briefing on the military situation as a prelude to voting on the resolution?

Mr. SLATINSHEK. Yes, and also the Secre-

tary will pick up and attempt to respond to each of the items in the resolution; attempting to be as responsive as possible to the committee's interest, following the briefing.

Mr. DICKINSON. Thank you. But now, as you have announced, we are expecting a vote momentarily on the floor, and we will vote and come back.

The CHAIRMAN. We will recess and go to the floor and vote and return.

Mr. DICKINSON. Thank you.

General PAULY. Mr. Chairman, I am prepared to discuss the operations in South Vietnam, recent and current operations, to update the committee since their last briefing, as well as cover the recent activities north of the DMZ in North Vietnam.

The CHAIRMAN. General, you are addressing yourself to the entire picture, including the activities of the South Vietnamese as well?

General PAULY. Yes, sir.

If there is a time constraint, I can take them in either order at your preference, sir, in terms of South Vietnam first, and then up north, or vice versa.

The CHAIRMAN. I would like to ask you one question which has come to my attention. This is purely scuttlebutt and purely rumor, but I would like to know if there is any fact to it or not.

I got a report just before I came in that the Southern Vietnamese group of Marines had amphibiously landed behind the lines of the DMZ, is that accurate?

General PAULY. I have no knowledge of that.

The CHAIRMAN. You have no knowledge?

General PAULY. No, sir.

With your permission now I will go through the southern portion first and activities in the north.

The CHAIRMAN. Any way you want to present it.

BRIEFING BY BRIG. GEN. JOHN W. PAULY, DEPUTY DIRECTOR, REGIONAL OPERATIONS, J–3, JOINT CHIEFS OF STAFF

General PAULY. As you recall, the activity we have seen since the 30th of March has been centered around four basic areas just south of the DMZ, located near the DMZ in northern MR I, also in the northwestern portion of MR II, in the Kontum and Pleiku area, the so-called B–3 front.

The threat which has been posed by the three North Vietnamese divisions in northern MR II, is the An Loc area, there is also a small threat which massed the total troops that were in the area between Phenompenh and the coast prior to the initiation of activities in the MR IV area. So each of the MR's are threatened to a greater or lesser degree, and I am prepared to go MR to MR to bring you up to date from your briefing of last week.

As far as MR I is concerned, you will recall that on approximately the 30th of March large formations of the North Vietnamese Army came through the DMZ, accompanied by a considerable number of tanks, and hit the Third ARVN Division immediately to the south of the DMZ, which was disposed in the fire support bases in that area.

Likewise, the 308th Division came from the west from a position to which they had infiltrated earlier, and in the area of Hue. This action is taking on some additional significance in recent days. The 324th Bravo Division also threatened the provincial capital of Hue.

The situation since you were last briefed, in the area immediately to the south of the DMZ can be best described as static as far as any major changes are concerned. The line shown in blue,* formed by the Cuaviet River and turning south, was the basic line of defense which the ARVN forces had fallen back to after the initial onslaught. This was the position they occupied, when you were briefed last. They continue to occupy basically the same position.

The activities that we have seen since this posture has been attained have been varied. In the initial period, of considerable enemy aggressiveness and activity across the entire line this lasted until a week ago Sunday. That was the date when at six different locations along the line were struck by mass armor and infantry against the ARVN-NAF forces. On that date, the ARVN forces held well, and before the day was over, claimed 58 of the enemy's tanks destroyed and over 1200 enemy killed in action. That was a week ago Sunday, and I believe that it will go down as the turning point in the activity that we have seen in the northern stretches of MR–I.

Since that time, the enemy has shown little aggressiveness or little capability to mass troops and to mount a sustained and strong effort against the South Vietnamese forces. In contrast, since that time over 80 percent of the total contacts have been friendly-initiated, as opposed to enemy-initiated. The ARVN forces, including the Third Division which occupies the northernmost positions, that took the brunt of the large move across the DMZ, they are doing well, as are the Marines in the area to the south of them, the Vietnamese Marine Division, and the First ARVN Division to the south of them near Hue.

So since a week ago Sunday there has been heavy activity, mostly friendly-initiated. General Lam initiated two and one-half days ago an effort [deleted].

This counterattack on the part of General Lam is composed of a force of some [deleted] battalions. They are moving slowly and deliberately out toward the ridge lines. The contacts which they have had to date have been few in number, but strong in terms of enemy efforts to stop them. They have progressed only a few miles, yet they are out there getting into the enemy bunkered positions and moving gradually toward their objectives.

[Deleted.]

Supporting the effort along the coast are [deleted] naval gunfire support ships, which are bombarding and softening up the enemy activity in the area to the north of the Cuaviet River. I also recall at about the time you were last briefed on this situation, we had a weather problem, and until about four days ago the weather associated with the northeast monsoon was as bad as we had ever seen in previous years. This should have been a transitional period where you could expect breaks in the weather throughout the coastal regions.

The breaks did not appear, and for some 12 days we had only one day in which we could get our tactical aircraft into the area to take fleeting targets under direct attack. However, four days ago the weather broke. It continues to be good, and the weather people anticipate that the entire area will be wide open for at least another 48 hours.

This augurs well for making maximum effective use of our tactical aircraft, as well as the VNAF aircraft which are operating against the fleeting targets, buildups, logistical targets and so on.

During the bad weather, however, we were able to use B–52's to good advantage against the buildups that could be determined, as well as the U.S. tactical aircraft, using loran and ground-based radar procedures. However, you are not able, under those conditions, of course, to take fleeting targets under attack. Those are the ones we are most interested in at this particular time.

To the south of the area just discussed, in the area of Hue, you will recall the 324th Bravo Division had infiltrated the entire division into the highlands to the west of Hue, prior to the kickoff of the current operations. This division has been operating and continues to operate in the area west of Hue and has exerted extremely heavy pressure on the First ARVN Division, which is responsible for the security of the area.

This division was chosen to underwrite the security of this area on purpose by General Lam. It is rated as the top South Vietnamese Division in terms of capability and effectiveness, and therefore he had placed them in the area of Hue since he felt that Hue would be a major target of the enemy efforts, and it has proven out pretty much that way.

The terrain is such that the enemy is not able to mass his troops in a classical sense as in the area to the north. The use of armor becomes somewhat more difficult because of the terrain, but he has exerted heavy pressure on the westernmost positions held by the friendly forces, i.e., Fire Support Base Bastogne and Fire Support Base Birmingham. Bastogne has been under siege since about the third day of the operations. As of six days ago, it was totally surrounded, and we were required to provide logistic support to Bastogne by air. There were efforts made to force the road open between Birmingham and Bastogne. That road was forced open yesterday. Bastogne now is being supported by surface means along Route 547.

A good indicator as to the effectiveness and the aggressiveness of the ARVN has been displayed here. When they opened Bastogne, rather than consolidating their position, they opened it with such force that they were able to pursue the enemy rather than let him withdraw on his own volition.

As you probably know, withdrawal situation is the most vulnerable perioc. of any operation. ARVN caught the NVA and the body count last night was some 369 enemy killed just to the west of Bastogne.

As a counter to that, the enemy again attempted to interdict the road between Birmingham and Bastogne, but they were countered by forces in the area and lost an additional 300 killed in this encounter.

This is basically the current situation as it stands today, with Bastogne being open and the enemy sustaining considerable losses in the last 24 hours in the area. We have seen in the past week one small enemy force that got into an area due south of Hue. It was ambushed by the South Vietnamese Army and turned around and went back out.

Other than that, the disposition of the enemy forces are shown on the chart. Each of these squares is 10 kilometers, so we are talking from the border to Bastogne about 40 kilometers-plus.

The activity in the northwest corner of MR II in the Kontum-Pleiku area has continued much along the lines that it has from the very beginning. You may recall that the 30th NVA Division, accompanied by the Second Division, was hit pretty hard by air before the 30th of March. We feel because of the losses which they suffered, which number something around 1200 men, that they were unable to mount a coordinated attack with the activities that we saw in MR I as well as those that have taken place in MR III.

So the activity in the Highlands of MR II has been centered around Rocket Ridge, which is a ridge due west of Kontum in the Dak To area, and which is the line which the South Vietnamese are attempting to defend. In the past week there has been daily effort on the part of the North Vietnamese to take portions of Rocket Ridge. However, they have only been successful in overrunning one fire support base.

The CHAIRMAN. We will have to suspend, General. We will be back as soon as we answer the roll call.

(A short recess was taken.)

The CHAIRMAN. The committee will be in order.

General PAULY. Sir, I will move right along.

We are seeing increased activity in the past five days in the coastal area of northern MR II. There is one North Vietnamese division that has been in the Ben Dinh area for some years operating and they have joined in

*Various charts not printed.

putting additional pressure on the friendly forces in the area between Quang Ngai and Qui Nhon, in recent days. Additionally the enemy has cut Route 19 the east and west road at the An Khe Pass, which has been severed for four days. The Koreans from the Qui Nhon area, as well as the South Vietnamese forces moved up from MR III [deleted] are attempting to get this route opened again, hopefully in the next couple of days it will be opened.

As far as MR III is concerned, the area due north of Saigon in the An Loc area has represented the basic activity that we have seen. Early in the game, that is just after the 30th, there was also an additional enemy drive toward Tay Ninh. It was stopped short, however, because they needed these forces to move north to try and bring additional pressure on the An Loc area.

This is a blowup of the same area, depicting the present situation. You may recall it was the enemy plan to take Loc Ninh, which they did in two days, using the Fifth VC Division. They had planned then for the Fifth to turn south and take An Loc, while the other two enemy divisions farther to the west proceeded down toward Tay Ninh. However, the Fifth, although they took Loc Ninh, lost a considerable percentage of their force, and they had to pull these other two divisions, the Ninth and the Seventh Divisions north and east to accomplish their aim. Their basic aim, of course, was to take An Loc, which is the provincial capital, and President Thieu is adamant because it was a provincial capital, he wanted to defend it.

It has been successfully defended now up until the present time. It has been under siege for a number of days. The activity has been indeed high. They have thrown a large force against An Loc. [Deleted.]

About four days ago we noted a force of enemy tanks coming toward the city from the north. These turned out to be T–54 tanks, which are the large-size, Russian-made tanks, the largest that the North Vietnamese Army has. Since that time they have used these tanks in conjunction with infantry against An Loc and have been repulsed with the high watermark of only owning about a third of the city at one time.

However, the South Vietnamese forces have held and successfully repulsed them. It is estimated at the present time 40 of the large tanks have been knocked out by both the troops on the ground as well as tactical air and B–52 strikes. The weather in this particular area has remained basically good, so we have been able to get considerable amount of U.S. and VNAF tactical air on the assembly areas prior to the efforts that they made against the friendly troops in An Loc.

In the last four days, additionally, the South Vietnamese have airlifted, using Vietnamese helicopters, one brigade of their airborne division to supplement the force in An Loc. [Deleted.]

Additionally, as depicted by the arrow, [deleted] from the 21st ARVN Division has been attempting to move north along the Route 13 to reach An Loc, and they have been under constant pressure from the enemy on either side of the road since they began their move up from the Lai Khe area about a week ago.

The latest development we see of significance is the fact that as for the last day, plus, the enemy has apparently lessened his efforts against An Loc, and for a full day we saw little enemy initiated activity at all. However, in the past daylight period which ended this morning, our time, we did see probing and sapper attacks by the enemy again in the An Loc area. But what we have noted is the fact that some of this enemy force is beginning to infiltrate down either side of the road toward Route 14 [deleted].

Basically at this time, except for the extreme northern perimeter, friendly forces do occupy all of the city of An Loc. The situation in MR IV is more of the same type warfare that we have seen over the past few years. A large number of small enemy localized attacks by fire, and localized attacks against the regional and regular Army forces throughout the entire IV Corps area. In adtion to that, a small force of RVNAF have been operating since Toan Thang I in the area of Cambodia just beyond the border, [deleted].

Sir, I would like now to progress north from the DMZ and describe the activities up there. North of the DMZ there are three types of friendly activities that are taking place. Once the weather cleared, we were able to get tactical air, U.S. tactical air up in the [deleted] north of the DMZ. As you know, the enemy has stockpiled a considerable amount of materiel up in this area in previous months in preparation for this activity, this offensive.

We also see resupply activity going on through the DMZ continually supplying their forces which are committed in northern MR I. So we have put a tactical air effort up in this area to attempt to adversely affect, or neutralize if possible the lines of communications of the supply buildups. In order to do this, we have to also take on the considerable SAM threat which had been developed in this area.

You may recall from your previous briefing that just north of the DMZ there are some [deleted] full SAM firing battalions which are so disposed that the SAM envelope actually intrudes the air space over the northern edge of MR I to where our aircraft, until it is neutralized, are subject to being fired on by SAM's disposed so far south end of the panhandle.

In addition to the tactical air activity that we have seen in this area, we also have a force of some six destroyers and one cruiser which have been providing naval gunfire support assaults on logistics targets up as far as approximately the [deleted] line, near [deleted]. At the present time they are disposed, [deleted]. These forces are attacking basically shore defenses, SAM sites, and a couple of SAM assembly areas that are being also taken under attack, where the LOC's and buildup areas which make up a part of the total logistical system.

In addition there have been three B–52 type strikes in North Vietnam in the past ten days. One of the strikes was conducted against the railroad yard and a POL storage facility at Vinh. [Deleted.]

In addition to that a strike was conducted on Bai Thuong, which is their southernmost Big base. A base which constantly supports Mig activity [deleted].

These Migs, operating basically from Bai Thuong as well as at satellite fields farther to the south, but have intruded in recent months the air space on an almost continuous basis in Laos against friendly aircraft operating there, and actually do pose a threat to our friendly air operating in the northern portion of South Vietnam and in the Laotian panhandle. The total incursions at the present time are almost 80 this year since November, of Mig aircraft into Laos.

In addition these two smaller raids, on last Saturday, Washington time, the large strike which was recently announced was conducted. This strike was conducted against [deleted] targets in the Hanoi area and [deleted] targets in the Haiphong area.

The Hanoi targets were not in the immediate vicinity of the city. There was one, a POL facility, some 10 miles to the north and east, and a truck park, a large truck park and training area some 22 kilometers to the south and west. The basic or prime target in the Vinh strike, the Haiphong strike, and the Hanoi strike was the POL.

Enemy POL basically is brought into Haiphong, some goes into Hanoi—a small percentage being introduced at Vinh. So these three places account for the introduction of POL for the support of their enemy tanks and rolling stock for their entire effort down south.

In the Haiphong area, as I mentioned, some [deleted] targets were struck. The prime target was the POL storage area in Haiphong, which sits up river about two miles from downtown Haiphong. This is the target that the B–52's struck.

There were also warehouse targets in the peripheral areas of Haiphong, down river and slightly up river from the main part of the city, and also a small [deleted] which is building a high percentage of the barges and small craft which have been used for infiltrating supplies in southern North Vietnam by using the barge method.

The total force which was used on this strike [deleted] was a total of [deleted] B–52's being utilized and [deleted] tactical air strike aircraft. In addition to that, there were some [deleted] supporting aircraft. [Deleted.]

None of the B–52 aircraft were hit. We sustained no damage or B–52 aircraft downed. [Deleted.]

[Deleted.] The weather was good throughout the entire period.

[Deleted] an A–7 was downed. However. the A–7 was able to get out over the water and the pilot bailed out and was picked up after being in the water for only four minutes.

[Deleted.]

Large fires were also reported, which were sustained over quite a long period of time. The pattern that we see indicates that we did get almost full target coverage on this POL target northeast of Hanoi.

In the Haiphong area, the warehouse area, there were three warehouse areas struck in the periphery areas of Haiphong. Two of them in this location (pointing) down river, and one on the up river side. A number of large explosions were noted, and the photos that I have, that we have seen up to now, indicate that I would say about 20 percent of the buildings were destroyed, and a considerable percent above that were damaged in the warehouse areas.

[Deleted.]

During the strikes there were a number of Migs that came up and three of the Migs were shot down and a fourth one crashed when he tried to go back to land. A total of three were destroyed in the air, one in landing. Additionally, [deleted] a considerable number of Migs were noted on an airfield down to the south so [deleted] that airfield was [deleted] also attacked.

[Deleted.] A large vehicle storage area with approximately 600 vehicles that was noted down in this area (pointing) was also struck. [Deleted.] The vehicle storage area was struck. This was actually an old airfield that is no longer used for flying purposes but is used for purposes of storing vehicles.

There were approximately [deleted] vehicles that were confirmed destroyed. We just got those films this morning. The BDA on that is not completed yet. A number of supplies were stacked up in the target area that were also struck, and numerous explosions were noted by the attacking force.

On the airfield, down in this area (pointing) there were two Migs destroyed on the ground.

As far as wrapup is concerned, as I indicated, there were [deleted] SAM's fired at the attacking force. [Deleted.]

The two aircraft which we lost were lost to SAM's. The Migs were no factor at any time [deleted]. AAA was moderate to heavy at times throughout the period, and as I indicated, the SAM positions were struck and the BDA shows three of the SAM firing batteries destroyed and three of the Fan Song radar supporting the SAM effort throughout the area destroyed.

During the total mission some ordnance was directed [deleted] against the enemy radar order of battle.

This basically completes the résumé of the total activities, sir.

The CHAIRMAN. Thank you very much, General.

Now we will continue with the testimony of the Secretary.

Mr. Slatinshek.

Mr. DOOLIN. Mr. Chairman, I told Mr. Slatinshek a short while ago we will be reviewing tomorrow all of these data that I will provide you now, and with the appropriate security review people to see what we can in addition declassify. We will do that expeditiously.

The CHAIRMAN. You can declassify what you are giving us now as far as you can?

Mr. DOOLIN. We will expedite a review of that, sir, to see what we can declassify.

The CHAIRMAN. Fine.

All right, Mr. Slatinshek.

Mr. Harrington.

Mr. HARRINGTON. Would you give us some indication of what your plans are this afternoon?

The CHAIRMAN. Our plans are to attempt to, or like to be able to get action, or we will have to come back at nine o'clock Thursday morning.

Mr. HARRINGTON. Do you know how long you will go today?

The CHAIRMAN. We will go until five o'clock today.

Mr. SLATINSHEK. Mr. Secretary, as I understand it, you propose to go down the resolution picking up each of the points, attempting to provide the committee with the information you have available on the subject, is that correct?

Mr. DOOLIN. That is correct.

Mr. SLATINSHEK. That is all.

The CHAIRMAN. You have no further questions?

Mr. SLATINSHEK. Go ahead.

Mr. DOOLIN. On requirement 1 in the resolution, for the number of United States military personnel in South Vietnam at the present time, as of 13 April, 1972, the total by service in South Vietnam was about 85,000.

The CHAIRMAN. Mr. Secretary, as I understand the committee's understanding, for the committee's understanding, the information is being supplied in reply to the questions Mr. Bennett asked, that would have to be supplied in executive session?

Mr. DOOLIN. Yes, sir, I am answering the specifics.

The CHAIRMAN. This is the data you are directing your attention to?

Mr. DOOLIN. Yes, sir, I am answering the specifics in Mrs. Abzug's resolution. If the members of the committee have it before them, perhaps I could expedite it by simply going down the figures for each item.

The CHAIRMAN. And why you oppose it.

Mr. BENNETT. Mr. Chairman, I would like to ask a question. It isn't so much I wanted specific information myself. I wanted something in the record that said because of certain types of reasoning you could not reveal the kind of answers that were requested, because the statement that came with the letter, you said it just said it was not of value to the Federal Government to do this, or something.

I want to tie it a little tighter. If it is dangerous to the national defense, I want it to show so. I don't myself feel qualified to pass on whether certain types of information are militarily sensitive or not. I just don't find any conclusions in your statements that justify my voting against this resolution.

So you can reveal all the information you want to reveal since I am not qualified to speak on military sensitivity, and if you still don't have any conclusions in here and some reasoning behind it showing this is not the sort of information you want to reveal, you have fallen short of what I hope your testimony will ultimately be.

Mr. DOOLIN. The breakdown of forces in South Vietnam, as of 13 April, were roughly: Army, 59,500; Marines, 1,400; Navy, 4,000; Air Force, 20,000; Coast Guard, 100; for a total of 85,000.

The unclassified figure that we have used is 85,000 as of 13 April. That was released by Public Affairs in the Pentagon yesterday.

The following numbers of military personnel in South Vietnam are calculated to be combat personnel. This is ground combat forces, formed air crews, as of the dates indicated. Ground combat forces, [deleted] as of 10 April, 1972; formed, air crews, [delected] as of 13 April, 1972.

Mr. STRATTON. What was the date on the 85,000 figure?

Mr. DOOLIN. That was as of 13 April. This figure reflects only those U.S. personnel actually in South Vietnam, and excludes personnel located offshore aboard Navy ships, at Guam, and in other Southeast Asia countries such as Thailand and the Philippines. The offshore strength, and this is an unclassified figure, is 34,000.

Requirement No. 2 in the proposed resolution asked for information concerning sorties. During the first ten days of March 1972, [deleted] sorties were flown by United States military airplanes for bombing purposes in and over North Vietnam. For the first ten days of April, the figure is [deleted].

Sorties flown by United States military airplanes for bombing purposes in and over South Vietnam during the first ten days of March 1972, [deleted].

For the first ten days in April, 2,995. These figures, gentlemen, include such aircraft as B–52, A–7, F–105 and F–4. Also included are gunship sorties, (AC–130's,) which technically are not employed in a bombing role. However, they were included in the figures given to us.

This information is as of 17 April, and subject to change.

The third requirement concerns tonnage of bombs and shells dropped into North Vietnam during the first ten days of March, the first ten days in April, and into South Vietnam during the first ten days of March and first ten days of April this year.

During the first ten days of March, 1972, a very rough estimate indicates [deleted] tons of bombs were dropped on North Vietnam by the United States. Zero tons of ground munitions were fired into North Vietnam by the United States during the first ten days of March, 1972.

Roughly [deleted] tons of bombs were dropped on North Vietnam by the United States during the first ten days of April 1972. Zero tons of ground munitions were fired into North Vietnam by the United States during the first ten days of April 1972.

An estimated [deleted] tons of bombs were dropped on South Vietnam by the United States during the first ten days of March 1972. Zero tons of ground munitions were fired into South Vietnam by the United States during that same period.

During the first ten days of April, an estimated [deleted] tons of bombs were dropped on South Vietnam by the United States. Zero tons of ground munitions were fired during the first ten days of April.

Navy gun ammunition expenditures are reported on a monthly basis. In the neighborhod of [deleted] tons of Navy gun ammunition were expended during the entire month of March 1972 throughout Southeast Asia. Approximately [deleted] tons of Navy gun ammunition are predicted for expenditure during the entire month of April 1972 throughout Southeast Asia, but this is an initial estimate that may be increased when additional Navy ships being deployed into Southeast Asia participate in operations there.

Requirement 4 was omitted from the resolution.

Requirement 5, gentlemen, was a difficult one, requesting a cost analysis of all bombing and shelling carried out by the United States in and over North Vietnam and South Vietnam during the periods, first ten days of March and first ten days of April of this year.

All war cost figures are necessarily estimates and this has been emphasized each time war cost figures have been released. There are no precise accounting records covering war costs, nor could there be.

Incremental war cost figures reflect estimated costs being incurred over and above the normal peacetime operating costs of the baseline force. Incremental costs cover manpower added for the war, military and civilian, deployed and backup, and the cost of equipment attrition, munitions, supplies, transportation and other support over and above what would be required for the baseline force at peacetime rates.

All MASF or military assistance service funded costs are reflected as incremental costs. These costs, as noted, are estimates to begin with. They include not only costs incurred in the theater, but a share of the pipeline costs as well, including supply, maintenance, manpower, and other support provided in the continental United States.

These war costs have been prepared on the basis of annual estimates. They have not been developed monthly or quarterly, and indeed this would be extremely difficult if not impossible. Insofar as U.S. forces are concerned, costs are not estimated separately by country nor have the estimates been broken down as between the theater, the pipeline and the CONUS itself.

With these reservations, incremental war costs for fiscal year 1972 and fiscal year 1973 were estimated with the fiscal year '73 budget as follows: This will be in terms of the budget authority in millions of dollars.

U.S. forces: Fiscal year '72, Army, 2,133; Navy, 372; Air Force, 1,651; Defense Agencies, 46. Total U.S. forces, 4,202.

MASF, 2,339. Total incremental war costs, budget authority, 6,541. For fiscal year '73 with regard to U.S. forces, the figures again in millions of dollars: Army, [deleted]; Navy, [deleted]; Air Force, [deleted]; Defense Agencies [deleted]. For a total for U.S. forces of [deleted].

MASF, 2,055. For a total of [deleted].

U.S. Force costs were thus estimated at 4.2 billion for fiscal year '72, dropping to [deleted] billion for fiscal year 1973. Toward the end of fiscal year '72, March and April of this year, it would not be unreasonable to conclude that these costs would be running at an annual rate of somewhat over [deleted] billion per year, about [deleted] million per day, and about [deleted] million for ten days. This estimate, as noted, would include all costs in-theater and backup. During periods of intensive air and other activity, costs would be more than [deleted] million per day, and they would be below this figure in quieter periods.

Very rough cost factors per sorties are available, which cover munitions, fuel, aircraft attrition, and certain amounts paid to crews while in flight status. [Deleted.]

Using these factors, the increase in sorties from early March to early April would have amounted to about [deleted] per day. This does not cover most manpower costs nor the cost of overseas base support, pipeline, and CONUS support which would change little, if at all.

To establish a rough order of magnitude, then, it could be estimated that incremental war costs ran about [deleted]. Any attempt to break the figures down more precisely by time period or location would require a great deal of time and effort and would entail many arbitrary assumptions. The end result, we feel, would be late and of questionable usefulness.

Turning quickly to requirement 6, the figures for U.S. military personnel killed, wounded or reported missing in action. The

unclassified totals, killed during the period 1 to 10 March, zero. One to 10 April, 18.

Wounded, 1 to 10 March, 38. One to 10 April, 64.

Missing, 1 to 10 March, zero. One to 10 April, 23.

As I said, Mr. Chairman, these are unclassified, the only classified part of the answer here is in terms of where the missing are in North Vietnam or in South Vietnam, because we feel that to divulge that might prejudice SAR activities. These data are based on actual dates of death, and these data may vary from the weekly casualty releases for the periods in that MACV data are on a reported basis instead of actual dates of death.

Of course, those listed as missing, in periods shown, may be changed later to another category.

Requirement 7, I addressed this morning.

Requirement 8——

Mr. PIKE. Mr. Chairman, a question right there. Question 7 was addressed this morning, but the answer to the second part of question seven we were told we would get in executive session this afternoon.

Mr. DOOLIN. Yes, sir, Mr. Pike, I have some extra material on that. If I could get through these other two items first, and then if we could go back to that.

Mr. PIKE. All it was a date.

Mr. DOOLIN. Yes, sir, I can discuss the dates of certain programs that we have. Now in terms of what you might want to call a termination date for all U.S. involvement, I cannot discuss that, because that is up to the President of the United States. But I can certainly discuss the programs and when certain of the ARVN programs will be concluded, and the status of these programs. I have a great deal of information on that.

Requirement No. 8 concerns whether there has been any bombing or shelling carried on by the United States in or over Cambodia and Laos since January 1, and requests the number of sorties flown, the tonnage of bombs and shells fired or dropped, and the costs.

During the period 1 January 1972 through 10 April 1972, the number of sorties flown by United States military aircraft for bombing purposes in or over Laos was [deleted]. Over Cambodia, it was [deleted]. These sortie figures are as of 17 April and subject to change. During the period 1 January 1972 through 31 March 1972, the tonnage of bombs dropped by United States military aircraft for bombing purposes in or over Laos or Cambodia was——[deleted].

As indicated in response to item 5, war cost estimates are prepared for the year as a whole and for the theater as a whole, including pipeline and CONUS backup. These costs are based upon estimates and factors to begin with, not precise accounting records.

Any attempt to break the costs down to specific areas for finite periods of time would involve piling estimate upon estimate. The best that can be offered is a general, order-of-magnitude type of response. As indicated in the response to item 5. Navy and Air Force incremental war costs are estimated at $2,023 million for fiscal year 1972. All aircraft operations in the theater would cost roughly [deleted] million for the 103-day period in question.

A significant portion of this could be attributed to operations in Laos and Cambodia. To determine a more specific amount, it would be necessary to calculate what costs would be if there were no air operations in Laos and Cambodia.

This, in turn, would involve a determination as to which bases would be closed or curtailed and which units, if any, would be phased out. It would be necessary to completely recalculate in-theater, pipeline, and CONUS support costs.

Requirement No. 9 asks whether there has been an increase in the movement of U.S. military airplanes, military ships, other military equipment, military supplies or military personnel to Southeast Asia.

In terms of Air Force and Marine Corps assets, movements have been as follows: [deleted] U.S. Navy assets, [deleted].

Requirement 10, Mr. Chairman, the last requirement, I addressed this morning.

The CHAIRMAN. How long will it take you to answer—I want to get the committee's reaction—with the indulgence of the committee we can remain and have the answers to No. 6. I think is the one Mr. Pike wanted. We can dispose of the matter today if we can hear that, a quorum being present.

Mr. DOOLIN. Mr. Chairman, this will be based upon some work that my office prepared for the Secretary, starting in 1970. We updated the series of overview charts on the Vietnamization program, the military and economic field and so forth. I would like to primarily discuss the basic changes as of 20 March.

With regard to the ARVN, Army of the Republic of Vietnam, the development of the combat support units was considered completed during calendar year 1971, and the ARVN training requirements will be stabilized at the end of calendar year 1972, except for logistical support personnel which will continue into calendar year 1973–74.

Most of the major items of equipment for ARVN were available in Vietnam by calendar year 1971. The turnover of U.S. Army bases to ARVN or other Government of Vietnam agencies totalled 162, as of the end of calendar year 1971. As of 31 January 1972, an additional five bases were turned over for a total of 167, and as of 31 January, 1972, 52 base transfers were in progress, 62 other base transfers have been planned. Six other bases have potential use identified, and only nine bases remain to have their disposition determined.

The development of the ARVN combat surface support units was considered completed during calendar 1971. The ARVN base depot upgrade program should be completed by 1 July of this year, instead of 1 January 1973 as initially estimated.

The ARVN ammunition upgrade program is expected to be completed by 1 January 1973 instead of 1 July 1973.

[Deleted.]

With regard to the territorial forces, the completion date for the development of the regional forces, or RF, which was accelerated three months last year, has been reverted back to its original completion date of 1 July this year.

The command and control structure will not be completed until 1 July 1972, due to an increase in regional force battalion headquarters. The previous date was 1 July 1971. The popular forces, or PF are considered to be completed during 1971. However the PF structure is under review and the exact number of rifle platoons authorized remains to be determined. [Deleted.]

With regard to the Air Force, the VNAF, the development of the VNAF force structure showed steady progress during calendar 1971. During calendar 1971 the total number of activated or operationally ready squadrons increased from 30 to 42. The total authorized aircraft increased from 691 to 1,005 aircraft and the total assigned aircraft in VNAF increased [deleted].

Several VNAF squadrons were activated early to provide additional combat power sooner. The overall completion dates of the major components of the force structure remain the same with the exception of the airlift forces, where an additional three months is required due to the activation of a third C–7 squadron.

Major items of equipment for VNAF were considered available for VNAF in-country, [deleted]. The turnover of major U.S. Air Force bases to VNAF is proceeding satisfactorily. VNAF will have nine major air bases upon completion of the turnover of airbases, and this includes Soc Trang Air Base, Nha Trang, Binh Thuy, and Pleiku air bases were turned over during calendar 1970, and Tuy Hoa was turned over to the U.S. Army in calendar 1970. Bien Hoa and Phu Cat were turned over to VNAF on 30 June, 1971, and 31 December 1971, respectively.

[Deleted.] The disposition of the single occupancy air bases, Phan Rang and Cam Ranh Bay is as follows: Phan Rang was scheduled for turnover on 28 March 1972, it actually took place on 1 April.

Cam Ranh Air Base is scheduled for turnover during the fourth quarter of this fiscal year to RVNAF.

The VNAF maintenance structure was considered to be developed during calendar year 1971. [Deleted.]

Proceeding quickly to the Navy and the Marines, the development of the Vietnamese Fleet Force, the blue water Navy, was completed during calendar year 1971 as programmed. Self-sufficiency of the Vietnamese Naval Shipyard will not be attained until the end of calendar 1973. Vietnam Navy training requirements will be stabilized by the end of this calendar year, except for logistical support personnel which continue into calendar years 1973 and 1974.

As of 31 December 1971, a total of 974 ships and craft have been turned over to the Vietnam Navy. As of 31 March, 1972, 976 ships and crafts have been turned over, leaving only seven more ships or crafts to be turned over.

71 U.S. naval bases were turned over by the end of the last calendar year and the completion of base turnovers will not require the two or three additional months as projected last year.

[Deleted.]

That is a very fast runthrough.

The CHAIRMAN. Thank you very much.

Members of the committee, the question before the committee, of course, is the adoption or rejection of the resolution. In the opinion of the Chair, all requirements of the resolution as introduced have been met. I want to call the attention of the committee to this, however, which is the most important thing of all.

All records and all hearings of this committee are open to any Member of the House who desires to review them and see them under the rules of the committee and the House. So in going to the floor, if the resolution is rejected, no Member is precluded from reviewing this record under the rules of the committee and the rules of the House.

Mr. BENNETT. I have written this question out, and I would like to have you listen to it. The answering of the questions as written in the resolution has apparently required you to reveal strength items of both personnel and combat equipment. I understand that it is your purpose to reveal to the public some of the answers you have given us today.

Is it true that the information which you will not make public is being retained as classified because to make it public might be of assistance to the enemy and endanger our troops?

Mr. DOOLIN. That is correct, sir.

The CHAIRMAN. All right.

Mr. STRATTON. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. STRATTON. Could I ask the Secretary to indicate the portions of the figures he gave to us that are unclassified—the combat deaths, I believe were unclassified.

Mr. DOOLIN. That is correct, the combat deaths. I have another breakdown here, Mr. Stratton, by area, which I didn't read into the record which is classified.

But the total of our losses are unclassified, and the unclassified figure of 85,000, as our strength by service in South Vietnam as of 13 April, is unclassified as is the fact our offshore strength is 34,000. That is an unclassified figure.

Mr. STRATTON. Everything else is classified?

Mr. DOOLIN. Yes, sir.

The CHAIRMAN. The previous question has been moved.

Mr. FISHER. I move the previous question on the resolution, Mr. Chairman.

The CHAIRMAN. The previous question has been moved.

All members in favor of the resolution signify by saying aye.

Opposed, no.

The roll will be called.

(A roll call was taken).

Mr. SLATINSHEK. Thirty-four members voting. The vote is 30 nay, four vote aye.

The CHAIRMAN. Thirty members having voted nay, four aye, the resolution is not agreed to, a quorum being present.

Thank you, gentlemen, for your patience today, and thank you, Mr. Secretary, for your patience and cooperation.

The committee stands recessed until ten o'clock Thursday morning.

(Whereupon, at 5:17 p.m. the committee recessed, to reconvene at 10:00 a.m., Thursday, April 20, 1972.)

Mr. HÉBERT. Mr. Speaker, I yield to the gentleman from New York (Mr. PIKE), a distinguished member of the committee, 3 minutes.

Mr. PIKE. Mr. Speaker, there is much of what the gentlewoman from New York said with which I would disagree. There is much of what the chairman of the committee said with which I would agree.

But I think the question is not who are doves and who are hawks. The question is not who supports the President and who does not. The question is not who supports the South Vietnamese and who supports the North Vietnamese. I believe most Americans resent the North Vietnamese offensive and want the South Vietnamese to repel them. I assure you that I do.

The basic question is not whose side we are on. The basic question today is, as it has been for the last 6 years, what price are we prepared to pay to support the side we are on? What price in life and in limb and in treasure are we prepared to pay? How on earth can we answer that basic question if the facts as to the price we are paying are concealed from the American people? That is what we are talking about.

This question propounded by the lady is not as to present operations and future operations. It is as to past operations. There has obviously been a change in our operations. It has been a change in response to their offensive. But there has been a change in our operations and it costs something—it costs something in money and it costs something in lives and it costs something in limbs and in money. I think what it costs and the price we are having to pay must be told to the American people so that they can make the decision as to whether it is worth it or not.

That is the only question there is. I do not think it is adequate to whisper these answers in the ears of the Armed Services Committee or to whisper them in the ears of all the Members of the Congress. I think it is essential that the American people be told. If what we are doing in Vietnam cannot stand the scrutiny of the American people, then we should not be doing it.

I yield back the balance of my time.

Mr. HÉBERT. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LEGGETT) a member of the committee.

Mr. LEGGETT. Mr. Speaker, I was one of those who voted in favor of reporting the resolution of the Congresswoman from New York because I thought the questions that she asked were very pertinent and should be asked on a continuous basis by Members of the Congress. The chairman of our committee, however, did respond to that inquiry, and we have complete responses in our committee records, which are open to review by every single Member of Congress, and I would hope that if anybody else has any other questions that they will propound them in a resolution of inquiry, and I am sure we will cooperate and get those answers. Most of the information we have obtained is merely confirmatory of the information that is in Time magazine and most of the other national publications.

I share Mr. PIKE's reservation about the overclassification here. On the other hand, we cannot review the total classification program every time an issue comes up. I think the gentlewoman from New York should be commended on her questions and also the chairman should be commended on producing the answers, and I intend to vote "present" on this resolution because the question is now moot.

Mr. HÉBERT. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. HARRINGTON).

Mr. HARRINGTON. Mr. Speaker, I do not think anyone's patriotism is on trial today, and I was pained a little by the line of questioning pursued by the gentleman from Ohio. I presume all Members of the Congress in this country are interested in our welfare and are interested in our national security, and they have a healthy interest in general in making sure that we do right to our people and to the rest of the world.

So I think we can go to the real issue, which I still believe is a question of what our policies will be in Southeast Asia.

To listen to the chairman of my committee and to listen to the gentleman from California, I am puzzled in that the accessibility of information is, I think, an illusion of openness. Yes, the information is available—but only if you can take time from your schedule to go to a backroom of the Armed Services Committee and read it and hope that your memory is good and hope also that the information will be of some use to you. And, of course, only Armed Services members—not the rest of the House—have access to information even in that way.

I think the basic question that concerns me is, basically, do we have to operate in this fashion? As a very able member of the committee remarked, we are using bows and arrows to try to obtain classified information. I am inclined to agree that we have lost sight of something that we have to focus in on again. For 3½ years we have been engaged in a regular effort to convince the American public that we should measure our success in Southeast Asia by the reduction of our combat role, and by inference, that this success would be made public at a variety of levels—whether it be departmental spokesmen or by spokesmen who have suggested that their view is the only way we should view the matter.

It is obvious to those who are concerned about the Vietnam war that there is still an enormous American commitment to South Vietnam. Attempting to hide this information or to classify it on national security grounds—and thus prevent the information from reaching both the Congress and the people—does a disservice to those who feel the policy is correct, as well as to those who feel they are opposed.

Now, at the last minute, we have some information with material deleted. I suggest the people look at it, if they think it is a complete record, and to them it is probably anticlimatic. The House has shown itself not inclined to be overly contentious when it comes to the executive branch and its classification process.

We must have access to full information on a regular basis. The war is going on. It is going on in a way that deliberately makes it difficult for the media and for the Members of Congress and, more importantly, for the public who passes judgment on us, to get information. And to suggest somehow that we have to use unique technical, parliamentary arrangements as a regular course of action, as done by the gentlewoman from New York, or to suggest somehow we have to drag the spokesman for the Defense Department literally kicking and screaming before the committee—something which, as has already been suggested, already is past tense—is not to my way of thinking supporting the position of the American people.

I am not suggesting this problem is or should be partisan. I am not necessarily suggesting that the point of view I hold and that others hold is one we should all vote for. I am suggesting that those who think the policies make sense should have the courage of their convictions, that the process should be more open, and that the American public has the right to be more aware—and aware of the approximately 1,000 American aircraft in Southeast Asia and that we now have a Navy presence larger than in 1968, and that we begin to measure the war claims based on these figures and not on the troop strength of 1969 as estimated.

I do not think the effort this afternoon has got to be the question of the war. It has to be what we as an institution, as the Congress, should expect from ourselves and the executive department. I really do feel we should expect a great deal more openness from them and from ourselves. It should not be from any committee investigation that we somehow force cooperation and confession. I think the Congress is too willing to play second fiddle in our relationship to the executive branch.

Mr. HÉBERT. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Speaker, I support House Resolution 918, a resolution of inquiry seeking information about the bombing in Indochina.

The Constitution vests the power of war and peace in the Congress—and only in the Congress. To carry out this constitutionally mandated responsibility, it is essential that the House—and all Members, not merely those who serve on the Armed Services Committee and who hear classified information—have access to the facts and figures, the statistics surrounding this war which has been waged in the name of the American people for 7 long dreary years.

Yet, with secrecy and blatant news management the Nixon administration has attempted to hide from the Congress and the American people the recent reckless and drastic escalation of the war in Southeast Asia. The substitution of American airpower for ground forces does not diminish U.S. involvement nor make it of less vital concern to us in Congress or to those whom we represent. The costs—the cost in people, the cost in resources drained, the cost in youth alienated, the cost in a country divided—should all be well known to each and every one of us.

The question is whether we are going to permit the secrecy and the news management and the concealment of facts to continue, or whether we, as Representatives, are going to demand that the executive branch fully inform the Congress and the American people.

In Southeast Asia itself, the examples of secrecy and news management are legion.

Sortie and tonnage figures per country remain classified, concealing the deep involvement of the United States in the massive air campaigns over Laos and Cambodia.

Statistics for the bombing of Hanoi and North Vietnam have recently been classified, allowing for further hidden escalations.

Reporters are not permitted to accompany spotter and attack planes on their missions over Laos and Cambodia, as they were in the past over South Vietnam, resulting in unreported civilian casualties and ecological destruction in Vietnam. Pilots, air attachés, and other personnel involved with the bombing of Laos and Cambodia are functionally inaccessible to newsmen, which again serves to censor independent accounts of the effects of the air war.

Aerial reconnaissance folders, some of them quite old, of areas designated as civilian sectors remain inaccessible to Congressmen and to newsmen. These photographs would reveal once and for all the extent of bombing of civilian areas so that we would have an understanding of what the massive application of airpower in Vietnam really has meant in the devastation of that country, which we are destroying in order to save.

The story of the captain, commenting upon a destroyed village in Vietnam some years ago, gave a very apt description of what the mission was, "We had to destroy the village in order to save it."

Only the sketchiest information is available on the costs of the air war and the relative amounts of the different types of ordnance used. The lack of such information obscures the costs and conceals the antipersonnel character of the bombing.

For almost a decade, a brutal war has been waged by our Government in the name of the American people. It is high time the public was told the truth about our disastrous involvement in this devastating conflict.

The passage of the resolution before us today would be a major stride in tearing the veil of secrecy from the war in Indochina and exposing it for what it really is.

How unfortunate it is that it is only now that the so-called Kissinger papers are being revealed. These papers—National Security No. 1—tell us, as the Washington Post editorialized this morning:

That by early 1969 only the very same people who had made most of the miscalculations which carried us up to March of 1968 with a big war and no solution still believed that the war in Vietnam was winnable in any practicable sense.

The Joint Chiefs of Staff and the military command in Vietnam and the diehards in the Saigon Embassy still believed this. But there was a considerable body of opinion that believed otherwise, that was prepared to support and reinforce a new, more realistic and more promising approach to Vietnam. By and large, the Secretary of Defense, the State Department and the CIA believed:

That the North Vietnamese had the will and the resources to carry on the war indefinitely against unlimited bombing;

That the South Vietnamese showed little prospect of ever being able to conduct their end of the war without extensive American military support including the use of air power and combat troops;

That pacification wasn't working and showed little hope of working over the long haul;

That B52s were a doubtful asset except for close in tactical support of combat operations;

That there was something to be said for promoting accommodations on the local level, in the districts and villages and provinces, between the government people and the Viet Cong;

That neither this country's standing in the world nor the fate of Southeast Asia hinged on the outcome of the Vietnamese struggle.

Yet, while the President ignored the counsel of the National Security Memorandum, the American people and its representatives in Congress were not told that it even existed. This callous disregard of the people's right to know cannot be countenanced.

The basic issue is the imperative need for the Congress to heed the desires of the American people in bringing this war to an immediate end. Another death is one too many. Another day is one too much. It is time to give peace a chance.

Mr. HÉBERT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I rise in support of the resolution.

I would like to call attention to the basic nature of the information being requested: How many men have we in Vietnam? How many times a government acting in our name has bombed another country? How many countries are we fighting in today?

It is a scandal that we, Congressmen—so-called legislators—have to go to the executive branch begging hat in hand for this sort of information. Must we always grope about in the dark, killing and maiming and wounding like a blundering giant, without even knowing it? Will this be our excuse when we are confronted with the consequences of our acts—"Well, we didn't really know what we were doing?"

Mr. Speaker, I look at the adverse report that the committee has kindly provided us with, and I see these phrases "in view of the fact," "since," "because of," and I think that these men we are going to see some reasons for the bizarre refusal to provide this basic data. But no—all we see are mere repetitions of the same refusal. Does the Department of Defense think that all they need do is smile at us blandly and mutter "public interest," and we will go quietly away, saying, "Our master has spoken. We need not fear—surely he will take good care of us."

When the Nixon administration took office, we all hoped that they had learned from the mistakes of the previous administration.

And they have.

The previous administration seemed to think they had to convince us—and because they did not have a case, they lied.

They were found out in their lies, and what happened?—protests, accusation, a sense of betrayal.

Yes, the present administration has learned from this mistake: If you cannot say anything good, and you do not want to be caught in a lie—why, do not say anything at all. And then, when someone asks an inconvenient question, shake your head in a statesmanlike fashion and say, "If you only knew what I knew—how sorry you would be you were so unkind."

Mr. Speaker, we have to admit that sometimes democracy has a few inconveniences. One of these inconveniences is that if you want to carry out insane, illegal and immoral adventures on the other side of the globe, you will have to rip your own country apart in order to be able to do it. This inconvenience can be removed if we starve democracy of its life-blood, which is full and accurate information. But there is no fifth amendment for the Government—democracy depends on the Government being forced to give incriminating evidence against itself.

Mr. Speaker, our responsibilities are clear, it is time to live up to them. I am convinced that once the American people become aware of what is being done in their name—once they realize the demented and murderous way in which Yankee ingenuity, which they are justly proud of, is being used—they will want nothing so much as to stop this war as fast as possible.

Therefore, I am putting into the RECORD at this point information gathered with painstaking care from nonclassified sources by various groups on the outside. I think we Representatives should be shamed by these private citizens who must do our work for us.

And if those who identify the pride of powerful men with the enduring interests of this country feel that the careful conclusions of these observers is biased or misleading—why, let them reply, not with vague innuendoes and melodramatic accusations, but with precision, clarity, and rationality. Mr. Speaker, the in-

formation contained in these insertions is specific—let us have specific information in return, so that we have a basis for rational discussion, not blind and slavish trust.

One year ago this week, I served as chairman for a series of four ad hoc hearings concerned with the command responsibility for American war atrocities in Southeast Asia. Those hearings were held because it was evident that the powers-that-be here in Congress and in the administration had no desire that the many serious questions relating to responsibilities for war crimes be given open and free discussion and scrutiny.

Now, 1 year later, the only difference is that the public's attention has been drawn away from the war atrocity issue. But I wonder how much less an atrocity it is when we bomb indiscriminately miles up in the sky; obviously, the face-to-face war crime just does not occur as much when the number of ground troops is lessened.

Yet, I am sure that we will never be able to forget the effects of the thousands of American war atrocities that have taken place and now continue under a new guise. The information which I shall place into the RECORD centers on the overall area of war crimes and the effects of those horrors upon the Asian peoples and upon our own society.

The materials follow:

[From the Christian Science Monitor]

MY LAI: FOR THE HISTORIANS TO SIFT

(By Leon W. Lindsay)

(NOTE.—Mr. Lindsay, former Atlanta bureau chief of The Christian Science Monitor, followed the My Lai trials and interviewed Colonel Herbert.)

No more charges are pending in connection with the My Lai incident. And all but one of those criminally charged have been acquitted.

But the United States Army will long feel the after shock of My Lai. It's a perplexing moral and legal tangle however viewed. For example:

Capt. Ernest Medina's trial was a cakewalk for defense attorney F. Lee Bailey.

Halfway through the proceedings several points were clear:

1. The government had seriously overstepped its own evidence in charging the captain, who was in charge of the My Lai attack, with three counts of murder and one of assault. At that point "veteran" My Lai trial reporters had concluded that only the assault charge had any chance of holding up.

2. The Army major and captain assigned to prosecute Captain Medina had a meticulously prepared case—on the surface. Yet they were continually untracked by their own witnesses.

3. With only a couple of exceptions, the prosecution witnesses who had served under Captain Medina that fateful day in March 1968, were hostile to the prosecution. Most made quite evident their continued respect for their former commander.

The final outcome—Captain Medina wasn't even convicted on the assault charge—was predictable. But there was speculation that the government would have had a better chance at a conviction if it had simply charged the captain with a coverup. (In the Col. Oran Henderson trial later, Captain Medina admitted he had misled his superior about the number of civilians killed.)

Why the Army did not try him on the lesser charge is a lingering question.

The acquittal of Colonel Henderson has closed the legal books on the My Lai massacre, with only the President's review of Lieutenant Calley's sentence—already reduced from life to 20 years—hanging fire. But the controversy over the military flaws that permitted a My Lai and the subsequent coverup is not a closed book.

One individual determined to keep the issue alive is Col. Anthony B. Herbert—soon to be a civilian—who was sitting on the shelf at Ft. McPherson, Ga., while the Medina trial unwound on the same post.

The charges and countercharges between Colonel Herbert and his superiors in Vietnam are now just so much water down the Mekong.

But the much-decorated combat veteran has made some observations about that war and the attitudes it engendered which still echo ominously.

About accountability for violations of prisoners' rights:

"Everyone along the line should be held responsible. Those officers who failed to make the reports to higher headquarters and failed to make the investigations which would have stopped these crimes should be held accountable for their failure to do so."

About pacification:

"Pacification in our brigade (173rd Airborne) was just a word that came down. Just to show how ridiculous things got: We went into a meeting with General Barnes—it wasn't a classified meeting. Major C—stood up and said some 93 percent of the Bon Song plains were not pacified. The general made a statement to the effect that we had to get it down to around 70 or 65 percent. We sat there for about two hours, and within this time we got it down to the necessary percent. Nothing was done on the ground, it was just done on paper."

About psychological pressure on GIs:

"That's a very fine story that comes out of Vietnam: 'I was under pressure' . . . 'My buddy just got killed and these were the people that killed him.' 'Or that women and children carry grenades and throw them.' This is a fine alibi to justify what you do.

"It's true, too, that women carry grenades and guns, and women fight. I carry grenades, too, and I shoot. But the minute that I stop shooting and I drop my rifle and raise my hands, I become a prisoner under the Geneva Convention. I don't expect to be tortured or mistreated."

"The minute that woman—I don't care if she's fired and killed your best friend—is captured, you have no right to become judge, jury, and executioner and eliminate that person. . . ."

What might cause shootings or mistreatment of noncombatants:

"Men who were abusive in any way were not those who fought best on the front lines. They were those people who were frustrated, who never put themselves in position to risk their own lives, and now they could say they had killed an enemy—of course, when it was very safe to do so.

"What happens is, a person is very afraid inside. He starts feeling people are recognizing that he is fearful. So the minute he gets a chance to show how tough he is, he does it. He strikes out in fear."

On command responsibility:

"If a commander makes it very clear he will not tolerate torture or abuse of prisoners, the prisoners are not mistreated. If the commander lets it get out in any way—by tacit condonement or by not taking action—that he will accept torture or killing of prisoners, then there are certain individuals who start thinking this is what the commander wants. So they start giving him what they think he wants. . . ."

These personal observations by a former combat leader are perhaps colored by his own sense of being unjustly criticized. But they nevertheless fit into the out-of-court statements on the atmosphere behind My Lai—statements that now go to the historians to sift.

[From the Los Angeles (Calif.) Times, Jan. 1, 1972]

MY LAI—WAS JUSTICE CARRIED OUT?

(By Kenneth Reich)

ATLANTA.—To Capt. Franklin R. Wurtzel, an Army prosecutor in several My Lai cases, it is most revealing that no one accused of involvement in the massacre was ever charged under Article 18 of the Uniform Code of Military Justice.

Article 18 has to do with courts-martials for violations of the "laws of war"—war crimes, violations of The Hague and Geneva conventions and the Nuremberg principles.

"It was more palatable, I suppose, to consider the violations as straight homicides rather than war crimes," said Wurtzel as he reflected recently on the My Lai trials which have now ended. Even Calley was simply accused of murders that happened to involve foreign nationals. Putting an actual war crimes charge was the first hurdle the Army didn't want to get across."

The young captain, like some others involved in handling 2½ years of My Lai investigations and trials, believes something went badly wrong in the process.

ONE OF 25 CONVICTED

With the acquittal Dec. 17 of Col. Oran K. Henderson on charges of covering up the massacre, the sixth and last of the My Lai trials ended.

The Army had charged 25 officers and enlisted men with participating in the mass killings of unarmed, unresisting Vietnamese men, women and children, or of being involved in covering them up. Nineteen of these had their cases dismissed before trial. Five of the remaining six were acquitted.

Only 1st Lt. William L. Calley Jr. stands convicted in the My Lai affair—of 22 premeditated killings. His life sentence was reduced on first review to 20 years and his case remains on appeal.

On direct order of President Nixon, Calley was released from the military stockade three days after conviction and allowed during the appeal process to remain confined in his two-bedrom, Ft. Benning, Ga., apartment, where he is under armed guard.

"CERTAINLY A MESSAGE"

Calley's defense attorney, George L. Latimer of Salt Lake City, said last week he was hopeful Calley would get some help soon at high levels toward being freed.

What the testimony of scores of witnesses in the trials, in an official Army investigation and in the investigation of a congressional subcommittee confirmed was that, as President Nixon had said in December, 1969, "certainly a massacre" by American troops took place at the village of My Lai 4 in South Vietnam's Quang Ngai Province on March 16, 1968.

More than 100, and perhaps several hundred, unarmed civilians died, many of them after being rounded up, shoved in a ditch and shot.

HEAVY CASUALTIES

The massacre occurred after the enemy's Tet offensive in one of the strongest enemy bastions. In the previous two weeks, more than 1,000 American soldiers had been killed in action in South Vietnam. In the My Lai trials there was considerable testimony relating how terrified many American soldiers had been during this period.

The participants in the massacre—men of Company C, First Battalion, 20th Infantry of the Americal Division—never had been in a combat assault but had taken gruesome casualties in a mine field and from booby traps.

The village was known as a Viet Cong stronghold, its inhabitants as Viet Cong sympathizers, and an intelligence report had claimed, erroneously as it turned out, that a main enemy unit would be there.

By coincidence, that same morning Sen. Robert F. Kennedy was announcing his can-

didacy for President. Four days earlier, in the New Hampshire primary, Sen. Eugene J. McCarthy had dealt President Johnson a severe political blow. The antiwar forces at home were showing unprecedented strength.

But it was not until 17 months later that the My Lai massacre burst upon the American consciousness.

For until a Vietnam veteran, Ronald Lee Ridenhour, wrote to 30 government and Army officials in 1969 and a preliminary Army Criminal Investigation Division inquiry showed that what he said was essentially true, no one at high levels in Washington apparently knew about the massacre. It had been covered up at lower levels in Vietnam.

PROBES PROMISED

The public revelation was followed shortly by statements at the highest levels promising a complete investigation and punishment of the guilty.

The President said at a news conference Dec. 8, 1969, "What appears was certainly a massacre; under no circumstances was it justified."

A few days before he had promised that those involved would be "dealt with in accordance with the strict rules of military justice." Killing civilians, said Mr. Nixon, "is in direct violation not only of U.S. military policy but is also abhorrent to the conscience of all the American people."

As other national leaders spoke out, another point was asserted and reiterated: As Mr. Nixon put it, My Lai was an "isolated incident" and should not be allowed to "smear the decent men who have gone to Vietnam."

INQUIRIES ORGANIZED

Even as the statements went on, the two major investigations were organized—an Army inquiry headed by Lt. Gen. William R. Peers and an inquiry by a subcommittee of the House Armed Services Committee chaired by Rep. F. Edward Hébert (D-La). Named by the late Rep. L. Mendel Rivers (D-S.C.), then chairman of the Armed Services Committee, this panel was composed of four congressmen who backed the war.

The Hébert subcommittee later concluded, "There is no question but that a tragedy of major proportions involving unarmed Vietnamese, not in uniform, occurred at My Lai 4 on March 16, 1968, as the result of military operations of units of the Americal Division . . . Competent testimony established that a large number of Vietnamese not in uniform were deliberately killed."

The Peers panel, which interviewed about 400 persons in 3½ months in late 1969 and early 1970, compiled a several-hundred-page summary which reportedly is the most complete account of what happened. Peers said the inquiry "clearly established that a tragedy of major proportions occurred there on that day."

As a result of the Peers inquiry, 14 officers, including two generals, were charged with misconduct in connection with My Lai—13 of them accused of offenses involving an alleged coverup. Later, these charges were dismissed in the cases of 12 of the 13—leaving only Col. Henderson to stand trial.

A highly censored version of the Peers summary was released by the Army on March 17, 1970, at which time Stanley Resor, then-secretary of the Army, promised that "substantially all" of it would be made public—after the My Lai judicial proceedings were over.

Last week, with the My Lai trials finished but not the Calley appeal, the Army said it was no longer bound by Resor's promise. After this was reported, an Army spokesman indicated privately that the Peers report would not be made public.

My Lai had happened as the Ridenhour letter said, and the highest officials of the American government promised to do something about it.

UNPOPULAR TRIALS

But almost from the first, there were indications that prosecution of the men involved would be unpopular, that substantial elements of the Army did not favor making a major issue of the massacre and that popular attitudes on the questions raised were not as unanimous as the President had indicated.

All of this was to become evident after Calley was found guilty last spring.

In the wake of the public uproar over the Calley verdict and President Nixon's hasty intervention, a number of surveys were taken. A Gallup poll showed that eight of every 10 Americans objected to the jury's findings.

Of those objecting 20% argued that what Calley had done was not a crime, while the others agreed it was a crime but insisted the lieutenant was being punished for the sins of higher-ups or the nation as a whole.

A more comprehensive survey was released Dec. 27 by two Harvard social scientists who had supervised a nation-wide series of 40-minute interviews with 989 citizens during the period May 28–June 12, 1971, two months after the verdict.

One of the questions was, "Considering what you have seen, heard or read, do you approve or disapprove of Lt. Calley having been brought to trial?"

Of the 989 questioned, 34% said they approved, 58% disapproved and the rest were undecided.

Almost two-thirds of those disapproving of the trial did so because they felt it was unfair to hold Calley responsible for what occurred in the course of performing his duties.

Asked what most people and what they themselves would do if ordered to shoot all of the inhabitants of a Vietnamese village suspected of aiding the enemy, including old men, women and children, two-thirds of the entire sample of 989 said that most people would follow orders and shoot and 51% said that they themselves would do so. Only 19% said they would definitely refuse to shoot.

The sample indicates that public opinion had ignored, dismissed or was ignorant of the Army prosecutor's contention that Calley had been given no such orders and "did not do his duty" at My Lai.

Calley was charged only two days before he was scheduled to leave the service and only after four young captains serving as Army lawyers at Ft. Benning, Ga., had decided to personally charge him themselves if the Army did not do so by his release date. Had he been released, it is highly doubtful he would ever have been brought to trial.

THREE MAJOR QUESTIONS

As the My Lai investigations developed in the fall of 1969 in the first public uproar after revelation of the charges against Calley, officers involved in the prosecution of those allegedly responsible were confronted by several major questions:

1—What happened at My Lai and how wide should the prosecution cast its net?

2—What about those who had already left the service? Was there any way to try them?

3—How exactly should those accused be tried?

The ultimate answers were these:

1—Despite the Peers report implicating 13 officers in the coverup—including a major general who had become superintendent of the U.S. Military Academy at West Point—and strong indications that unjustified killings had taken place at the hand of another American company at a village a few miles from My Lai on the same day, the scope of the prosecution was drastically narrow.

CASE DISMISSED

The one officer charged in alleged murders outside My Lai—Capt. Thomas K. Willingham of Allenhurst, N.J.—had his case dismissed at Ft. McPherson, Ga., June 9, 1970, on grounds of insufficient evidence. A trial of Willingham might have shed light on the still obscure question of alleged killings by members of Company B, 4th Battalion, Third Infantry of the Americal Division at the village of My Khe, two miles from My Lai.

If this company, which was serving as a blocking unit for the My Lai combat assault, also was involved in such killings, variously reported at 20 to 100, it might have indicated that orders from above had something to do with the way the overall operation turned out.

Of the 13 officers accused in the coverup, Henderson was the only one brought to trial.

Capt. Ernest L. Medina, commander of Company C at My Lai, who was among the 13, was tried on charges of responsibility for the massacre, but not of coverup, which he subsequently was to admit on the stand in three separate trials—his own, Calley's and Henderson's.

The Army explained officially that it did not feel it could fairly bring Medina to trial for an offense and at the same time charge him with covering up that offense.

ATTORNEY DISAGREES

But Robert MacCrate, a New York City attorney who was one of two civilians invited to serve on the Peers panel, said in an interview last week that he had never been able to understand not charging Medina with a coverup.

"They felt they had to make a choice between murder and coverup," he observed. "This is the kind of argument you get in the first year of law school. If I had been the charging officer, I certainly would have felt the coverup point was a very central one. It's awfully hard to hold one man for murders that were committed by another."

As it was, MacCrate noted, Medina was acquitted on the charge of responsibility for the murders and escaped punishment for what he clearly admitted—that he had lied repeatedly to higher authorities about what had happened at My Lai.

MacCrate also objected publicly last January when Lt. Gen. Jonathan O. Seaman, commander of the First Army at Ft. Meade, Md., ordered dismissal of the coverup charges against Maj. Gen. Samuel W. Koster, former commander of the Americal Division. Koster had resigned as superintendent of the Military Academy when he was charged with failure to obey lawful regulations and dereliction of duty in covering up the massacre.

Seaman said he was dismissing the charges "in the best interests of justice" although there was "some evidence" that Koster had known of civilian killings at My Lai and had failed to investigate.

DEMOTED, CENSURED

Koster later was demoted to a brigadier general, censured and his Distinguished Service Medal was revoked. One of his assistant divisional commanders, Brig. Gen. George H. Young Jr., whose case also had been dismissed by Seaman, was censured and his Distinguished Service Medal was revoked.

But the scope of the My Lai trials had been narrowed. Eventually, only three officers and three enlisted men were tried. The highest-ranking was Col. Henderson, commander of the brigade to which Company C belonged.

2—The question of trying approximately 10 suspected My Lai massacre participants who had already left the Army was finally resolved by deciding not to do so.

The reasons given have been conflicting. A Pentagon spokesman said it had been determined that there was no jurisdiction for trying the men.

MEMO SUBMITTED

But Maj. Gen. Kenneth D. Hodson, who served as Army judge advocate general during this period, confirmed in an interview Dec. 24 that Army legal experts had written a memo holding that a man could be tried by a presidentially appointed military com-

mission for violation of the "laws of war" even if he had left the service.

One Pentagon spokesman who is highly knowledgeable about the My Lai cases has said he believes the Army legal people submitted this memo to the Justice Department for a decision and that it might have gone as high as the White House before being resolved.

F. Lee Bailey, Medina's attorney, has publicly named Dep. Atty. Gen. Richard Kleindienst as the Justice Department official who "rode herd" on the My Lai cases for the Nixon Administration.

But Hudson denied that any "finite decision was ever made" on trying the men who had left the service.

"We really didn't have to answer the question," he said. "There was no former serviceman anywhere who had the overwhelming evidence against him that Calley did and Calley was in the service. So we decided 'we'll go with our best case in the forum where we have certain jurisdiction (a general court-martial) and see what the reaction is'."

According to Hodson, who is now head of the Army judiciary, the acquittal of Sgt. Charles E. Hutto on My Lai assault charges at Ft. McPherson last Jan. 14, insured that there would be no trials of any men outside the service.

KEY ACQUITTAL

He asserted that there had been more evidence against Hutto than any of the suspects outside the service and that when Hutto was acquitted "the decision was made for us."

This assertion by Hodson was surprising, however, to some observers of the Hutto trial. They recall that the only proof the prosecution could offer that Hutto was guilty was the statement he himself had given Army investigators before he thought he was going to be charged. The televised confession of at least one of the men who had left the Army, Paul D. Meadlo, a member of Calley's platoon, was far more explicit than this statement.

3—Although the Army briefly considered one mass trial for the My Lai suspects, it was decided to try them in individual courts-martial. Aside from Staff Sgt. David Mitchell, who was tried at Ft. Hood, Texas, and Calley, who was tried at Ft. Benning, Ga., all of the suspected participants in the massacre were assigned to Ft. McPherson and all of those suspected in the coverup were assigned to Ft. Meade, Md.

The burden of making the decisions as to whether to bring the suspects to trial, and whom to appoint as Army prosecutors, investigators and defenders was thus left to the commanders and staffs of the First Army at Ft. Meade and the Third Army at Ft. McPherson—Lt. Gens. Seaman and Albert O. Connor.

DROPPED MOST CASES

These generals decided to dismiss most of the cases without trial and appointed the jury panels from which the juries were selected at four of the six courts-martial. Gen. Connor decided to reduce Calley's sentence from life in prison to 20 years.

One result of the Army's decision to leave responsibility for the cases mainly at lower levels was that in a number of the trials observers felt the prosecutors were outclassed by the extremely able civilian defense attorneys the defendants employed.

The only trial where this was agreed generally not to have been the case was Calley's, where Capt. Aubrey M. Daniel III emerged as an extremely dedicated and able prosecutor.

The trials began in Texas in late 1970 with the court-martial of Sgt. Mitchell, accused of assault with intent to murder.

PROSECUTION CRIPPLED

The prosecution's case was crippled when the military judge, Col. George R. Robinson, ruled that witnesses who had appeared before the Hebert congressional subcommittee could not be called to testify against Mitchell unless a transcript of their prior testimony was made available to the defense. Hebert refused to make one available and the key witnesses were never called.

The Robinson ruling was not followed by the judges in the other trials. The testimony before the Hebert committee has never been made public.

The trial of Sgt. Hutto followed at Ft. McPherson in January. Hutto had admitted shotting at Vietnamese civilians at My Lai but claimed he did so under orders.

A military jury took two hours to find him not guilty after the judge, Col. Kenneth A. Howard, drew a distinction between what he said was an "illegal" order and a "manifestly illegal" order in his instructions to the jury. He said if the jury were to find that the order was "manifestly illegal" (illegal on the face of it), Hutto would have no excuse and would have to be convicted.

However, if the jury were to find that it were merely illegal, then it would have to implement a "reasonable man" test to determine if Hutto knew it was illegal, the judge said. He went on to describe Hutto as a "naive young man" and referred to expert psychiatric testimony presented by the defense that Hutto was incapable of forming the intent to murder.

DECISIVE EFFECT

The Hutto acquittal Jan. 14, apparently had a decisive effect not only on the Army's decision, according to Gen. Hodson, not to pursue prosecution of men outside the Army, but it also apparently led directly to Gen. Connor's decision to dismiss the remaining charges against other enlisted men.

On Jan. 22, Connor announced that "in the best interests of justice" he was dismissing the remaining enlisted cases. Later knowledgeable sources said that Judge Howard had informed the authorities that no one would be convicted in his court unless there was more evidence against him than there had been against Hutto. Connor was said to have decided that it would be fruitless to prosecute the remaining cases.

Another factor, some of those involved in the prosecutions later indicated, may have been the realization on the part of the authorities of the lack of sympathy the public had for trying the enlisted men. "We always felt the public was against us on this," said Col. Wilson Freeman, Third Army Staff Judge Advocate and Gen. Connor's legal adviser.

Even as the enlisted cases were dismissed the Calley trial was under way at Ft. Benning.

STRONG EVIDENCE

As Gen. Hodson said in the interview, the Army was able to make its strongest case against Calley. In the trial, six men testified that they saw the lieutenant kill unarmed, unresisting men, women and children and Calley admitting shoving unarmed people he found at My Lai into a ditch and shooting at them from a distance of five feet.

More than 90 men testified at the trial and none said they had noted any resistance in the village. Calley, testifying in his own behalf, was the only witness who stated flatly that orders had been received from a higher level than he to kill noncombatants. In the later trial of Medina, the Army prosecution did not contend that Medina had given such orders.

On March 29, after 89 hours and 58 minutes of deliberations spaced over 13 days, the six-man military jury composed entirely of professional officers and combat veterans found Calley guilty of 22 of the 109 premeditated murders with which he had originally been charged. Two days later, it sentenced him to life in military prison. Its only other option, given its guilty finding, had been death.

The public reaction was immense, startling and deeply negative. State legislatures adopted pro-Calley resolutions, Alabama Gov. George C. Wallace demanded a pardon and visited Calley after Calley was released from the stockade on President Nixon's order.

A number of draft boards resigned. Thousands of letters backing Calley were sent to the White House. "Free Calley" bumper stickers appeared by the thousands and a pro-Calley ballad became a popular song.

One day after Calley was sentenced—as the furor gained momentum—President Nixon intervened. Normally, Calley would have been taken quickly from the Ft. Benning stockade to the military prison at Ft. Leavenworth, Kans., for imprisonement during his appeal.

But Mr. Nixon ordered that Calley be released from the stockade and held in his Ft. Benning apartment pending review of his conviction. (The time Calley serves in the apartment counts toward fulfillment of sentence. Now that his sentence has been reduced to 20 years, he will be eligible for parole early in 1978, if his sentence is not further reduced or nullified.)

DISCRETIONARY STEP

Explaining the President's decision to release the lieutenant from the stockade, Mr. Nixon's press secretary, Ronald Zeigler, said, "This is not a legal step. It is a step taken at the President's discretion. He just personally felt that Lt. Calley should not be put in the stockade or sent to Leavenworth while review is taking place."

Two days later, the White House announced Mr. Nixon also had decided to make a final review of the Calley case after the military appeals process was ended to decide whether the conviction and sentence should be affirmed.

John D. Ehrlichman, Mr. Nixon's domestic affairs aide, explained, "the President felt, in this case, having captured the interest of the American people as it has, that it was important for him to make clear at this stage that it would include more than the legal process the military code of justice provides."

Ehrlichman asserted that Mr. Nixon was "trying to be very scrupulous not to interfere" in the case and that his actions reflected in no way on the "merits" of the case.

A dramatic response came in a letter to the President dated that same day (April 3) from Aubrey Daniel, the young Virginian who had been the Army's prosecutor against Calley.

QUOTED PRESIDENT

Daniel quoted Mr. Nixon's news conference statement of Dec. 8, 1969: "What appears was certainly a massacre and under no circumstances was it justified. One of the goals we are fighting for in Vietnam is to keep the people of South Vietnam from having imposed upon them a government which has atrocity against civilians as one of its policies. We cannot ever condone or use atrocities against civilians to accomplish that goal."

The prosecutor wrote, "In view of your previous statements concerning this matter, I have been particularly shocked and dismayed at your decision to intervene . . . Your decision can only have been prompted by the response of a vocal segment of our population who while no doubt acting in good faith, cannot be aware of the evidence which resulted in Lt. Calley's conviction. Your intervention has, in my opinion, damaged the military judicial system and lessened any respect it may have gained as a result of the proceedings."

Going on to laud the jurors in the Calley trial, who had come under considerable public vilification, Daniel told the President, "It would seem to me to be more appropriate for you as the President to have said something in their behalf and to remind the nation of the purpose of our legal system and the respect it should command.

"I would expect that the President of the

United States, a man whom I believe should and would provide the moral leadership for this nation, would stand fully behind the law of this land on a moral issue which is so clear and about which there can be no compromise.

"For this nation to condone the acts of Lt. Calley is to make us no better than our enemies and make any pleas by this nation for the humane treatment of our own prisoners meaningless . . ."

A White House spokesman said Dec. 29 that a Nixon staff member had replied to Daniel in the President's behalf, but that the reply would not be made public.

REACHES CLIMAX

With the explosion of emotion over the Calley conviction, the My Lai affair reached a climax.

Capt. Eugene M. Kotouc, an intelligence officer who had provided some of the information on which the My Lai combat assault was based, had been accused of assaulting and maiming a prisoner while questioning him.

Kotouc admitted he had cut the tip of one of the prisoner's fingers off with a knife while attempting to scare him into talking, but he insisted it was an accident. He was acquitted.

In August, Medina went on trial at Ft. McPherson in a proceeding tinged with important questions of command responsibility.

The prosecution had dropped its contention that Medina had ordered the massacre. It based its claim of his responsibility for it on the allegation that he had become aware of it at an early stage of the My Lai operation and had not acted promptly to stop it.

Medina had actually admitted as much in the course of a lie detector examination he had taken in November, 1970, but this was inadmissible as evidence. The young Army prosecutors, Eckhardt and Wurtzel, who often seemed uncertain and unskillful as compared to the flamboyant Medina defense attorney, F. Lee Bailey, marshaled few witnesses who could testify clearly as to Medina's awareness.

Military Judge Howard, who also presided in the Hutto case, made several rulings on admissibility of evidence that also restricted the government's case. The defense put on a number of articulate, neatly attired members of Medina's company who impugned the testimony of prosecution witnesses.

CHARACTER WITNESSES

Howard finally ruled the jury could find Medina guilty only of involuntary manslaughter on the responsibility charge.

The five-man military jury deliberated 57 minutes before finding Medina not guilty on that charge as well as two other charges the judge had left standing.

During the Medina trial, the defense brought a number of ranking officers into the court as character witnesses, including the deputy post commander at Ft. McPherson. All gave Medina highly favorable endorsements. The night before the verdict, Judge Howard told reporters that he thought "Medina has the American people on his side" and he revealed that he had said to Medina, in the course of a personal conversation in chambers, that he ought to stay in the Army after his trial because, "You're the kind of guy we want."

Soon after acquittal, however, Medina left the Army for a job with a helicopter company.

MEDINA ADMITS LIES

Later, during the Henderson trial, in crucial testimony that tended to clear the colonel on the coverup charges, Medina said that he had lied to Henderson about the extent of civilian killings at My Lai, telling him that 20 to 28 had been killed when he had been informed it was 106. He also admitted he had misled authorities during the later My Lai investigations.

Although there were many inconsistencies in testimony in the Henderson trial, which took 62 days and tied the Calley trial for the longest court-martial ever held in the Army, the doubts led to acquittal of Henderson on all charges after less than four hours of jury deliberation. He, too, promptly announced that he would leave the Army.

So the trials ended.

Last week, the Army said it was still considering administrative action against nine men—four enlisted men and five officers—who had been cleared of criminal charges in the My Lai affair and remained in the Army.

This action could include discharges for the enlisted men and censure or reprimands for the officers.

In interviews, the reactions of those involved in handling the long series of investigations and trials varied, although the predominant note seemed one of disappointment and chagrin that the time and estimated $10 million spent had borne such little fruit in terms of ever publicly clearing up questions about what had happened at My Lai.

Even defense attorneys expressed unhappiness at the outcome as a whole.

F. Lee Bailey, who plans to write a book about the My Lai cases, remarked, "I think the most you can say about My Lai is that it represents an evolution of popular attitudes about war. In the old days of bald, all-out partiotism, no one would have dared try these men. I think it's good they were tried. But I think a lot of them were deliberately let off the hook."

Charles L. Weltner, a former Georgia congressman who represented one of the enlisted men whose case was dismissed, Sgt. Esequiel Torres, said bitterly:

"WE MASSACRE, TOO"

"There was only one thing important to come out of the My Lai case—that is the realization that Americans can massacre people just like gooks and there's really no difference between us and them. The My Lai trials were an effort to perpetuate the illusion that there was, but I don't think people believe that any more and I think that's important, that we realize we're just like Bengalis, Pakistanis, North Vietnamese and everyone else—we massacre like everybody."

Gen. Hodson, the former Army judge advocate general, took a sharply different view. He said the Army had made a diligent attempt to prosecute the cases. But, he said, so much time had passed that memories had faded and the prosecution had to necessarily rely on the testimony of soldiers and former soldiers who wanted to protect themselves from possible findings of guilt.

Ronald Ridenhour said he remained convinced that the Army did not handle the My Lai cases satisfactorily, but on reflection, he added:

"I think that what everyone forgets is that what was most in my mind when I wrote those letters was to get the policy, the military policy, changed in Vietnam and save some Vietnamese lives.

TOLD OF CHANGES

"Well, they (the Army) did institute new fire policy rules," he asserted. "They set down criteria for troops opening fire, the same for artillery and helicopter gunships. We never had these before . . . at least that is what I was told by a lot of troops when I was there." (As a free-lance journalist last year.)

But official Army spokesmen, questioned in both the Pentagon and Saigon about what Ridenhour said, denied that there had been any substantive change in the Army's rules of engagement as a result of My Lai.

The spokesmen indicated some troops may have been confused by tightening up of enforcement and a few changes in the rules that were ordered in 1968 after the Tet offensive but before My Lai became known to high officials.

DECLARATION OF SCHOLARS AND PROFESSIONALS CONCERNED ABOUT U.S. WAR CRIMES IN INDOCHINA

During the past year, three major activities of national scope have persistently called public attention to charges that U.S. military operations in Indochina have involved grave and extensive war crimes. The most sensational of these activities has been the court-martial of Lt. Calley. In the course of this trial, the defense has developed testimony which implicates higher officers and which lends some credence to the charge by numerous critics of the war that search-and-destroy operations, a fundamental U.S. tactic, have characteristically involved nonselective killing of civilians. At the same time, at least a dozen new books have appeared, many by distinguished legal scholars, scientists, and social scientists, a central theme of which is that the My Lai massacre was not an isolated event. These books have also maintained that massacres of this kind are actually the outgrowth of an official military policy which sanctions and requires excessive destructiveness—in the form of saturation bombing of pseudo-military targets, indiscriminate artillery strikes, chemical destruction of crops, and the use of unlawful and inhumane weapons like napalm and fragmentation bombs. Finally, the Citizens' Commission of Inquiry and the Vietnam Veterans Against the War have held hearings in over a dozen American cities during the past year, and over a hundred Vietnam combat veterans have given eye-witness accounts about U.S. war crimes committeed in South Vietnam.

ATROCITIES BY THE NLF AND NORTH VIETNAMESE

Before we can consider the merits of these allegations, however, we must deal with a question which frequently and naturally arises: why do these veterans and these numerous books on U.S. war crimes say little or nothing about the atrocities of the NLF and the North Vietnamese? A full answer to this question would have to be many-sided. First, the combat veterans have had little or no eye-witness experience of atrocities by their adversaries and hence cannot testify extensively about them. Likewise, researchers have found that, even if we take U.S. reports of NLF and North Vietnamese atrocities at their face value, their violations are, compared to ours, not extensive enough to warrant unusual scrutiny. Rather, they approach the level of random individual atrocities which are unfortunately inevitable in warfare. Nevertheless, one book, Edward S. Herman's *Atrocities in Vietnam*, has indeed explored the available data on these violations and has attempted to compare their magnitude with those of U.S. and ARVN forces.

Another reason for the relative silence on the war crimes of the NLF and NVA is that the Nuremberg proceedings clearly established that the allegation of violations by the other side is not a legal defense against a charge of war crimes. Moreover, as the Clergy and Laymen Concerned About Vietnam suggested in their book *In the Name of America* (1968), crimes of war are a moral as well as a legal problem, and our own large-scale violations remain our own moral problem, whereas those of the NLF and NVA are their own. It is an easy and dangerous evasion, the Clergy and Laymen pointed out, to counter accusations by saying that the other side is just as bad or worse. Finally, the question of scale and technology seems decisive on this question: U.S. forces have used over 450 times more firepower than their adversary, and we have at our disposal bombers, artillery, napalm, defoliants, and antipersonnel weapons. The NLF and NVA lack all of these except a small amount of artillery. But it is precisely the bombs, napalm,

and the rest that are the main instruments of war crimes. For, once we study this subject closely, we learn that face-to-face atrocities by individual soldiers (e.g., the wanton murder of women and children by rifle-fire) are far less destructive of innocent human life than the indiscriminate use of heavy weaponry, of which we have almost exclusive possession. Hence, eye-witnesses and researchers have given the greatest attention to the principal offender.

EXCESSIVE DEVASTATION BY THE UNITED STATES

A look at the data on U.S. expenditure of firepower and other weapons should make clear the colossal excessiveness of our military operations. Moreover, it should become equally clear that the nature of the war we are fighting makes it almost inevitable that we must use our advanced weaponry primarily against civilian populations.

1. We have, according to the Pentagon, used over 10,000,000 tons of ordnance (bombs, mortar, bullets) in Indochina, over 450 times more than the NLF and NVA have used.

2. Arthur Galston, Yale biologist, reports that we have sprayed about 5 million acres, or 12 per cent of the land in South Vietnam, with 100 million pounds of herbicide chemicals. Our crop-destruction program supposedly aimed at the NLF, actually causes starvation primarily among women and children. Moreover, a recent statement by Army sources (Dec. 31, 1970) reveals that the Army knew as early as 1967 that the crop-destruction was causing deaths by starvation primarily among civilians, but decided to continue the program anyway.

3. By 1969, U.S. B–52s had left 3.5 million bomb-craters on the terrain of South Vietnam. Little imagination is required to judge how many people and homes must have existed where those 30-foot, malaria-breeding craters now deface the countryside.

4. The amount of tear gas (CS) used also vastly exceeds what we would expect for normal military operations: 14 million pounds. Contrary to Defense Dept. claims, CS is not regularly used to save enemy lives, for combatants are often shot while incapacitated and non-combatants are often flushed out of hiding by CS and then become vulnerable to rifle-fire, artillery strikes, and bombings.

5. According to NARMIC'S study, *Weapons for Counter-Insurgency*, and Thomas Riddell's *Efficiency in Death*, 105 U.S. companies manufacture a variety of anti-personnel weapons for use in Indochina. These weapons have no application except against human beings; they are used in situations which make it impossible to distinguish between combatants and civilians; they produce irregular, hard-to-cure wounds; some of them can saturate an area the size of a football field with a lethal spray of bullets; one of them, napalm, is too notorious to require description, but the less-known phosphorus is even worse. All together, the data on the manufacture and use of anti-personnel weapons reflect an unrestrained and repellent use of technology against defenseless human beings, in a manner that flagrantly transgresses any residual concept of fairness in warfare.

THE CONSEQUENCES IN HUMAN TERMS

The results of this saturation of Indochina for over six years with weapons of destruction are quite predictable. An advanced industrial nation cannot rain instruments of death in profuse amounts upon the peoples and countryside of undefended agrarian nations without expecting dire results in human and ecological devastation. Thus, the U.S. Senate Sub-Committee on Refugee and Civilian Casualty Problems estimates that 1 million South Vietnamese have been wounded, of whom 300,000 have died, primarily as a result of U.S. firepower. But Edward S. Herman in *Atrocities in Vietnam* calculates that the figure for the wounded is more like 2 million, with the death-toll at an additional 1 million, and Telfod Taylor's estimate is closer to Herman's. The Senate Sub-Committee and other sources assert that 6 million South Vietnamese people have been displaced at some time from their original homes since 1964—again, primarily by U.S. bombings and artillery strikes. Moreover, civilian amputees in South Vietnam number 105,000, military amputees number 51,000, orphans 258,000, and war widows 131,000—a total of 545,000 war victims apart from refugees. In addition, the cities now teem with a huge under-class of dislocated people who have become thieves, shoeshines, prostitutes (400,000), and boy pimps and drug-pushers.

The situation in Laos, where the bombing has been less publicized but even more intense, is proportionately grave. Out of a population of 3 million, at least 200,000 have died as a result of the bombings and 700,000–800,000 have become refugees. Thus, over a third of a nation has suffered death or the ordeal of disruption since 1964, while an undetermined number are among the wounded. Similarly, in Cambodia 1,000,000 Cambodians are already refugees as a result of our "air support," while 400,000 ethnic Vietnamese have either fled or been displaced.

U.S. VIOLATIONS OF INTERNATIONAL LAW

The military practices just described, which lead to unnecessary and excessive loss of lives and to dislocation, maiming, and social upheaval, are at the same time all violations of international conventions to which the United States has solemnly subscribed. For example, Hague IV, Article 25 states: "The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings *which are undefended* is prohibited" (stress added). Similarly, the very concept of the free-fire zone, which treats non-combatants as combatants, clearly violates the Geneva Convention of 1949, Article 3.1, which states: "Persons taking no active part in the hostilities . . . shall in all circumstances be treated humanely . . ." Again, the wanton destruction of homes by bombings, artillery, and Zippo squads (who burn homes down) contravenes Hague IV. 23g, IV. 46, and Geneva 53. Massive reprisals against whole villages for sniper fire are in violation of Geneva 33. Additionally, the forcible transfer of refugees into barbed-wire camps is manifestly unlawful, according to Geneva 49; and the growing moral erosion and contempt for international law on the part of the U.S. government is quite evident in the recent disclosure (*N.Y. Times*, January 11, 1971) that we are planning a massive relocation of South Vietnamese—estimates run from 200,000 to 2 or 3 million—because they are considered hard-core NLF sympathizers. This operation also would constitute a crime against humanity under Nuremberg Principle VI.c, which forbids the deportation of civilian populations. Other U.S. violations of international conventions include: (1) the use of napalm and anti-personnel bombs, in violation of Hague IV.23-e, which bans weapons "calculated to cause unnecessary suffering"; our complicity in (and sometimes participation in) the torture and execution of prisoners, a violation of Geneva 12 on prisoners of war; and our misuse of tear gas and use of defoliants, contrary to the Geneva Protocol of 1925 (which we have not yet ratified). However, the U.N. General Assembly recently voted 80–3 to outlaw both defoliants and tear gas in warfare.

MILITARY AND LEGAL RATIONALIZATIONS FOR U.S. WAR CRIMES

Undoubtedly, the defenders of our war policies can bring forward numerous military and legal rationalizations for these destructive military practices. Military necessity will predictably stand out among these. However, as General Telford Taylor has written, "the military end sought should be sufficient to warrant the suffering and destruction inflicted." The famous slogan "war is hell" is also inadequate and misleading, for, as Fr. Robert Drinan writes, it is a deceptive bromide "that all war produces excruciatingly difficult circumstances" and that "consequently it is impossible to mitigate the inhumane aspects of modern warfare." The slogan is thus quite disingenuous and represents an attempt, with a shrug of the shoulders, to obtain a *carte blanche* for unrestrained destructiveness, and a license to maximize, rather than minimize, human suffering in warfare.

No doubt the heavy bombing by both sides during World War II produced an unspoken change of philosophy about bombing among civilized nations, and some apologists for the military cite this kind of bombing as a defense of ours. But we must recognize the substantial difference between the bombardment of an advanced society defended by anti-aircraft guns, bomb shelters, and advanced warning through radar—and the bombardment of villages consisting of huts, with no comparable protection or retaliatory force. The first is a regrettable clash between two strong and reasonably equal powers; the second is the unleashing of overwhelming force against a weak nation and against defenseless peasants. Similarly, the Allies utterly devastated Dresden and Frankfurt during World War II, and the United States annihilated Hiroshima and Nagasaki: some defenders of U.S. actions in Indochina cite these examples almost as if they are legal precedents justifying our present behavior. But the obliteration of an entire city, with deaths in the neighborhood of 100,000, has no justification from military necessity or from any immediate military end; and thus those acts of World War II were outright terroristic raids designed to frighten the surviving enemy into submission. Hence, although these raids were not realistically justifiable at Nuremberg, they were themselves, impartially viewed, war crimes and can hardly be used to justify present tactics.

Again, the failure of the guerrilla forces in Indochina to abide by international laws on the questions of (1) prisoners of war, (2) allowing the Red Cross access to them, (3) using uniforms to identify combatants, seems to some to offer some mitigation for our own war crimes. But Nuremberg is quite clear on this point: the other side's violations are no defense.

Some have also argued that the laws of war are pious platitudes, not guides for behavior, but this view is clearly unacceptable. The laws of war are serious, though inadequate, attempts to reduce to a minimum the amount of pain and suffering attendant upon armed conflict. They are more than vague notions of restraint and rectitude floating in the distant sky of *ius gentis*; they have been reduced, by American authorities, to specific rules of conduct binding upon all members of the Armed Forces of the United States. They have been enforced by American tribunals against American and enemy soldiers, and against non-Americans by international tribunals in which American judges participated. Our government does not hesitate to demand compliance with the international laws of war on the part of hostile governments, as in its insistence that North Vietnam honor the Geneva Convention on Prisoners of War in its treatment of captured American pilots.

Similarly, some observers maintain that the laws of war are strictly for the victor to enforce against the vanquished. The facts, however, contradict this argument. Germans are still being tried today by German courts for war crimes committed during World War II, even though the Allies have long ago lost their power to compel such prosecutions. What is more, Americans have been charged with and convicted of war crimes committed in Vietnam. Indeed, one of the arguments

frequently made by defenders of U.S. policy in Indochina is that we do, in fact, try our men for atrocities which they may have committed in that part of the world, whereas one never hears of similar trials being conducted by the North Vietnamese or the NLF.

Another argument frequently used is that the laws of war are outdated and not applicable to guerrilla war or to technological war. To some extent, this position is correct, but not sufficiently to make the laws of war inoperative in a present-day context. For the argument in essence would mean that, since some Vietnamese women and children have been known to throw grenades at Americans, all Vietnamese women and children may be treated, and killed, as guerrilla soldiers. But this position, stated in these harsh terms, is manifestly unacceptable. Furthermore, guerrilla warfare is not that recent an addition to military tactics. It can hardly be argued, for instance, that the framers of The Geneva Convention Relative to the Protection of Civilian Persons in Time of War were unaware of the fighting role played by civilians in modern war. That Convention is dated August 12, 1949, well after World War II had made "Maquis" and "underground" household words. More important, the argument that, because some civilians aid the NLF or directly perform military tasks, all civilians are fair game, is no more valid than the claim that we should permit police to level buildings in which known fugitives take refuge, or to fire indiscriminately at escaping offenders—in complete disregard of the innocent residents in the buildings and of innocent bystanders.

Again, some individuals of great ethical concern complicate the problem by maintaining that, since war itself is a crime, it is useless and self-contradictory to speak of "laws of war." Undoubtedly, we should always affirm *a priori* that men ought to work in every way to eliminate war itself entirely. On the other hand, we should guard against the cynical misuse of this argument to justify limitless barbarism in warfare simply because warfare is essentially barbarous in the first place (the "war is hell" argument). Instead, we must work against warfare itself *a priori*, and then—once a given war has become an irreversible reality—we must work both to minimize its inherent destructiveness and to end it as rapidly as possible.

Thus, even though armed conflict is in a higher sense a crime against humanity, it does not follow that soldiers cannot commit specific crimes more intolerable and heinous than the waging of war itself, or that we should make no attempt to deter the future commission of these crimes by punishing the crimes which have occurred. The fact that breaking and entering is already outlawed does not mean that a man should go scot-free for committing a murder while engaged in a burglary. Or, to widen our analogy, the inability of societies to eliminate the larger problem, poverty, does not mean that we should refuse to deal with the more limited but more urgent problem, starving people. In the same way, simply because men have failed to eliminate the pernicious ritual of warfare—with its attendant cruelties, barbarism, and sorrows—it does not follow that men should give up all efforts to set limits to those cruelties. Idealism becomes self-defeating when it rejects all attempts to reduce destructive behavior, on the grounds that any effort is unsatisfactory unless we eliminate destructive behavior altogether.

The only remotely mitigating factor for U.S. war crimes in Indochina, then, is the inextricability of genuine NLF combatants from quasi-combatants and from non-combatants who are essentially civilians. The near impossibility of identifying bona fide NLF troops, when they are in constant hiding and frequently live with their families (who naturally collaborate with them) poses a difficult dilemma for an advanced military power. Such a power, if it scrupulously observes international law, automatically gives the guerrilla army an advantage by fighting the war his way, and thus may have to admit, if the guerrilla army is large and determined (and thus has the support of the people), that the war is unwinnable—in fact, that the guerrilla army represents the people and has won. The other alternative, however, is morally abhorrent, legally impermissible, and may prove finally to be unworkable from a political standpoint. That alternative is to give up all attempts to distinguish among full-fledged combatant, quasi-combatant, and non-combatant. Thus, instead of separating out the genuine guerrilla from his family and either killing or arresting him, the strategy becomes to destroy people en masse and nonselectively from the air and on the ground, in the certainty or hope that some of those people will be NLF. Regrettably, the United States, sometime during 1964–5, decided to follow the second alternative on a large scale, and this decision is the essential source of U.S. war crimes. Hence, although this examination of the origin of our military tactics in Indochina may make them slightly more understandable, those tactics remain absolutely unlawful and impermissible—and this military rationalization for our conduct in Indochina has no more force than any other.

VIETNAMIZATION AS A DECEPTION, WAR CRIMES AS AN INSTITUTION

These considerations all bear directly, not only on our past conduct, but on our present course of Vietnamization, and even on the prospects for our conduct in future wars. For Vietnamization, in spite of the peaceful aura with which our Government has surrounded it, really has no effect at all on the amount of destruction and suffering we are wreaking on the Indochinese people. The intensity of bombing in Laos has actually increased since the program began; some of the devastation has shifted from South Vietnam to Cambodia; in sort, we have spread our pattern of destruction among three countries instead of one, with North Vietnam and Thailand always remaining as potential areas for the exercise of our weaponry. Furthermore, the withdrawal of more and more American troops from South Vietnam means increased reliance on mechanized operations—bombings, artillery, etc.—and thus continued perpetration of war crimes.

Above all, military and political observers have long recognized the Vietnam war as a model for counterinsurgency wars in the foreseeable future. Thus, precisely the same military practices would be put to use anywhere in Asia, South America, or Africa, should an insurgency break out which local authorities cannot contain. The United States now can fight a conventional war only under special conditions, because a conventional war might quickly escalate to a thermonuclear war; thermonuclear war itself is theoretically possible, but it obviously cannot serve as a model for numerous future wars. Hence, the only kind of war reliably available to the United States is the counter-insurgency war—which, given U.S. technological capability, must involve the commission of large-scale war crimes by U.S. forces, if they are to prosecute the war successfully. The appalling result of this line of reasoning is that the people of the United States must be prepared, for the foreseeable future, to allow their military and civilian leaders to engage primarily in wars which will in essence consist of war crimes against agrarian and underdeveloped peoples. In other words, war crimes will become, not just a regrettable feature of a unique war which eventually will be over, but a permanent feature of our war-making policy and a permanent feature of the American way of life.

THE MORE SUBTLE VICTIMS OF COMBAT

Among all Americans whose consciences are troubled by the knowledge of these crimes committed "in the name of America," none have suffered as much as those who have actually witnessed or participated in them. American combat veterans are thus the first to be listened to when they speak from first-hand knowledge of U.S. war crimes. They have lived a morbid nightmare, and many of them will carry psychological scars for years to come. Some of them have managed to pass through an ordeal of denial, guilt, and confusion, and finally have reached an awareness that a military machine has used their bodies and souls to commit acts which no official of the Defense Dept. or State Dept. would be willing to commit himself. When a combat veteran reaches this state of awareness and is willing to come forward and testify publicly about it, his fellow Americans should applaud his courage and should support his action.

True, a small number of these veterans will speak of experiences which did not actually happen to them, as if these experiences were their own. Some will reproduce and embellish upon hearsay, some will invent and exaggerate—all for personal and explainable reasons. Atrocities occur in every war, and atrocity stories—invented, embellished upon, and exaggerated—are by no means a new phenomenon of the Indochinese war. However, responsible observers should be very cautious about generalizing from these few exceptions, to the claim that the testimony of combat veterans as a whole is suspect. The information about U.S. war crimes from fighting men, reporters, doctors, lawyers, and social workers from numerous countries is too pervasive and too overwhelmingly large to be doubted on the basis of a few spurious witnesses. To succumb to that line of reasoning would be as self-deceptive or dishonest as to attempt to nullify our massive war crimes by saying that the NLF and NVA are guilty too—when we know that their violations probably do not exceed the random, normal violations of a conventional war, whereas ours constitute a new dimension of unlawful conduct in warfare. Hence, the American public and media should pay close attention to the accumulating evidence of U.S. misconduct offered by the young men who have directly experienced these acts. The extensive hearings held in Washington, Dec. 1–3 by the Commission of Inquiry, in Detroit Jan. 31–Feb. 2 by the Vietnam Veterans Against the War, and in numerous cities since then by both groups are the prime examples of veterans' testimony and work which deserve public support and commendation.

STRATEGIES FOR EFFECTIVE COUNTERACTION

The problem of public actions to end these war crimes continues to be a troublesome one. Those most concerned about the subject have discussed most often the possibility of (1) a long-range international conference of jurists to up-date the rules of war, with specific reference to guerrilla warfare; (2) a call for a full-scale series of hearings by the Senate Foreign Relations Committee; (3) an appeal to the U.N. Commission on Human Rights in Armed Combat for hearings; (4) an attempt to persuade a group of European, Asian, and African delegations to the U.N. to introduce resolutions re-affirming the inviolability of certain rules of war, asserting their application to guerrilla warfare, and condemning the use of certain military tactics and weapons; (5) a formal call on the President or his representative, by a delegation of eminent Americans from the professions, requesting an end to the destruction of Indochina; (6) a large-scale, well-publicized conference of professionals on the problems of war crimes.

We, the undersigned, scholars and professionals concerned about U.S. war crimes in Indochina, fully support efforts to realize

these six actions, and call upon our colleagues in the universities and professional communities to support these endeavors by signing along with us.

INITIAL SIGNERS

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TRANSCRIPT OF THE FILM "U.S. TECHNIQUE AND GENOCIDE IN VIET-NAM" (1971) MADE BY THE DEMOCRATIC REPUBLIC OF VIETNAM COMMISSION ON WAR CRIMES

The twentieth century has witnessed tragic events as industrially developed countries have availed themselves of scientific and technical achievements for aggressive purposes. But never has this been carried out on such a scale and in such a systematic manner as in the U.S. war of aggression in Viet-Nam. There the United States technology is harnessed for the production and improvement of weapons and war means for a genocidal purpose, an international crime the world's people have been sternly condemning. This short documentary deals with only some of the improved U.S. anti-personnel weapons which have been used in Viet-Nam.

Among the high velocity fragmentation weapons, the steel pellet bomb emerges to the front ranks.

At the very outset of the U.S. war of destruction against the Democratic Republic of Viet-Nam, U.S. aircraft dropped a kind of bomblet on a village in Nghe An. These bomblets are propelled out of a 19-tube container that holds 368 bomblets. Each bomblet is cylinder-shaped, weighs nearly 2 pounds, and contains 250 metal pellets. Within a 15 meter range the pellets hit anyone who remains in the open. A single bomblet can kill or wound many persons at a time.

In 1966, the U.S. improved it into a round-shaped version for more killing efficiency. Though it is only half the weight of the cylinder-shaped version, the improved round-shaped bomb holds as many as 300 pellets. The number of bomblets packed into a mother bomb, too, is greater: some 640. As it falls the round shaped bomb spins along a spiral axis. The landing impact or any stopping of rotation explodes the bomb, which may even hit people in covered shelters. In Viet-Nam, the round-shaped pellet bomb first appeared in a village in Moc Chau, Son La, in April 1966. The white markers in this field show the high density of bomb dispersion.

This sequence on the one hand proves that the pellets are projected at a very acute angle with the horizontal so that in the proximity of the point of impact, even those who lie absolutely flat on the ground are exposed; and, on the other hand, demonstrates that the damage to structures is insignificant.

No question—this U.S. technical device is exclusively anti-personnel. There are several cases where a single person was inflicted with as many as hundreds of wound punctures. All parts of the human body are vulnerable to these weapons. Often a pellet suffices to take a life away. And always, the bulk of the victims are women and children.

The pellets have strong penetrability into the human body. They do not remain in tissues, but travel zig-zag and often lodge in organs. Therefore the injuries produced are multiple and complex. The pellets may penetrate the heart, stomach, pierce through the cranial butt and cause the brain to suppurate, remain in the spinal cord and occasion serious nervous troubles or ravage the lungs, intestines, kidneys and other organs.

Even in the case of survival, the residual pellets are very difficult to extract thus causing lasting suffering for the victims.

In Ha Tay on December 27th, 1967, Mrs. Chi, a mother of four little children lost both her legs when stumbling on a yet unexploded steel pellet bomb in a field . . . After a long period of treatment, she has now just begun walking exercises with the aid of prosthetics.

Since early 1965, the United States has employed in North Viet-Nam an improved version of the dum-dum bullet prohibited by the 1899 Hague Convention. After penetrating the human body, this bullet explodes, lascerating tissues into tiny fragments. Thousands of such bullets were fired in the air strikes against Hanoi, Haiphong and Namdinh, causing many civilian casualties.

Teleguided Shrike missiles, originally designed for destruction of military installations, have been modified so that on explosion each missile releases tens of thousands of metal cubes. These missiles have been used to attack civilians in towns and cities such as Hanoi, Haiphong and other populated areas.

In 1967, warships bombarded Vinh Sang village in the northern part of the Vinh Ly Region with a kind of ball shell of 155 millimeter and 203 millimeter calibers. While in flight, each shell releases 104 winged balls which on landing impact are propelled back into the air and a height of 3 to 5 feet burst into hundreds of tiny fragments causing multiple wounds to the upper part of the body.

The smooth orange bomb, first used against provinces south of the 19th parallel in August 1967 projects a great many small fragments and is no less dangerous than the steel pellet bomb.

Like a huge spider spinning webs to catch prey, the spider mine has eight 25-foot wires that stretch out in eight different directions. Such mines were spread in large numbers in Quang Binh province in October 1968. Walking over any of these snare wires suffices to cause explosions.

Code named BLU-24A/A, this weapon is a refined version of the already mentioned smooth orange bomb. Horizontally and vertically striated both inside and outside its body, it ejects some 500 small sharp-edged fragments, and is much deadlier than the former version. Those bomblets were used in the November 21, 1970, air raids in Vinh Phu and Ha Tay.

The flechette weapon first appeared in a 2.8-centimeter version. In 1970 it was lengthened to 3.6 centimeters.

In an article entitled "Future Infantry Weapons," published in *The Infantry*, September–October 1969 issue, John Wood, chief of United States Weapons Research Division, revealed that the flechette weapon is a major candidate for the future infantry rifle. In reality, this future weapon was brought into play in Viet-Nam in 1966. Its anti-personnel effect is even more atrocious than that of the steel pellet bomb. With its sharp-edged tail, the flechette lacerates all tissues on its way into the human body. Through treatment of young Phan Quoc, wounded in Vinh Linh in May 1970, medical experts came to the conclusion that injuries by flechettes are even less treatable than those caused by pellet bombs. In an operation, Professor Ton That Tung succeeded in extracting a 3.6-centimeter flechette from Phan Quoc's cervical region.

Recently a flechette with split point was devised to cause complex injuries. In April 1971, Nguyen Van Binh in Quang Binh province was hit by a flechette of this kind which pierced through his left temple and settled down in the orbital region.

This kind of booby trap, called a gravel mine by the Americans, first made its appearance in Viet-Nam in 1966. Hardly discernible from leaves on the ground and similar to a packet of gauze bandage, it is very likely to be walked over or picked up by people in their comings and goings, thus causing casualties.

This is called a dragontooth mine. An F–105 can carry over 7,500 such mines. Spread in high density, its killing radius is considerable. Quite a lot of people have had their feet blown off or severed by these two kinds of booby traps. This girl is among the number.

Originally conceived as an anti-tank weapon, the bottle-shaped perforating bomb has been instead used by the United States to attack civilian shelters. In 1970, a new improved version of this, called MK–1–18–0 and having a stronger boring power, was brought into play. Able to penetrate the earth deeply before exploding, perforating bombs cause many casualties to civilians, even underground. So, whether in the open or in underground shelters, Vietnamese civilians are always in the killing range of U.S. anti-personnel weapons. The metal fragments are difficult to remove, and many fragments will remain always inside the head, neck, chest, belly of old and young victims of both sexes in this country.

Those dead eyes, those wound-covered hands and legs, all that constitutes strong evidence of the crime of genocide of the U.S. aggressors who have escalated the production and improvement of such anti-personnel weapons they have been testing in Viet-Nam and other theaters in Indochina.

A foreign film-maker has called U.S. napalm bombs, those weapons prohibited longsince by international law, "portable crematoria." Indeed, how many of our fellow countrymen, how many houses and field have been consumed in napalm fires?

The incendiary substances the United States has daily poured down on Vietnamese villages and hamlets include not only napalm, but embrace a wide range of varieties: conventional napalm, super napalm, napalm B, napalm pyrogel, thermite, magnesium, white phosphorus, NPT, and so on. These weapons have been brought into play in proportion to the increasing rhythm of the war's escalation. Besides generating tremendous heat from 1,652 degrees Fahrenheit for conventional napalm to 6,332 degrees for magnesium and NPT, another common particularity of U.S. incendiary weapons consists in their strong adhesiveness. Particles of white phosphorus burn spontaneously on contact with oxygen. So there is no chance for the victim to remove the burn by rubbing it out because that will only cause it to widen and deepen further. Everything within range is completely consumed. Pottery and glassware in burning melt together and are deformed beyond recognition. In addition, burning napalm and phosphorus emit carbon monoxide, highly noxious to people.

One could hardly imagine anything more heartbreaking than traces left by incendiary substances on the surviving victim's body. And, as is always the case, women and children constitute the majority of these.

These phosphorus-induced keloid scars as well as this knife slash scar on Bui Van Va's neck, the result of an assault by a G.I. on March 25, 1970 in south Da Nang, constitute an eloquent denunciation of multiple U.S. crime, piled up on a single Vietnamese peasant's body.

It is no wonder that most Japanese investigators when interviewing Vietnamese napalm victims cannot help mentioning the burn victims of Hiroshima and Nagasaki as a parallel. Taking advantage of scientific and technical achievements, the United States has devised and improved such destructive weapons that are prohibited by international law in order to use them on a large scale. The United States has used these weapons with an obvious genocidal intention in North Viet-Nam, and still more widely in South Viet-Nam, as well as in Cambodia and Laos. Making Viet-Nam the testing field for their deadly bombs and making the Vietnamese people their guinea pigs, the United States imperialists have brought their cruelty and savageness to culmination in this unjust and immoral war. Mankind's conscience is deeply shocked.

For all those U.S. crimes whose stamp is indelibly printed on these victims' bodies, it is Nixon himself and other officials in the White House and the Pentagon, who must bear full responsibility. Our people, whose struggle against U.S. aggression is being stepped up proportionately to our seething hatred, offer this testimony to the world.

THE CRIME OF THE UNITED STATES IN INDOCHINA: WAGING WAR IN VIOLATION OF TREATIES AND AGREEMENTS

(By Max Gordon)

On November 15 of 1946, the United States introduced into the United Nations General Assembly a resolution calling for UN reaffirmation of the principles of international law set forth in the Charter of the Nuremberg Tribunal. On December 11, the UN General Assembly unanimously adopted the substance of the U.S. resolution.

War crimes are specifically defined in Article 6 of the Nuremberg Charter, and the first of these definitions reads as follows:

Crimes against peace: namely, planning, preparation, initiation or waging of war of agression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of the foregoing.

It is thus undeniable that under the terms of international law as defined by the UN at the explicit behest of the United States, it is a crime against humanity to wage war in violation of treaties or agreements.

It is the intent of this paper to demonstrate, by an examination of the historic record, that:

1. Beyond shadow of doubt, the war waged by the United States in Vietnam has its source in violations of both the 1954 Geneva Agreements and the UN Charter. The violations were, and are, explicit and not simply a matter of interpretation, and it is immaterial that the U.S. did not approve the Geneva Agreements.

2. The war is an outgrowth of consistent U.S. postwar policies incompatible with Washington's UN treaty obligations.

3. The political logic of Washington's aims in Vietnam, which led it to ignore its treaty with the UN, has also influenced the criminal military practice of mass extermination of Vietnamese, of which the My Lai massacre was a particularly brutal but by no means isolated expression.

This indictment of U.S. criminal culpability in Vietnam must be made, even though the means of punishment do not now exist, for at least two reasons:

First, much of mankind still pins its hopes for avoiding the holocaust of major war upon the UN and its principles, and public awareness of Washington's contempt for these principles in Vietnam can help to stimulate popular opposition to the present war—and not only in the United States. Support for the U.S. by other nations, whether active or passive, constitutes complicity in the crime.

Second, we know that nations today still behave according to the Machiavellian prescription of the use of power to promote what ruling groups decide is in the "national interest," and that the more powerful the nation the more ruthless its actions in pursuit of this so-called "national interest." But we know, too, that this cannot continue to be the basis of relations among nations. The massive threat of human destruction dictates that the struggle for realization of the principles of international law be waged unremittingly in the true interests of every nation. And essential to this struggle is the identification, and condemnation as criminal, of flagrant violations of these principles.

The Nuremberg Tribunal distinguished between violations of international law which are illegal, and those which are criminal because waging of war is involved. The war in Vietnam, and its expansion into Cambodia and Laos, are a direct consequence of the deliberate decision of the United States government to ignore both the 1954 Geneva Agreements and its expressly avowed obligation—under Article 2, Section 4, of the UN Charter—to refrain from forcible disturbance of other nations' independence or territorial integrity. This illegal conduct became a crime when Washington attempted to impose its decision upon the Vietnamese people by continuously escalating military force. The crime was compounded when Washington sent massive military forces to wreak destruction upon Cambodian villages in pursuit of this illegitimate objective. Let me sketch briefly the historic background leading to this criminal conduct.

During World War II, the Roosevelt administration found itself embroiled with the U.S. military establishment in a conflict over post-war policy. Whereas Roosevelt wanted collective responsibility for world peace, through the United Nations, the military demanded a *Pax Americana*—a "peace" imposed by U.S. arms. Roosevelt also wanted the UN to serve as instrument for breaking up the European colonial empires and for promoting at least legal independence; the military wanted to keep captured territory in the Pacific and to set up military bases around the world. Since it could not do this if the U.S. insisted that other nations give up their colonial possessions, the military establishment resisted Roosevelt's plans. Thus, whereas Roosevelt was against allowing France to repossess Indochina, the military was for it. The details of this conflict are presented in my article in the second volume of *The Vietnam War and International Law*, a reprint of which you have. It is enough to say here that with Roosevelt's death, Truman accepted the position of the military, placed the nation on the path of unilateral military intervention around the world, and told de Gaulle that Washington had no objection to French reconquest of Indochina. There were profound material reasons for this U.S. post-

war direction, but these need not concern us here.

For the next four years, as the Vietnamese effectively resisted French efforts to reconquer them, the U.S. was preoccupied with Europe. But in 1949 Washington decided—in the interests of the cold war—to support France, though the then-Secretary of State, Dean Acheson, has since admitted Washington knew that the Vietminh exercised authority over most of the country. In his memoirs Acheson tells of French plans to "Vietnamize" the war—"to so weaken the enemy before reducing French forces in Indochina that indigenous forces could handle the situation." The French policy was thus one of mass extermination of Vietminh supporters—which meant most of the population—to permit imposition of the puppet Bao Dai regime upon the remnants without need for permanent large-scale French forces. Washington supported this, Acheson writes, though it realized that Bao Dai could never get enough popular backing to rule without French bayonets. This realization did not deter the United States from escalating material aid to France in her war to impose this regime upon the Indochinese people—in obvious contempt of the principles of independence and self-determination.

By February of 1954, mass Indochinese resistance and popular antiwar pressures in France forced the Berlin Foreign Ministers' Conference to agree to Soviet proposals for negotiations to take place at Geneva in May or June. We know now that Washington immediately proceeded to do all in its power to block the negotiations, and, after they had gotten underway at Geneva, to break them up. On March 6, less than three weeks after Berlin, the U.S. National Security Council determined that Washington had to take all possible measures to prevent Communist gains in any part of Indochina. Southeast Asia, the NSC said, supplied the "Free World" with vital commodities and was an essential trading partner for Japan. Its "fall" could undermine Japan's alliance with the U.S. And, according to the Council, Indochina was the key to Southeast Asia.

The NSC's position defined the policy which, with refinements, has shaped Washington's course in Southeast Asia up to the present. It also indicated two major concerns in shaping this course—U.S. control of the raw materials of Southeast Asia, and preservation of Washington's dominant political and economic influence in Japan. Only six weeks before the NSC's policy statement, a Presidential Commission on Foreign Economic Policy had delivered a report which emphasized that U.S. dependence on foreign sources of raw materials was constantly growing, and that these sources—and private investments in developing them—had to be protected. The report noted that more than half of the nation's consumption of zinc, lead, antimony, manganese, bauxite and chrome, and practically all its nickel, tin, natural rubber and jute had to be obtained abroad. [Since the National Security Council, President Eisenhower, Vice-President Nixon and Secretary of State Dulles based their subsequent pleas for military intervention in Indochina on this report, and since students of U.S. involvement in Vietnam have overlooked it, it is useful to quote from the published staff papers out of which the report was composed.] The "transition of the United States from a position of relative self-sufficiency to one of increasing dependence upon foreign sources of supply constitutes one of the striking economic changes of our times," the report declared. *It was thus "essential that foreign sources of scarce materials needed for defense remain in friendly hands."* A second imperative for U.S. security was that "countries which occupy a key geographical position in our system of defense remain friendly to the United States." Japan was cited as the "case in point," and Japanese trade expansion was cited as essential to her remaining "friendly" to the U.S.

The National Security Council policy determination of March 6, defining the U.S. position toward Indochina, was thus a direct outgrowth of this Presidential Commission report. On April 7, [a month after the NSC decision and some ten weeks after the Commission report,] President Eisenhower summed up "the strategic importance" of Indochina. "First of all," he said, "you have the specific value of a locality in its production of materials that the world needs." Two materials supplied by Indochina that were "very important," he observed, were "tin and tungsten." Others included "the rubber plantations and so on."

A week earlier, in a speech before the Overseas National Press Club in New York which indicated Washington's determination to prevent any meaningful negotiations at the forthcoming Geneva Conference, Secretary Dulles said:

Southeast Asia is the so-called "rice bowl" which helps to feed the densely populated region that extends from India to Japan. It is rich in raw materials, such as tin, oil, rubber and iron ore. It offers industrial Japan potentially important markets and sources of raw materials. The area has great strategic value. [Southeast Asia is astride the most direct and least-developed sea and air routes between the Pacific and South Asia.] It has major naval and air bases . . . Under the conditions of today, the imposition on Southeast Asia of the political system of Communist Russia and its Chinese Communist ally, by *whatever means*, would be a grave threat to the whole free community. The United States feels that the possibility should not be passively accepted but should be met by united action.

Note the phrase "by whatever means." The Eisenhower Administration knew then that 80 percent of Vietnamese supported Ho Chi Minh, and Dulles was clearly stating that this made no difference; the U.S. would permit no settlement at Geneva and no self-determination for the Vietnamese.

On April 16, in an address which received world-wide attention, Vice-President Nixon declared that the situation in Southeast Asia was most critical to the U.S. and that he would favor sending in U.S. forces if the French pulled out of Indochina. Its chief importance, he declared, lay in the fact that it was vital to Japanese commerce and its "loss" would make Japan a satellite of the Soviet Union. In the light of Nixon's persistent efforts to prove support of his present policies by a "silent majority" in the U.S., and his persistent pleas for adherence to the rule of the majority, it is ironic to note that he declared for sending U.S. troops to Indochina with or without the support of public opinion which, he insisted, was "uninformed." Nixon confessed that if the French stepped out, the Vietminh would control all of Indochina within a month.

The Eisenhower, Nixon and Dulles statements marked the initiation of an intensive effort to get Churchill and congressional leaders to agree to U.S. military intervention on the side of the French. But the congressional mood, sensitive to public reaction after Korea, was against intervention and the British commonwealth nations—reflecting Asian desires generally—wanted an end to the war. When Washington realized in May that it could not block a settlement at Geneva, the National Security Council called for modification of the U.S. position. Partition of Vietnam was demanded, with the south "to be retained at all costs." This became the active principle of U.S. policy at Geneva and after Geneva, and it remains so today.

I am not here suggesting that Washington's intervention in Indochina was motivated solely by a desire to control the raw materials of Southeast Asia, or to prevent Japan from slipping out of her economic and political grip, though these aims were most influential in shaping Washington's direction in 1954. The question is certainly more complex. There is, for example, repeated emphasis on the "domino theory," as well as the statement attributed to John Foster Dulles soon after the date for Vietnamese unification had passed, cited in the reprint before you: "We have a clean base there [in Vietnam] now, without a taint of colonialism. Dienbienphu was a blessing in disguise."

I have in mind, too, ex-President Johnson's description of all U.S. postwar foreign policy, made in his first post-presidency apologia for his foreign policy, in which he described its aim as maintaining a system in which the U.S. could "move and trade and live in freedom." The implications are not difficult to grasp. American economic and political power is so enormous today that it will inevitably dominate wherever it penetrates, and any nation seeking to protect itself against this penetration become by definition a threat to the free world. Material interests and considerations of alleged national security have been inseparable throughout America's history and they have operated inextricably in relation to Indochina. Nor were domestic political considerations entirely absent in determining Washington's course in 1954. The essential point here is that it is a cynical falsehood to state, as President Nixon has done, that the U.S. is in Vietnam solely to repel aggression and permit self-determination in the south. No living individual knows better than he how false that is. For our purposes here, the historic facts concerning the actual motivation for U.S. policy in 1954 underscore its illegality within the framework of the UN Charter. The reasons given for the U.S. course in 1954—whether those advanced by the Eisensower Administration with respect to raw materials control, etc., or those advanced by Johnson with respect to U.S. business freedom in other lands—are plainly contemptuous of UN Charter guarantees.

During the Geneva Conference in Washington dredged up Ngo Dinh Diem from his exile in the U.S. and persuaded the French to make him premier of the puppet Bao Dai regime. It sent General William Donovan, Chief of the Office of Strategic Services, and C.I.A. counterinsurgency expert Edward Lansdale to Saigon to impose Diem upon the South. With the British it presented a 7-point memorandum to French Premier Mendes-France which Eisenhower later characterized as Washington's "minimum terms" for agreeing to a settlement, though he confessed that the U.S. as a non-belligerent had no right to meddle. The terms included: partition of Vietnam; "securing" the southern half for the west, with no political arrangement permitted which would give the people there the right to choose Vietminh leadership; and no limitation on the import of arms and military "advisers" to "protect" the South.

We know, of course, that the Geneva Conference explicitly rejected each of the above terms in its provisions for 1956 elections for a single all-Vietnam government, and for barring importation of arms and military advisers. But a month *before* settlement was even arrived at, Washington had already prepared the groundwork for putting its own partition scheme into effect, regardless of Conference decisions or the desires of the southern Vietnamese.

To avoid isolation, however, the U.S. was compelled to bow to allied pressures and to pledge at Geneva that it would not disturb the accords, explicitly stating that it did so because of its obligations under Article 2,

Section 4, of the UN Charter, which prohibits its disruption of a nation's territorial integrity or interference with its independence. Exactly two days after this pledge was given, on July 23, Dulles signalled U.S. intent to ignore the agreements by telling the press that the Geneva Conference had advanced "the truly independent status of Cambodia, Laos and southern Vietnam."

Washington moved rapidly to consolidate Diem's rule and to provide him with U.S. military protection. In further violation of Geneva, it set up a military mission, and in October of 1954 Eisenhower despatched his famed letter to Diem pledging assistance in developing and maintaining "an independent Vietnam endowed with a strong government." This letter, so obvious an indication of Washington's treaty-breaking intent, has been cited by subsequent administrations as the source of their commitment to successive Saigon regimes.

At Manila in September, the U.S. organized SEATO as an international cover for its illegitimate activities in Vietnam. Because of allied reluctance, it was forced to agree to a peculiar clause which gave it the unilateral right to determine whether aggression existed in Vietnam, and to intervene unilaterally under the SEATO cover. Washington has since then depended on this clause in the SEATO pact to plead that its intervention in Vietnam does not conflict with the UN Charter. The plea is absurd. The UN Charter explicitly requires that the conduct of regional organizations must be consistent with UN purposes and principles, and unilateral intervention is exactly what the UN was organized to prevent. Moreover, Article 53 of the Charter explicitly says that "no enforcement action shall be taken by regional agencies without the authorization of the Security Council," and neither the Council nor the General Assembly has ever approved U.S. actions in Vietnam. In the light of the clause permitting unilateral intervention, the SEATO pact is itself of doubtful validity within the meaning of the UN Charter.

Under the guidance and tutelage of the U.S., the Diem regime refused to permit the unification elections decreed for 1956. The entire world recognized at the time that it did this because it knew that the Vietnamese people—north and south—supported Ho Chi Minh. With the cancellation of the unification procedure explicitly mandated by the Geneva accords, the people of Vietnam were justified in seeking other means to unify their land. Having disrupted Vietnam's territorial integrity, Washington's charge that Vietnamese efforts to do so constituted aggression bears a striking resemblance to the classic case of the man who, having murdered his parents, demanded mercy on the grounds that he was an orphan.

It is thus undeniable that in the immediate aftermath of the Geneva Conference:

1. The U.S. deliberately disrupted the territorial integrity of Vietnam and imposed a regime upon the southern half in explicit denial of the right of self-determination.

2. It did so in substantial part because its ruling groups coveted free access to the raw materials resources of Southeast Asia and domination of its strategic military position.

3. It did so in direct violation of the Geneva Agreements which established Vietnam as a single, independent nation, and which were hailed almost universally at the UN in the fall of 1954 and 1955 for that very reason.

4. It did so in direct violation of the UN Charter principles of territorial integrity, independence, self-determination and nonintervention.

This, then, is the immediate background of illegality out of which grew the criminal war waged by the U.S. in Vietnam. It exposes as monumental hypocrisy the claims that the war arose because of aggression from Hanoi, or that the U.S. is fighting unselfishly for self-determination for South Vietnam. It caused UN Secretary General U Thant thirteen years later, in the summer of 1967, to charge the U.S. with waging war to prevent the national independence of Vietnam. Addressing the World Conference of the Society of Friends, U Thant described the war as an example of failure to respect the UN Charter's "fundamental injunction to refrain . . . from the threat of use of force against the territorial integrity or political indpendence of any state."

The violations were deliberate and explicit. During a critical period in the Geneva negotiations, Dulles told a cabinet meeting: "It is not difficult to marshal world opinion against aggression, but is quite another matter to fight against internal changes in one country. If we take a position against a communist faction within a foreign country, we have to act alone. We are confronted by an unfortunate fact—most of the countries of the world do not share our view that communist control of any government anywhere is in itself a danger and a threat." Dulles knew, of course, that the UN Charter prohibits both internal interference and unilateral military excursions.

Since the Diem regime was imposed upon the people of southern Vietnam against their will, it could be maintained only by widening terror. From the outset, the Diem government—under U.S. stimulus—killed and arrested thousands of Vietminh supporters who were the leaders in the villages. The guerrilla struggle began almost at once in sheer defense against this massive persecution. This struggle continued and grew for more than four years before North Vietnam extended its political and material backing in 1959. In 1961, with the Diem regime facing collapse, the U.S. sent 10,000 military "advisers" to bolster it. In various ways these military "advisers", whose numbers rapidly grew, took direct part in the fighting.

But as in the case of the French a decade earlier, U.S. forces could not bolster the isolated Diem government against its people. The respected U.S. historian Ellen Hammer has written that, like the French, the Americans in 1963 "envisaged a war of extermination . . . in which successes would be measured best by the 'kill rate' . . . "

In the reprint before you, I have quoted from John Mecklin, Director of U.S. Information Services in Saigon from 1962 to 1964; from Major General Edward Lansdale, the counterinsurgency specialist who guided Diem; from Nguyen Cao Ky when he was premier in Saigon in 1966; from General Wallace Greene, Marine Commandant in Vietnam in 1966. All of them confessed that the Saigon regime had no popular support and as Lansdale put it, that the National Liberation Front was "embedded within the population." This is evident today in the continual pleas of the Thieu regime that, despite its million troops and the vastly superior arms supplied by the U.S., it could not stand if U.S. troops left. Why? Obviously because it is fighting an entire people. Each major step that the U.S. took in escalating the war—the bombing of the North and the introduction of combat troops directly—was taken explicitly to prevent collapse of successive Saigon regimes. Collapse was threatened not by alleged North Vietnam "aggression"—even the U.S. Defense Department has confessed that there were virtually no North Vietnamese troops in the south when these steps were taken—but by the determined opposition of the people of the south.

Nixon was vice-president when U.S. policy for Vietnam was initially formulated in 1954, and he is continuing to operate under this same policy today. He has made it abundantly clear that his "Vietnamization" program aims to perpetuate the Thieu regime, or others like it, with continuing massive backing from the U.S. He has learned something from the French and Johnson Administration experiences, and has been slowly reducing the swollen ranks of U.S. ground troops in order to weaken domestic and international opposition to the war. But in return he has intensified the air and expanded it to other parts of Indochina. It remains a war against the people of Indochina, one in which a Washington-sponsored regime can achieve "self-determination" only through mass extermination. Those who try to rationalize the My Lai massacres graphically make the point by arguing that U.S. troops are justified in killing women and children since they all try to kill U.S. soldiers. Attorneys for a Lt. Duffy, also charged with killing civilians, make it by arguing that the army measures success by body count—meaning the bodies of any and all Vietnamese. These are but local expressions of the overall conduct of the war from Washington, with its "free fire zones" and weekly "body counts" of Vietnamese dead—including men, women and children—as well as of American youth. Nixon, on a grand scale, is operating in Vietnam within the same frame as My Lai, and the process is now spreading to Cambodia.

We have, then, the following indictment before us:

1. Since 1950, U.S. policy has had as its undeviating aim the denial of independence and self-determination to the people of Vietnam.

2. Until 1954, the U.S. pursued this aim by aiding the French in their efforts to reconquer their Indochinese colonies through an aggressive war of conquest.

3. Since 1954, the U.S. has sought to disrupt the territorial integrity of Vietnam and to impose governments of its choosing upon the south by military force—denying the southern Vietnamese their right to determine their own destiny.

4. Since the Vietnamese people have an heroic record of struggle against foreign invaders, the U.S. has had to pursue its objective of imposing its approved regimes by encouraging brutal, mass extermination of Vietnamese and by ravaging their land.

5. U.S. goals and policy in Vietnam, and in all Indochina, are in gross violation of both the Geneva accords and basic UN Charter principles.

6. Since the U.S. is waging war in violation of the accords which established Vietnam as a single independent nation and in violation of its treaty with the UN, the U.S. is clearly guilty of crimes against humanity as defined in Article 6 of the Charter of the Nuremberg Tribunal.

The indictment is reinforced by some of the explanations offered by Washington for its actions in recent times, such as defense of its "vital national interests," or the retention of its dominant power position and its prestige. Such explanations are patently incompatible with any concept of international law and carry the seeds of inevitable war. Hanoi's "vital national interests," obviously, are vastly more involved in the South than are Washington's, and so—for that matter—are China's and the Soviet Union's. In his April 30th speech announcing the invasion of Cambodia, Nixon introduced the concept of the master nation undefeated in war, the idea that the U.S. is justified in continuing to visit tragic slaughter and devastation in Vietnam, and to spread this to Cambodia, in order to retain its position of world supremacy! Since other powers will not always tremblingly acquiesce in this supremacy, this is clearly a prescription for the holocaust, and it plainly mocks at the UN principles of sovereign equality and collective responsibility for peace.

But if Washington's war in Indochina is a crime, those nations which give it support—even if this support is simply political—and even those nations which stand passively aside, are guilty in varying degree of complicity in this crime. While the primary responsibility for compelling their gov-

ernment to wtihdraw rests with the people of the U.S., all peoples bear some share of the responsibility and possess some capacity to act effectively. Isolation of the U.S., pressure from its allies in particular, can be a most potent instrument in forcing Washington to get out of Indochina and to begin to recognize its international obligations. The need for this is all the more urgent when one recognizes, as evidently Washington does not, that the forebearance of China and the U.S.S.R. is not inexhaustible. Withdrawal of the U.S. from Indochina, the halting of the war crime, is a matter of vital interest to every nation and Washington must be made to recognize this fact.

U.S. Military Intervention in Cambodia in the Light of International Law

(By John H. E. Fried)

Friedrich Schiller, the German poet of the enlightenment and adherent of Kant's philosophy of peace, said "Das ist der Fluch der boesen Tat, dass sie fortzuegend Boeses muss gebaeren." (This is the curse of evil deed that it must, ever procreating, lead to further evil.) The original illegal U.S. decision to prevent implementation of the Geneva 1954 agreements on Vietnam, which were to assure its peace and neutrality, led to an ever-increasing illegal U.S. military build-up and intervention in Vietnam; two years of ever more ruthless illegal U.S. war actions; to the plan for the "Vietnamization" of the war, meaning the determination to continue the war, perhaps eventually with somewhat different tactics, into an indefinite future; and now to U.S. combat intervention in Cambodia. This so far latest step is not only guaranteed to bring further evil to Indochina; it is pregnant with even further dangers for the world and for U.S. society. This chain of events again proves the crucial significance of the rules for international behavior, and the tragic results of their violation. To suggest that these policies make international law unimportant in fact cynically "justifies" them. Brute force is capable of defying the rules; but this is all the more reason to uphold the validity of the rules, because these rules are the *only barrier to ever greater disaster.*

I. BASIC FACTS

(1) The 1954 Geneva Conference confirmed "the sovereignty, the independence, the unity, and the territorial integrity" not only of Vietnam (and Laos) but also of Cambodia:

"In their relations with Cambodia, Laos, and Vietnam, each member of the Geneva Conference undertakes to respect the sovereignty, the independence, he unity, and the terirtorial integrity of the above-mentioned States, and to refrain from any interference in their internal affairs." [1]

Mr. Bedell Smith, the American delegate, formally declared:

"The Government of the United States. . . . takes note" of this and other provisions of the Declaration, and "will refrain from the threat or use of force to disturb them, in accordance with Art. 2 (sec. 4) of the Charter of the U.N. dealing with the obligation of Members to refrain from the threat or use of force." [2]

(2) Even if the U.S. had not given the pledge, and had not participated at all in the 1954 Geneva Conference, the U.S. would still be bound not to use or threaten force against Cambodia, in view of its obligations under the U.N. Charter, the Kellog-Briand Pact of 1928, and general principles of international law.

(3) Whereas the basic international obligations of Cambodia and toward her would of course be unaffected by her political coloration, it should be pointed out that the Sihanouk regime was not communist or pro-communist. For example, it sometimes took very drastic measures against the *Khmer Rouge*. In 1969, the staunchily anti-communist U.S.-trained General Lon-Nol who eventually overthrew the Sihanouk regime on March 18, 1970, was made Premier by the Prince himself.

On May 16, 1955, Cambodia signed a Military Aid Agreement with the U.S., against misgivings of the (Indian-Polish-Canadian) International Commission for Supervision and Control in Cambodia (I.C.C.),[3] and against formal protest by the Democratic Republic of Vietnam (North Vietnam.)

In Fall, 1955, the I.C.C. reported that "a small (U.S.) Military Assistance Advisory Group, about 30 in number, headed by a U.S. Brig. General, has arrived in Cambodia. The Group is now busily assessing the defense needs of the country." [4]

Soon afterwards, the American military advisory group achieved full strength. For years its personnel travelled freely within Cambodia and were able to acquire military and intelligence data.

If eventually Cambodia terminated that military aid arrangement, this was done after Cambodia had for years unsucessfully protested against violations of Cambodian territory by Saigon and U.S. forces.

If Prince Sihanouk—like many other public figures of many countries—objected to the U.S. military intervention in Vietnam and pleaded to end it, this again did not show any anti-U.S. bias.[5] The Vietnam war created great problems for Cambodia; above all, Cambodia wished desperately not to be drawn into the conflict. When Sihanouk long since protested against U.S. plans and pressures to invade Cambodia, he merely protested against something which was of public knowledge and which, since the "lid was taken off" has again been widely confirmed in the U.S. press.

As a sign of its disapproval of U.S. policies toward Cambodia, Sihanouk severed diplomatic relations with the U.S. in 1965, but thereafter made various gestures to improve the strained relationship. For example, on 10 June 1968, Cambodia released without conditions two U.S. nationals captured three weeks earlier on a Philippine tugboat in Cambodian river waters, as a tribute to the memory of Senator Robert Kennedy; [6] the widow of President Kennedy was invited to, and visited, Cambodia as Sihanouk's guest, and the Prince in turn visited President Johnson at the White House.

Violation of Cambodian territory by the U.S. side

Cambodia has since January 1956 frequently protested against violations of her neutral territory by Saigon forces, and subsequently for many years also by U.S. forces. These reports, providing details as to place, time, type of violation (such as "killings, ill-treatment, wounding, arrests and abductions of Cambodian citizens, theft and destruction of their property,"—No. 553/DGP/X of 16 Sept. 1957), number of victims, etc. were submitted to the International Control Commission for Cambodia, and in later years, *i.e.*, to the Co-Chairman of the Geneva Conference (Feb. 7, 1964—"incessant and murderous aggression against Cambodia", including aerial bombardment) For over half a decade, Cambodia also transmitted vehement complaints against such acts by U.S. and Saigon ground and air forces to the U.N. Security Council. There were 40 such protest notes during 1967, and 100 between Jan. 1968 and mid-1969.[7]

The protests to the Security Council against "aggressive acts by U.S.—South Viet-Namese forces" continued, becoming increasingly urgent and reporting increasingly serious violations, until 27 March 1970. For example, the communication to the Security Council of 26 Feb. 1970 (S/9668) concluded:

"The Royal Government of Cambodia has lodged a strong and indignant protest against these repeated violations of Cambodian airspace, followed by deliberate firing and spraying of defoliants on the peaceful and innocent inhabitants of the frontier regions and their dwellings, which have been committed by the U.S.—South Viet-Namese forces. It has called upon the Government of the U.S.A. to take immediate steps to indemnify the victims, make reparations for damage caused, and put an end to such acts of aggression once and for all."

During all those years, only very isolated counter-charges or denials were transmitted, first to the I.C.C. and then to the Security Council [8], although charges about the use of Cambodian border areas by PRG (NLF) and DRVN forces were insistently made by the U.S. outside the U.N.

Towards the end of December 1967, U.S. complaints about enemy sanctuaries inside Cambodia reached a height, and U.S. invasion deemed imminent. Mr. Chester Bowles went on a special mission to Pnom Penh. Prince Sihanouk insisted that the U.S. had not produced any evidence of such sanctuaries, in spite of the fact that "without our [Cambodia's] authorization, American planes have been traversing our [Cambodia's] skies *thousands of times* and taking photographs of our country in its length and breadth." [9]

At the conclusion of the talks, Sihanouk informed the press that Mr. Bowles, on behalf of

"The United States has agreed that *if* [1] it has information concerning Vietcong or North Vietnamese infiltration, it will transmit their information to the Cambodian Government. . . . Cambodia will then send her own troops or those of the [International Control] Commission to investigate and, if the information is verified, demand that the forces leave Cambodian territory." [10]

The record, then, contradicts the official justification for the U.S. invasion, namely, that since 1954 "American policy has been to scrupulously respect the neutrality of the Cambodian people" (sic!) and that "for five years [hence, since May 1965] neither the United States nor South Vietnam has moved against these enemy sanctuaries because *we did not wish to violate the territory of a neutral nation . . .*" [11]—thus implying, incidentally, that the U.S. invasion of Cambodia does "violate the territory of a neutral nation."

It appears from announcements by Prince Sihanouk and press reports that in early 1970, the Cambodian government obtained information that armed forces of the other side were using Cambodian border areas. The prince took off from his capital to visit Paris, Moscow and Peking in order to obtain the support of those governments for his demand that those troops leave. Prior to the occurrence of the putsch against him, he issued warnings to the effect that "a great power" supported efforts, during his absence from the country, to overthrow his regime. The putsch occurred on March 18, while the prince was in Moscow.

On March 30, the new Cambodian regime transmitted Cambodia's first protest about violations of its territory by Viet-Cong and North Vietnamese troops to the U.S. Security Council. The communication complained, *i.a.*, about the occupation by a force estimated of 3,000, of a village 7 km inside the border.

Between the first of April and the first of May, 1970, Cambodia transmitted thirteen, ever more vehement, protests against numerous military attacks and occupations by Viet-Cong and North Vietnamese forces inside Cambodia.[12]

There are indications that Saigon forces invaded and bombed Cambodian territory very soon after Lon-Nol's takeover in Phnom Penh on March 18. As late as April 13, "the South Vietnamese Government maintain(ed) that its forces are not in Cam-

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Footnotes at end of article.

bodia." But there were "witnessed South Vietnamese air strikes on Communist positions in Cambodia March 20 and 24, and ground incursions and air strikes by South Vietnamese forces on March 27 and 28. (Dispatch by Ralph Blumenthal, datelines Khanbin, South Vietnam, in New York Times, April 15, 1970, also referring to a *Cambodian* ammunition dump being guarded by South Vietnamese troops.) On May 2, the Daily News stated that "American and South Vietnamese forces were crossing the Cambodian border—*for the first time openly.*" This constituted the opening of the *combined* U.S.-South Vietnamese operation, "Operation Total Victory." Preceding South Vietnamese operations in Cambodia had been reported in the press.

II. THE "SANCTUARY JUSTIFICATION

In a manner reminiscent of the start of the attack by Axis Powers on certain countries in World War II, the invasion by Cambodia was started without notification of its government. Even Germany's invasion of neutral Belgium in 1914 was preceded by a German ultimatum. The absence of any reasoned formal warning or announcement alone casts graves doubts about its legality.

Insofar as any justifications have been given, they were not those previously adduced by the U.S. for its war in Vietnam. Unsatisfactory as those justifications were, they were not available in this case. Cambodia is not under a SEATO "umbrella." No U.S. "commitment" could be alleged. And while the absence of any formal request from the Saigon regime for U.S. "collective self-defense" assistance in Vietnam was revealed only years after the U.S. started its war in Vietnam in alleged compliance with that non-existent request, in this case the absence of any such request from the Cambodian government became immediately known.

The emphasis, instead, has been on the "sanctuary" argument.

What is a "sanctuary"?

A "sanctuary" is a sacred place of worship and, in a wider sense, a sacred place of refuge. Such sanctuaries played a considerable role in antiquity and the Middle Ages.

The term has been revived to denote, with strong emotional disapproval, places that are, but in fairness *should not be,* beyond the U.S. military reach. Such use of the term, incidentally, stands the meaning on its head: a sanctuary must be respected exactly *because* it is a *holy* place; so that whoever invades it commits not only a crime but a sin.

Yet, the designation of some Cambodian border areas as unfair "sanctuaries" which granted the opponents "impunity" and from which the U.S. military were unfairly excluded, has been assiduously nurtured, even while strenuously, often desperately, denied by Cambodia and described as preparation for a U.S. invasion. Frequently, these "sanctuaries" were depicted as the cause for the lack of U.S. military success in Vietnam.

Precisely put, the argument means: (a) enemy forces, in *violation* of the law of neutrality, made use of Cambodian places; (b) the Sihanouk regime was unwilling or unable, and apparently the Lon-Nol regime was also unable, to end this abuse; so that (c) the U.S. is justified to use self-help.

To clarify this, we must realise that the term "sanctuary" has been applied to *four types* of situations that actually and legally *differ* from each other: (1) places (jungle "caches", thatched huts, etc.) in which weapons, food and medical supplies destined for the enemy can be stored; (2) places in which enemy soldiers can stay; (3) places from which enemy soldiers can reach (infiltrate into) combat areas; and (4) places to which enemy soldiers can withdraw from combat areas.

1. Depots of war materiel

Depots of war materiel in neutral territory are not, in and of themselves, unlawful, for the following considerations:

International law does not prohibit belligerents to obtain war materiel, and much less to obtain food and medical supplies, from neutral countries. On the contrary, the principal international treaty on neutrality, Hague Convention V of 1907, specifically permits private persons and firms of neutral countries to export war materiel to belligerents.[13] The U.S. has been adamant in asserting this right for American industry and business.[14] But, altogether, the provision of strategic materiel from neutral countries to parties engaged in international or civil conflict is an accepted, albeit sometimes deplored, fact of the world scene, and considered legal. As random examples, various neutral countries export such goods to Israel and the United Arab Republic. Even assuming, then, that Cambodia provided weapons, medical supplies and food to the adversaries of the U.S., this would not have been illegal for either the provider or the destinee.

Now, by normal interpretation on the basis of the principle of *a maiori ad minus,* if neither the neutral acts wrongly by providing, nor the belligerent by obtaining goods, then neither the neutral's permission or active sufferance to *store* such goods, nor the belligerent's use of such territory for their storage, violates international law. Throughout these years, the U.S. has obtained and stored incomparably larger war materiel for use in Vietnam, in a number of neutral countries.

The U.S. maintains depots storing huge quantities of war materiel at military bases or "sanctuaries" in various neutral countries of the world, whence they are routinely transported by aircraft and freighters to Vietnam. Hence, the U.S. cannot complain or use force for the mere reason that some Cambodian jungle caches contain some war materiel, or rice, or medical supplies and medicine, to be moved to Vietnamese combat zones on the backs of humans, or by bicycles, buffalo or trucks. Either such depots are, by themselves, illegal for all sides to the conflict, or legal for all sides.

Can it be objected that the U.S. in storing war materiel, for example, in West German or Japanese "sanctuaries" acts legally because those neutral *agreed* to such storage—but that the Provisional Revolutionary Government of South Vietnam or the Democratic Republic of Vietnam forces acted illegally by storing such goods in Cambodian caches, because Cambodia had not agreed to this? It is a paradox: by this argumentation, they and Cambodia would be beyond reproach if Cambodia had not interpreted her neutral duties much more scrupulously than the pro-U.S. neutrals. The paradox must be admitted, but it works both ways. If the U.S. asserted that Cambodia agreed to or tacitly suffered those caches, then the U.S., in view of its own and its neutral friends' behavior, was unable to complain; the very assertion that Cambodia acted in this manner, prevented the U.S. from claiming this to be illegal. The U.S. failed to ascertain that its own assertion was incorrect. Only after the U.S. would have ascertained that Cambodia did *not* expressly or tacitly agree to those caches could the U.S. have claimed violation of Cambodia's neutrality by the enemy.

However, even in such cases, the U.S. would have been obliged to seek other, nonforceful remedies. In view of its own vast use of neutral depots, it could not have claimed such extreme unfairness and disadvantage as to allow it to invade Cambodia to capture the caches.

Footnotes at end of article.

2. Use of neutral territory by belligerent's armed forces

Traditional international law forbids belligerents to use neutral territory by their armed forces.[15] In particular, they are forbidden to move troops across such territory (Hague Convention V, art. 2). Under an age-old custom, belligerent forces—individuals, groups, or entire formations—may, however, enter neutral territory, whether adjacent to the theatre of war or not (unless the neutral in its discretion forbids it), whereupon the neutral is obliged to disarm and intern them (same Convention, art. 11).

If belligerent forces may not move (by any means of transport) *across* neutral territory, they are logically also forbidden to use neutral territory as a stopover, or to move troops from neutral territory, or to bring them there for any purpose, because in all such ways neutral territory would be used to foster the belligerent's war effort.

Again discarding, for argument's sake, Cambodia's insistent pleas over the years that Cambodia provided no "sanctuary" for such purposes, and that the U.S. did not prove the opposite, we must concentrate on another point—namely, that throughout its belligerency in Vietnam, *the U.S. has made wide use of numerous neutral countries* for such purposes. For example, the U.S. has freely transported contingents of its land, air and naval forces stationed in NATO and SEATO countries to Vietnam. At its discretion, the U.S. has *trained* its forces undisturbed on its far-flung bases within various neutral territories for combat in Vietnam. In some non-NATO and non-SEATO neutral countries, notably Japan, U.S. bases have also served for years as staging and waiting areas for U.S. forces destined or held in reserve for Vietnam duty. In Japan, as well as in NATO and SEATO neutral countries, U.S. bases as well as local industry and facilities have been constantly used to repair and re-equip U.S. military aircraft, naval ships, etc. in furtherance of the U.S. war in Vietnam.

Furthermore, the U.S. has for years routinely used neutral territories such as Taiwan, Japan, Hong Kong and Singapore for the *"rest and recreation"* of U.S. military personnel. While furloughs are certainly to be welcomed, it must not be forgotten that these furloughs are designed for the very purpose of strengthening the men for their war assignments after return to Vietnam. The British manual, *The Law of War on Land,* provides specifically:

"671 . . . a neutral State which receives belligerent troops on its territory must intern them . . . ; they are *not permitted to rest, refresh and re-equip* themselves and *then to rejoin* the armed forces of the belligerent State."[16]

If, in summary, neutral nations are used almost on a scale of continents by the U.S., does the U.S. have the required *"clean hands"* to complain about, and use force, against the use of some Cambodian hide-outs by the other side?

Nor can it be argued that, regardless of the vast quantitative and qualitative discrepancy, the U.S. is acting legally because all those pro-U.S. neutrals have *consented* to serve as "sanctuaries" for the U.S. The arguments begs the question, namely, whether those neutrals can grant such consent. Doubtlessly, under traditional treaty and customary international law, as applied for example in World War II, they could not do so; they would grossly violate their duties as neutrals. Neutral Switzerland or Ireland would never have granted such sanctuaries to any Axis or Allied Power during World War II.

Hence, there are only two alternative answers, and neither validates the U.S. attack on Cambodia. Either the wide use of various neutral countries by the U.S. for its Vietnam war effort with their consent implies that

the international rules forbidding this have been tacitly *abrogated*, so that such behavior is now proper; in which case, the use of Cambodian border areas with neutral Cambodia's consent would be equally proper. Or the wide use by the U.S. of neutral countries, and the latters' consent, are *illegal* in which case the use by PRG and DRVN, although on a small scale, of neutral Cambodia, and the latter's consent, would also be illegal; but the U.S. could under the principles of *"tu quoque"* and *"clean hands"* not complain, and much less use force.[17]

Under either construction, Cambodia could not be subjected to U.S. attack: if she consented to the presence of enemy troops on her territory, and the consent was licit, she was blameless; if the consent was illegal, she still acted much less improperly than do the neutrals consenting to much larger use of their territory by the U.S. Finally, if she did not consent, but was unwilling or unable to enforce the denial of her territory to the enemy, this would still not have entitled the U.S. to "self-help", in view of these circumstances.

3. Infiltration from neutral territory into combat areas

The same applies to the agument that the enemy soldiers enjoyed the unfair advantage of being able to move (infiltrate) from neutral Cambodia for attacks in South Vietnam. In this respect again the other side is accused of something which the U.S. has been doing ever since 1965 on a vastly larger scale.

Neither by military nor legal logic can it be said that if PRG or DRNV forces move by primitive means from inside the Cambodian border into South Vietnam that this *is* infiltration from a neutral sanctuary; whereas if U.S. ground troops move into South Vietnam on modern aircraft from, say, West Germany or if U.S. bombers who took off in Japan bomb South Vietnam, this is *not* infiltration from a neutral country. Both cases are identical, insofar as belligerent forces departed from neutral territory for war purposes. The rationale of the law of neutrality is that neutral territories should in principle not be used to influence the conduct or course of war between others. But the military difference, which is also legally interesting, is that the American "infiltration" has been on a vastly larger scale, both in numbers of personnel "infiltrated" and in destructiveness of weapons.

It may be said that neutral Cambodia was obligated to prevent infiltration from its soil into South Vietnam even though the various neutral countries from which U.S. military personnel have moved into Vietnam have, contrary to the same obligation, *not* prevented this. The arguments regarding the other "sanctuary" aspects apply. Furthermore, the American side has the military capacity to prevent the movement of opponents across the South Vietnam border on the ground.

In any case, the neutral's obligation is limited by its own *bona fide* capacities. In this regard, one of the Cambodian communiques to the U.N. Security Council pointed out that the U.S., with one million soldiers at its disposal should be able to prevent occasional intrusions into South Vietnam from Cambodia. The opponent does not have the physical capacity to prevent the movement of U.S. personnel by aircraft and troop ships into South Vietnam.

4. "Sanctuary" prevents "hot pursuit" of enemy withdrawing into neutral territory

Confusion has been created by another argument which, especially around the turn of 1967/8 seemed to make a U.S. invasion of Cambodia imminent, namely, that the U.S. has been improperly denied the right to pursue enemy troops withdrawing into neighboring Cambodia.

It is an age-old undisputed right, sanctioned by international convention, for belligerent forces to withdraw into and to seek refuge in neutral States, and for the latter to "receive" them.

The notion that the opponent has a right to pursue into the neutral territory is untenable. At least since the end of the 18th Century, the law of warfare has forbidden such action; even previously, it constituted a violation of neutrality that rendered the invader liable to make amends to the neutral.[18]

The implication, then, that "hot pursuit" into neutral territory is a concept of warfare is erroneous and highly misleading. For two hundred years, the term has been used exclusively in an altogether different connotation, namely, in maritime law; altogether unrelated to war or neutrality. If a foreign ship violates some rules within another State's territorial waters, and then tries to escape to the open sea, certain ships of the littoral State may under specific conditions pursue it in order to arrest it and bring it back for proper action.[19] By definition, this can never cause harm to lives or property on neutral territory.[20]

If enemy soldiers have escaped into Cambodia (which was not argued in the present crisis) without being interned there, would this create a gravely unfair advantage for the other side? It must be pointed out that, first, Cambodia has throughout the Vietnam war not denied U.S. troops the right to flee into Cambodia; and, secondly, that, as said before, numerous neutrals have allowed U.S. troops to be evacuated to their territory, without interning them but openly permitting their return to combat in Vietnam.

"Sanctuary" argument not available to the United States

To summarize this examination of the "sanctuary" argument: We have seen, first of all, that it is *not* illegal for belligerents to purchase war materiel in neutral countries or to have such goods transported to, in or through neutral countries, or to maintain stores of war materiel in neutral countries. The notion that any of this violates international law or the practice of States is entirely erroneous, as shown, *e.g.*, by the practice of the neutral U.S. involving billions of dollars worth of war materiel for other nations' wars in World Wars I and II, and ever since then; as also seen by the fact that, in turn, the U.S. has openly and constantly made vast use of such depots in various neutral countries of the world for its highly destructive weapons to be employed in Vietnam. Since all this is *legal* for the U.S., it must, in principle, be *legal* for its Vietnam opponents to keep much smaller depots of much less destructive weapons in neutral Cambodia.

We have seen that, in constradistinction, the use of neutral territory for the training, staging, maintenance or recreation of forces of a belligerent is by traditional international law forbidden—as is "infiltration" of belligerent forces from and to neutral territory, and from the war zone.

However—and this is of decisive importance—we have also seen that to do all this has been the constant practice of the U.S. during this war, with the approval of the neutral countries so used. The U.S. has been transporting its forces ("infiltration") into South Vietnam from various neutral countries in different parts of the world, not by oxcarts but by modern aircraft and transport ships; it has maintained and trained forces destined for Vietnam duty in such neutral countries, not in hidden jungles and under search by enemy aircraft, but unperturbed in up-to-date installations; it has been able to have its military personnel rest in hotels in neutral countries and then have them not detained there but return to war duty.

Whether this most extrordinary phenomenon indicates a tacit *abolition* of the old rule must at least be left open. I believe that such construction would be inappropriate, *i.a.*, because it would erode the concept of neutrality, would make hostilities more sanguinary, and unfairly favor the belligerent State which is able to obtain more such neutral "sanctuaries" than his opponent can.

We, then, also leave open the question of whether the permissiveness shown by the neutral countries concerned—from West Germany to Japan—toward this use of their territories has violated their own duties under the law of neutrality. We must, however, not forget that if their permissions *are* illegal, then the illegal permissions *cannot make the use of their territories legal for the U.S.*

What counts most is that the big U.S. cannot apply different standards to *itself* and *its* neutral friends, on the one hand, and to its small *opponents* and small neutral *Cambodia*, on the other. What is *legal* for the U.S. must also be legal for the opponents of the U.S. If, in turn, all this has been *illegal* for the U.S.—if, in other words, the U.S. has violated the law of neutrality in these respects on such a large scale, then the U.S. has no standing to complain about the identical much smaller illegality of the other side.

Let us, however, go a big step further. Let us forget that the U.S. has used the territories of neutral countries to maintain, stage, train and recuperate its own forces and to move ("infiltrate") them from there to South Vietnam, and that the respective neutrals have permitted this. Let us argue that, *regardless* of whether this has been right or wrong on the part of the U.S. and those neutrals, *only* Cambodia was still duty-bound to prevent such use of her territory by the opponents of the U.S.

It is true that traditional international law, as quoted in the textbooks and military manuals, requires neutrals not only *not* to agree to, but actively to *prevent* use of their territories by forces of foreign belligerents. Hence, the neutral's approval does not make much difference because his approval would in any case be illegal, and therefore *not* legalize the belligerent's use of neutral territory.

Cambodia did not fail in her duty to prevent violations of her neutrality

Legally, and by common sense and elementary fairness, it is impossible to posit that pro-U.S. neutrals are *not* under the duty to prevent their territories from being used by forces of a belligerent, but Cambodia *is* under such duty. However, for the sake of argument, we now proceed from this odd assumption.

We find that Cambodia has not failed in its duty. For, this duty has by the same traditional law been limited to the neutral's *capacity* to prevent violations of its neutrality. Hague Convention XIII of 1907 (art. 8 and art. 25) stipulates unambiguously that the neutral is "bound to exercise such surveillance as the means at its disposal allow." [21] The literature is unanimous on this point.** See, at random, Oppenheim-Lauterpacht's authority:

"A neutral can be made responsible only for such acts favouring or damaging a belligerent as he could by due diligence have prevented, and which *by culpable negligence* he failed to prevent. It is by no means obligatory for a neutral to prevent such acts under all circumstances and conditions. *This is in fact impossible. . . .*" ***)

Since Cambodia did not intentionally fail to protect her neutrality, the U.S.A. could not base military intervention in Cambodia on such failure.

Footnotes at end of article.

Attack on the lawless opponent in neutral territory as ultimate resort for self-preservation

For completeness, it should also be added that the U.S. was not entitled to use military force in Cambodia on the grounds that the enemy had violated Cambodia's neutrality in such manner as to endanger the very self-preservation of the U.S. Modern history shows a single case wherein such claim was made; and in that case the action was, as is generally agreed, justified. It was the response by France and her ally Great Britain to Germany's blatantly illegal massive invasion of neutral Belgium in 1914 in order to sweep from Belgium into France and give her a crushing defeat (the notorious Schlieffen plan). In that situation, French and British troops counter-invaded Belgium. It is for extreme situations of this sort, when a belligerent's very *self-preservation* is endangered by a lawless opponent, that an "ultimate resort" to force against that lawless opponent on the territory of the innocent neutral is considered permissible.[23] Apart from all other considerations refuting the legality of the U.S. attack on Cambodia, it would be absurd to claim, and it was not claimed, that the self-preservation of the U.S. was at stake.

Yet, could it be argued that all this is contradicted by the doctrine expounded in the U.S. Department of the Army Field Manual 27–10 (para. 520):

"Should the neutral State be unable, or fail for any reason, to prevent violations of its neutrality by the troops of one belligerent entering or passing through its territory, the other belligerent *may* be justified in attacking the enemy forces on this territory."

The answer is, no. The formulation of para. 520 is highly subtle. It must be read with a magnifying glass; after all, the fate of entire countries may be at stake. If we read carefully, we see that the statement does *not* say that *every* entry into or passage through neutral territory by forces of a belligerent constitutes by itself a violation of neutrality. It says that *if* such forces violate the neutrality of a neutral State while entering or passing through it, the other belligerent *may* attack them there. The distinction is crucial. It permits the U.S. to claim that such entry or passage by U.S. forces is not a violation of neutrality. Otherwise, the United States' own Field Manual would declare that U.S. troops entering, for example, Japanese territory on their way to Vietnam combat, violate Japan's neutrality, and if Japan "for *any* reason" (including U.S.-Japanese treaty arrangements!) fails to prevent this, the other side (or any of their allies) can lawfully attack U.S. forces in Japan.

In any case, the key word in this unilateral interpretation of international law by the U.S. Army[23] is, "*may*" ("the other belligerent *may* be justified . . ."). When, under what circumstances he "*may*" be justified, is simply not spelled out in the Field Manual. Since neutral territory is in principle "inviolable" and unilateral use of force in principle forbidden (as the Manual also says—see its Chapter 8, esp. Section II, "Crimes under International Law"), this extreme form of self-help may—if it is at all compatible with the present world order—only be used as an extreme last resort. This means it must not be used in sudden surprise (as was done in the Cambodian case) but after non-violent forms for the redress of grievances had been fully tried by the aggrieved belligerent. The United States has not sought, nor claimed to have sought, those other forms of redress of grievances.[24]

By early 1958, the French-Algerian war had lasted almost four years, and did not go well for France. The N.L.F. received rather open sympathy and support in neighboring Tunisia and also Morocco—the two protectorates to which France, over opposition from influential military circles, had granted independence in 1956 "without a fight." But in Algeria, the French military "refused to accept a defeat like at Dien Bien Phu or a capitulation without defeat" like in Tunisia and Morocco. "The N.L.F. had logistic bases in Tunisia and to a lesser extent in Morocco . . . The officers were convinced that only the Tunisian and Moroccon aid prevented the liquidation of the [Algerian] rebels."[25]

On February 8, 1958, twenty-five French aircraft bombed and machine-gunned for an hour the Tunisian village of Sakhiet Sidi Youssef, about 1½ km from the Algerian border, killing 69 and injuring 130 including women and children, and destroying or severely damaging over 100 houses, 40 shops and several public buildings.[26] General Sagan, C.-in C. in Algeria, stated that only military objectives were attacked, including buildings used as rebel camps and containing gun emplacements and a school that actually served as command-post for the rebel staff. The Defense Minister declared that the aircraft had exercised their "right of legitimate self-defence against anti-aircraft forces installed on Tunisian territory" and called the village "a nest of rebels and murderers;" in the preceding 7 months, 26 of the 84 frontier incidents had occurred in the Sakhiet area; 30 French aircraft had been fired on, 11 hit, and two forced down; when those batteries had attacked French aircraft again on Jan. 30 and Feb. 7, the Tunisian authorities were warned of reprisals but early on February 8, still another French aircraft was hit from the Sakhiet area. French Premier Félix Gaillard reiterated and elaborated on these accusations and justifications in the National Assembly on February 11:

"Sakhiet was an active center of [Algerian] rebellion . . . N.L.F. services and camps were installed side by side with those of the Tunisian troops . . . . events confirmed the importance of the N.L.F. infiltration . . . Tunisia has more or less voluntarily adopted an attitude of belligerence toward us. There is no international law which compels a State that is being attacked from its neighbor's territory to put up with it indefinitely . . ." After many months of restraint the aircraft "hit back with the aim of attacking military objectives which represented a grave and permanent danger . . ."

Yet, the reaction to the French raid by outside governments, including the United States, was one of grave disquiet; there was strong criticism within France; and the reaction to the vehement Tunisian responses were remarkably mild.

The Tunisian responses included, *inter alia:* a resolution by the Constituent Assembly condemning the raid; unilateral abrogation of the extra-territorial status of Bizerte (until then a French naval prefecture); severe restrictions, including the cutting off of telephone communications, food supplies and services, on French troops and warships (still in Tunisia under treaty rights) and request for their immediate evacuation; recall of Tunisia's ambassador from Paris; request to close five of the seven French consulates in Tunisia; expulsion of French residents from frontier areas; and a request to the U.N. Security Council to condemn "the deliberate act of aggression" at Sakhiet and to take measures "to end a situation which threatens Tunisia's security and international peace."

Criticism within France was expressed not only in the press and in the National Assembly, for example, by Robert Schuman, Jules Moch and M. Pleven; before the Tunisian ambassador left Paris, a number of prominent personalities including former Premier Mendès-France and François Mauriac visited him to express their sympathy.

On February 9, Secretary of State Dulles informed the French ambassador in Washington of the U.S. "concern" about the incident. The next day, a State Department statement described the U.S. Government as "profoundly disturbed" by it, expressing "the hope" that France and Tunisia would reconcile their differences. Thus, the U.S.A. unmistakably distanced itself from the raid, and counselled against any further military measures against "sanctuaries." On Feb. 12, Mr. Noble, Minister of State for Foreign Affairs, declared in the House of Commons that the British Government had urged on both governments "the need for moderation and restraint." Grave disquiet was expressed by other governments, and offers of good offices extended by Britain, Italy, Lebanon, and the U.S.A. President Eisenhower wrote to the French premier and President Bourguiba that he hoped the good offices offered by the U.S.A. would at least lead to a *modus vivendi* between France and Tunisia.

In fact, both accepted a joint Anglo-American mission of good offices[27] even before the U.N. Security Council met on the issue on February 18. Interesting, also, was the fact that France did not object to having the Tunisian complaint put on the agenda—which, however, also included a French counter-complaint.[28]

The course of the ensuing negotiations under the auspices of the US–UK conciliation team again shows a radical difference from the U.S. attitudes in the Cambodian case. For example, Bourguiba rejected, and eventually the conciliators accepted the rejection of, the French demand for a joint French-Tunisian control of the border. Bourguiba declared that he would continue to allow Algerians to enter Tunisia provided they would not disturb French residents there. Tunisia also rejected, and the US–UK conciliators did not accept, the French proposal to establish a "no-man's-zone" along the border inside Algeria—although the French argued that this would not, as Tunisia claimed, cause "the forcible eviction of 250,000 Algerians" but only resettlement to nearby areas of some 500 families. In fact, the only US–UK proposition to be included in bilateral French-Tunisian negotiations bearing on the problem of "sanctuaries" was to the effect that "Neutral observers would ensure that the military airfields in southern Tunisia were used exclusively for peaceful purposes"—that is, would not be used by the Algerian National Liberation Front for military purposes. Their other main propositions called for evacuation of all French forces, except those at Bizerte, from Tunisia at a supposedly accelerated timetable, and France's recognition of Tunisian sovereignty over Bizerte. France specifically accepted these propositions as basis for her direct negotiations with Tunisia.

Particularly instructive (in view of the official U.S. justification of, and the potential consequences of, the U.S.-Saigon invasion of Cambodia) was the French Foreign Minister Pineau's impassioned defense in the National Assembly on April 15, 1958, of his government's acceptance of those propositions, against the accusations by right-wing deputies that they constituted an American dictate. Pineau's main arguments were: a) Rejection of the Anglo-American good offices would "inevitably" have led to French military intervention in Tunisia "and practically to the reoccupation[29] of Tunisia, at least in part." b) Indeed, by accepting the good offices, France avoided the risk "of extending the conflict to the whole of North Africa." (The parallel that the invasion of Cambodia may still lead into the quagmire of an all-Indochinese war with unforeseeable consequences, is striking.) c) France must not be provoked by the rebels into transforming the internal (French-Algerian) conflict into an international war, in which eventual intervention by other nations, whether sympathetic, indifferent or hostile to France would

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become inevitable. d) "Firmness does not consist—as some people who claim a monopoly on patriotism maintain—in yielding to the temptation to extend the war, . . . but in resisting this temptation. . . . We have been criticized for not giving our troops in Tunisia orders to march.[30] Nothing would have been easier. The Government's orders have been quite the reverse . . . because we wished to . . . respect the independence of States to which we had agreed . . ."

Finally, Pineau supported the need for respect of neutrality with a military argument: the use of force in Tunisia would "inevitably" have led to "the loss of Algeria."

It was Pineau's last speech as Foreign Minister. His government was defeated in the National Assembly on the issue by a combination from the far left to the far right and fell the same day. But the commotion created by Sakhiet had even graver consequences. Rightist *colons* and dissatisfied army officers headed by General Sagan revolted against Gaillard's successor government. Civil war was avoided by the return of Charles de Gaulle to power. One of his first steps was to agree with Tunisia on the withdrawal of all French forces (except those at Bizerte) within four months.[31] The agreement contained nothing about neutral supervision of the former French military airfields. Tunisia's as well as Morocco's and also Egypt's role in support of the Algerian cause increased. In September 1958, a Provisional Government of the Algerian Republic was set up with headquarters in Cairo and Tunis, and Algerian N.L.F. or A.L.N. (Armee de Liberation Nationale) troops were rather undisguisedly stationed in Tunisia and Morocco. Although the French-Algerian war lasted for another four years after Sakhiet (the cease-fire agreement was signed on March 18, 1962) Sakhiet remained the only French air raid against an Algerian "sanctuary."

Since the French-Tunisian dispute about the legality of the Sakhiet raid was transferred from the U.N. Security Council, with the latter's approval, to the US–UK conciliation team, and since then the parties compromised between themselves, the Security Council had no occasion to take a substantive stand on the issue. But the initial international reaction to the raid, the attitude of the US–UK conciliation team, the terms of the bilateral settlement, the subsequent attitude of governments, including the U.S., inside and outside the United Nations regarding the French-Algerian war, and, not least, France's subsequent abstention from use of force against Algerian "sanctuaries" on neutral soil—all this shows a high degree of consensual disapprobation of the Sakhiet raid, and insistence on the use of non-violent methods of settlement.

That conclusion is strengthened by reference to the *Corfu Channel* doctrine of the International Court of Justice[32] and, for example, by the consistent position of the Security Council, with U.S. concurrence, on the use of force in the Arab-Israeli conflict.

It is also indicative of the *opinio juris* that immediately after the start of the U.S. invasion of Cambodia, the negotiation and conference method was strongly urged not only, for example, by Secretary-General U Thant but by a special meeting of pro-American Asian governments. That meeting was supposed to decide about arms supplies to the Lon Nol regime. However, the delegates did not even consider this but instead insisted that the hostilities in Cambodia must *end*. Hence, they demanded a conference, or other negotiating method, as opposed to the military method.

III. FURTHER JUSTIFICATIONS OF THE ATTACK

The opening of the attack on Cambodia was accompanied by several "justifications", coupled with dark threats,[33] which are disruptive of the basic tenets of world order and frightful in their implications.

1. The attack was necessary to "buy time" [34]

Never, to my knowledge, has an attack on a neutral country been justified by such argument. The argument is based on the very expectation that the aim of the attack (destruction of the opponent's "sanctuaries") will *fail* because the enemy will build new ones. But this will take some months, during which the South Vietnamese will achieve the fighting capacity required for the "Vietnamization" of the war. In short, the campaign is an aspect of this "Vietnamization" program.

This program is, however, characteristically, the *Vietnamization of the war.*" Its very name not only admits that so far, and also in the future until the war will be Vietnamized, it has been and will be an American war. It first of all stipulated that the war must go on indefinitely. Only at some future time, it will hopefuly be fought increasingly by proxy. If successful, the U.S. would be cast into a role not only profoundly humiliating but blatantly illegal under international law: if the U.S.-paid, U.S.-equipped Saigon forces were unable to conquer South Vietnam and keep it conquered, U.S. bombers, etc,. would be at Saigon's beck and call to bomb, napalm and defoliate ("logistic support").

Military experts have pointed at the military illogic of this plan.[35] But what is, in any case, its general portent for the future peace of the world?

Translated, it means: Any nation (or perhaps only the U.S.) may invade a foreign nation in preparation for its unilaterally determined plans for deployment and combat by its military forces in another foreign nation. Since the U.S. military intervention in Vietnam has been illegal in the first place, the doctrine actually reads as follows: A nation that has illegally intervened in a foreign nation may indefinitely continue that military intervention, unless it unilaterally decides to withdraw, for which purpose it may first illegally attack other countries.

If, however, the U.S. intervention in Vietnam and Cambodia is *not* considered illegal, then, under this doctrine, any other nation, *e.g.*, the Soviet Union or China, is allowed to intervene in a foreign country's civil war (analogous to the U.S. intervention in Vietnam), may sow destruction there for 5 years, and may then start destroying an adjacent country as prerequisite for its conditional and partial reduction of its combat role in the first country.

2. The United States cannot allow itself to suffer the first defeat in its proud history

The argument must be read in the light of ever-widening realization that the Vietnam venture has been a disaster for the U.S.

Translated, the statement means: A state engaged in improper (and illegal) war is entitled, nay, indeference to its pride, obliged to widen the war by further illegal [36] war actions, rather than to extricate itself.

At Nuremberg, the defense tried to argue that Hitler Germany had been engaged in a "life and death" struggle; to stave off catastrophe, it could disregard legal restraints and take desperate measures. The International Nuremberg tribunal, as well as the Nuremberg tribunals composed exclusively of U.S. judges, of course rejected this "extreme emergency" (*Notstand*) doctrine. One of the U.S. tribunals answered it as follows: War is by its essence irrational, and its outcome uncertain; this is one reason why countries should not start war. It is in the logic of war that one side will lose. At that point the temptation to break the law of war exists; to argue that, when the going gets hard, the law of war can be disregarded, would do away with it altogether.

In the case of Hitler Germany, at least the premise was correct: she did face utter defeat. In the present case, even the premise is false. Since the avowed U.S. war aim is self-determination of the South Vietnamese and neutralization of South Vietnam, and the other side has always been ready to accept this (in fact has constantly demanded this), hostilities could end immediately on this basis. It would be no defeat for the U.S.

The only obstacle is the incompatible U.S. determination to maintain the Thieu-Ky regime at the cost of indefinite further catastrophe, although that regime is admittedly hated by the majority of his countrymen and stays on exclusively thanks to massive U.S. military support.[37]

Would it be a victory for the U.S. to remain virtually the captive of Thieu-Ky? Would the dropping of Thieu-Ky, as President Nixon implied, make the U.S. a "second-class Power"? The worth and pride of a nation is not measured by the frequency with which it imposes its will on smaller nations.

3. Had the United States not attacked Cambodia, U.S. "credibility" would have been "lost"

Translated, this means: Any state may unilaterally declare certain principles that will govern the use of its military might abroad, regardless of the limitations set by the world order [38]; and may then use military force regardless of those limitations, lest *other* States may *in the future* believe that under *other* circumstances that State would *not* act as previously announced.

4. The war is a "test" of America's commitment to "the rule of law," and its role as World Policeman.

On May 7, 1970, Ellsworth Bunker, U.S. Ambassador to Saigon, in an address at the U.S. Military Academy at West Point, defined the entire Vietnam war "as a test of America's commitment to 'the struggle for freedom' and 'the rule of law'." [39]

In the same address, he acknowledged what he called the war's "moral ambiguities" but dismissed them by extolling the "world policeman" doctrine.:

"But as the world's most powerful nation we cannot escape the responsibilities of power." [40]

This doctrine is, indeed, dictating U.S. world policies. Yet no country, however powerful, is or can be delegated the role of the world's policeman. Any doctrine of hegemonic power implies two canons of behavior—one for the hegemonial nation and one for the other nations—and thus destroys the very fundaments of world order as built up over centuries; it also runs counter to the most elementary and realistic test of any rule of international law, namely, the requirement of *acceptance* by the rest of the world community. Furthermore, the "world policeman" cliché is much worse than it sounds. A policeman is under the rule of the law: he may *pursuant to rules not determined by himself, arrest* a suspect; but he may *not try,* and *much less execute,* the suspect. The role arrogated for the U.S. is that of policeman *plus* judge *plus* executioner (as the photographs from Vietnam and Cambodia so vividly prove). In essence, the doctrine claims that a country is, in proportion to its killing power, above the law or exempt from the law, or entitled to lay down the law as it sees fit. It is a crude expression of the "might makes right" claim—which, as present events again show, is fraught with dangers for the would-be "world policeman."

IV. OTHER CONSIDERATIONS

1. The U.S. intervention in Cambodia is illegal because it forms part of the illegal intervention in Vietnam

By the U.S. Government's own reasoning, the attack upon Cambodia is part and parcel of the U.S. war in Vietnam. This is not only strategically but legally of prime importance. Since the intervention in Vietnam has been

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illegal, pursuant to the U.N. Charter, the 1954 Geneva Accords, the SEATO Treaty and general international law, the intervention in Cambodia, being an intrinsic part of it, is also illegal.

Since the central aim of the present world order is to prevent armed hostilities (even those exceptionally permissible), States are bound to seek to *end* any hostilities in which they are engaged, as quickly as possible. This, incidentally, has always been considered a moral if not legal obligation of States. The attack on Cambodia is precisely designed to improve the chances for the continuation of the U.S. war, employing fewer U.S. ground forces (known as "Vietnamization of the war"), that is, to continue the military involvement in spite of growing domestic opposition to it. In short, the U.S. attack on Cambodia compounds the original illegality of its intervention in Vietnam because it further deteriorates the chances for peace in that region.

Throughout the Vietnam conflict, there has been a flickering ray of hope—all sides have considered the Geneva Agreements of 1954 still valid: the eventual settlement would have to confirm the independence, unity, territorial integrity and neutrality of Vietnam and Cambodia. If, then, those agreements were merely suspended, all parties were, under the principle of good faith, obligated (in the language of the Vienna Convention of the Law of Treaties), to refrain from acts tending to render the resumption of the operation of the 1954 Geneva agreements impossible.[41]

By enabling the U.S.-trained, U.S.-equipped, U.S.-paid and U.S.-advised forces of one of the two rival South Vietnam regimes to establish themselves in Cambodia (another "Vietnamization" unthinkable under the 1954 Geneva agreements), the U.S. rendered any eventual settlement, including reestablishment of Cambodia's independence, much more difficult.

2. Use of illegal methods of warfare in Cambodia

Since an attack on neutral territory against a misbehaving opponent is, if permitted at all, by definition exclusively directed against such opponent and not against the neutral country, the attacker must conduct his operations in a manner least damaging to the neutral country. He must also, of course, abide by the laws and customs of warfare toward the opponent. Published eyewitness reports indicate that some of the strategic methods of warfare used in Cambodia by the U.S. and U.S.-advised Saigon forces are disregarding those rules. This also vitiates the U.S. attack on Cambodia because it indicates that the attack is partly designed for the commission of war crimes.

For example, a journalist accompanying "Task Force Shoemaker" into Cambodia reported on the third day of the U.S. campaign:

"American ground troops who in Vietnam had trouble separating friend from foe among the civilian population now have a whole new set of problems in sorting out the Cambodians." [42]

What is a civilian foe? How is the "sorting out" done? what happens to those "sorted" as "civilian foe"?

Perhaps the report gives answers; it continues:

"U.S. airstrikes have partially destroyed the plantation town of Minot. Villages are being burned. Thousands of civilians are fleeing for their lives. . . . The pattern of Vietnam is being repeated. The American troops are putting the torch to homes because they may be useful to the Communists. Livestock are shot for the same reason. Palls of smoke rose over the region yesterday. Clusters of houses smoldered. 'I had orders to burn everything' said one young tank commander whose force had just driven through two hamlets and burned both of them . . . U.S. air strikes were ordered on the town [of Memot] because North Vietnamese troops were reported there. 'The whole place is blown away', said a helicopter pilot as he flew over it." [42]

3. The destructiveness of the U.S. attack violates the principle of proportionality

The U.S. is not waging war against Cambodia, but is using "self-help" against PRG and DRVN forces there. Even if this were legal, the destructiveness of the operation is all out of proportion to this end, and would therefore to this extent be illegal. This applies, *i.e.*, to the leveling of cities, the enormous B-52 bombings (the largest of the Vietnam war), the bulldozing of the landscape, the systematic burning of villages and dwellings, the confiscation of vast quantities of rice not identified as the opponents' military supplies—which have been reported within the first two weeks of the campaign, and which would therefore be illegal even if any of these measures might theoretically be permissible in a *war* against Cambodia.

4. Antagonism against ethnic Vietnamese in Cambodia

The establishment of the Lon Nol regime was followed by massacres of ethnically Vietnamese people in Cambodia. Photographs of the corpses, floating tied together in a river, were published. Mass expulsions and other persecutions have taken place. The press published reports about a mass exodus "to nowhere". Two explanations were given: that some of the victims were, or were suspected of being, Vietcong sympathizers; and that the Khmer people were traditionally hostile to ethnically Vietnamese people living among them.

Such atrocities constitute War Crimes or Crimes against Humanity also if on a smaller scale than those perpetrated by Nazi Germany. There is an analogy in the "explanations" given by the Nazis, namely, that Jews were Communists or Communist sympathizers; and that in certain German-occupied territories, antisemitism was endemic, and the local people participated in the slaughter of Jews. This was, in fact, argued by the defense at Nuremberg as a sort of mitigating circumstance. The judgment of the U.S. Nuremberg Tribunal dealing with these matters indignantly rejected these pleas. It observed that if in certain areas racial hatreds did exist, the German authorities were doubly guilty if they fanned them.

It is not suggested here that the U.S. contributed to these atrocities in Cambodia. But since the antagonism between Khmer and Vietnam ethnic groups is well-known, the decision to enable Saigon's Vietnamese forces to take highly destructive war actions in Cambodia and try to establish themselves there, burden the respective decision-makers with an additional responsibility; namely, that all this is likely (especially in view of the behavior pattern of Saigon troops even within South Vietnam) to exacerbate the ethnic tensions in Cambodia, and to cause more suffering to the population. On May 25, 1970—after the Saigon forces' invasion of Cambodia had only lasted approximately four weeks—"the Cambodian Army Information Service in Phnom Penh was distributing a statement calling on the U.S. to withdraw the South Vietnam army from Cambodian soil.

" 'These soldiers,' it said, 'have committed acts against the Cambodian population: pillage, violation of women, arson, massacre of children and women. Now they do not want to leave our territory despite the complaints of the population.' " [43]

In this context, it must also be remembered that certain U.S. policies pursued for years in South Vietnam have been based upon and exploited ethnic antagonisms, especially the systematic use of Montagnard tribesmen against ethnic Vietnamese.[44] The same use has been made of ethnic Cambodians in South Vietnam. After the opening of the U.S. campaign against Cambodia, *"our Cambodians,"* (as the New York newspaper *Daily News* called them) were transferred from South Vietnam to Cambodia for combat.

THREAT OF WAR AS INSTRUMENT OF NATIONAL POLICY

Why has the U.S. been so obstinate about this war? One frightening answer is that Vietnam is meant to be, and to be understood by other nations as a *warning*. The U.S. policies in Indochina *serve* notice that the U.S. would act *similarly elsewhere*, to prevent what the U.S. considers a threat of Communist take-over. How wide this is interpreted was evidenced by the U.S. military intervention in the Dominican Republic, the U.S. support for the establishment of the present dictatorship in Greece, and so on.

The significance of the "warning" rationale is analyzed in a frightening book devoted to the proposition that making others fear an American war is, and must remain, the "most powerful" instrument of U.S. foreign policy.:

"The roots of courage lie in understanding that *the opponent can have a war whenever he chooses* (ital. orig.) . . . He simply has to attack something he knows is *'ours'*: our own country, territories, or allies or related rights, that is, the *status quo*."

The wish not to have other Vietnams is "most dangerous" and "most destructive . . . The war in Vietnam represents one case . . . where our threat [namely, threat to make war if any status quo we consider "ours" may be changed] has been seriously questioned. Our struggle [in Vietnam] is one to maintain this threat . . . The correct interpretation of our action in Vietnam is, therefore, that it *shows what we can* and will do *and do again* (ital. orig.) to defend our position.

"We are simply trying to hold on to the non-communist world. If *an opponent* wishes a war with us, all he has to do is try to take some of it away." After detailed elaboration, the book concludes: "our nation's most powerful foreign policy instrument [is] the American threat of war." [45]

This is merely one bold enunciation that U.S. policy is, and must be, diametrically, opposite to the renunciation of war as an instrument of national policy (Kellogg Pact) and to the prohibition of the use or threat of force (U.N. Charter), which are cornerstones of the present world order.

It follows from that doctrine that the U.S. threat of war must be *"credible"*. The U.S. must not only threaten or use force against potential changes of the status quo that is "ours"—the U.S. must also show its determination to be "victorious" on any such war.[46]

The frustration of some U.S. military leaders about the course of the Vietnam war must be understood in this light. When in 1965 the U.S. decided to enter the war openly with its overwhelming destructive capacities, the planners expected that resistance would *have* to cease within days or, at the most weeks. That this has not happened after 5½ years of that enormous military effort by the most powerful nation against a small underdeveloped country seems to deny, as it were, the laws of physics. Hence, the repetition of one more "last" effort to force the elusive military "victory"—of which the Cambodian venture is the, so far, latest example.

The frustration is understandable. According to the premises and calculations of its military strategy, the U.S. should have won in 1965. Why, then, did it not?

It appears that the world has, indeed, reached a historic turning point. Vietnam has proven that even unparalleled application of the most up-to-date weapons (except nuclear weapons) does not prevail under certain circumstances over the resistance by a small determined country.

The experience is not altogether new. In

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the 1920's, General Pétain was unable with his vastly superior forces to defeat the uprisings in North Africa. Germany had similar experiences, for example in Yugoslavia in World War II.

We seem to face, then, a historic phenomenon, comparable in its repercussions to the defeat of the Hapsburg's armoured knights, in spite of their supposedly invincible superiority, by ill-clad, ill-armed Swiss peasants at the battle of Morgarten in 1861. That battle presaged the demise of feudalism in Europe. The all-important difference is that then the world did not live under the shadow of nuclear destruction.

Protests by Cambodia about Violations of Cambodian Neutrality

1. Protests about Violations by [Saigon] South Vietnamese Forces since Jan. 1956.

As early as in January 1956, Cambodia complained to the I.C.C., citing particulars about South Vietnamese violations of Cambodian sovereignty, consisting of attempted occupation of Cambodian territory and of ambushes, killings, wounding, kidnapping and maltreatment of civilians, in five different provinces of Cambodia, since November 1955.[47]

Each of the reports of the I.C.C for the period from 1 Oct. 1955 to 31 Dec. 1956, and for the years 1957 and 1958, respectively, states the Commission "received no report from the Royal Government of violations or threats of violations of Cambodian territory by forces of the Democratic Republic of Vietnam" (North Vietnam) but "several [namely, seven between 1 Oct. 1955 and 31 Dec. 1956; 28 during 1957; and 32 during 1958] letters from the Royal Government informing it of the build-up of military forces and reinforcements of military installations in South Vietnam . . . along the Cambodian borders as well as of reported violations or threats of violations of Cambodian territory" by South Vietnam.[48]

To quote some random examples: on Sept. 16, 1957, the Cambodian Government "forwarded to the Commission . . . a 'Statement of facts providing' . . . establishment of a large-scale [South Vietnamese] Military Post at Long Giang in the Province of Tay-Ninh to lodge 60,000 new [South Vietnamese] recruits"; establishment of various other South Vietnamese military posts; "anchoring of 4 big warships . . . at about 3 km from the Cambodian frontier"; and an "inspection tour carried out by a representative of Ngo Dinh Diem and [a] U.S. Colonel in the area of Khanh Binh.'[49]

The I.C.C. Report for the year 1957 alone summarizes 22 communications from the Cambodian Government reporting "violations or threats of violations of Cambodian territory by South Vietnamese elements", citing numerous military actions against specified places and villages in Cambodia, resulting in killings, ill treatment, wounding, arrests and abduction of Cambodian citizens, theft and destruction of their property, etc. On January 8, 1957. Cambodian authorities after such a raid "found 8 U.S. carbine covers marked WCC.52 and WCC.53 which were abandoned on Cambodian territory".[50] One of the Cambodian Government's communications (No. 527/DGP/X, dated 6 Sept. 1957) "stated that it appeared that the [South] Vietnamese military men by means of threats and violence endeavored to make the life of the inhabitants impossible in order to compel them to quit their villages."[51]

The increasing agitation of the Cambodian people is seen by the petitions submitted by them. For example, on Sept. 14, 1957, 54 villagers stated that—

"South Vietnamese authorities continue to build up military posts and to dispatch military personnel equipped with modern armaments to the Cambodia-South Vietnamese frontiers along the [Cambodian] Rieng, Preay Veng, Kratie and Stung Treng almost encircling the independent and neutral country of Cambodia . . . contrary to the Geneva Agreement . . ."[52]

Faced with this situation, Cambodia's National Assembly (Sangkum Congress) passed a law in November 1957, to which the I.C.C. attached much importance. It stipulated that—

"(a) the Kingdom of Cambodia is a neutral country. (b) It will abstain from all military or ideological alliances with [any] foreign country . . . (c) It will not attack any foreign country. [However,] (d) in case of aggression, the Kingdom reserves the right to (1) self-defense by arms; (2) call on the United Nations; (3) call on a friendly country."[53]

However, South Vietnam's provocative policy of military build-up against Cambodia, and intrusions into Cambodia, continued. For example, in 1958, the Cambodian Government advised the Commission of South Vietnam's installing "a big military base having an airfield" in an area close to the Cambodian border "populated by Cambodians, whose services were requisitioned [by the South Vietnamese] for this work"; [54] dispatch of 1,050 South Vietnamese parachutists to that border area; and establishment of another "big military camp" at the border in Phum Chen; and again of various military expeditions into Cambodia, resulting in killings, injuries, kidnapings, stealing of property, etc.[55]

In the following years, South Vietnam's illegal behavior toward Cambodia became ever more flagrant, and by 1963 Cambodia severed diplomatic relations with it. As American participation in these actions became more open, Cambodia was constrained to complain also of them.

On February 7, 1964, Prince Sihanouk sent the following formal message to the Co-Chairmen of the Geneva Conference:

"I have the misfortune to bring to your attention that regular forces of the Republic of Vietnam [South Vietnam] are continuing their *incessant and murderous aggressions* against Cambodia. The last example is the aerial bombardment of a peaceful Khmer [Cambodian] village . . . This criminal and unjustifiable attack follows a long series of attacks which are as many infringements of the most legitimate rights of nations. Our frontier population live in anguish and demand effective protection.

"Cambodia is at the very end of her patience and urgently demands the reconvening of the Geneva Conference. Failing this, we demand the immediate establishment at the expense of the *United States which is responsible for the South Vietnamese war and the military operations*, of fixed International Control Commission posts at sensitive (*nevralgigues*) points on our frontiers; thus in order to make known the truth about the alleged movements of South Vietnamese rebels ["Vietcong"] in Khmer territory which serves as pretexts for these terrorist raids against our villages."[56]

On May 5, 1965, the Prince stated in a message to the British Prime Minister "that peaceful Cambodia is continually suffering *aggression on land and from the air by the American and South Vietnamese Armed Forces* which subject our independence and territorial integrity to an increasing threat."

He asked for British "support for our demand for the *cessation of the attacks by the United States and the Saigon and Bangkok Governments* whose armed forces are *massacring our civilian inhabitants, destroying our villages and violating our air space and territorial waters.*"[57]

2. Protests about Violations by U.S. and Saigon Forces to the U.N. Security Council since 1964.

Attacks by U.S. forces and U.S.-supported Saigon forces have for years also been brought to the attention of the Security Council of the United Nations. A complete summary would fill many pages. The protests are contained in publicly available Security Council documents, and have also been summarized in the Year Books of the U.N.

For example, the Year Book of the U.N. for 1965 states (p. 189):

"Between March and September 1965, the representative of Cambodia addressed a further series of communications to the President of the Security Council following upon those submitted during 1964 (see Y.U.N., 1964, pp. 139–45), bringing to the attention of the Council further alleged violations of Cambodian territory and air space by forces of the Republic of Viet-Nam [Saigon regime] and the United States."

The official U.N. publication goes on to record:

"*No denials or countercharges were submitted* in connexion with these charges."

1965 was the first year of open U.S. combat in Vietnam. The absence of U.S. denials or countercharges is therefore particularly noteworthy, also in view of the gravity of Cambodia's accusations. By a letter of 18 Aug. 1965 to the U.N. Security Council, Cambodia accused the "Saigon authorities" of a "policy of genocide against all minorities in South Viet-Nam (which) was clear for all observers on the spot, including U.S. observers." By "letter of 7 Sept. 1965, the Cambodian Government strongly protested against renewed accusations that North Viet-Namese forces were present in Khmer territory. Such accusation . . . had been found to be false by the International Commission for Supervision and Control in Cambodia and by the Office of the Personal Representative of the Secretary-General in Thailand and Cambodia."

In October 1965, Cambodia again "protested against various provocative acts and raids committed by the U.S.-South Viet-Nam armed forces against Cambodian territory", stating *i.a.* that inhabitants were addressed by loudspeakers from helicopters "inciting them to leave for South Viet-Nam in anticipation of an imminent attack on Cambodia" and that "U.S.-South Viet-Namese forces" made "three successive raids on three villages in the provinces of Svay Rieng, which had left seven dead and six seriously wounded, and resulted in heavy damage. This had been verified by the International Contol Commission and by foreign military attaches."[58]

The Year Book of the U.N. for 1967 reports again under the heading, "Communications from Cambodia relating to U.S. and South Viet-Namese Forces":

"There were *over 40 complaints* addressed to the Security Council in 1967 by Cambodia concerning *violations of Cambodian territory, air space and territorial waters* by 'U.S.-South-Vietnamese forces.' In such communications the Government of Cambodia stated that it had protested most strongly against these *acts of aggression and provocation* and had repeatedly demanded that the Governments of the United States and the Republic of Viet-Nam immediately cease such acts."

"As evidence of such violations of the sovereignty and territorial integrity of Cambadia, the Cambodian representative . . . supplied *details on scores of incidents*, charging that elements of the U.S. South Viet-Namese forces had with various weapons fired across the frontiers at villages and guard posts or penetrated into Cambodian Territory attacking similar targets and planting mines, that they had with airplanes and helicopters violated Cambodian airspace, frequently machine-gunning and firing rockets at villagers, guard posts and Khmer villagers working in the fields, and occasionally dropping mines and poisonous booby-traps. The communiques listed numerous resulting deaths and injuries inflicted on Khmer civilians and members of the Cambodian armed forces, as

Footnotes at end of article.

well as damage to dwellings, livestock and other property."

"Charges were also made of armed vessels of the U.S. and South Viet-Nam penetrating into Khmer territorial waters, sometimes firing at Khmer fishermen, seizing fishing boats and Khmer fishermen."

"The Cambodian representative also described a number of *large-scale penetrations by U.S.-South Viet-Namese forces,* ranging from 100 to 200 soldiers, transported by up to 60 helicopters and *supported by aircraft and artillery fire,* which attacked villages and guard posts with consequent casualties, *sometimes burning or temporarily occupying Cambodian villages.* Such communications included statements that the authorities of the United States and South Viet-Nam would bear full responsibility for any consequences of these deliberate aggressive acts committed by their armed forces against Khmer territory and that such acts indicated that the Governments concerned were part of a *policy of intimidation* directed against Cambodia with the intention of *forcing it to renounce its policy of strict neutrality and non-alignment.*"

"In some of his communications, the representative of Cambodia pointed out that in the International Control Commission, the military and press attachés of diplomatic missions in Phnom Penh, as well as national and international press correspondents, upon the invitation of the Royal Government, had visited and seen for themselves the scene of the attacks and violence reported."

"On 11 September, the Cambodian representative informed the Security Council that on 15 July 1967 Cambodian Defense Forces, while pursuing a group of foreigners on Khmer territory, had captured a South Viet-Namese soldier *disguised as a Viet-Cong.* Under interrogation this captive had revealed that the task of his *company was to disguise its men as Viet-Cong* and so *smuggle them into Khmer territory* in order to identify strategic points and seek evidence of the presence of Viet-Cong. The sole aim of these acts in Cambodian territory, the Cambodian representative wrote [to the U.N. Security Council], was to find *pretexts for extending the war to Cambodia.*"

Most of the altogether 40 complaints lodged in the year 1967 by Cambodia with the U.N. Security Council involved several or numerous violations.

During 1967, there was one countercharge against Cambodia. By letter of 28 April, the Permanent Observer of the Republic of Viet-Nam [Saigon regime] charged "that between May 1966 and March 1967 Cambodian armed forces had violated Viet-Namese air space eight times and had crossed the frontier 16 times, forcibly abducting Viet-Namese nationals, causing casualties and stealing cattle." [59]

Cambodia replied to the Security Council on 26 June 1967 after "detailed investigations", declaring that these "unfounded accusations were designed to mislead international opinion and to justify acts of *aggression committed almost daily* by the Saigon authorities and their American masters against the territorial integrity of Cambodia and peaceful Khmer frontier dwellers."

Between January 1968 and mid-1969, Cambodia submitted over 100 separate protests or on the average more than five protests per month, claiming acts of aggression by "U.S.-South Viet-Namese forces" on Cambodian soil, in Cambodian airspace and in Cambodian territorial waters.[60] Many referred, with indications of time, place, and damage, and often names of victims, to several or numerous violations.

As time went on, the protests became increasingly urgent and reported increasingly serious violations. Again there were no U.S. or Saigon denials or countercharges.[61] For example, of the ten Cambodian protests dated between 31 Dec. 1969 and 18 Feb. 1970, three each reported "a series of aggressive acts by U.S.-South Viet-Namese forces" against *seven different Cambodian provinces* (S 9586, S 9625, S 9653), two each against *six* (S 9605, S 9645) and one (S 9638) against *four* of those Cambodian provinces.

Between 25 Feb. and 25 Mar. 1970, six Cambodian protests followed, still exclusively complaining about "aggressive acts" by "U.S.-South Viet-Namese forces." [62]

3 Cambodian protests against Viet-Cong and North Vietnamese forces since 30 March 1970.

The first complaint to the U.N. Security Council about Viet-Cong and North Vietnamese forces was dated 30 Mar. 1970. It reported the following events of 27 March: arrest of two Cambodian policemen (of whom one was "released a few moments later") by the "Viet-Cong and North Viet-Namese forces" about 20 km from the frontier; an engagement between a "large" such unit with Cambodian forces about 3 km from the frontier, in which 3 Cambodians were killed and 8 seriously wounded; and the occupation by an estimated 3,000 Viet-Cong and North Viet-Namese of a village about 7 km inside the frontier; and the following events of 28 March: the advance forces of 2 large columns of Viet Cong and North Vietnamese forces were sighted, who had infiltrated Cambodia the day before; another such unit, estimated 600 strong, was sighted about 10 km inside Cambodia territory and a Cambodian military post about 5 km from the frontier was attacked by such elements (S 9279). The next day, Cambodia reported that on 31 March, an estimated "several thousand heavily armed" Viet-Cong and North Vietnamese units had forcibly entered the Snoul region, province of Kratie, and attacked a Cambodian detachment 8 km inside Cambodian territory. (S 9730 and Add. 1 of 1 Apr. 1970).

On 3 April, the Cambodian Deputy Permanent Representative addressed two letters to the U.N. Security Council. The first (S 9733) complained about violations by "U.S.-South Viet-Namese forces" between 17 and 27 Feb. 1970: namely, firing of rocket shells and artillery in different Cambodian localities, machine-gunning and rockets thrown from 6 helicoptors flying in Cambodian airspace. The second added details about the previously reported Vietcong and North Vietnamese attack in the Snoul region (1 dead, 13 wounded, 3 missing) and reported about another incident on 31 March, namely, an attack by about some 100 strong about 2 km inside the border, resulting in the death of 2 armed villagers, 1 wounded, 19 missing.

FOOTNOTES

[1] Art. 12 of the Final Declaration of 21 July 1954, Cmnd. 9239.

[2] Cmnd 9239.

[3] In view of "assurance" to the I.C.C. that Cambodia "will always and scrupulously respect the terms of the Geneva Agreement" and "will follow a policy of *neutrality*", the I.C.C. accepted the Military Aid Agreement, "(a) lthough it may still be argued that some of the clauses of the new Military Aid Agreement in terms go beyond the limitations imposed by the Geneva Agreement." (*Third Interim Report* of the Commission, for the period April 1 to July 28, 1955, Cmnd. 9597, Cambodia No. 3, 1955, p. 5/6.)

[4] *Fourth Interim Report* of the I.C.C., for the period April 1 to September 30, 1955, Section, "Entry of War Material into Cambodia." Cmnd. 967, p. 23.

[5] In Summer 1965, soon after severing diplomatic relations with the U.S., the Prince Norodom Sihanouk candidly stated his views:

"The progressive escalation of the war (the American raids of terror on North Vietnam and the countermeasures that the Socialist world will inevitably take) might ruin attempts at compromise. . . . In perpetuating the war in South Vietnam, in supporting the Saigon leaders who are universally unpopular, known as her 'creatures', the United States has forced the majority of the common people and the majority of the elite of South Vietnam into the arms of the Communists. . . . This is not the way to combat Communism. . . . This 'anti-Communist' war by reason of the imperialist character that it forcibly assumes in the eyes of the masses, on the contrary, favors communism."

He was looking forward to good relations with an America that "would no longer be, in our eyes, an imperialistic nation that seeks to impose her policy and her government upon us. . . ."

(Interview with Robert Scheer, *Ramparts,* July 1965, reproduced in M. G. Raskin and Bernard B. Fall, eds., *The Viet-Nam Reader* 1965, pp. 358–360.)

[6] Information to the U.N. Security Council of 11 June 1968 (S/8629), Report of the Security Council, 16 July 1967–15 July 1968, GAOR. 23rd Sess. Suppl. 2 (A/7202), p. 110, para. 806.

[7] The U.S. diplomatic note of Feb. 9, 1970 (S/9692) acknowledged some violations for sources, and additional data, see Appendix 2 to the present paper.

[8] The U.S. diplomatic note of Feb. 9, 1970 (S/9692) acknowledge some violations, offering apologies, and indemnification for victims.

[9] N.Y. Times, Jan. 6, 1968.—In an interview with Look magazine, Sihanouk stated:

"Oh, yes, we do have some Vietcong crossing into Cambodia, but farther north, in unpopulated areas. They come over mostly to get food and never in large groups—not even up to company strength. We usually give them at least 24 hours to get out, as they often claim the Americans are lying in wait for them." (Look, 4/2/68, p. 65).

[10] Agence France Press, datelined Phnom Penh, Jan. 10, 1968, N.Y. Times, Jan. 11, 1968, p. 1. Immediately afterwards, controversy developed between Cambodia and the U.S. over whether or not the U.S. had really pledged itself not to invade Cambodia.

[11] President Nixon's TV address of 4/30/1970, N.Y. Times, May 1, 1970, p. 2.—Curiously, Mr. Nixon continued, in order to prove the scrupulous U.S. respect for Cambodian neutrality: "We have maintained a skeleton diplomatic mission of fewer than 15 in Cambodia's capital, and that only since last August," (August, 1969) while during "the previous four years we did not have any diplomatic mission whatever in Cambodia [because Cambodia severed diplomatic relations with the U.S.A.—see above] and for the past five years we have provided no military assistance whatever and no economic assistance to Cambodia." The implication is that actions violative of another country's neutrality can *only,* or *at all,* be committed through embassies or assistance programs.

[12] S/1930, S/9734, S/9741, S/9743, S/9759, S/9754, S/9760, S/9762, S/9763, S/9769, S/9773, S/9776, S/9780.

[13] In 1907, it was "assume(d) that trading activities are in the hands of private enterprise." (Friedmann, *The Changing Character of International Law,* 1964, 346, quoted Whitman, *l.c.,* 412). The Convention forbade such exports by the *governments* of neutral countries. However, "the possibility of maintaining this separation in practice has become very difficult . . ." (Tucker, quoted in Whiteman, *l.c.,* 429). Developments since then have contributed "to blur that distinction between the activities of individuals and of States." (* * * (Finland). *The Present Law of War and Neutrality,* Helsinki, 1954, 456, quoted *ibid.* 431). The distinction "underwent a gradual invalidation" (Skubiszowski (Poland) in M. Sørensen (Denmark), ed., *Manual of International Law,* 1968, 8½). For further views, see Whiteman, 427–433.

The question is irrelevant in the Cambodian case. The U.S. has neither complained

about the sale of war materiel by governments to the enemy, nor based its invasion of Cambodia on this ground.

Of great significance is, however, the fact that during World War II the U.S. Government disregarded this distinction, and the U.S. became openly an "arsenal" for states at war with Hitler Germany. Secretary of War Stimson justified this by adopting the interpretation of the Kellogg Pact by the International Law Association (Budapest, 1934), namely, that a neutral "can decline to observe toward the State violating the [Kellogg] Pact the duties prescribed . . . for a neutral . . ." (Hackworth, VII, *Digest of International Law*, 1933, 680/1): and similar statement by Robert Jackson, Assoc. Justice of the Supreme Court, on 2 Oct. 1941 (*ibid.*).

For the text of the "celebrated Articles of Interpretation" of the Kellogg Pact, see, *e.g.*, D. W. Bowett, *Self-Defense in International Law*, 1956, p. 160: Bowett also quotes Brierly, Lauterpacht and Quincy Wright, backing conclusions drawn by the International Law Assoc. Wright considered that violation of the Kellogg Pact gave neutrals not only the right "but possibly even a duty, to discriminate against the offending State. . . ." (Bowett, *l.c.*, p. 160/1).

[14] For example, U.S. Secretary of War Robert Lansing stated: "It should be understood that generally speaking, a citizen of the U.S. can sell to a belligerent government or its agents any article of commerce which he pleases. He is not prohibited from doing this by any rule of international law . . ." (quoted by Glahn, *Law among Nations*, 1965, 632/3.) The rule has been also applied traditionally to arms sales to rebels. Glahn quotes approvingly a well-known British decision of 1817 to this effect. See also Art. VII of Hague Conventions V and XIII.

[15] See, *e.g.*, Australian authority J. G. Starke, *An Introduction to International Law*. 5th ed., London, 1963, 440.

[16] Quoted in 11 Whiteman, *l.c.*, 368.—It must be noted that this makes it illegal for soldiers of a party to the conflict to rest and refresh themselves in a neutral country and then leave it even if they do *not* go back to the fighting but merely rejoin their forces.—Sick and wounded military personnel of belligerents cared for in neutral territory must be detained by the latter after recuperation. (Art. 37, Geneva Wounded and Sick Convention, 1949; see also Hague Convention V, art. 14).

[17] The American authority Hyde emphasized that a belligerent aggrieved by the negligence of the neutral to prevent use of its territory by the opponent may not even ask *indemnity* from the negligent neutral if the claimant itself had no "clean hands":

"In case . . . a belligerent suffered harm through the *neglect* of a neutral to prevent the violation of its own territory by the opposing belligerent, the value of the claim to *reparation* might be weakened if, notwithstanding such neglect, the conduct of the aggrieved belligerent was the *proximate cause* of the acts committed by the enemy. The belligerent claimant *should show clean hands as a condition* to its exaction of indemnity." (C. C. Hyde, *International Law, Chiefly as interpreted and Applied by the United States*. Boston, 1945, vol. III, 2345.)

[18] Oppenheim-Lauterpacht, II *International Law*, 7th ed., 1952, p. 627.

[19] Such "hot pursuit" was used by the U.S. during Prohibition. See, for example, U.S.-British Convention for Prevention of Smuggling of Intoxicating Liquors, 43 Stat. 1761, T.S. 685 (1924).

[20] See International Convention on the High Seas, 1958; and, for example, Myres S. McDougal and Associates, *Studies in World Public Order*, 1960, 811, n. 204, citing other authorities.

[21] Prior to 1907, it was sometimes asserted, especially by the United States, that a neutral country must use *"due diligence"* against violations of its neutrality. Some controversy developed about the exact meaning of "due diligence." Since the interpretation may determine the fate of an innocent state, the 1907 Peace Conference at The Hague dropped the concept of "due diligence" and demanded, as the text in Convention XIII, quoted above, shows, from the neutrals "the employment of the means at *their disposal.*" Since then, the term "due diligence" is to be understood in this sense. (II Oppenheim-Lauterpacht, *l.c.* 758. This authority also points out (a) that had the United States' interpretation of "due diligence" demanded from the neutral "been generally accepted, the most oppressive obligations would have become incumbent upon neutrals"; (b) that "no such general acceptance has taken place"; and (c) that the concept of "due diligence" . . . "can have no other meaning than . . . such diligence as can be *reasonably be expected* when all the circumstances and conditions *of the case* are taken into consideration." ——— 757/8).

See, for example, C. C. Hyde, *International Law Chiefly as Interpreted and Applied by the* United States, 1947, 2334, quoting Thomas Jefferson's view as Secretary of State, 1798: "a neutral is not deemed to be guilty of delinquency for which it is chargeable with responsibility, when it employes the means at its disposal to prevent unlawful activities within its territory."; H. H. Jacobini, *International Law*, 1968, 48, quoting a case arising out of the War of 1812; D. W. Bowett, *Self-defense in International Law*, 1956, 170/1, quoting Hyde, the award of the German-Portuguese arbitration tribunal, Hall, the other authorities; Rodick, *The Doctrine of Necessity in International Law*, 1928, 117: There is no "legal justification and excuse for a belligerent violation of neutral rights in a case where the neutral has not failed in any duty which it owes to the particular belligerent." (quoted by Bowett, 168) l.c., 757/8.

[22] Regarding the "ultimate resort" doctrine, see the authorities quoted in the State Dept. 8354 Publication, *Digest of International Law* (M. M. Whiteman, ed.) Vol. 11, 1968, pp. 190–193. The section on "Belligerent Remedies for Breach of Neutrality" opens with the following quotation from Greenspan, *The Modern Law of Land Warfare* (1959), 584:

"In general, the remedies for breach of neutrality, either by the neutral state or by a belligerent, consist in *protest* to the power concerned, *demand for compensation, retaliatory* action in the nature of reprisals and, in the *ultimate resort, declaration of war*. Since it is obvious that retaliatory action can easily develop into war, recourse should *first* be had to *peaceful* methods of resolving the dispute, such as those outlined in Article 33 of the United Nations Charter." Julius Stone (*Legal Controls of International Conflicts*, 1959, 400/1) is quoted as stating, *i.e.*: "One clear principle is that, the *right of self-preservation* apart, an aggrieved State is *clearly not entitled* to violate the neutral's territorial integrity, simply because his enemy has done so."

Stone is speaking only of "self-help" in neutral *waters*, where of course damage to the territory or persons of the neutral state is excluded, even if forceful action is taken. A very strict interpretation, again limiting the right to use force, even in neutral waters, is propounded by Tucker in a study prepared for the U.S. Naval College: "Despite . . . dearth of precedents it is the opinion of a number of publicists that if the neutral State is unable to enforce its rights against one belligerent making unlawful use of its waters the other belligerent may—as *an extreme measure*—resort to hostile action . . . in neutral waters. . . . It is still the opinion of perhaps the majority of writers that the *only exception ought* to be *self-preservation*—interpreted in *the most narrow sense.*" (Tucker, The Law of War and Neutrality at Sea", U.S. Naval War College. *International Law Studies*, 1955 (1957) 220, 221–223)—The "dearth or percents" is itself instructive: Tucker cites *one* attack each on an enemy ship in neutral waters in the Russian-Japanese war of 1905, in World War I, and in World War II; and one mine-sowing action (ibid., 193).—The single attack in neutral waters during World War II (British stopping the German ship *Altmark* and without damaging the ship, forcefully liberated British prisoners from it) is still debated among international lawyers. For ex., MacChesney, in another U.S. Naval War College study, states that in view of the U.N. Charter and the *Corfu Channel* doctrine of the International Court of Justice the British action against the *Altmark* "would now be illegal." (quoted ibid., p. 193)

[23] Hence, as the Manual emphasizes at the outset (Ch. 1, Sec. I., para. 1), such statements in the Manual as para. 520, which reproduce neither statutory nor treaty provisions, "should not be considered binding upon courts and tribunals applying the law of war" but are, in the Manual's view, "of evidentiary value *insofar* as they bear upon questions of custom and practice."

[24] See again, for example, Greenspan, *The Modern Law of Land Warfare*, reproduced in Whiteman, *Digest of International Law*, quoted in preceding footnote.

Precedent: French bombing raid on an Algerian N.L.F. "sanctuary" in Tunisia, 1958.

Invasion, even if genuinely "non-hostile," of a neutral country for whatever reason is so universally abhorred that precedents are lacking. However, post-1945 history has furnished one precedent of a single air raid against what would in present parlance be called a "sanctuary." Having been a single air raid (although causing heavy casualties) it could, in fact, be considered more analogous to the numerous U.S. and Saigon bombing attacks on Cambodian border areas prior to the full-fledged invasion of Cambodia. Also, in the French-Algerian war. France was not an intruder; she did fight for her territorial integrity; and many judicious Frenchmen, while ready to grant Algeria full autonomy, feared that a complete "loss" of Algeria would reduce France to a second-class Power. As Raymond Aron, not a chauvinist, wrote in 1959: "Algeria is legally an integral part of the national territory, it is inhabitated by a million French who have built up (*qui ont édifié*) Algeria and who cannot conceive to stay there as foreigners. If Algeria . . . were to become independent (*devient un Etat*) France . . . would vow to itself the mediocre position of Spain (*la France sera . . . vouée à la mediocrité espagnole*)." (Raymond Aron, *Immuable et Chanqeante. De la IVe à la Ve Republique*. Paris, 1959, 177/8)

[25] Aron, 177

[26] This summary is based on U.N. documents and the detailed, well-documented recital in *Kiesinger's Contemporary Archives*, issue of May 31–June 7, 1958, 18203–7.

[27] It was composed of Deputy Under-Secretary of State Robert Murphy who during World War II was US ambassador to Vichy and then political advisor General Eisenhower when the latter was Commander, Allied Forces in the Mediterranean; and Harold Beeling, Superintending Under-Secretary in charge of Middle Eastern and North African questions at the Foreign Office.—Mr. Hammerskjold also took sometime part in the ensuing conciliation negotiations.

[28] It asserted, *i.e.*, that the Algerian N.L.F. general staff had been installed in Tunisia since July 1957, with the Tunisian Government's permission; that the Tunisian authorities permitted and sometimes facilitated the movements of N.L.F. forces; that the Tunisian radio gave "moral assistance" to the Algerian rebellion. "The counter-action of the French Air Force" at Sakhiet "originated in the numerous provocations suffered by our

troops. Whilst the French Government deplores the casualties suffered by the civilian population it finds it impossible to isolate this event from those who caused it."

[29] Re-occupation" refers to the fact that Tunisia had become indepnedent from France only 2 years earlier.

[30] France still had, under treaty rights, some 15,000 troops in Tunisia. Pineau stated in the National Assembly on Feb. 14, 1958 that an estimated 6–7,000 Algerian rebels were operating on Tunisian territory, and that the Tunisian army was smaller than that. French military measures against the Algerians there would, thus, not have required an *invasion* into Tunisa.

[31] France and Tunisia advised the U.N. Security Council of the settlement on June 18, 1958. This obviated the need for further debate in it on the Tunisian and French complaints. Previously, the Security Council had, on Feb. 18, unanimously decided to adjourn consideration pending the results of the US–UK conciliation efforts. But it did consider subsequent charges by both sides on June 2 and 4, 1958.

[32] See, *e.g.* the view of MacChesney (quoted in Whiteman, *l.c.*, 193) that the British action against the German ship *Altmark*, without damaging her, as reply to her violation of neutral Norwegian waters in 1940, "would now be illegal" in the light of the *Corfu Channel* doctrine and the U.N. Charter.

[33] For example:

"I again warn the North Vietnamese that if they continue to escalate the fighting when the U.S. is withdrawing its forces (!). I shall . . . take the action *I consider necessary* to *defend the security* of our American men"

(President Nixon's TV address, April 30, 1970; N.Y. Times, May 1, 1970, p.2).

[34] Statement by Secretary of Defense Laird (N.Y. Times, May 3, 1970, p.2).

[35] President Johnson, in a message of Dec. 31, 1963 (!) to Mr. Thieu's predecessor, General Duong Van Minh, stated:

"As the forces of your government become increasingly capable of dealing with this aggression, American military personnel in South Vietnam can be progressively withdrawn."

(Committee on Foreign Relations, U.S. Senate. *Background Information relating to S.E. Asia and Vietnam*, 4th rev. ed., 90th Congr. 2d Sess., 1968, 133.)

A report by staff members of the U.S. Senate Foreign Relations Committee on their visit to South Vietnam (Dec. 1969) states: "When Vietnamese military self-sufficiency is discussed by American officers [in South Vietnam] it is never put in a context of less than two to four years. In fact, planning in connection with Vietnamization seems vague. There does not seem to be a fixed timetable. . . . Construction work on American bases throughout the country appears to be continuing . . . the talk in Saigon among Vietnamese as well as Americans is in terms of keeping some 250,000 [U.S.] troops there for years." (*Vietnam: December 1969*. Expurgated U.S. Senate Foreign Relations Committee Print, February 2, 1970, page 10.)

[36] The President's simultaneous plea, that we previously did not move against the "sanctuaries" because "we did not wish to violate the territory of a neutral nation" admitted that we now did "violate" it. (TV address of April 30, 1970, N.Y. Times, May 1, 1970, p.2).

[37] "Thieu is determined to maintain himself in power . . . while many believe that Thieu has the support of no more than 20% of the people . . . it is felt that as long as he can count on American support . . . he will not . . . involve other non-Communist political elements in governing the country." (*Vietnam: December 1969*, p. 12).

[38] Mr. Arthus Schlesinger, Jr. criticized New York Times columnist C. L. Sulzberger for supporting "President Nixon's strange theory that the U.S. would have lost credibility everywhere in the world had it not invaded Cambodia." However, Mr. Schlesinger still partly accepted it by linking "credibility" with "vital interests": He calls it "patently absurd" *not* to distinguish between areas where the U.S. (or, *e.g.*, the U.S.S.R.) have, and where they have not, "vital interests", and argues that in areas of vital interests the credibility to "fight" must be upheld.

The world legal order does not permit any nation, including the U.S.S.R. or the U.S.A., to "fight" whenever it unilaterally considers "its vital interests" to be concerned. Rather, it has created various principles, machinery and institutions (a) to protect the interests of all nations; (b) to prevent and to settle disputes about interests; and (c) emergency sanctions, ultimately including armed force. As this war tragically demonstrates, if a loophole is opened to *disregard* the law for an alleged overriding national "interest", the results can be disastrous to *all* parties.

[39] As reported in the Daily News, N.Y., May 9, 1970, p. 8.

[40] *Ibid.*

[41] The U.N. International Law Commission commented in 1966 that the respective draft article (art. 68) "is intended to make clear that [during a treaty's suspension] the legal nexus between the parties established by the treaty remains *intact* and that it is only the *operation* of its provisions which is suspended . . ."

Regarding the obligation "to refrain from acts *calculated to render the operation of the treaty impossible* as soon as the ground or cause of suspension ceases, [the] Commission considered this obligation to be implicit in the very concept of 'suspension' and to be imposed on the parties by their [general] obligation . . . to perform the treaty *in good faith.*"

(Reproduced, *e.g.*, in 8 *Indian Journal of International Law* 1 (Jan. 1968), 157.)

[42] N.Y. Post, May 4, 1970, p. 5 (AP).

[43] Reported by Clayton Fritchey, in *New York Post*, May 29, 1970, p. 27.

[44] The South Vietnam Liberation Front protested against the exploitation of ethnic differences by the Saigon regime already in its first program of 1960. See also Section 10 of their programmatic statement of 22 March 1966 (reproduced in English translation in: South Vietnam National Front for Liberation. *Documents*. South Vietnam, Giai Phong Publishing House, Dec. 1968, pp. 16, 20, 76/6.)

[45] James L. Payne. *The American Threat: The Fear of War as an Instrument of Foreign Policy*. Chicago: Markham Publ. Co., 1970, 155–158, 223.

[46] The author presents Hitler's boldness as model:

"Hitler's bold moves . . . against Austria and Czechoslovakia gave him a reputation for forcefulness and determination throughout Europe."

And continues:

"What we do about the aggression of one opponent offers other *enemies* (1) an *indication of our determination to oppose them* . . . we dislike communism, and . . . *we oppose its extension because we do not like it and believe it is hostile to us* . . . Our failure to respond would suggest that we are not so willing to oppose 'communist' (quota. marks orig.) aggression in general. . . ."

(*l.c.*, 106/7.)

[47] The I.C.C. summarized these reported violations as follows:

"(1) Use of force and trespassing by [South] Vietnamese soldiers on Cambodian territory.

"(2) Attempted occupation of islands off Cambodia by [South] Vietnamese forces. . . .

"(3) Penetration into Cambodian territory by armed or unarmed [South] Vietnamese citizens other than soldiers.

"(4) Concentration of [South] Vietnamese troops on the Vietnamese side of the border."

(*Fifth Interim Report of the International Commission . . . in Cambodia for the period Oct. 1, 1955 to Dec. 31, 1956*. Cmnd. 253, Sept. 1957, p. 19.—For details (resulting deaths, damages to property, etc.) see pp. 35–38.)

[48] *Fifth Interim Report* . . . p. 19: Appendix G, pp. 35–38; *Sixth Interim Report . . . for the period Jan. 1, 1957 to Dec. 31, 1957*. Cmnd. 526, pp. 6–8, App. B, pp. 14–32; *Seventh Interim Report . . . for the period Jan. 1, 1958 to Dec. 31, 1958*. Cmnd. 887, pp. 2–4, App. B, pp. 11–18.

Thereafter, the Commission has not published any further Report. (See Cmnd. 2834, Miscellaneous No. 25, 1965, Dec. 1965, p. 267.)

[49] Letter No. 553/LGP/X, dated 16 Sept. 1957; *Sixth Interim Report* . . ., p. 16.

[50] *Ibid.*, p. 21.

[51] *Ibid.*, p. 28.

[53] *Sixth Interim Report* . . ., p. 17. The "modern armaments" used by South Vietnam against Cambodia could only have been provided by the U.S. This was contrary to the Geneva Agreements.

[53] *Sixth Interim Report* . . ., p. 9; see also pp. 42/3.

[54] *Seventh Interim Report* . . ., p. 11. Construction of new airfields in South Vietnam is expressly forbidden by the Geneva Agreements.

[55] *Ibid.*, pp. 12–18.

[56] *"Documents Relating to the British Involvement in the Indo-China Conflict, 1945–1965*. (Miscellaneous No. 25, 19650, Cmmd. 2834, p. 244.

The letter ends with Sihanouk's statement that "Cambodia cannot remain eternally passive in the face of these *repeated aggressions* and that if no international means is swiftly taken to bring them to an end, she will be obliged to modify her neutral status and have recourse to assistance pacts with certain big friendly Powers."

See also Canadian Government Communique, 18 Feb. 1964, *ibid.*, p. 247/8.

[57] *Ibid.*

[58] Y.U.N., 1965, p. 189.

[59] By letter of 25 July 1967, the Permanent Observer of the Republic of Viet-Nam at the U.N. finally replied to Cambodia's complaints lodged between June 1964 and March 1967:

"His Government had not thought it necessary to deny each time" the Cambodian charges "which were often of a minor nature and attributable either to the imprecise character of the common frontier or to deliberate acts of provocation by the Viet-Cong. All charges had been investigated. His Government had *recognized as valid complaints* concerning *five incidents* occurring between June 1964 and March 1967 and had agreed t pay damages to the victims. It has found completely baseless the other complaints lodged by the Cambodian Government, which had disregarded repeated protests against the use of Cambodian territory by the Viet-Cong and the North Viet-Namese as a base for aggression into the territory of the Republic of Viet-Nam."

(Y.U.N., 1967, p. 152. ital. added.)

[60] See lists, with summaries, of Cambodian communications to the U.N. Security Council in Report of the Security Council, 16 July–1967–15 July 1968, *l.c.*, para. 807, pp. 110–112; and Report of the Security Council, 16 July 1968–15 July 1969, GAOR, 24th Sess. Suppl.2 (A/7602), para. 779, pp. 102–104.

[61] One communication from the U.S. representative, date 9 Mar. 1970 (S/9692), in reply to Cambodian protest about U.S. attacks at Dak Dam. Cambodia, on 16–17 Nov. 1969, acknowledge some impropriety, offering apologies, and indemnification to victims.

[62] For full text of the Letter, dated 25 Mar. 1970 (U.N. Security Council document S/9724) in English translation from the original French, see Appendix II to the present paper.

[From American Report, May 7, 1971]

"FREE CHOICE" OR SUBJUGATION?

(Complied with an introduction by Edward S. Herman)

One of the fundamental sources of the large volume and systematic character of war crimes committed by the U.S. military in Vietnam is a socio-political fact: the United States has been fighting an "anti-people" war against a national independence movement with deep roots and a mass base, and in favor of a minority faction with negligible indigenous support. What is more, our methods of fighting the war have tended to consolidate the enemy's internal support and isolate the quislings, wholly dependent on the foreign power that has devastated their country. After a six-year-long American invasion and assault it still remains true—and is universally recognized—that the withdrawal of all foreign forces from Vietnam, or all non-South Vietnamese from the South, would result in an immediate collapse of the U.S. junta client. As Joseph Alsop pointed out back in 1955, in reference to the long resistance of the Vietminh to the French effort at "pacification," "The Viet Minh could not possibly have carried on the resistance for one year, let alone nine years, without the people's strong, united support." (See item 1 in the compilation below.)

Both the Johnson and Nixon administrations have claimed that the United States is in South Vietnam mainly for the purpose of giving the South Vietnamese "free choice" and the opportunity to "determine for themselves" their future. This contention is widely accepted even by people of goodwill as expressing U.S. *goals* if not actual practice. These individuals rarely ask why a people being given "free choice" has to be "pacified" (see item 37 below).

In reality, "free choice" and "self-determination" have never been goals of U.S. policy-makers in Vietnam. Their central and undeviating purpose has been to establish and maintain in power an anti-communist ally or client, *irrespective of his level of indigenous support*. Thus the United States for a number of years attempted to facilitate the return of French colonialism to Vietnam, hardly consistent with a "free choice" goal. This option having failed, U.S. leaders turned to building up an indigenous anti-communist faction that it hoped might be able to hold power in the South. The unifying election called for by the Geneva Accords of 1954 was not supported by the United States or its client government—in violation of both the spirit and letter of the Accords—for one crucial reason: "our side" would have been crushed. This was hardly a secret at the time (see items 1–6 in the compilation below); but once again it showed, as does the whole history of U.S. intervention up to today, that "free choice" *is precisely what the U.S. leadership has been trying to avoid.*

Following Geneva, U.S. policy involved lending support to a mandarin government with an extremely narrow base of South Vietnamese loyalty (see items 7–14, 21, 25–28). The Diem Government and its military successors, in fact, regarded the mass of peasants (80 percent of the population) as actually or potentially hostile, and from a very early date commenced wars of "pacification" against them (see item 8). The Diem Government and its successors have been living object lessons demonstrating that "free choice" has been an American objective only in an Orwellian sense. These governments have survived up to the present day solely by virtue of U.S. military intervention (see items 31 and 40).

It is instructive in reading the literature on "pacification" and recommendations on general strategies for U.S. intervention since 1954, to see how often the official and pro-intervention experts describe what must be done to build a friendly constituency *that by direct admission or by implication does not yet exist*, and to deprive the enemy of active popular support which, also by direct admission or by implication, is real and present (see items 13–16, 20, 26–28). This is acknowledgement that "free choice" and "self-determination" would not go our way—therefore we must intervene with bombs, troops, mercenaries, defoliants, Zippo squads, and "good works" to alter the pattern of indigenous support and power. This is the opposite of support of "free choice"—it is a refusal to accept it until we are satisfied as to the probable outcome. What is more, intervention by force to prevent self-determination in a foreign country is plain aggression.

If "Vietnamization" means permitting the South Vietnamese to settle their own affairs and run their own society on the basis of indigenous power positions, this is what the United States has been fighting *against* from the time of its support of the French to 1971. The Orwellian usage of "Vietnamization" employed by Mr. Nixon (following without deviation in the footsteps of Lyndon Johnson) comes to this: it is buying a huge internal mercenary army and police force, and bombing, killing, and pounding into submission enough Vietnamese to permit a minority government amenable to our interests to survive. That this is the essence of American policy in Vietnam has long been obvious to anyone prepared to see (see item 41). The scope and viciousness with which this policy has been applied to the peasantry of South Vietnam makes it not only criminal in character; it has also been seriously counterproductive—generating a steady stream of "communists" to be killed in a potentially genocidal feed-back system. (The Soviet Union by comparison has achieved a "Czechoslovakization" of Czechoslovakia much more efficiently. It has established a puppet government and "loyal" secret police with a very much smaller investment in killing and the use of Soviet troops.)

The most revealing refutations of the validity of the claimed American interest in "free choice" come from two sources: First, members of the Saigon juntas have for many years openly acknowledged their lack of indigenous political support in South Vietnam when compared with the N.L.F. They have regularly admitted that *they* are the ones who could not survive any "free choice" by the people of South Vietnam (items 15–19). Second, the premier U.S. official experts on the N.L.F., counter-insurgency warfare, and pacification—men like Lansdale, Pike, and Vann—in explaining our failures and what is required for solutions, have also been compelled to acknowledge the relatively greater indigenous support for the enemy in South Vietnam, and the lack of any substantial popular base for "our" Vietnamese. I have reproduced below some of the statements made by junta members and our pacification experts, along with others deserving attention, all pointing to the remarkable lack of South Vietnamese backing—past as well as present—for the military-oligarchic faction consistently supported by the United States. Of particular note are the excerpts from a 1965 document authored by parification expert John Paul Vann, for use within the U.S. military hierarchy in South Vietnam, which shows clearly how at that date U.S. massive intervention was premised on the knowledge that the *enemy* had mass support.

PRE-ESCALATION, 1954-1964

1. "It was difficult for me, as it is for any Westerner, to conceive of a communist government's genuinely 'serving the people. I could hardly imagine a communist government that was also a popular government and almost a democratic government. But this was just the sort of government the palm-hut state actually was while the struggle with the French continued. The Viet Minh could not possibly have carried on the resistance for one year, let alone nine years, without the people's strong united support." (Joseph Alsop, *The New Yorker*, June 25, 1955)

2. "In the area I visited, the communists have scored a whole series of political, organizational, military, and one has to say it—moral triumphs. . . . What impressed me most, alas, was the moral fervor they had inspired among the non-communist cadres and the strong support they had obtained from the peasantry." (Joseph Alsop, *New York Herald Tribune*, Aug. 31, 1954)

3. "If you ask the Americans here, they will tell you that outside of the feudal domains of the military and religious sects, anywhere from 50 to 90 percent of the Southern Indochinese villages are subject to Viet Minh influence or control." (Joseph Alsop, quoted in Ellen Hammer, *The Struggle for Indochina*, 1954, p. 36)

4. "If elections were held today, the overwhelming majority of Vietnamese would vote communist." (Leo Cherne, *Look* magazine, Jan. 25, 1955)

5. "I have never talked or corresponded with a person knowledgeable in Indochinese affairs who did not agree that had elections been held as of the time of the fighting, possibly 80 percent of the population would have voted for the communist Ho Chi Minh as their leader rather than Chief of State Bao Dai." (Dwight D. Eisenhower, *Mandate for Change*, 1963, p. 372)

6. "Britain and France tried to clarify the difference between holding elections and merely talking about them which was all that Diem was being asked to do at that stage. They made it clear to Diem that in opening talks with the Viet Minh, he would not be committing himself to anything irrevocable. They also felt that talks would be evidence of their adherence to the accords and allow postponement of a final decision until the South was stronger and politically better organized. None of these assurances could convince South Vietnam and persuade them to start consultations with the North." (B. S. N. Murti, *Vietnam Divided*, pp. 187–188. Murti was Deputy Secretary-General of the International Control Commission from 1954 to 1957.)

7. "[Diem] has crushed all opposition of every kind, however anti-communist it might be. He has been able to do this, simply and solely because of the massive dollar aid he has had from across the Pacific, which kept in power a man who, by all the laws of human and political affairs, would long ago have fallen. Diem's main supporters are to be found in North America, not in Free Vietnam. . . ." (David Hotham in *Viet-Nam: The First Five Years*, R. Lindholm, ed., 1959, p. 346)

8. "In June, 1956 Diem organized two massive expeditions to the regions that were controlled by the communists without the slightest use of force. His soldiers arrested tens of thousands of people. . . . Hundreds, perhaps thousands of peasants were killed. Whole villages whose populations were not friendly to the government were destroyed by artillery. These facts were kept secret from the American public." (Joseph Buttinger, Losung fur Vietnam," *Neues Forum*, Wien, Aug.-Sept., 1966. p. 459)

9. "To one degree or another, 70 percent to 90 percent of the entire population now leans toward the Vietcong. . . . They arrested N.L.F. schools and pay taxes to the N.L.F." (Associated Press reporter Jerry Rose, *The New Republic*, Nov. 13, 1961)

10. "[In late 1962, U.S. officials in Saigon estimated that] about one-half of the South Vietnamese support the National Liberation Front for different reasons, of whom 300,000 are active in their support." (Robert Scigliano, *South Vietnam: Nation Under Stress*, 1963, p. 145 Scigliona was a member of the Michigan State project group in South Vietnam.)

11. "Some military officials, especially those who served in the Viet Minh in the war against the French and later switched to Diem, are excellent officials by any standards. But they are exceptions. Unfortunately, most of the really intelligent, dedicated and patriotic men and women who form the stuff of sound leadership stayed with the Viet Minh." (Malcolm W. Browne, *The New Face of War*, 1965, p. 211)

12. "The forcible overthrow of Diem last November and the later coup in January were revolutionary acts in themselves, but appear to have been outside a natural revolution at the rice-roots level, since they put the government largely in the hands of the army and bureaucracy. While these are sizable, organized groups, they still are not the majority of the Vietnamese, the 'people' among whom the Viet Cong hide and get support for their operations." (Edward G. Lansdale, "Vietnam: Do We Understand Revolution," *Foreign Affairs*, October, 1964, p. 81)

13. "The foregoing [programs for winning hearts and minds] are just a sample of actions which Americans can undertake to create favorable conditions for the emergence of a powerful Vietnamese 'cause.'" (Lansdale, *ibid.*, p. 86)

14. "How can one, with considerable armed force but little political power, contain an adversary who has enormous political force but only modest military power?" (A statement defining the problem faced by the United States in Vietnam, made by one of the "architects of American strategy in Vietnam" to Jean Lacouture in September, 1964, quoted in Lacouture, *Vietnam Between Two Truces*, 1966, p. 188)

POST-ESCALATION, 1965-1971

15. "Even [South Vietnamese] Premier Ky told this reporter today that the communists were closer to the people's yearnings for social justice and an independent life than his own government." (James Reston, *New York Times*, Sept. 1, 1965)

16. "Premier Ky . . . said in an interview that his regime was not yet ready to face the threat of communist *political* agitation after a negotiated cease-fire because it had not yet had time to begin to overcome what he called the many social and economic injustices in South Vietnam." (Charles Mohr, *New York Times*, Sept. 1, 1965. Emphasis added)

17. "One [aspect of the Honolulu Conference of February 1966] was the attempt of the South Vietnamese [generals] to make clear to President Johnson their almost desperate desire not to be pushed into peace negotiations, or even into peace, until they are more able to compete *politically* with the Vietnamese communists." (Charles Mohr, *New York Times*, Feb. 11, 1966. Emphasis added.)

18. "One South Vietnamese official said recently: 'Frankly, we are not strong enough now to compete with the communists on a purely *political* basis.'" (Charles Mohr, *New York Times*, Oct. 24, 1966. Emphasis added.)

19. *"We are very weak politically and without the strong political support of the population which the N.L.F. have.* Thus, now even if we defeat them militarily, they can come to power because of their greater political strength. We now have—thanks to the support of our allies—a strong military instrument. But we are without a political instrument that can compete with the communists in the South. Such a political instrument we must now begin to create, a process that will take a generation. It is unrealistic to speak of a cease-fire until after we have built up our political strength to a point where we can compete with the communists successfully—a decade from now at least." (Quoted from a statement of one of the top generals in the Saigon junta, interview by George Kahinn, *New Republic*, Oct. 14, 1967. pp. 14–15.)

20. "This paper is . . . based on the assumption that a military defeat will not occur, and *that opportunity will continue to exist to win the majority of the South Vietnamese to the side of a non-communist government"* (John Paul Vann, Untitled Paper on Pacification Requirements, circulated within the U.S. military in late 1965 and reprinted April 1, 1967; given to Professor Alex Carey of the University of New South Wales by Vann himself, in South Vietnam, p. 1. Emphasis added by the editor.)

21. "A popular political base for the Government of South Vietnam does not now exist." (Vann, *ibid.*, p. 2)

22. "Assistance from the United States, both military and economic, is used to perpetuate a regime that, despite lip service to the contrary, has not demonstrated a sincere interest in bettering the lot of the rural population." (Vann, *ibid.*, p. 2)

23. "Gadgetry, air power, and artillery continue to be substituted for the discriminate ground actions required to prosecute the military side of this war without unduly alienating the civilian population." (Vann, *ibid.*, p. 2)

24. "It is a scathing indictment of our political awareness that we have sat idly by while many patriotic and non-communist Vietnamese were literally forced to ally themselves with a communist dominated movement in the belief that it was their only chance to secure a better government." (Vann *ibid.*, p. 3)

25. "The existing government is oriented toward the exploitation of the rural and lower class urban populations. It is, in fact, a continuation of the French colonial system of government with upper class Vietnamese replacing the French. Although the wealth of the country lies in its agricultural production, it is the agrarian population which is realizing the least out of either the technological advancements of the twentieth century or the massive assistance provided by the United States." (Vann, *ibid.*, p. 4)

26. "The Government of South Vietnam has failed to appeal to its rural population since its formation in 1955. The game of musical chairs has permitted many occupants of the driver's seat, but little perceptible change in direction. Thus, it is increasingly clear that the reorientation necessary to appeal to the majority of the population will not occur voluntarily at the top. . . . Several of these leaders have displayed personal integrity and patriotic devotion. They have demonstrated, however, that they are incapable of surmounting a system of which they are both a product, and a participant and have a vested interest in perpetuating. At most, they can give vocal assertion of the desirability for a more representative type government to evolve. The actual emergence of such a government, however, will occur only with the development of a political base among the population, a matter of years and decades." (Vann, *ibid*, p. 4)

27. "The dissatisfaction of the agrarian population was manifested against the French, held in check during the early years of Diem, and has become increasingly evidenced each year since the late fifties. It has obviously been fanned by communism; today it is largely expressed through alliance with the N.L.F." (Vann, *ibid.*, p. 4)

28. "Now that the United States has committed its national prestige, as well as its resources, to maintaining an autonomous South Vietnam, it can ill afford to gamble that a successful military venture will be negated by a continued failure of G.V.N. to win its own people. Our current emphasis upon military action must be supplemented by an effective, concurrent program to strengthen G.V.N. at all levels, but particularly at village and district levels." (Vann, *ibid.*, p. 7)

29. "Recently when advocating the establishment of a large, new free bombing zone in a populated area, a U.S. officer stated: 'If these people want to stay there and support the communists, then they can expect to be bombed.'" (Vann, *ibid.*, p. 9)

30. "Eventually, a base of support for G.V.N. would be established among the rural population. As this population became politically articulated, G.V.N. would have to respond by a shift of emphasis away from the urban population." (Vann, *ibid.*, p. 10)

31. "Most of the men who rule Saigon have, like the Bourbons, learned nothing and forgotten nothing. They seek to retain those privileges they have and to regain those they have lost. . . . In Vietnam only the communists represent revolution and social change. The Communist Party is the only truly national organization that permeates both North and South Vietnam. It is the only group not dependent on foreign bayonets for survival." (Neil Sheehan, *New York Times Magazine*, Oct. 9, 1966)

32. "Aside from the N.L.F., there has never been a truly mass-based political party in South Vietnam." (Douglas Pike, *Vietcong*, 1966, p. 110. Pike was a U.S. information officer in Vietnam.)

33. "As for the officers [of the South Vietnamese army], . . . only one officer above the rank of lieutenant colonel did not serve in the French Army against the Viet Minh in the French Indochina war." (Jonathan Randal, *New York Times*, June 11, 1967)

34. "For years now in Southeast Asia, the only people who have been doing anything for the little man—to lift him up—have been the communists." (Former U.S. Ambassador Henry Cabot Lodge, *New York Times*, Feb. 27, 1966)

35. "General Ky's Government has virtually no popular support; most of his top aides sport French decorations on their uniforms. The Vietnamese people identify us with the hated French imperialists because we support the Ky regime. By occupying and devastating Vietnam we have gained few friends." (Letter from a U.S. soldier in Vietnam to Senator Fulbright, reprinted in the *Congressional Record*, June 16, 1967)

36. "One of the first axioms one learns about unconventional warfare is that no insurgent or guerrilla movement can endure without the support of the people. While doing research in my job as an area specialist, I found that, in province after province, the Viet Cong guerrillas had started as small teams. They were not in battalion and regimental strength. Before I left, the Viet Cong could put troops in the field in division strength in almost any province. Such growth is not only impossible without popular support, it actually requires an overwhelming mandate." (Former Sergeant in the Special Forces, Donald Duncan, *Ramparts*, Feb., 1966, pp. 20–21)

37. "If this is simply invasion from the North, why do we have to 'pacify' its victims in the South? Who ever heard of having to placate a people saved from aggression? Did we have to pacify Paris after driving the Germans out?" (*I. F. Sone's Weekly*, May 8, 1967)

38. "It is vital for the [Saigon] Government to develop a popular political base to counter the Viet Cong organization," said one [Washington] official. 'The recent elections did not produce an organized political base for the Government.'" (Hedrick Smith, *New York Times*, Dec. 9, 1967)

39. "The [Johnson] Administration's assessment is that the Saigon regime lacks sufficient popular support and cohesion to enter such a political test of strength with the [National Liberation] Front." (Hendrick Smith, *New York Times*, Dec. 13, 1967)

40. "This power structure [of the Saigon Government] is dependent for survival on U.S. political, military, and economic support. It has no clearly defined political objective except to survive against the communists.

"This unwieldy executive apparatus operates more on the basis of intricate personal relationships and a system of corruption than on any institutional basis. . . .

"The province and district chiefs generally are considerably less effective than their communist counterparts. The relationship between the entire Nationalist power structure and the mass of the people is weak." (Major General Edward Lansdale, quoted from a secret report to the White House, which indicates that the N.L.F. might win in a "free choice" election. "Election Fears of Saigon Regime Cited in Report," The Gazette and Daily [York], Aug. 16. 1968)

41. "I went to Vietnam, a hard charging Marine 2nd Lieutenant, sure that I had answered the plea of a victimized people in their struggle against communist aggression. That belief lasted about two weeks. Instead of fighting communist aggressors I found that 90 percent of the time our military actions were directed against the people of South Vietnam. These people had little sympathy or for that matter knowledge of the Saigon Government. . . . We are engaged in a war in South Vietnam to pound a people into submission to a government that has little or no popular support among the real people of South Vietnam. By real people I mean all those Vietnamese people who aren't war profiteers or who have [not] sold out to their government or the United States because it was the easy and/or profitable thing to do." (Letter from a U.S. soldier in Vietnam to Senator Fulbright, reprinted in the *Congressional Record*, June 16, 1967.)

STATEMENT ON ANTI-PERSONNEL WEAPONRY

(By Fred Branfman, Director, Project Air War)

The widespread use of anti-personnel weaponry in Indochina is one of the most striking and prominent features of today's air war. From 1969–71, for example, I interviewed several hundred victims of American bombing in Laos. The vast majority of these civilian casualties were caused by anti-personnel bombs. From our research on the air war both out in Indochina and with Project Air War here at home, from 1970–72, we would concur with Professor Pfeiffer and Westing's estimate that at least ½ the total tonnage dropped on Indochina is anti-personnel in nature. For example, I was told in November 1970 by an air force captain in charge of the ordnance dump at Udorn Air Force base that about 75–80% of the ordnance on hand was anti-personnel.

But although the use of anti-personnel bombs has been reported since 1966, the American public to this date remains largely unaware of the full nature and extent of anti-personnel technology in use in Indochina. Few Americans are aware of the many kinds of anti-personnel bombs in use, the frequency with which they are deployed, and their effects on the human body.

We are not aware, for example, that any major newspaper or magazine in this country has ever published a major piece containing the information revealed in the supplement to this statement.

The reason is clear. Almost all information about anti-personnel weaponry has been classified out of public reach.

This material does not appear to be classified because publishing it would aid the people against whom these bombs are directed. As the film "U.S. Technique and Genocide in Vietnam" makes clear, the DRV, PRG, Pathet Lao, and FUNK are fully aware of the technology deployed against them. It would appear, rather, that secrecy has been followed for fear of the domestic repercussions that might result from full disclosure, and because much of the weaponry is outlawed by international law.

The U.S. Army Manual on the Laws of Land Warfare, for example, states that the use of "irregular-shaped bullets" and "glass-filled projectiles" is illegal. The United States is using both in the form of flechettes and plastic casings which break into hundreds of un-x-rayable jagged slivers, 1/8th by 1/16th of an inch at this very moment.

It is a sad commentary on the state of public knowledge of the war today that one must turn to the Democratic Republic of Vietnam for knowledge of what our leaders are doing in the name of America.

It is even more distressing to note that the use of anti-personnel weaponry continues to increase under the Nixon Administration without public and congressional awareness or restraint.

Whether or not one agrees that the Administration has the right to employ this anti-personnel weaponry in Indochina, this much seems clear:

1. It is clearly antithetical to the laws of the land that any small group of men would unilaterally develop, produce and deploy such weaponry without the knowledge of consent of the public or Congress.

2. The unceasing refinement of weapons designed only to kill or maim human beings is one of the most important developments of our time. At the very least, it ought to be reported in full to the general public by the media, so that some kind of national debate can be undertaken.

ANTI-PERSONNEL WEAPONRY

Anti-personnel weaponry is designed to kill or maim human beings. Although sometimes used in other ways, such weaponry cannot destroy a factory, a bridge, an anti-aircraft site. Its objective is human flesh.

American involvement in Indochina has been characterized by unceasing refinement of new ways to kill from the air. The varieties and variations of anti-personnel weaponry are innumerable. What follows are only some examples, divided into three main categories: anti-personnel projectiles, incendiary bombs, and anti-personnel mines.

Anti-personnel projectiles: These are dropped by jets and B52s when there is some target in mind; intelligence justifying their use is generally some sign of human life: cut grass, tire tracks, smoke or heat from fires, ploughed fields, or metal sound, or movement picked up by electronic sensors or infra-red detectors. In a guerrilla war, such bombs are almost never dropped on a clearly identifiable military force out in the open:

1. The Pineapple anti-personnel bomb is a yellow-colored, cylindrical-shaped bomblet which contains 250 steel ball-bearing pellets which shoot out horizontally on impact. One sortie with a full load carried 1000 such bombs, which means that one sortie sends 250,000 steel pellets shooting out horizontally over an area the size of 4 football fields. Anything above ground is hit.

2. The Guava anti-personnel bomb (BLU 24/26) is an improvement over the pineapple. Gray in color and round in shape, without the pineapple's fins, the guava is thus smaller, allowing one planeload to carry 4–500,000 steel ball-bearing pellets. It also rotates on its axis and will either explode in the air or on impact with the ground depending upon the type of fuse. In either case, it avoids the pineapple's problem of sending its pellets out horizontally, which thus explode harmlessly over the heads of people hiding underground. The guava's pellets shoot out diagonally so they'll go into holes where people are hiding.

3. The Fragmentation anti-personnel bombs, including the smooth orange, striated orange and BLU/63 fragmentation projectiles, are also designed as improvements over the pineapples and guavas. Unlike the latter two projectiles, they do not employ steel pellets. Rather they break into hundreds of jagged fragments which do far more damage to the human body.

4. The Flechette Rockets are even more destructive to the human body. The flechettes, fired from rockets in the air war (as well as M79 grenade launchers and artillery in the ground war), are tiny steel nails with larger fins on one end and a sharpened point on the other. They peel off the outer flesh, enlarge the wound as they enter the body, shred the internal organs, and lodge in the blood vessels. Extremely delicate surgery is necessary to remove them.

5. The Plastic bombs consist of a pressed plastic casing which breaks up into hundreds of tiny jagged slivers, one-eighth of an inch by one-sixteenth of an inch. These slivers are un-x-rayable, so that if a person is hit with enough of them and they must be removed, he must be laid on the operating table (if surgical care is available), his body opened up, and the doctor then tries to pick through his body removing what slivers he can find.

Incendiary Bombs: Interviews with pilots and other U.S. airmen and targeting officers have made it clear that incendiary bombs, while designed for a wide variety of purpose, are in practice primarily used as an anti-personnel weapon. Since they cover such a wide area and destroy all human life above and often below ground through burning or suffocation, they are regarded as a particularly effective weapon.

1. Most Americans are aware of Napalm. Few, however, are aware of the fact that they are also using Napalm B, Supernapalm, Napalm Paragel, all improvements on the original napalm. These later variants burn at a higher temperature, explode over a wider area, and have greater adhesiveness.

2. Even few Americans are aware of white phosphorous and magnesium. These substances burn on an oxidation principle, which means that they cannot be rubbed out or even put out by water (they take the ogxyen out of water and continue burning under the skin). In fact, the more one rubs the more they burn. If a person is hit with incendiary bombs containing these substances, he must wait until they burn themselves out, which usually means they have to burn their way down to the bone.

3. And I have met no one who is aware of Thermite, a substance which greatly increases temperature at which incendiary bombs burn.

4. These substances are all combined in the most destructive incendiary bomb yet developed, the Napalm-Phosphorous-Thermite bomb. It explodes over an extremely wide area, cannot be extinguished until it burns itself out, and burns at 3,500 degrees centigrade as compared with 900 degrees centigrade for conventional napalm.

Anti-personnel mines: Unlike anti-personnel projectiles or incendiary bombs, anti-personnel mines are not used with any particular target—whether suspect of confirmed—in mind. Rather they are simply strewn over 100's of square miles as part of an officially-designated "Area-Denial" program, a program designed to make whole areas of Indochina uninhabitable for human life. The scope of the use of these mines staggers the imagination. For example, a Honeywell contract that we have signed calls for the production of over 200,000 of one of these types of mines (the WAAMP) in a single month. In the November 1970 Electronic Battlefield Hearings, the Air Force Revealed that this area denial program has been installed throughout one-half of southern Laos. This is an area inhabited by over 200,000 people, according to the estimate of the U.S. Embassy in Laos. The area denial program has also been implemented in northeastern Cambodia, northern Laos, North Vietnam, and portions of South Vietnam. These mines include:

1. The Gravel and Dragontooth mines, which come in small cloth bags and metal containers disguised to look like leafs or animal droppings. One F4 sortie will drop 7,500 of such mines.

2. The WAAPM (Wide-Area-Anti-Personnel Mine) mines, which are round in shape and emit 8 chords each 8 yards in length. A person tripping on one of these cords will cause an explosion of a charge sufficient to kill or maim him. The other side has charged

that some of these mines also emit a noxious gas.

3. The Button Bomblets are even smaller charges, strewn in the 10's of 1000's, and extremely difficult to detect with the human eye.

Nothing explains the nature of the air war today more than the expansion of the area denial program under the Nixon administration. It is clear that these anti-personnel mines cannot distinguish between human beings and animals, let alone military and civilians. The deployment of the area denial program violates the very basis of international law calling for at least some minimal attempt to distinguish between military and civilians in time of war.

THE AUTOMATED BATTLEFIELD

(By NARMIC (National Action/Research on the Military Industrial Complex), a project of American Friends Service Committee, Philadelphia, Pa.))

(NOTE.—Charts and figures referred to are not printed in the RECORD.)

On Friday, November 12, 1971 President Nixon delivered his latest troop withdrawal announcement to a hastily assembled group of White House reporters. Fanfare about a mid-November Presidential statement had been building for weeks; a major address to the country was expected. In anticipation, Harris ran a poll. "The dominant mood of the American public on the eve of President Nixon's scheduled announcement on the war is to terminate all military involvement in Vietnam," Harris reported. "By nearly 3 to 1, the American people favor 'getting out completely' by next May." The story was headlined, "Public Favors Vietnam Withdrawal Even at Risk of Red Takeover." [1]

Bad news is announced on Fridays, the press knows. The President talked of "leaving South Vietnam in a position where it will be able to defend itself from a Communist take-over" and stressed that he did not want to "leave the impression that we see the possibility of some striking breakthrough in negotiations in the near future." No deadline for troop withdrawal was set; nor was there anything encouraging to report on the prospect of prisoner releases. An only slightly higher rate of withdrawal was announced for the coming two months. And as the New York Times pointed out editorially, "Mr. Nixon now for the first time has flatly and publicly committed himself to the concept of an American 'residual force.' . . . The re-engagement of American ground forces in a crisis would not be ruled out either." [2]

The real news was that the air war would most likely be stepped up. President Nixon said:

"As far as our air power is concerned, let me also say this: As we reduce the number of our forces, it is particularly important for us to continue our air strikes on the infiltration routes. If we see any substantial set up (step up) in infiltration in the passes, for example, which lead from North Vietnam into Laos and, of course, the Laotian trail which comes down through Cambodia into South Vietnam—if we see that, we will have to step them up." [3]

Appearing on "Meet the Press" on Sunday, Secretary of Defense Melvin Laird made the point again. Since the New York Times had reported that morning that the Pentagon believed such a buildup to be in progress, the threat of increased air strikes became more than hypothetical. By Monday, "the air campaign already is underway, being conducted from five U.S. bases in Thailand and U.S. 7th Fleet carriers in the Tonkin Gulf," according to the Wall Street Journal's informed sources." They projected "concentrated bombing" for Laos and Cambodia.[4]

Footnotes at end of article.

Heavy raids on North Vietnam had preceded and followed the President's speech.

Simultaneous announcements of troop withdrawals and reports of heavy bombings reflect the peculiar nature of the war today. The question is whether the war will soon be over.

NARMIC has compiled this report to examine White House plans for Indochina and their domestic implications. It ties in the recent development of the automated battlefield to other seemingly disparate events: the demoralization of the troops, the truck interdiction campaign on the Ho Chi Minh Trail, Vietnamization, "urbanization" and the popular upheaval in the cities of South Vietnam today, the future of captured Americans in North Vietnam, and reasons for the lack of public kowledge about the nature of the ongoing war.

An appendix of relevant articles and sources for further information are included at the end of the report.

A RECORD OF FAILURES

Information on the automated battlefield is difficult to come by because its development and use at every step have been intimately linked with U.S. failure in Indochina—the failure of the Nixon Administration's escalation of the air war to bring victory, and the continued failure of the pacification programs to win the hearts and minds of the various U.S.-sponsored military dictatorships. Yet however great the failure of the military and political effort has been, administration after administration has refused to deal with the political realities of Vietnam (and now, too, of Laos and Cambodia)—a necessary prelude to the negotiation of peace.

The automated battlefield now offers the Nixon Administration a means of deferring still further the embarrassing political problems—of acceding to coalition governments in Saigon, Vietiane, and Phnom Penh, for example—not by the achievement of a military victory, but simply by assuring that the U.S. cannot lose. With an automated battlefield, there can be no American Dienbienphu. And there can be no peace.

SECRECY

High secrecy surrounded the first statement of the automated battlefield concept. The American taxpayers—not a foreign enemy—were denied the knowledge of the first premise of the 1966 JASON Summer Study Report: that the bombing of North Vietnam had been a complete failure. The study was prepared for Defense Secretary McNamara by 67 men described in the Pentagon Papers as "a group of America's most distinguished scientists, men who had helped the government produce many of its most advanced technical weapons systems since the Second World War, and men who were not identified with the vocal academic criticism of the Administration's Vietnam policy." Their findings "were regarded as particularly sensitive and were extremely closely held with General Wheeler and Mr. Rostow receiving the only copies outside OSD" (McNamara's office). JASON Committee recommendations that certain components including "button bomblets," a variety of sensors, aerial photography, gravel mines, cluster bombs and other antipersonnel devices, "smart bombs", etc., be further developed and integrated tactically define the first phase of the automated battlefield. Despite a skeptical response from the Joint Chiefs of Staff the outright opposition from Admiral Sharp and General Westmoreland, McNamara organized a new agency to oversee the swift translation of the JASON Committee idea into combat reality. The Pentagon Papers report that this project was "given the cover name Defense Communications Planning Group to protect the sensitivity of the project." [5]

COMPUTERIZED WAR

Sensors and computers are basic to the automated battlefield (also called the "electronic battlefield" or—the Army's phrase—the "integrated battlefield control system"). Sensors for sound (acoustic) or ground vibration (seismic) are dropped from planes to hang suspended in trees or plant themselves in the ground, for example, to "bug" the Ho Chi Minh trail. For about two months, these sensors send out radio signals which are picked up by an unmanned plane (drone), relayed, processed, and translated into usable information by a receiving center computer. When sensors in an area are activated, the computer alerts troops of possible enemy presence or tells a computer in an aircraft (which may be unmanned) where to bomb. The computer can even release the bombs. They may be "smart bombs"—that is, laser or TV-guided. During an actual operation, sensor activation in Cambodia or Laos is relayed to a huge IBM 360 computer at the Air Force's Infiltration Surveillance Center in Nakhorn Phanom, Thailand, from which targets are fixed and strike orders sent to bases in Thailand or Vietnam or to carriers of the 7th Fleet—which then deliver their killpower back to the target. The automated battlefield also includes heat, odor, and metal detectors, a variety of radars, night observation devices, and other gadgets.

Senator William Proxmire has charged that these detection devices cannot distinguish between friendly and unfriendly troops, combatant and civilian.[6] GIs who use them in the field claim that they cannot even differentiate human beings from animals, nor footsteps from rainfall. However, their activation supplies targets in a war frustrating for its lack of them. That function is important, for it satisfies the deep seated need of the U.S. military to quantify its progress.

Some of these gadgets are developed under ARPA, the Advanced Research Projects Agency of the Department of Defense, or STANO (Surveillance, Target Acquisition and Night Observation Systems) of the Army, which oversees testing at Project MASSTER, as well as the Defense Communications Planning Group. DCPG has been the central coordinating agency for development, testing, evaluation, and purchase of automated battlefield equipment, especially the sensors.

Determining what the automated battlefield is and what it has cost is difficult, because its components and budgets have been scattered among many programs and military services. Even for the DCPG, there has been no single place in the authorization or appropriations bills which list total budgets and programs.[7]

Lack of information has proved frustrating for Congressmen. In DCPG appropriations hearings for 1972, Rep. Jamie Whitten challenged the project's director: "Last year, my recollection is that you told the Congress you were planning to phase this operation out, and Congress agreed to phasing it out. Instead you have changed the name, enlarged it, and now the world is your playground." [8]

Advice from Congress, DoD Research Director Dr. Foster, and the Joint Chiefs all directed that the program be ended in 1971 when the equipment was transferred to the Army, Navy and Air Force. However, in December, 1970, Deputy Defense Secretary David Packard decided to expand the DCPG's work to "provide a world-wide capability" for sensor technology "in both tactical combat applications and installation security."

Under Whitten's questioning, the project's director did acknowledge that the original name, DCPG, was chosen "in order to disguise what it was in fact doing; everybody thought we were in the communications business." But he argued that the outfit's new name would clarify its function. As of last April, it is called the DSPG, the Defense

Special Projects Group. Whitten did not find the name change helpful: "You have special projects, that is not very restrictive. Special projects covers the universe, so they might think you are running everything from the new title." [9]

Concluding that the DSPG is a "classic example of bureaucratic empire building and of the bureaucratic tendency to never end an organization even after the work for which it was created has been concluded," the House Appropriations Committee cut the 1972 budget request of $34 million to $7 million. Sensor development will continue however, under each of the services and the Advanced Research Projects Agency.[10]

The public's first glimpse of the dimensions of the automated battlefield was a speech delivered by General Westmoreland to the Association of the U.S. Army in October, 1969. (see "Army of the Future" attached.) He announced that "the Army has undergone in Vietnam a quiet revolution in ground warfare—tactics, techniques, and technology." On the battlefield of the future, he continued, "enemy forces will be tracked and targeted almost instantaneously through the use of data links, computer-assisted intelligence evaluation, and automated fire control."

It was this speech, together with articles on the automated battlefield from such public sources as *Business Week* and *Defense Industry Bulletin*, that led Senator William Proxmire to call for further information on a project for which Congress had already appropriated billions of dollars. Consequently, a special subcommittee of the Senate Committee on Armed Services was set up in November, 1970 to investigate the program. The sanitized version of their hearings which reached the public several months later constitutes the best source of information of the subject to date. It is, however, something short of a full and frank report.

Four areas of the DSPG program are discussed: the conventional barrier system, the air-supported system, the ground tactical system and munitions associated with the air-supported system.

CONVENTIONAL BARRIER SYSTEM

The first, the conventional barrier system, was the old "McNamara Wall," intended to be a barrier across the entire DMZ. The committee is told that it "is no longer identifiable as a separate entity; it has essentially become a part of the ground tactical system." [11] In a less guarded moment, the Army's Chief of Research and Development, Lt. General A. W. Betts, gave the real story:

Mr. ANDREWS. Whatever became of the McNamara line on the DMZ? . . . I thought it was to be a line right across the top of South Vietnam.

General BETTS. Yes, but the enemy never permitted us to implement that line.[12]

AIR SUPPORTED SYSTEM

The second area of DSPG authority, the air-supported system, is described in the following diagram:

The operational air-supported anti-infiltration system in Laos is called "Igloo White." (See "Battle for Control of the Ho Chi Minh Trail," attached.) The Senate Foreign Relations Committee has been attempting to learn about this program. While the Committee was able to establish that the United States has no legal obligation or commitment to Laos,[13] it was less able to discern why a tiny and remote nation should have become the most heavily bombed country in history (and, further, how the bombing had been conducted since 1964 with little information supplied to Congress, the body Constitutionally empowered to make war).

Igloo White has been represented to Congress as the bombings of the Ho Chi Minh Trail used by North Vietnam to supply its forces in the south. Refugee interviews by Fred Branfman in 'The Blue Machine", a staff report of the Kennedy Subcommittee on Refugees (Sept. 28, 1970) and other sources point to a contradiction in this explanation of U.S. bombing in Laos: much of it has been in Northern Laos, but the trail is in the southern part. Noting that documents dealing with B–52 strikes in Southern Laos are classified "secret", those on the north "top secret", a recent staff report to the Committee on Foreign Relations asserted, "The figures we were given by the Embassy in Vientiane indicated that the B–52 sortie rate in northern Laos is higher in 1971 than it was in 1970."[14]

THE POLITICAL DEFEAT

The Kennedy Subcommittee report names one of the program objectives in Laos to be the "conducting and supporting of massive evacuations of local villagers from Pathet Lao regions in order to deny the enemy population resources." The underlying assumption of this goal is that the political battle to "win hearts and minds" has been long lost. Igloo White was "designed for fighting a war in hostile territory offering the enemy absolute control of their surface territory while maintaining air-superiority above it." (See "Battle for Control of the Ho Chi Minh Trail," attached.) An example of the Igloo White definition of hostile territory is the Plain of Jars, formerly the home of some 50,000 Laotian farmers sympathetic to the Lao Patriotic Front (Pathet Lao). It has been made uninhabitable by U.S. bombing. (See "The Blue Machine" attached.)

Indirect support for this explanation of the bombing in Laos comes from the nature of the munitions used in the Igloo White operation and described in the Electronic Battlefield hearings. Most are anti-personnel rather than anti-materiel—the WAAPM (wide area antipersonnel munition), the Dragontooth anti-personnel mine system, the antipersonnel cluster bomb units (CBU–24 munition which dispenses the BLU–26/B guava bomblet) and the Gravel antipersonnel mine system. The Gravel system was recommended in the Jason Committee Report, was used heavily in the bombing of North Vietnam in the Johnson years and seems to be a mainstay of Igloo White (though tonnages of each munition are classified). Accompanying pictures of the system is the following explanation of the XM 51 Gravel mine:

Major ANDERSON. This is the Gravel anti-personnel mine. We also have a sample for your inspection. Each mine consists of a [Deleted]. Gravel was originally procured by DCPG to be used as an anti-personnel area-denial munition in the anti-personnel portion of the barrier concept. The only kill mechanism is blast. Gravel will blow a man's foot off but it will not blow a hole in a truck tire. [Deleted] [15]

(No questions were raised in the hearings about whether the Hague Convention, article 23 prohibition on weapons deliberately designed to cause unnecessary suffering, is germane. If the creation of refugees is a deliberate objective, not a side-effect of the bombing, that too would be a violation of international law under the Hague Convention article 25, Geneva Convention of 1949 articles 24, 50 etc.)

EFFECTIVENESS QUESTIONABLE

There are further questions about the effects of the bombing. As the Senate Foreign Relations Committee Staff report "Laos, April 1971" noted, "One reason why there is some skepticism about the truck kills claimed by the Air Force is that the total figure for the last year greatly exceeds the number of trucks believed by the Embassy to be in all of North Vietnam." (p. 8) And a Dispatch News Service International report from Vientiane (Oct. 1, 1971) quotes an American military intelligence officer "with long experience monitoring supplies over the Ho Chi Minh trail" as follows:

"MACV (Military Assistance Command Viet Nam) figured out that it took roughly 275 tons going south a day to keep everything in Viet Nam running for the other side. Well, they were actually up over 400 tons a day in 1966 and we couldn't stop them. I don't care how many trucks they (the Air Force) claim, they just aren't doing it . . . We're getting about 10 percent, maybe 20 percent; we can't stop them. Never could. This goes back a long way too. You just cannot stop an army by air bombing."

Though the electronic battlefield hearings discuss at length the "Vietnamization" of the ground sensor systems, a time table for turning over the air-supported system is not disclosed. That bombing missions over Vietnam, Cambodia, and Laos originate from bases in Thailand, the Seventh Fleet off the coast, and other, classified, points suggests part of the reason.[16]

Since by far most of the firepower—and consequently almost all of the killing—is accomplished by air at this stage in the war, the point is central. In March 1971, General Westmoreland was asked for a numerical ratio of enemy killed by the ARVN as compared to "our B–52's and our air gunships." His estimate was deleted from the printed hearings, but its content is clear:

General WESTMORELAND. Your assumption is quite correct. It is American air power and artillery that is killing the majority of the enemy.[17]

Air capability is an admitted weakness in Vietnamization, a problem "currently undergoing priority review." Best hopes rest with the U.S. supplying to Saigon the F–5E International Fighters, which the most optimistic estimates project could not be operational in South Vietnam until 1974.[18]

A new contract for development of a light plane to be used by Saigon for bombing the Ho Chi Minh trail was announced recently,[19] noting that "the United States now performs nearly all of this task with B–52 Bombers, F–4 fighter-bombers and ACO 130 gunships". The article also suggested that even *after* the unspecified time it would take to Vietnamize the air-war, "the U.S. will probably continue to maintain fighter-bombers both in Thailand and on aircraft carriers off the Vietnamese coast to deter Hanoi . . ." Another reading of motives is suggested by William Haseltine: "Implicit is the threat, rendered credible by massive daily bombing of the countryside, that were NLF and North Vietnamese to seize control of the cities as they did during Tet 1968, the cities would again be destroyed from the air." (see "Automated Air War" attached.)

The last DSPG program area is the ground tactical system, illustrated in the diagram on page eleven. In the electronic battlefield hearings, the success story told to illustrate the usefulness of this equipment is the 1968 siege of Khe Sanh. More recently, the Laos invasion in the spring of 1971 is cited, with special credit given to "the growing application of our C–130 gunships, guided bombs, enhanced detection methods, and improved munitions." [20] In neither Khe Sanh nor the Laos invasion was the victory so apparent as not to require a somewhat more objective information source than the U.S. military itself. While the press might normally fill this role, it was prevented from doing so during the Laos invasion. Press restriction, again, would seem to be directed more at the American public than at the enemy. In any case, the enemy knew much more about the invasion than the American public. Under questioning from Congressman Dickinson, Colonel Milonelli of the 101st Airborne Division stressed that "we did permit the ARVN forces to plan and operate independently without U.S. advisers, and they did, in fact,

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Footnotes at end of article.

conduct an operation which I believe to be successful, sir." However:

Throughout the operation it appeared as though they [the enemy] were just a little bit ahead of us in the movement of anti-aircraft weapons and in the movement of the troops. So there were a number of indications we attacked a well entrenched enemy in his base area with at least an indication, if not definite, prior knowledge of both our intentions and our objectives throughout the operation.

There were indications throughout the operation that we really walked into an enemy who had knowledge of not only the fact we were coming over, but where we were going once we got into Laos.[21]

DSPG spokesmen stress the ground system's manpower-saving advantages. Gone are the days of boring and dangerous patrols through unfriendly terrain to find an elusive enemy. No more wasteful H & I (harassment and interdiction) fire into the night jungle; let the sensor do the searching. If the sensors are not foolproof there is no clear way of talking about their errors, at least not in military terms. The following exchange is from the electronic battlefield hearings:

Mr. GILLEAS. Did you have much trouble with false alarms?

Major HUDSON. We did later on. The interpretation people did, yes, sir. That word [false alarm] has been stricken from the vocabulary. That is now a nontargetable activation.[22]

Testimony of Vietnam veterans who have had first-hand experience with sensors in the field indicate that it is not so much a sensor's blip that defines this style of combat as the answering massive firepower—artillery and air strikes called in over a wide area.

The ground tactical system with all of its potential for indiscriminate death for whatever the sensors, report will be part of the American legacy to Vietnam as U.S. forces turn to air war. In the context of discussion of the ground system, the head of the DSPG reported to Congress in May that "over one-half the sensors in use in Vietnam are now under control of the Vietnamese.[23] ARVN was scheduled to take full responsibility for "preplanned ground offensive operations" by summer of 1971. President Nixon's top war consultant reports that this plan has gone into effect and that the war in Vietnam "is certainly over as far as American ground troops are concerned." (See "Is the Ground War Over for U.S. in Vietnam?" attached.) And in the November 12 briefing, President Nixon made it official: the American offensive ground combat role "is already concluded."

WINDING DOWN THE WAR?

Recently the Defense Department has been trying to create the impression, through a display of statistics, that the war is winding down. In a letter to the *New York Times* (Nov 4) Dennis Doolin, Deputy Assistant Secretary for East Asia and Pacific Affairs, Department of Defense, wrote:

"Ammunition expenditures in all of Southeast Asia have declined 47 per cent since 1968. They have fallen 37 per cent in 1971. In fiscal year 1971, U.S. tactical air sorties throughout Southeast Asia (not just Vietnam) stood at less than half the peak levels of fiscal year 1969. B–52 sorties were about 60 per cent of fiscal peaks. In South Vietnam alone, the U.S. is flying about one-fourth the number of sorties it flew last year."

Other statistics tell a different story. Department of Defense figures of an ordnance used by U.S. forces in Indochina since 1965 show that 47% of the total was dropped during the Nixon Presidency. For ground ordnance the figure is 49%. About 300 Hiroshima bomb equivalents has been unleashed on the Indochinese land and peoples in the Nixon years.[24]

For the airwar alone, Pentagon bombing tonnage figures show that under Nixon's Presidency, monthly averages are 90,000—as compared to 67,000 under Johnson. (See chart) A standard of comparison—in World War II the average monthly tonnage of air munitions used by the U.S. in all theatres was 45,000 tons. The scale of the U.S. World War II airwar, therefore, was roughly half of that for Indochina under the Nixon Presidency.

In 1968 and 1969, much of the ordnance was devoted to saturation bombing, when the U.S. military made an effort to gain a quick military victory by unleashing massive firepower on the Indochinese countryside. Almost 3 million tons were dropped during these two years alone, more than "the total figure of 2,160,110 tons of air munitions for World War II," according to the Senate Committee on Foreign Relations report. This report goes on to say that "the use of air munitions by U.S. Forces in Indochina is more than twice as great as it was in all of World War II."[25]

Clearly the immense tonnage can be cut somewhat and the sortie rate scaled down without in any way diminishing the fact that current levels of bombardment are unparalleled in the history of pre-Vietnam warfare. And as Secretary of State Rogers stated at a news conference January 29, 1971 "We don't see any reason why there should be any limit on the use of that airpower. He [President Nixon] intends to use the airpower as he sees fit . . ."

"STABLE WAR"

When the 1968–69 escalation failed to break the resistance of the "enemy", the Administration was forced to opt for a "stable" war to defer its defeat. Sir Robert Thompson, President Nixon's personal consultant on guerrilla warfare, coined the phrase "stable war". In an interview with US News & World Report November 1, 1971, he said ". . . all that North Vietnam is saying at the moment—and, in my view, is doing—points to a continued policy of protracted war. The answer to protracted war is what I call "stable war".

On the ground, he advises, "the South Vietnamese have to create a situation in which they can contain the North Vietnamese indefinitely," while in the air, the Americans will keep hammering away at the Ho Chi Minh Trail. (Part of the supply route strategy is to hold the port of Sihanoukville under pro-U.S. control, largely through propping up Lon Nol with aid.)

The following chart from the Cornell University, Center for International Studies' "The Air War in Indochina" report shows month-to-month variations in the tonnage of aerial munitions and a slightly declining average B–52 rate.

The study notes, "There are about 1,000 B–52 sorties being flown per month in Indochina, most of which are also directed against the Trail. . . . Indications are that Trail interdiction will continue to be the dominant part of the U.S. airwar in Indochina. (Neither B–52 nor fighter bomber sorties are scheduled for any major reductions in the coming year.)" (P. 5–6) It also states, "the force levels remaining in Indochina may be much reduced from their previous peaks, but they are nonetheless substantial in absolute terms. Furthermore, air power is highly mobile and can be escalated at short notice. Additional carriers can be brought into the theater and air bases previously closed can quickly be reactivated." (Pp. 10–2, 10–4)

Perhaps during visits to Peking and Moscow, bombing may be halted—temporarily. More than likely, targets will shift among the three countries from time to time, as occurred during the 1968 "halt" in the bombing of North Vietnam. But basically, "stable war" implies no substantial increase or decrease in the intensity of conflict, which means that firepower would be at a steady level. This is confirmed by a highly reliable defense industry source, DMS, a publication of McGraw Hill:

"The requirement for iron bombs in Southeast Asia will continue long after the last American troops have pulled out. The Administration's policy, as now defined, makes clear the intent to support the South Vietnamese and Cambodians with American air sorties by USAF and USN aircraft. Thus there will be a sustaining demand for air dropped ordnance."

Another DMS report, from April 1971, amplifies the point with respect to the antipersonnel munitions:

"While the unsophisticated 'iron bomb' still represents the major procurement buy, the supporting bomb research discipline has been enlarged—particularly since the Vietnam war—to include investigations into more sophisticated areas such as guided bombs, retarded bombs, dispenser munitions and bomblets, and bombs to meet a variety of special needs."

"The Air Force and Navy has centered its research, over the past several years, to meet the needs imposed by the Vietnamese war. Specifically, general purpose bombs, while producing substantial damage when dropped in quantity on urban areas, do little harm to troops and equipment spread over the varied terrain of Southeast Asia."

After summarizing the major antipersonnel weapons developed for the Indochina war, DMS reports that research in "bomb technology" should slack off in "the long term outlook." However, in the short run, development of new antipersonnel bombs will continue to be important:

"With the decline of research money for guided conventional bombs and dispenser munitions, the emphasis in this discipline will focus on munitions designed to deny the enemy freedom of movement, particularly along supply routes. At the same time munitions for the purpose of clearing areas of both troops and materials will receive increased development funds."

TROOP WITHDRAWAL

The withdrawal of American ground troops is the Administration's most persuasive argument that it is winding down the war. Troop withdrawal, Vietnamization, and the substitution of men for machines in the automated battlefield are closely related: all are strategies for continuing the war. Slogans like "Vietnamization" and "winding down" are attempts to put an attractive cover of official policy over a profound disaster, called by Col. Robert D. Heinl, Jr. in Armed Forces Journal "the collapse of the armed forces." Heinl's summary is blunt:

"By every conceivable indicator, our army that now remains in Vietnam is in a state approaching collapse, with individual units avoiding or having refused combat, murdering their officers and noncommissioned officers, drug-ridden, and dispirited where not near-mutinous."

His examples are telling:

"Word of the deaths of officers will bring cheers at troop movies or in bivouacs of certain units.

In one such division—the morale-plagued Americal—fraggings during 1971 have been authoritatively estimated to be running about one a week."

He lists incidents of troops' refusal to obey orders to go into combat, tells of high proportions of hard drug users in the ranks, describes violent racial conflict, and reports that "search and evade" is "now virtually a principle of war."

This crisis might yet be salvaged, for "Strange as it may seem," writes an optimistic military journalist, "a string of sensors in the Laotian jungle may be the final key to the continued withdrawal of American troops from the war." But such optimism has proven short-sighted. Sensors

Footnotes at end of article.

which detect all human movement may be useful in the countryside where all people who do not move from the free fire zones to Saigon-controlled cities are defined as enemy. But once many of these people move to the cities the strategy breaks down. No sensor has been found which can separate out those who are anti-American from the "friendlies." As General Dean, the director of DCPG put it "If you get into more densely populated areas you are not going to be able to tell friend from foe so these devices in themselves would not be particularly helpful to you." [28]

THE URBAN STRUGGLE

Their ineffectuality in and around cities may prove to be a critical factor in determining the future of the U.S. in Vietnam. As U.S. troops are being withdrawn and the American physical occupation of the urban areas diminish, "a whole new political dimension was made possible. While the people of the cities, for obvious reasons, were unprepared to stage a confrontation with the U.S. military, the Saigon regime, regardless of its military strength, can be dealt with on a political level in a way that a foreign power could not. Ironically, then, "Vietnamization" has contributed greatly to achieving what U.S. officials—because of their narrow, ethnocentric perspectives—thought (or simply hoped) would be unachievable in South Vietnam: an awakening of Vietnamese political consciousness." [27]

Popular disaffection with the Saigon military regime and the American presence, although never entirely mute, remained suppressed during the first decade of the Vietnam war. "But early in 1970, a new trend began to develop. Initially centered on rather specific, often personal grievances, this activity has so far not only proved impossible to exorcise, but has evolved into a new, concerted movement for peace. Although virtually unpublicized in the U.S., there has been a radical transformation of urban Vietnamese public opinion about the war. Students, workers, veterans, women, respected politicians, professional people, and religious leaders (including Roman Catholics, who were formerly strongly anti-Communist and enthusiastic supporters of the war) have all taken a public stand in favor of *hoa binh*—peace. For the first time they have linked their demands for peace with insistence on (1) the withdrawal of "foreign"(i.e. American) troops from the South and (2) the ouster of the Thieu-Ky-Khiem regime." [28]

Aside from the internal upheaval in the U.S. military, the anti-Thieu, anti-American mood in the South Vietnamese cities has been another impelling force towards further troop withdrawals. U.S. military personnel are proving to be a serious liability in South Vietnam. Confining troops to barracks during the Presidential elections in order to avoid embarrassing incidents and anti-U.S. demonstrations is one indication of the state of American-Vietnamese relations. The level of anti-Americanism peaked during the Laos invasion (February, 1971) when ARVN troops were being used as "live bait" for B–52 air strikes against "enemy concentrations," and Vietnamese became convinced that they were dying for an American war. In retaliation U.S. Army vehicles were overturned and set on fire in various cities, including Saigon, Hue, Danang, and Qui Nhon. *Tin Sang*, a well-known Catholic newspaper, reported (August 28 and 30, 1971) that the urban population gave warning to Americans that they would be beaten up or worse if they did not wear a peace sign and a picture of a broken M–16. The newspaper continued to describe instances where GIs were bruised, taken hostage and even burned alive because they had not worn the appropriate symbols. Gloria Emerson, in a New York Times article (September 19, 1971) wrote: "In scattered incidents last week student assault groups, determined to force every American in Vietnam to leave, set fire to U.S. vehicles. Twelve of them have been burned since September 10. An American in the Navy lies seriously burned in a hospital here because he was sitting in a car that was set on fire with high octane gasoline."

Many factors contribute to this popular militancy. "First, it is no longer possible for anyone, even in the cities, to avoid the physical and moral damage of the war. Few families remain unscathed; loved ones have been lost, relatives separated, and traditional social values destroyed . . . Secondly . . . the economic situation continues to deteriorate. Between June 1966 and February 1970, the cost of living in Saigon rose by three hundred percent." [29] The major reason, however, is the creation of an enomous refugee population.

This was the ironical outcome of another American war strategy defined as "ubanization" by Samuel Huntington, Chairman of the Department of Government of Harvard Universty and Chairman of the Council on Vietnamese Studies of the Southeast Asia Department (SEADAG).[30] Taking a literal interpretation of Mao Tse-tung's maxim that a guerilla fighter must live like fish in the sea, Huntington advocates the most direct countermeasure: drain the sea. The U.S. military has taken this advice to heart. At least ⅓ of the Laotian, Vietnamese and Cambodian population have been killed, wounded or driven into cities and refugee camps by the indiscriminate and massive application of firepower to their homes and paddy fields. Through this strategem, Huntington writes, the "rural revolution is undercut by the American sponsored urban revolution." [31]

However, the U.S. policy-makers failed to anticipate the reaction of their victims. The Vietnamese peasants found living conditions in the cities intolerable. With very little employment opportunity, a high rate of inflation and substandard health and housing conditions, the uprooted peasants have joined other segments of the urban population in revolting against the Thieu administration and its American sponsors.

The anti-American sentiment in people forced out of their homes cannot be answered by dropping more sensors or devising more gadgets. One U.S. response is to beef up the South Vietnamese police and prison system through the AID program.

"United States officials continually stress that the national police must play a vital role in the program designed to track down and kill or capture Vietcong political officials. As the Americans leave, the American officials say, more and more of the security program will fall to the police, and they are being equipped with highly advanced technical devices with which they will attempt to track down Vietcong agents.

"American funds funneled into the national police through the military-civilian advisory agency known as CORDS have been increased this year by more than 25 per cent—from $20.9 million in 1970 to $27.3 million . . .

"The national police have grown steadily in size . . . Strength in 1960 was 16,000 and now is 97,000; by the end of next year it is expected to be 120,000.

"A goal of 147,000 is projected." [32]

A New York Times article (Oct. 13, 1971) states that AID will also take financial responsibility for the Cambodian "parliamentary defense forces, including the police."

This supplements the proposal of the Joint Chiefs of Staff, first revealed in the Washington Post and New York Times (Oct. 17, 1971), "that we get involved at all levels of Cambodian society with pacification programs, psychological warfare programs, and even unconventional warfare programs directed by the CIA." [33]

However, as Senator Case earlier points out:

"If the proposals of the Joint Chiefs were put into effect, Cambodia would be turned into an armed camp absolutely dependent on us for its existence. And this would not just be for a year or two, but for the indefinite future. The Joint Chiefs project an expansion of the current 170,000 man Cambodian armed forces, 863,000 by 1977. In a country of less than 7 million people, we would then be supporting a military establishment which would be the proportional equivalent of more than 25 million Americans under arms . . . there is no question that the United States would be paying virtually all the costs."

AMERICAN DOMINATION

In contrast to the social and political realities of the urban revolution, a number of major studies on Vietnam forecast a future of American domination. One reports that while "it is true that large numbers of its citizens have been displaced from their homes, others have acquired new skills which will be valuable to the growing economy in the post-war period," because the war has "fulfilled the necessary preconditions for development." (U.S. Joint Development Group)

Another is the Smithies Report for the Institute for Defense Analyses, a Pentagon-financed group. It declares that "the best planning assumption seems to be a military stalemate or withering away of the war, a process that can last *for a decade or more.*" (Our emphasis) Another, sponsored by the Asian Development Bank, is called "Southeast Asia's Economy in the 1970's." A chapter by Emil Benoit, Professor of Economics at the Columbia Graduate School of Business, sees that "Vietnamization will proceed to transfer a vast quantity of U.S. equipment and bases to the ARVN, one of the most powerful, as well as largest, armies in the world. Furthermore, when hostilities cease, *circa* 1973, confidence that hostilities will not recommence will be weak, and a high level of military preparedness will be maintained, for the rest of the decade."

This policy is confirmed by Secretary of Defense Melvin Laird in his discussion of Vietnamization as an alternative to negotiations:

"Vietnamization . . . is directed toward preparing the South Vietnamese to handle both Viet Cong insurgency and regular North Vietnamese armed forces *regardless of the outcome in Paris.*" [34] (emphasis ours.)

In the words of Jaques Decornoy, "the financing of studies on the future of a South Viet Nam cut off from the North and part of an anticommunist Southeast Asia seems to indicate President Nixon's determination to apply a program diametrically opposed to that of the Provisional Revolutionary Government. This 'continuity' in U.S. policy can only help to reduce still more the importance of the Paris peace talks." [35]

It may seem incomprehensible that the Nixon Administration, in face of massive resistance from most segments of the Vietnamese population and the newly emerged coalition of Indochinese national liberation forces, would persist in its effort to stabilize American domination in Indochina. Its rationale, as that of previous Administrations, has been and still is the "bad example" or "domino" theory, often expressed as "keeping commitments." It argues that movements for national independence in the non-industrialized world conflict with American national interests and must be stopped before they inspire other revolts. An example of such a movement is the Viet Minh, precursor of the National Liberation Front—long recognized, according to the Pentagon Papers, to be "irrefutably nationalist, popular and patriotic. It was also the most prominent and successful vehicle of Viet nationalism in the 1940's." [36]

Footnotes at end of article.

However, there has been a tendency among successive Administrations to place these basically indigenous movements under the vague but ominous category of "communist expansion." Following these assumptions, a National Security Council memorandum from February 1950 (64) defines Indochina as a "key area" of U.S. hegemony, and furthermore,

"The neighboring countries of Thailand and Burma could be expected to fall under Communist domination if Indochina were controlled by a Communist-dominated government. The balance of Southeast Asia would then be in grave hazard." [27]

Another memorandum from June 1952 (124/2) predicts "critical psychological, political and economic consequences" should any Southeast Asian country fall into Communist hands because it

"would probably lead to relatively swift submission to or an alignment with communism of the rest of Southeast Asia and India, and in the longer term, of the Middle East (with the probable exceptions of at least Pakistan and Turkey) would in all probability progressively follow. Such widespread alignment would endanger the stability and security of Europe . . .

"Southeast Asia, especially Malaya and Indonesia, is the principal world source of natural rubber and tin, and a producer of petroleum and other strategically important commodities." [28]

(This memorandum was called "the domino principle in its purest form" by the Pentagon Paper authors.)

The Nixon Administration has continued the longstanding policy of military and economic backing for Indochinese governments which rigidly exclude the nationalist liberation movements. Despite the one-man election in Saigon and the end of the pretense of parliamentary government in Phnom Penh, President Nixon promised again on Nov. 12th to defend the Saigon government and aid what is left of the pro-American Cambodian military.

Pressure for Peace

Pressure to set the date for withdrawal of all U.S. troops from Indochina is rising. Many POW families are embittered by the Administration's treatment of the POW issue, particularly after the PRG 7-Point Program undercut the White House campaign to build this issue into support for its war policies.[29]

In a tape recording brought from Hanoi by a member of Vietnam Veterans Against the War, POWs there said:

"We know our President is using captured GIs as an issue to prolong this war. But the Provisional Revolutionary Government of the Republic of South Vietnam states in its 7 point peace initiative that all captive military men and civilians including pilots captured in North Vietnam will be released at the same time that all U.S. and other foreign forces are being withdrawn from Vietnam. We couldn't ask for a better proposal than that." (See sources for more information.)

At the November 12 press briefing, the President admitted that private channels—or any channels—had failed to bring any progress on thet POW issue. The enemy, he reported, still refused to recognize the Administration's (historically unprecedented) formulation of POWs as a "humanitarian issue," to be "separated from the issue of the combat role of Americans and our withdrawal program" in negotiations. Consideration of the PRG's offer to release captured Americans in return for a date certain for the withdrawal of all U.S. troops was not discussed.

President Nixon is also under heavy pressure to set a final date from Congress, where the margin of votes needed for a pullout deadline has become increasingly narrow. Many Congressmen have switched their votes to support a six-month date, according to an AP release [40] because of their disenchantment with the Thieu election.

Popular pressure for peace might seem irresistible, particularly as the U.S. election draws near.

Since the Nixon Administration, like its predecessors, still seeks military victory in Indochina, the best it can offer is the *appearance* of peace. What it can do is to make the war less visible, withdraw ground troops, and replace the men with machines.

During the American war in Indochina, protest at home has been widespread. The ultimate success of the automated battlefield will depend on the compliance of the people in whose name wars are being fought in distant parts of the globe, and the Executive Branch may have found a way to carry on full-scale wars without provoking public opposition. Very simply, how can you complain about war that you don't know about?

FOOTNOTES

[1] Philadelphia Inquirer, No. 8, 1971.

[2] New York Times, Nov. 17, 1971.

[3] New York Times, Nov. 13, 1971. All quotes from Nov. 12 press conference are from the Times transcript.

[4] Wall St. Journal, Nov. 15, 1971.

[5] The Senator Gravel Edition, *The Pentagon Papers*, Vol. IV, Beacon Press. 1971. pp 114–123. The Jason Committee's proposal was quite specific:

The system that could be available in a year or so would, in our conception, contain (sic) the following components:

Gravel mines (both self-sterilizing for harassment and nonsterilizing for area denial).

Possibly, "button bomblets" developed by Picatinny Arsenal, to augment the range of the sensors against foot traffic.

SADEYE/BLU–26B clusters, for attacks on area-type targets of uncertain locations.

Acoustic detectors, based on improvements of the "acoustic Sonobuoys" currently under test by the Navy.

P–2V patrol aircraft, equipped for acoustic sensor monitoring, Gravel dispensing, vectoring strike aircraft, and infrared detection of campfires in bivouac areas.

Gravel Dispensing Aircraft (A–1's, or possibly C–123's).

Strike aircraft.

Photo-reconnaissance Aircraft.

Photo Interpreters.

(Possibly) ground teams to plant mines and sensors, gather information, and selectively harass traffic on foot trails.

The anti-troop infiltration system (which would also function against supply porters) would operate as follows. There would be a constantly renewed mine field of nonsterilizing Gravel (and possibly button bomblets), distributed in patterns covering interconnected valleys and slopes (suitable for alternate trails) over the entire barrier region. The actual mined area would encompass the equivalent of a strip about 100 by 5 kilometers. There would also be a pattern of acoustic detectors to listen for mine explosions indicating an attempted penetration. The mine field is intended to deny opening of alternate routes for troop infiltrators and should be emplaced first. On the trails and bivouacs currently used, from which mines may—we tentatively assume—be cleared without great difficulty, a more dense pattern of sensors would be designed to locate groups of infiltrators. Air strikes using Gravel and SADEYES would then be called against these targets. The sensor patterns would be monitored 24 hours a day by patrol aircraft. The struck areas would be reseeded with new mines.

The anti-vehicle system would consist of acoustic detectors distributed every mile or so along all truckable roads in the interdicted area, monitored 24 hours a day by patrol aircraft, with vectored strike aircraft using SADEYE to respond to signals that trucks or truck convoys are moving. The patrol aircraft would distribute self-sterilizing Gravel over parts of the road net at dusk. The self-sterilization feature is needed so that road-watching and mine-planting teams could be used in this area.

Photo-reconnaissance aircraft would cover the entire area each few days to look for the development of new truckable roads, to see if the transport of supplies is being switched to porters, and to identify any other change in the infiltration system. It may also be desirable to use ground teams to plant larger anti-truck mines along the roads, as an interim measure pending the development of effective air-dropped anti-vehicle mines.

The cost of such a system (both parts) has been estimated to be about $800 million per year, of which by far the major fraction is spent for Gravel and Sadeyes . . . For the future, rapid development of new mines (such as tripwire, smaller and more effective camouflaged Gravel, and various other kinds of mines), as well as still better sensor/information processing systems will be essential.

[6] CONGRESSIONAL RECORD, vol. 116, pt. 18, p. 23822.

[7] U.S. Senate Committee on Armed Services, Subcommittee. Investigation into the Electronic Battlefield Program, Hearings, 91st Congress, Second Session. (U.S. Government Printing Office, 1971) Hereafter: Hearings I.

[8] U.S. House Committee on Appropriations, Department of Defense Appropriations for 1972, part 7, p. 346, Hereafter Hearings II

[9] Hearings II, p. 349

[10] Aerospace Daily, Nov. 12, 1971, p. 74–5

[11] Hearings I, p. 9

[12] U.S. House Committee on Appropriations, 1970, Department of Defense Appropriations for 1971, Part 6, p. 189.

[13] Senate Committee on Foreign Relations, United States Security Agreements and Commitments Abroad, 1971, vol. 1, p. 394–5

[14] U.S. Senate Committee on Foreign Relations, Laos; April, 1971, p. 8

[15] Hearings I, p. 140

[16] Senate Committee on Foreign Relations, U.S. Security Agreements and Commitments Abroad, vol. I, p. 455–6

[17] U.S. House Committee on Armed Services, Military Posture to Authorize Appropriations During Fiscal Year 1972, Part I, p. 2627, 1971. Hereafter: Hearings III.

[18] Ibid, p. 2668–9 and p. 3523

[19] William Beecher, "U.S. May Give Saigon New Light Planes," New York Times, Oct. 29, 1971, p. 3

[20] General John D. Ryan, Chief of Staff of the Air Force, as quoted in Hearings III, p. 2668

[21] Hearings III, p. 3121

[22] Hearings I, p. 96

[23] Hearings III, Part 2, p. 4618

[24] Edward S. Herman, "American Bombs, Yellow Corpses," The Drummer, Dec. 2, 1971

[25] U.S. Senate Committee on Foreign Relations, Impact of the Vietnam War, June 30, 1971, p. 9

[26] Hearings I, p. 21

[27] Cynthia Frederick, "The Vietnamization of Saigon Politics," Bulletin of Concerned Asia Scholars, Vol. 3, No. 1, Winter-Spring 1971

[28] Ibid.

[29] Ibid., p. 7

[30] Samuel Huntington, "The Bases of Accommodation," Foreign Affairs, July, 1968

[31] Ibid.

[32] Thomas C. Fox, "South Vietnam's Police Force Gaining in Size and Status as U.S. Increases Aid," New York Times, April 14, 1971

[33] U.S. Senator Clifford Case, Congressional Record, October 19, 1971

[34] Hearings III, p. 3636

[35] Jacques Decornoy, "Assessing the Future of South Vietnam," Le Monde, 1971

[36] The Senator Gravel Edition, *op. cit.*, Vol. I, p. 47
[37] Ibid. p. 83
[38] Ibid.
[39] Wall Street Journal, "Missing—or Dead? Some 'POW' Relatives Say They Are Misled by American Officials", Sept. 30, 1971
[40] Philadelphia Inquirer, Oct. 25, 1971

THE AUTOMATED AIR WAR

(By William Haseltine)

". . . war involves very small numbers of people, mostly highly trained specialists. The fighting . . . takes place on the vague frontiers whose whereabouts the average man can only guess at. . . ." George Orwell, 1984.

As this is written, hundreds of the most sophisticated machines of war in history are hovering over the bamboo villages of Indochina, waging a new kind of mechanized warfare even as US ground troops are being withdrawn. Since Mr. Nixon became President, we have dropped 2,700,000 tons of bombs on Indochina—more than was dropped on two continents during World War II and the Korean War combined.

There are O1E, O2 and OV10 spotter planes at 2000 feet; A1E, A26, T28 prop bombers, AC47, AC54, AC119, AC130 gunships, flare ships, rescue and gunship helicopters at 5000 feet; F4, F100, F105, A7, B57 jet bombers, jet reconnaissance, EC47 and EC119 electronic aircraft at 10,000; KC–135 super-tankers at 20,000; B52s at 30,000; EC130 command and control aircraft at 35,000; and SR71 reconnaissance aircraft at 70,000 feet. As no less an expert than General Westmoreland puts it, "We are making unusual efforts to avoid having the American young man stand toe-to-toe, eyeball-to-eyeball or even rifle-to-rifle with the enemy." Hence Vietnamization, hence automation. Military planners are busy finding ways to wire down the war. The Electronic Systems Division at Hanscom Field, and Air Force Base not far from Boston, orchestrates the intricacies of applying space-age technology to counter-insurgency weaponry. The academic community provides advice and inspiration, the companies test and manufacture the new gadgets, the air base integrates these into tactical weapons systems and ships them to Indochina.

The most dramatic example of the automation of the war is Hanscom's show-case project, code-named *Igloo White*. It became operational in November 1967, over Laos, was expanded last year to include Cambodia, and today directs much of the bombing over both countries. Its major task is to automate destruction of North Vietnamese supply routes in those lands. Its supporters boast that *Igloo White* is "entirely air supported—it requires no ground troops." It is almost fully automatic as well. The system consists of battery-operated seismic and acoustic sensors dropped from the air along the elaborate system of roads and trails in Laos and Cambodia. The acoustic detectors transmit noises in their vicinity and are dropped so that they hang suspended from trees. The more widely used seismic detectors are partially buried and detect ground vibrations. The Air Force is working on new detectors and soon hopes to have one that responds to both metal objects and to body heat.

The exact placing of the sensors is a problem which isn't yet solved. Many of the sensors are dropped from planes flying hundreds of miles an hour. If you don't know where the sensor is, you don't know where to attack. A common solution is to use weapons which blanket large areas with lethal missiles and to attack several nearby locations.

The signals from the detectors are sent to a plane which retransmits information to ground facilities for processing. Formerly these planes were converted super-constellations with large crews and data processing equipment on board. They are being replaced with a modified Beech Debonair that can be flown by remote control, making the detection system fully automatic. These drones are currently circling over Laos 24 hours a day.

The information collected by the drones goes directly to two huge IBM 360–65 computers located in Nakhon Phanom, Thailand, 75 miles west of the Mugia Pass, the beginning of the Ho Chi Minh Trail. These computers analyze the noises and vibrations, printing out the data and labeling it by time and place. Upon request the computer can display a map of the section of the road under suspicion and indicate the target site by a moving blip. The computer printout is passed to an intelligence coordinator and on to the Battlefield Control Center, which sends out the planes for attack. Besides being programmed to select sites for immediate attack, the computer correlates the information to determine a general traffic pattern, so it can be decided where to lay mine fields. The Air Force is working on mobile computation centers which can be air-lifted to any part of the world. A basic feature of *Igloo White* is that the sensors draw no distinction between friend or foe, civilian or soldier, adult or child, man or animal, and will impartially call down an automated death on all who cross their path. Over two billion dollars has been spent on *Igloo White* over the past five years. Air Force officials consider the program to be successful and envision a worldwide deployment capability by 1976, the 200th anniversary of the American Revolution.

Igloo White is closely integrated with the attack system called *Commando Hunt* which began November 15, 1968, 15 days after the bombing of North Vietnam was halted. *Commando Hunt* is a four-step program to cut the supply lines in Laos and Cambodia. First, all major distinguishable targets such as bridges, buildings, dams and power stations are repeatedly attacked. For pinpoint accuracy the Air Force uses two new bomb delivery systems, one directed by a laser beam, the other by a TV camera. The laser-guided bombs and missiles weigh as much as a ton-and-a-half and have an eye on their nose which guides them to a spot of light beamed off the ground by another airplane. The man with the laser shines it on the target and the bomb falls on it. A TV camera on the other transmits a picture of what it sees to a screen in the cockpit. The pilot locks his bomb on the desired target image and releases it; it falls so that the central portion of the picture is always in view. It was first used over Laos in 1969.

The second part of the program is the dropping of antitruck mines along suspicious paths and roads, mines triggered by sound, pressure, metal objects or vibrations. One of the newest detects movement and explodes when anything comes toward it. Some detonate within a specified time if not triggered, others do not.

Third, antipersonnel landmines are dropped over the antitruck mines and down the entire length of some roads. The Air Force emphasizes that these are purely antipersonnel. WAAPM, the acronym for wide-area antipersonnel mine, is a large bomb containing hundreds of little bomblets. On impact each bomblet sends out trip wires. The mine explodes if the wires are disturbed. Both cover large parts of the countryside.

The fourth phase of the program is immediate reaction air strikes to areas selected by the *Igloo White* computers. The bomb favored for these missions is the CBU–24 antipersonnel and anti-light-material bomb. After it is released from the plane it splits open and hundreds of bomblets spill out. One bomb will normally send 250,000 pellets spewing about on an area the size of a football field. Anything above ground is lucky to escape unscathed. Another version of the same bomblet has a random time-delay fuse, so that after the initial attack bombs keep going off, making it difficult to care for the wounded or repair damage.

F–4 Phantom jets commonly used for these attacks have recently been equipped with a new TPQ–10 radar navigation device. The command computer can feed the map coordinates directly into a computer on the plane and direct it to a precise location. When the plane approaches coordinates, the computer automatically releases the bombs at the proper time to hit the target. The Air Force claims "using air-wide type ordnance, excellent results have been obtained with this blind-bombing method." All-weather navigation aides and light-amplification systems for night attacks are other new features on the attack planes.

The Air Force is satisfied with this program. They credit themselves with 5950 truck-"kills" during the 1969–1970 dry period and 14,000 this year. Nevertheless the supplies traveling down the Ho Chi Minh Trail are undiminished. A recent Senate Foreign Relations Staff Report discounts the Air Force's claim by 30 percent. The total number of truck kills claimed by the Air Force greatly exceeds the number the U.S. Embassy in Saigon believes are in all North Vietnam.

The ineffectiveness of the automated war against the trail was highlighted two weeks ago when the Communists launched a massive offensive in Cambodia in the midst of the rainy season and the heaviest floods in North Vietnam's recent history. With Sihanoukville port closed, where were supplies obtained for this offensive? It is not only the cynics who suspect that supplies have been moving down the trail much as they always have.

Still, the bombs continue to rain down. The U.S. has dropped over one million tons on Laos alone in the last two-and-a-half years. And although overall sortie figures are classified, the Senate report revealed that 340 sorties a day were being flown in April, 1971, twice as many as during the height of the bombing over Laos during the Johnson years. And this figure did not include the 30 tons per sortie B52 flights secretly sent over northern Laos since February 18, 1970. In all, over 1000 tons of bombs are being dropped daily on Laos.

Although the "Rules of Engagement and Operational Authorities" which regulate the bombing in Laos make it seemingly impossible for villages and other nonmilitary targets to be bombed, there is no evidence to indicate that they are enforced. Despite the most protracted bombing of civilian targets in history, for example, there are no known instances of disciplinary action taken against pilots for bombing villages in Pathet Lao-controlled zones. The Senate staff report itself states that in some cases the rules are deliberately violated, and in any case have loopholes which account for "roads with civilian traffic, villages and groups of civilians—bombed, rocketed or napalmed." One rule permits ground fire to be returned virtually anywhere in Laos when a U.S. plane is participating in a search and rescue operation or is flying in support of "infiltrating or exfiltrating" troops. There are 15 free-fire zones in Laos not protected by these rules. In addition there are special operating areas that the embassy has determined have no active villages, where any type of ordnance may be jettisoned or used. These areas cover most of the Plain of Jars and route 7 leading from North Vietnam to the plain. Until 1967, when the bombing began, the population of the Plain of Jars was well over 100,000.

The bombing in Laos is, of course, only part of the air war. Large-scale bombing of Cambodia, South Vietnam and even North Vietnam continues. The Pentagon insists that since November 1968, there has been no bombing of the North—only "protective reaction strikes"—184 of them, 64 thus far in 1971, about two a week and some involving over 250 planes each, as on March 21

and September 21. The officially acknowledged purpose of the bombing is to interdict the flow of men and material into Vietnam, buying time for Vietnamization, and to provide tactical support to ARVN troops. Implicit is the threat, rendered credible by massive daily bombing of the countryside, that were NLF and North Vietnamese to seize control of the cities as they did during Tet 1968, the cities would again be destroyed from the air.

The need to replace men with machines in Indochina is becoming more urgent as more Americans come home. General Westmoreland is sure that the US can meet this challenge: "Today machines and technology are permitting economy of manpower on the battlefield, as indeed they are in the factory. But the future offers even more possibilities for economy. I am confident the American people expect this country to take full advantage of its technology—to welcome and applaud the developments that will replace wherever possible the man with the machine."

STUDY SHOWS U.S. PRESSES AIR WAR

(By Neil Sheehan)

WASHINGTON, November 7.—A comprehensive study of the air war in Indochina by a Cornell University group concludes that while the Nixon Administration drastically curtailed American ground combat, it is maintaining a high level of bombing and, in Cambodia and Laos, has in fact intensified the air war.

The study acknowledges that the Administration has roughly cut in half the intensity of the air war in Indochina from the peak years of 1968 and 1969, when the United States was waging the most intensive bombing campaign in history.

But the study says the average tonnage being dropped is at about 70,000 tons a month, almost the same level as in 1967, when the American public was more aware of a major war in Indochina because of the direct involvement of American ground combat troops.

SIX MILLIONS DROPPED

By the end of 1971, the United States will have dropped on an area about the size of Texas, six million tons of bombs and other aerial munitions, three times the total tonnage used in World War II. The Nixon Administration, in its three years in office, will have loosened as much as and possibly more explosive power than did the Johnson Administration—about three million tons, the study says.

The reduction of area-obliteration raids by B–52 bombers has not been nearly as marked as the cut in strikes by smaller fighter-bombers. These area-obliteration raids are still estimated to run 30,000 tons a month, the study says, compared with 40,000 tons monthly during the 1968–69 peak.

The Administration plans to continue the air war through 1972 and beyond at a cost that could range from $1.2-billion to $4-billion a year, depending upon the amount of force required by policy needs, the study states. Citing "sources close to the Pentagon," the study says plans appear to call for keeping 50 B–52's in Thailand and 300 fighter-bombers there and on carriers offshore.

STUDY TOOK 5 MONTHS

The five-month study, begun in May was sponsored by Cornell's Center for International Studies. The preliminary version of the report runs about 200 pages. It has extensive footnotes and is illustrated with graphs. The group hopes to publish a fuller report by the end of the year.

The team of 19 professors and students involved, headed by Prof. Raphael Littauer, a 45-year-old nuclear physicist, drew its findings from source materials that included official Pentagon statistics and reports, newspaper articles, interviews with approximately 80 defense and foreign-policy specialists and former military and civilian officials, as well as the once top-secret history of the air war contained in the Pentagon papers.

ESCALATION CHARGED

The report states that bombing of the Ho Chi Minh Trail supply roads through southern Laos, a relatively unpopulated area, has been increased steadily by the Nixon Administration and is now running at 400,000 tons of explosives a year.

Bombing in Cambodia, with serious civilian casualties resulting, the report asserted on the basis of Congressional testimony, has also climbed steadily since the American incursion in the spring of 1970 and is now running at 90,000 ton a year. This figure approaches the 124,000 tons dropped on North Vietnam in 1966 when an intensive air war was under way there.

In South Vietnam, nearly 300,000 tons of air explosives a year are still being dropped, now mainly by the South Vietnamese air force, which has been greatly expanded. This is equal to the level of 1966.

The report argued that the continued heavy use of air power was not stopping enemy advances in Indochina and that the destruction it was causing actually made the achievement of peace more difficult by disrupting the societies the United States says it is attempting to stabilize.

Despite a scorched-earth bombing campaign against enemy-held towns and villages in Northern Laos and the Plaine des Jarres possibly a third of the estimated total of 2.5 million Laotians have become refugees and the enemy forces "now control a greater fraction of Laos than ever before," the study said.

THE ONGOING AIR WAR

BOMBING TONNAGES[1]

Year	Tons	Averages
1965	360,000	Monthly average, Johnson years, 59,704 tons.
1966	496,319	
1967	932,119	Monthly average, Nixon years, 95,402 tons.
1968	1,437,370	
1969	1,387,259	Total Johnson years (1965–68), 3,215,808 tons.
1970	997,466	
January–May 1971.	391,946	Total Nixon years (1969–May 1971), 2,776,671 tons.
Total	6,002,479	

COST AND SORTIES[2] (1966–JULY 1971)

	Sorties	Cost (billions)[3]
South Vietnam	762,650	$15.2
North Vietnam[4]	280,000	5.6
Laos	505,326	10.1
Cambodia	25,546	.5
B–52's	77,600	1.6
Total	1,651,122	33

[1] Source: Pentagon Information Office.
[2] Source: Cornell air war study project.
[3] Based on 1967 McNamara estimate of $20,000 in overall costs per bombing sortie. See Document No. 118, Bantam Book edition of Pentagon Papers.
[4] Does not include post-November, 1968 strikes.

THE AIR FORCE'S SECRET ELECTRONIC WAR

(By George L. Weiss)

(Few people know all the details about "Igloo White", even fewer have access to the giant computers which run one of the world's largest surveillance systems. Here's the full story on the fantastic operation.)

Half a world away from America one of the strangest wars in history, and the first of its type, is being waged. Generals in command of forces engaging the enemy study computer readouts instead of battle maps to determine their tactics. Pilots who fly the missions set coordinates into aircraft computers; planes fly automatically and release their bombs by electronic signal. The bombs are not always ordinary bombs; sometimes they are tiny round baseball size weapons. Others may be laser- or TV-guided and are known as "smart bombs". Anything else today is known as a "dumb bomb".

High above the battlefield unmanned aircraft circle, their insides packed with electronic equipment which picks up and silently retransmits signals from transmitters that earlier imbedded into the ground (at 600-mph!) and still continue to function—yet self-destruct if man tries to move one. The signals transmitted from the ground transmitters to the drones overhead go to some of the world's largest computers. Then machines, not man, perform the calculations of thousands of variables. A mad metal ball hammers out the probable reactions or options available to other men who, hundreds of miles away, ponder the next move.

Warfare in the late Sixties went electronic. It is developing into a pattern which men will be studying for years to determine how wars of the future may be conducted in a manner that even today rivals science fiction.

This is the "Secret War" in Laos, or perhaps more aptly, the "Strange War". Never before have men fought such a war. One side employing manpower and munition trucks on the Ho Chi Minh trial at night and hiding by day.

The other side, and in another country, armed with the latest technology, is on the same schedule as the enemy—sleeping by day and fighting by night.

They never meet, these two enemies. Yet they are separated at times by just a few feet of airspace.

Only in this war can you find the veterans of a hundred computer battles who have never heard a shot fired, pilots who bomb acres, not pinpoints, and fly by computer, bombs which drop on electronic signal, drones that fly without manual control—and the entire system tied to a collection of tubes, transistors and diodes that calculate times and space with the precision of an astronaut's moon landing. Except that the objective may be the next rest stop for a convoy traveling through Laos.

This is "Igloo White," the code name for the electronic system that fights the Battle of the Ho Chi Minh trail.

Inside what some people have referred to as the largest building in Southeast Asia is the heart of Igloo White—the Air Force's surveillance system for the trail. Two huge IBM 360 computers, storing billions of information "bits" could handle any one of America's largest corporations. The facts and figures stored in their memory banks are responsible for the success of the air operation on the Ho Chi Minh trail. How they came to be there is important.

North Vietnam faces a unique problem in conducting its war against South Vietnam. Hanoi has no war industry and depends primarily upon the Russians and Chinese for the arms and munitions needed to continue the war. These arms must all come into the nation via its ports, which replace factories for the North's military machine. Until the "invasion" of Cambodia about 80% of the war material used in the lower half of South Vietnam was shipped to Sihanoukville. Then the arms were hauled by commercial carriers to the South Vietnamese border for safe storage in the Cambodian sanctuaries.

War material for the upper half of South Vietnam came down the Ho Chi Minh trail and was then stored in Laotian sanctuaries to be moved as needed into the invaded country.

With the loss of Cambodian ports the entire supply effort had to be switched to the Ho Chi Minh trail. The situation couldn't have been better for the U.S. or worse for the North Vietnamese. For the past three years the war on the trail had rolled along, both sides sparring, improving and adding their own ideas to outsmart the other.

When the necessity to slow the munitions traffic on the Ho Chi Minh trail became critical several years ago the Air Force was given the task of handling it. The rules were carefully spelled out by Washington. No military personnel were to fight on the ground in Laos. All combat operations had to be handled by airpower. There was no demand for 100% victory. The name of the game was to slow the infiltration of munitions and men on the trail and reduce the level of warfare in the South. Just how that was to be accomplished no one exactly said. Washington only made policy.

A special group was established by the Department of Defense and named the Defense Communications Planning Group, a title that hid the true scope of their work from prying eyes.

Out of the efforts of the DCPG came a series of electronic sensors which could be air-dropped along the Ho Chi Minh trail to detect and report on passing vehicles. The first were implanted by low altitude helicopter drop. The flak in Laos made life unpleasant for the helicopters and a switch was made to F-4 fighters which could emplace the sensors with great precision to selected points.

The sensors were designed to pick up and transmit signals from the vibrations of passing men or vehicles. Some could be remotely tuned by electronics to alternate from man to vehicle targets so the passing of either could be recorded separately.

Still others were designed to pick up sounds. One of these, the Acoubuoy (adapted from a Navy antisubmarine sensor) pulls in sound waves so well and with such high fidelity that the Air Force has tape recordings of drivers in truck parks holding conversations—including one "X"-rated negotiation between a North Vietnamese WAC and her soldier boy friend.

Once asked by a Senate Committee if the Acoubuoys were ever found by the North Vietnamese, an Air Force General acknowledged they have been and played a tape to prove it. As the tape ran the Senators heard the excited shouts of the Vietnamese soldiers as they spotted the sensor. Then came the sound of axes as the soldiers chopped away at the tree. Finally there was the sound of the tree as it crashed to the ground and then screams. Asked what the screams meant, the General replied, "Sir, the tree must have fallen on them". Or maybe something exploded.

Other tapes played to the Senate Committee investigating the "Electronic Battlefield" recorded the sounds of a truck park, men talking, gears grinding, men shouting, and then the sound of a Forward Air Controller overhead. Next the Senators heard the roar of jets, the crash of bombs and the firing of anti-aircraft guns as the North Vietnamese fought back. It was a landmark in the history of warfare. Men hundreds of miles from the scene heard the very sounds of the attack they had directed, and by sensor, could determine the results of the raid.

Spikebuoy is an acoustic sensor that, unlike Acoubuoy which falls by parachute and hangs in dense jungle foliage, buries itself in the earth in free-fall and then radios back sounds of passing vehicles.

Two seismic sensors being used on the Ho Chi Minh trail are called Adsid and Acousid. The former Adsid, is the most popular of all sensors used by the Air Force in monitoring activity on the trail. Asid does not relay any sounds, but can pick up the movement of men and vehicles with a high degree of accuracy. The Acousid is primarily seismic, but on radio command can also transmit sound. One of the drawbacks of the acoustic sensors is that sound transmissions require more battery power than the minute amount needed to send a "beep" to the computer when a truck passes by.

Each of the sensors is good for several months and cost as little less than $1,000 each.

A squadron of F-4 aircraft was modified to carry sensor pods and insert the tiny radios in specified areas. A known truck park will usually receive six or nine Adsids and Acousids. If the situation warrants, an Acoubuoy may be parachuted into the trees. Each sensor transmits its own code so there is no mistaking which is which inside Laos and locations are known, to within a few feet.

Along with the various sensors the Air Force found that if it was to ever defeat the North Vietnamese along the Ho Chi Minh trail it would have to come up with a number of weapons that didn't exist. The ultimate weapon of course would be the slow flying, night seeing destroyer which could cruise along above the jungle at night, pick out a target with daylight-type vision. Night vision for the Air Force had to be designed to incorporate new types of weapons delivered in conventional ways, but covering vast jungle areas.

One of the most deadly aerial weapons delivered in Southeast Asia has been the CBU (cluster bomb unit). This is a small, round bomblet, differing little in concept from the hand grenade, but it is a lot more powerful. Each CBU has the range and effectiveness of half a dozen sawed-off shot guns.

The original CBUs encountered a problem in triple thick canopy jungle growth. They tended to explode on the way down. While this was hard on the monkeys and parrots, it wasn't discouraging the soldiers and trucks underneath.

To insure that the weapons did penetrate the trees several new types were developed. These would spin on the way down, setting the arming mechanism, and the spinning effect would cause them to fight their way through leaves and branches to the ground. Some versions explode when the spinning stops, others only when disturbed and then finally self-destruct if not moved for a certain period of time.

One of the necessary military efforts to disrupt traffic on the Ho Chi Minh trail has been through area denial. Dealing with thousands of invisible men moving through the jungle, but whose presence is indicated by sensors, called for a new type weapon. The answer was "Gravel" and "Dragontooth". Both weapons are small enough to be hand-held and can be packed by the tens of thousands into dispensers. A fighter load will cover entire camps when released.

Gravel looks very much like a large light green tea bag. This anti-personnel mine is activated by pressure and will injure anyone stepping on it. Dragontooth can also seriously injure anyone stepping on it. Scattered over large jungle areas along the Ho Chi Minh trail these weapons deny the enemy movement by night and force him to clear paths by day through the fields of mini-explosives.

Seeing what is under the trees is one of the major problems facing airmen with no "surface" means to check enemy positions. One of the weapons made with the idea of instant jungle clearance is Pave Pat II, a 2,500 pound propane bomb. High over-pressures from the commercial propane strips branches off trees and clears acres of jungle to allow visual observation.

Bombs like the laser-guided 2,000-pound bomb are used to hit "impossible" targets such as cave entrances which hide munitions and pipe line pumping stations on the trail. While one aircraft launches the weapon another "illuminates" the target with a laser beam. The bomb homes on the beam and guides itself into the target. Other "smart bombs" like the EO (electrical-optical) bomb contain a TV camera in the nose and the plane pilot can "fly" the bomb after launch into a pre-selected target. The laser bombs, conventional USAF bombs with a "bolt-on" guidance kit, are relatively cheap.

The EO bombs are costly and are used only on targets which require "assured" destruction. One of the most difficult of all Air Force targets is a bridge. Often hundreds of bombs are required to hit and destroy one. The Air Force has reported it launched five EO bombs at one bridge and four bridge spans were dropped with direct hits on each span. One bomb missed.

This year the Air Force has added a new dimension to the "Secret War." Although the AC-47, AC-119 and the AC-130, each carrying rapid firing mini-guns and 20-mm cannon have been in common use on the trail, this year saw the addition of the newest called "Pave Spectre." This electronic bird is armed with rapid firing 40-mm cannon with computerized target acquisition and fire controls.

After being directed into active areas by ground computers the new AC-130 "flying destroyer" has on board all the necessary night vision equipment and electronics to fight its own war. After entering a road area where a convoy is moving the pilot can set up his aircraft for automatic operation.

The crew scans the ground with night vision, low light level TV, and picks out moving vehicles as easily as in daylight. The aircraft is then placed on the automatic system and the on-board computer takes over, flying the aircraft and aiming and shooting the cannon. In one hour one AC-130 destroyed 68 trucks; that's better than one a minute. The AC-130s are highly vulnerable to SAM missiles and anti-aircraft guns and so are always under the protection of fighters.

Another sensor device being added to the aerial gunships is a cathode ray tube that will react to truck ignition systems just as your home TV does to a passing auto. Only this one will pick up ignition emissions for many miles and guide aircraft in. The crew examines the vehicles with low light level TV, switches on the automatic gun system and then keeps score as the trucks disappear in bursts of exploding 40-mm shells from the Bofors cannon.

So far this year the Air Force has destroyed over 25,000 trucks on the Ho Chi Minh trail. Last year the dry season score for the same period was 12,000. The previous year (November to June of 1968-69) the number was 6,000 and the year before, 5,500 trucks. Each truck carries an average of 10,000 pounds of war material bound for South Vietnam.

Life on the Ho Chi Minh trail has become a very hazardous occupation for the North Vietnamese Army.

Now let's look at the way the electronic battle is fought.

The night's battle begins at dusk. Strike planes for the effort are made ready. These include gunships, fighters, still secret electronic B-57s, and drones. Drones are one of the hottest additions to the electronic war. Previously the Air Force relied on the EC-121 to pick up and relay the line-of-sight sensor signals. Now the Air Force uses the YQU-22B, a highly modified Beech Debonair, loaded with radio relay equipment. The Debonair can fly unmanned high above Laos.

Inside the ISC (infiltration surveillance center) two huge IBM 360-65 computers stand ready to begin their work. In their electronic brains are the entire 3,500 miles of the turning and twisting Ho Chi Minh trail system. The locations of every crossroad, gully and sensor are known to them.

Inside North Vietnam dozens of Russian ZIL and Chinese "Liberation" trucks are loaded and ready to begin their nightly dash through Mu Gia and other mountain passes being used each night to infiltrate Laos.

As darkness falls the convoys start. All along the Ho Chi Minh trail the scene repeats itself. Hundreds of men are loading their trucks from holes in the ground and caves where their deadly cargoes have been stored to be spared daylight bombing.

Each 20 miles or so along the trail are sta-

tions called *Binh Trams*. Each has a controller who operates by landline (radio transmissions are monitored) and notifies the *Binh Tram* up the line he is ready to receive cargo. He has also loaded his trucks and is ready to dispatch them to the *Binh Tram* below him. His drivers will cover 40 miles tonight—if they are lucky. They must drive along the road without lights, evade mines, unload their cargo into other holes in the ground and then return to their hidden truck park before dawn.

As the trucks begin to roll, sensors in several dozen truck parks begin transmitting to the drones; that information is relayed to the silent computers outside of Laos. Other sensors, spaced along known truck routes, begin to pick up passing vehicles and this information is passed on to the ISC. In minutes the computer is sorting out the routes the *Binh Tram* crews have selected for the night's operation and the battle is on.

The computer can select or reject a route. Some routes have been heavily mined during the day and the computer will count the trucks entering the mined areas and then count the ones leaving. Then it will decide what should next be done to the convoy.

By radio the AO notifies the fighters they have a target and provides coded coordinates. Fighter lead punches the information into his own airborne computer and his formation is now flying what pilots have come to call "the most boring of all combat missions".

As the AO keeps tabs on the progress of his ground convoy and the air strike force he adjusts for a coordinated arrival of both forces at the selected "box". As the fighters roar over the point thousands of CBU bomblets and other weapons automatically release and tumble into the jungle below.

As the bombs explode in the convoy the sensors are again called upon to assess the effect of the raid. Trucks that made it through the box are counted. During the following morning photos by reconnaissance aircraft will verify the attack and show what cargo, if any, survived. A follow-up action may then be taken to prevent the salvage of any cargo.

What has all this accomplished? Has it been worth the effort? When you balance it out in dollars it may not be the cheapest way to fight a war. When you balance it out in lives it certainly is. Every bullet destroyed on the Ho Chi Minh trail is one less that will be fired at an American soldier or a Vietnamese villager.

There are cheaper ways of doing the same thing. The most obvious is to bomb the source, Haiphong, but that has been ruled out by political considerations.

The enemy has been allowed a freedom few have in war. He can import his arms, drive them openly through his countryside. But when he leaves his national boundaries every man and every truck is up for grabs.

So far this year only one ton of munitions has reached South Vietnam for every twenty tons that entered Laos, figures given to a Senate Committee by General John Ryan of the Air Force. Last year the North Vietnamese managed to get about 20% through.

The next few months will be critical to the Vietnamization program. Some experts estimate that the small amount of war material that got into Southern Laos this year may remain there, thanks to the vital two months of the dry season the South Vietnamese incursion cost them during the battles of Lam Son 719. Little war material was moved out of Laos during those critical months.

But as one veteran of the electronic war put it, "We got the Ho Chi Minh trail wired like a pin ball machine. Before, the enemy had two things going for him. The sun went down every night and he had trees to hide under. Now he has nothing". Time will tell.

As the various truck convoys move south they drive on converging roads and into one of the many traps set for them nightly.

Unable to talk with each other the convoys may approach a crossroads from more than two directions; this can become the most dangerous trap of all because the convoys may have to stop and then are easy prey.

When the sensors have provided enough information to the computer the action shifts to another room in the ISC known as Commando Bolt, a term which refers to one of the most sophisticated combat control functions in the Air Force. The decision can also be made to switch the scene of the action to an Airborne Battlefield Command and Control Center (that's a C–130 with a complete battle staff), or to retain command within the ISC.

The function is usually retained at the ISC if the situation does not appear to require airborne assessment. In that event the computer switches the sensor-acquired information to the ground-bound Assessment Officer in the building who will direct the air attack.

A TV-type screen provides the Assessment Officer a map of the section of Laos under his control. Each of the roads used by the North Vietnamese in his area is etched on his screen. As the seismic and acoustic sensors pick up the truck movements their locations appear as light on his TV screen. The AO observes the progress of the truck convoy as an illuminated line of light, called "the worm", that crawls across his screen, following a road that sometimes is several hundreds of miles away.

From there the battle becomes academic. The Assessment Officer and the computer confer on probable times the convoy or convoys will reach a pre-selected point on the map. This point is a "box" selected by the Igloo White team of experts at the ISC. Airborne at the moment are gunships and fighters. A decision is made as to the type of ordnance best suited for the area.

If the trucks are moving under jungle canopy it is likely the AO will select fighters armed with CBU type weapons and attack the convoy with them. If the convoy can be caught in an open area then gunships will be waiting for them.

AIR WAR IN INDOCHINA

("I will not place any limits on the use of air power."—President Nixon, February, 1971.)

Between Nov. 1, 1971 and March 1, 1972, the point will be reached where the majority of bombs dropped in Indochina were dropped under the Nixon administration.

More bombs have been dropped on Indochina since Pres. Nixon took office than the total (2.9 million tons) dropped during World War II and the Korean War combined.

It is clear that the yardstick of 100,000 to 200,000 tons per year describes an air war with severe civilian effects.—Air War Study, Cornell University Center for International Studies.

[From the New York Times, Sept. 29, 1971]

THE NONWAR WAR

(By Herbert Mitgang)

The air war is very costly in human and financial terms. A year ago about 5,000 American planes (1,000 fixed-wing and 4,000 helicopters) were operating over Indochina. There are still 3,500 American planes (500 fixed-wing, 3,000 helicopters) in action today. One and at times two aircraft carriers are in coastal waters. Plane losses by hostile fire and accidents have been heavy: more than 3,300 fixed-wing and more than 4,500 helicopters in the war up to now.

Nor has the theater of combat been narrowed in this twilight time of disengagement. Five states are still directly involved. Thailand remains the base of operations for B–52 missions; Laos and Cambodia are regularly interdicted to hinder the enemy's supply system; North Vietnam above the demilitarized zone is photographed by reconnaissance planes and struck by fighter-bombers on "protective reaction" missions; South Vietnam is one big free-fire zone when required to bail out Saigon's soldiers.

In the semantic acrobatics of the Vietnam war, "protective reaction" strikes against antiaircraft emplacements and missile and fuel sites have been stressed. But far more dangerous in the future are the actions behind two less-familiar phrases: "pre-emptive attack" against troop infiltration on the trails and "ancillary effect" bombing—meaning, in support of South Vietnamese forces. When ARVN troops retreated from a Cambodian town a few months ago, under heavy United States air cover, Gen. Creighton Abrams remarked, "Dammit, they've got to learn they can't do it all with air. If they don't, it's all been in vain."

In this withdrawal phase of Vietnamization, American troops are supposed to be in a defensive posture. On-the-ground combat responsibilities now belong to the ARVN; it is their turn to search-and-destroy and carry the fight. But an Air Force colonel explains, "Consistent with this concept we support ARVN ground operations with air and artillery. Both B–52's and tactical fighter-bombers have been involved." In these operations the American Air Force's role is restricted to "air logistical support and close air support."

Translated into what has taken place this month alone, the clear implication of these terms seems to be that American "advisers" and fliers are very much part of offensive actions. They have been engaged in a two-front war in September: carrying South Vietnamese infantrymen into battle deep in the Mekong Delta 145 miles southwest of Saigon and backing them up with helicopter gunships; bombing in the southern panhandle of Laos in direct support of Royal Lao forces and C.I.A.-trained guerrilla battalions. These activities hardly accord with the periodic announcements from Washington about "winding down the war" through Vietnamization.

It is difficult to predict what American casualties will be in the next twelve months of nonwar if no settlement is achieved in the Paris talks (and the Administration shows no eagerness to advance the prospect of a settlement there). The present rate of fewer than 100 killed a month is an encouraging drop but it could go up or down, depending not on American-originated actions but on the support given to sustain the governments of client states. The United States has become their hostage militarily.

The probability at this point is that the Air Force activity will be kept at a steady level. Two years ago there were 1,800 sorties (one aircraft on one mission) a month; currently the monthly rate is 1,000. It has gone up this month. The cost of one B–52 sortie in Southeast Asia today—for fuel and bombs alone—is between $35,000 and $45,000. Multiplied, this comes to more than $35 million a month.

Many moribund national programs—for education, housing, employment, park lands—could be revived by the hundreds of millions of dollars now falling out of the bomb bays on Southeast Asia. Perhaps a more meaningful local measure, even though Federal funds are not directly involved, is to compare just the financial costs of the B–52 bombings with what it would take to reopen the main branch of the New York Public Library evenings ($350,000), Saturdays ($350,000) and Sundays and holidays ($200,000) for a full year.

A few nonflying days, not to mention peace, would do it.

POW's

More than 378 of the 463 American prisoners of war are pilots and crews of the air war in Indochina.

$$$

The air war has cost more than $33,000,000,000 ($33 billion) since Jan. 1, 1966. It continues at a rate of $5,000,000 per day.

Bomb tonnage dropped on Indochina

Period:	Tons
1965	315,000
1966	512,000
1967	932,763
1968	1,431,654
1969	1,387,237
1970	977,446
1971 estimated	938,000
	6,494,100

CIVILIAN CASUALTIES

"In this year, 1971, more civilians are being killed and wounded in the three countries of Indochina, and more made refugees, than at any time in history. Most of the casualties are caused and people made refugees by American and Allied military activity."—Kennedy Subcommittee on Refugees, as reported in the New York Times, April 3, 1971

The U.S. has dropped 300 pounds of bombs for every man, woman, and child in Indochina.

The U.S. has dropped 22 tons of bombs for every square mile of territory in Indochina.

Half a world away from America one of the strangest wars in history, and the first of its type, is being waged. Generals in command of forces engaging the enemy study computer readouts instead of battle maps to determine their tactics. Pilots who fly the missions set coordinatees into aircraft computers; planes fly automatically and release their bombs by electronic signal. The bombs are not always ordinary bombs; sometimes they are tiny round baseball size weapons. Others may be laser- or TV-guided and are known as "smart bombs." Anything else today is known as a "dumb bomb."—George Weiss, Military Aircraft 1971.

VICTIM OF AMERICAN BOMBS IN LAOS—THAO SIPHA

Thao Sipha's father:

My son is six years old. We are from Ban Ngoui.

In July, 1969, we were all sitting in our small shelter out in the forest, when planes bombed around 11 a.m.

Two people with us, a man aged 60 and a little girl aged 7, were killed lying in their beds.

My son's hands was hit and his fingers flew up, embedding themselves in the roof.

"We have gone into Cambodia and we have openly gone into Laos. We have done all these things and we are bombing everywhere."—Sen. John Stennis, Congressional Record, August 3, 1971.

"The bombing in Laos contributes to at least 75 percent of the refugees."—Senator Edward Kennedy, Subcommittee on Refugees, Hearings April 21 and 22, 1971.

According to the Vietnamese ministry of Health statistics, more than ⅓ of the civilian casualties were due to bombing and shelling.

THE ONGOING CIVILIAN TOLL (AS OF AUGUST 1971)

	South Vietnam [1]	Laos [2]	Cambodia	Total
Killed	335,000	100,000	([3])	450,000+
Wounded	740,000	250,000	([3])	1,000,000+
Refugees	5,695,300	1,000,000	1,600,000	8,295,300
Totals	6,770,300	1,350,000	1,600,000+	9,755,300+

[1] Kennedy Subcommittee on Refugees.
[2] Project air war.
[3] Tens of thousands.

Note: Killed, wounded, and refugeed under Johnson (1964-68)—5,655,300; monthly civilian toll under Johnson (1964-68)—95,000. Killed, wounded, and refugeed under Nixon (1969-August 1971)—4,100,000+; monthly civilian toll under Nixon (1969-August 1971)—130,000.

[From the Washington Monthly, July 1971]

THE ERA OF THE BLUE MACHINE LAOS: 1969–?

(By Fred Branfman)

"War is no longer the desperate annihilating struggle that it was. . . . It is a warfare of limited aims. This is not to say that . . . the conduct of war . . . has become less bloodthirsty or more chivalrous. On the contrary. . . . But in a physical sense war involves very small numbers of people, mostly highly trained specialists. The fighting . . . takes place on the vague frontiers whose whereabouts the average man can only guess at. . . ."—George Orwell, 1984.

Conventional land warfare, George Orwell predicted, would inevitably give way to automated war as military technology developed. The war in Indochina today appears to be undergoing such a transformation.

Perhaps unaware of this, Americans who watch the war have not yet learned to look up in the air. While most people believe that bringing the troops home is synonymous with getting out of Vietnam, ground troops are becoming irrelevant to the war effort. The real war has taken off. The skies are being filled with American planes as the land is emptied of its foot soldiers.

The Nixon Administration has accomplished massive aerial escalation, perhaps more devastating than President Johnson's troop buildups of 1965, with minimum public notice or concern because the country still thinks it is fighting with the Green Machine—the ground army—of the 1960s. But the war of the 1970s is that of the Blue Machine—U.S. air power—several thousand feet above the grunts, climbing away from any American agony. With the inexorable development of American air technology, Indochina is already becoming Orwell's battlefield.

Since Nixon took office, and as ground troops have been withdrawn, more than 2.7 million tons of bombs, by Pentagon estimate, have been dropped on Indochina. This is more American ordnance than was absorbed by both the European and Pacific theaters during World War II, plus the Korean war. We are dropping six million pounds of bombs a day, 4,000 pounds every minute.

"The people underwent another war: the air war. They learned another form of civilization: the holes. We dug day and night, the planes bombed day and night. Our village was filled with bomb craters, the land made barren. I grieved very much to see my village in ruins, my animals vanished, my crops destroyed. . . . Each day, news came about such and such a village being bombed, more and more deaths and wounded. . ." from essay by teenage refugee, Laos.

The bombing of Laos has doubled, erasing whatever restrictions on striking civilian targets that formerly existed. Hundreds, perhaps thousands, of villages have been destroyed. Tens of thousands of peasants have been killed and wounded, hundreds of thousands have been driven underground. The Plain of Jars, formerly a thriving society of some 50,000 people, has been leveled and emptied of its inhabitants.

The Laos pattern has been repeated in Cambodia. Numerous towns and villages have already been decimated. As *The Washington Post* reported on January 21, 1971, "the United States is now waging a full-dress air war across Cambodia [that] now rivals in scope, although not in intensity, the air war in Laos."

The bombing of North Vietnam has also resumed. By June 1, air raids had occurred on 43 days since the first of the year, an average of twice a week. As Randy Floyd, a Marine pilot who bombed North Vietnam 37 times, puts it, "Anywhere in North Vietnam is basically a free drop zone . . . if you wanted to hit, then normally you'd just drop your bombs wherever you wanted to." One may or may not accept Hanoi Radio claims that civilian targets are constantly struck. But all informed American sources say that "protective reaction" strikes are going far beyond enemy missile sites.

During these escalations, there has been a significant decrease of U.S. air activity within South Vietnam, both because of the slowdown in ground activity there and because some 500 aircraft have been transferred to the Vietnamese Air Force. Monthly American air sorties have been about 70 per cent lower this year in South Vietnam than they were in 1968.

It is assumed, however, that should fighting flare up again, American squadrons will be returned from their present resting locations in Japan, Korea, the Philippines, Taiwan, or the United States—squadrons that can be made operational in three days, according to a Seventh Air Force information officer. Most Air Force personnel I interviewed tended to minimize the importance of the reductions in Vietnam itself.

In any event, more than 350,000 tons of bombs—200,000 pounds every hour—will be dropped before the end of the year. Clearly, as they say out in Cam Ranh Bay, "The name of the game is air."

"There wasn't a night when we thought we'd live until morning . . . never a morning we thought we'd survive until night. Did our children cry? Oh, yes, and we did also. I just stayed in my cave. I didn't see the sunlight for two years. What did I think about? Oh, I used to repeat, "please don't let the planes come, please don't let the planes come, please don't let the planes come. . . ."—refugee from the Plain of Jars.

Many Americans believe that the pattern of the war fought on the ground in Vietnam will spread to the other countries. Actually, the opposite seems to be true. The air war in Laos has been going for several years, a concurrent experiment with the land war in Vietnam. Neither experiment has been successful in stopping guerrilla forces, but at least the air war has a possibility for surviving the domestic politics while at the same time delaying communist takeovers in Indochina. It is perhaps the only solution for an Administration that wants to keep from losing wars abroad and elections at home.

The air war also involves a change in the tactics of battle. If a guerrilla is a fish among the sea of the people, the objective of the land war is to remove the fish. The air war, however, drains the sea. It has paralyzed the civilian populations. Vietnam is not the future of Laos, but Laos may be the future of the war all over Indochina. The Era of the Blue Machine has arrived.

"This is my daughter, Khamphong. She's three years old. I was fishing in a stream with all seven of my children on February 28, 1969. Suddenly jets came and dropped antipersonnel bombs all around. Six of my seven children were hit. See, you can still feel many pellets in Khamphong's legs and back. There were no soldiers nearby."—refugee from Plain of Jars.

For the last two-and-a-half years, bombing has been the heart of U.S. policy. Historians may come to date this era from January 20, 1969. In it, war is waged primarily through the aerial bombardment of populated areas. Heavy bombing of civilian targets has, of course, occurred during other wars, and in the Vietnam war before 1969. But in each of these cases, the bombing powers have also deployed large numbers of ground troops, with the bombing seen as a support effort.

What the Era of the Blue Machine means is no better illustrated than in portions of Laos controlled by the Pathet Lao. Pathet Lao zones encompass an area the size of New York state, or about two-thirds of the country. They are composed of 3–4,000 tiny villages, each consisting of a few dozen bamboo homes, a pagoda, rice storehouses, a few hundred head of water buffalo, cows, pigs, chickens, and ducks, and inhabited by some of the poorest, most gentle, rice farmers in Southeast Asia.

Each day for the last several years, hundreds of millions of dollars of the world's most sophisticated aircraft have been hovering over these villages: 01E, 02, and 0V10 spotter planes at 2,000 feet; A1E, A26, T26 prop bombers, AC47, AC54, AC119, AC130 gunships, flare ships, rescue and gunship helicopters at 5,000 feet; F4, F100, F105, A7, B57 jet bombers, jet reconnaissance, EC47 and EC119 electronic aircraft at 10,000; KC135 supertankers at 20,000; B52s at 30,000, EC130 command and control aircraft at 35,000; and SR71 reconnaissance aircraft at 70,000 feet.

Giant computers, seismic and acoustic sensors, infra-red devices, and ANAPQ108 radar (designed to see through trees) have been tracking squat Soviet-built trucks or farmers trying to grow rice at night; laser-guided bombs and TV-guided missiles have been loosed on buffalo, trucks, rice storehouses, homes, and peasants alike. More than two million tons of ordnance have been dropped, $5–$10 billion spent.

"By the admission of American officials closely associated with the war there, Laos has been the most heavily bombed country in the history of aerial warfare."—The Washington Post, May 23, 1971.

Hundreds of case histories of bombing casualties have been recorded on film and tape in the refugee camps. Several thousand refugees, several hundred defectors, and Western observers who have visited these zones all report constant bombing of towns and villages and widespread destruction.

Each one of the refugees interviewed from both northern and southern Laos said that his village was either partially or totally destroyed by American bombers while he still resided there, or that beginning in 1969 the planes came "like the birds," as one old man put it, "and the bombs fell like the rain."

All refugees and defectors say the guerrilla soldiers avoided the villages, neither bivouacking in them nor storing arms and ammunition in them. All say that the vast majority of the casualties from the bombing were civilian and not military, as the soldiers were out in the forest and could not be found.

A significantly high number of casualties are children and old people. When asked why, refugees explain that the children like to "play around" too much and get caught in the open and, confused with terror, do not make it to the holes. Old people "often could not hear well or could not run fast enough," one chief of a Plain of Jars sub-district explained. He also said that most of the casualties were due to anti-personnel bombs dropped in or near the villages, but that napalm, fragmentation bombs, and 500-pound bombs were also frequently dropped. "During 1969 about 45 per cent of the people, mostly old people and women, never left their trenches or caves at all. They were too afraid. The others would go out and do their work if they didn't hear the planes coming."

Various press reports suggest that the same kind of bombing is going on in guerrilla-controlled zones of Cambodia. Population estimates for these zones begin at one million. The air war is still relatively new there, and as a result, refugees who have lived for long periods of time in guerrilla areas have not yet come into friendly regions. But private interviews with informed American sources indicate that the bombing of civilian targets in Cambodia is as extensive as in Laos.

One of the most heavily bombed areas has been the Plain of Jars, located in northeastern Laos and controlled by the Pathet Lao since 1964. If Khe Sanh and My Lai were the symbols of American ground intervention during the 1960s, the Plain is the symbol of the automated war of the 1970s.

In the Plain, once Laos' most prosperous area, there were no American ground combat troops. As former Ambassador W. H. Sullivan told the U.S. Senate in April, 1971, the area was not related to the security of American ground forces in South Vietnam American-supported Asian troops were likewise doing little fighting there.

George Chapelier, a Belgian U.N. advisor, has described what occurred: ". . . in 1969 . . . jet planes came daily and destroyed all stationary structures. Nothing was left standing. The villagers lived in trenches and holes or in caves. They only farmed at night. In the last phase, bombings were aimed at the systematic destruction of the material basis of the civilian society."

In September, 1969, CIA-supported Meo troops went in and took out the remnants of what remained. Some 25,000 refugees were removed.

The Plain of Jars is today a deserted wasteland.

"Sure, some of the villages get bombed, there's no other way to fight a war out here, for God's sake. It's a war, and the civillians have to suffer. We did it at Cherbourg, didn't we?"—L. Hafner, Deputy Director, USAID/Laos, January 4, 1971.

"All refugees talk about the bombing. They don't like [it]. But even if you found an example in which it was proven conclusively that houses were bombed, so what?"—J. Williamson, USAID refugee relief chief, Vientiane, February 2, 1971.

While American officials concede that villages are frequently bombed, they tend to attribute this to Air Force "stupidity," "confusion," or "overkill." There is little doubt, however, that American policymakers also share the responsibility. Deputy Assistant Secretary of Defense Dennis J. Doolin has testified to Congress that in Laos "all United States operations, including our air operations, are controlled by the U.S. ambassador."

All indications are that the American ambassador has approved strikes against civilian targets in Pathet Lao zones. As Robert Shaplen has written in *Foreign Affairs*, an American goal has been to "destroy the social and economic fabric in Pathet Lao areas," in an attempt to weaken the communists' stronger ground army by depriving it of indigenous food supplies, disrupting communications, killing off potential recruits or porters, demoralizing the civilian population, and causing a refugee flow to friendly zones.

Informed sources indicate that this has largely been due to pressure from the CIA, which is heavily involved in targeting American bombing strikes in Laos. The CIA has its own photo-reconnaissance team, reconnaissance aircraft, and ground observers in Pathet Lao zones. Together with Air Force personnel, CIA representatives participate in weekly meetings at Udorn Air Force Base in Thailand to draw up target listings.

Largely because of its direction of the Armee Clandestine, an indigenous paramilitary force, the CIA, sources say, has consistently placed inhabited villages on the target list in an attempt to weaken the Pathet Lao.

It is certainly clear that the American embassy has taken few steps to enforce the Rules of Engagement (military rules of warfare that prohibit attacks on civilians). To this day, only one junior Foreign Service officer has been assigned to check proffered target listings. Virtually no mechanism has been established to monitor strikes, and there are no known instances of disciplinary action being taken against pilots for bombing civilian targets in Pathet Lao zones, although a few have been punished for strikes on friendly villages.

"Now the cabinet is in deep discussion of a series of proposals by General Henri Navarre, commander in chief in Indochina, that the war be increasingly turned over to the Vietnamese themselves, permitting France to reduce the burden on its manpower and economy."—Life, August 3, 1953.

The bombing of villages results most fundamentally from a 25-year-long American refusal to allow guerrilla forces to come to power in Indochina.

Richard Nixon's first public admission on April 17, 1971, that withdrawal hinges on keeping a noncommunist government explains the reliance on bombing.

For Asian ground armies alone will hardly accomplish what 550,000 American troops could not. The ARVN, whatever its improvement in the last five years, remains riddled with corruption, elitism, and poorly motivated conscripts. As their raping, looting and indiscriminate shelling of towns has shown in Cambodia, they have yet to master the most elemental rules of ground warfare in Indochina. Their failures in Laos, and their loss of 54 posts in the "pacified" Mekong Delta during the first four months of 1971, have surprised few old Indochina hands.

The Lon Nol army, although its soldiers' courage is often admirable, has made little headway, even with ARVN help. The guerrillas now control from 60 to 70 per cent of Cambodia.

The Royal Lao Army and CIA-directed Armee Clandestine in Laos are even weaker. With the communist capture of the Bolovens Plateau in May of this year, the Royal Lao government now controls little more than the major towns.

And the Royal Thai army is something of a standing joke in South Vietnam. Assigned to guard one corner of Long Binh base, its major accomplishment to date has been mastering the complexities of the black market.

At this writing, Asian troops are essentially playing a supplemental role: serving as live bait to lure the enemy out into the open for the bombers, as in the February, 1971, Laotian invasion; searching for enemy supplies, as in the A Shau valley; taking out refugees, as on the Plain of Jars; and guarding the major bases and towns. In any case, we risk Vietnamization because we do not have to rely on it. We rely on the bombs.

"Me Ou was 59 when she died on February 20, 1969. It was a cold day and she decided to leave the trench about 3 p.m. to get some clothing for herself and the children. The jets bombed while she was in the house. She was burned alive."—Me Ou's son-in-law, Plain of Jars.

Domestic pressures generated by the ground war have also played a part in the shift to air. The Vietnam ground war costs more in money and in lives. The American people will not continue to pay the price that has already come to $100 billion spent, 50,000 dead, 300,000 wounded—nor will the troops, who are now in grassy-headed revolt.

The air war, however, provides few such problems. Although its cost is considerable, probably over $10 billion annually, much of the money used for upkeep of air bases and development of new aerial technology would be spent even without the air war.

Charles Schultze, former director of the Bureau of the Budget, estimates that costs above normal upkeep of bases and production of aircraft are $2-3 billion for 1972. And more important, U.S. casualties are minimal from the air. American pilots, freed from the discomforts of the ground war, and rarely seeing the people they kill, tend to raise fewer complaints.

Perhaps most important of all, information about the air war is as ethereal as the atmosphere itself. It can be kept far from public and congressional consciousness; and, since there are no tales of atrocities and few pictures of the bombing, domestic reaction to its more questionable moral aspects is muted.

The U.S. public is generally unaware of the massive bombing in Laos, for example. News-

men have not been permitted to go out on bombing raids over Laos, although they can go over South Vietnam. They have usually not been allowed to interview the American air attache in Vientiane or the pilots bombing Laos from Thailand. When asked, official spokesmen merely deny that civilian targets are bombed, and almost all information is classified beyond public reach.

The most dramatic example of what freedom an air war allows the government occurred in November, 1968, when criticism of the well-publicized bombing of North Vietnam had reached its peak. President Johnson halted the bombing, a move still regarded by the antiwar forces as one of the few important victories of the peace movement.

But the bombing never stopped. It just shifted to northern Laos, leading to far greater destruction of villages than occurred in North Vietnam. There was no public reaction, however. Neither the people, nor their congressmen, even knew it had happened.

"In August, 1969, the jets bombed. Nang Pha Sii, my daughter-in-law, was in a trench. A bomb landed nearby, killing her father and wounding her mother and two other villagers. She was killed, shielding her year-old baby with her body. Soldiers? Oh, they didn't come near the villages. They knew they'd be bombed."—Nang Pha Sii's mother-in-law, Plain of Jars.

The opportunities the bombing provides for developing and testing sophisticated weaponry is another factor leading to its continuation. While a foot soldier can support just so much new technology on his back, the air war provides a vessel to be filled with all the gadgetry of the nuclear age.

This is seen as giving us important advantages over our adversaries. "The Russians are going nuts over what we're learning out here. They're dying that they can't test their stuff out," explained one happy pilot at Danang Air Force Base last November.

Later on, the pilot added one of the standard comments heard on Air Force bases in Indochina: "It may sound trite, but it's the only war we've got. Do you realize this is the only place in the world right now where you can drop live bombs?"

"Although the number of bases has decreased by four in 1970, Pacific Air Force installations still stretch from Hawaii to Thailand. The command's area of responsibility covers roughly 40 per cent of the earth's surface—an area with a population of more than one-billion people living under the flags of 27 nations. Pacific Air Forces has justly earned the title 'Guardians of the Pacific.' "—Air Force magazine, May 1971.

Only as one drives past the paddy fields and samlor drivers onto an American air base in Indochina does one begin to appreciate just how awesome a military force the Blue Machine is.

Miles of roads stretch as far as the eye can see (an airman, perhaps apocryphally, is said to have measured the roads on Korat Air Force Base and found that there were enough for a two-lane highway to Peking and back). There are thousands of pre-fab structures, quonset huts, trailers, tents, wooden and cement buildings; acres of hospitals, commissaries, canteens, nightclubs, restaurants, swimming pools, barracks, gasoline pumps, garages, buses, trucks, jeeps, radios, radar installations, warehouses, offices, and hangars; millions of gallons of fuel on the "fuel farm"; closed-circuit TV and radio and giant movie theaters.

Thousands of American and Asian personnel drive, scurry, loll about: pilots, radio operators, mechanics, bomb-loaders, fuse-installers, "fuel farmers," gas-pump operators, drivers, electricians, carpenters, janitors, doctors, medical orderlies, lawyers, chaplains, cooks, MPs, guards, loaders, stackers, waiters, "hooch-girls," secretaries, clerks, information officers, launderers, photo interpreters, gunners, navigators, men wearing the uniforms of the Air Force, Navy, Marines, Army, Air America, Continental Air Service, and Pan American and Northwest airlines.

And then there are the planes constantly taxiing, taking off, flying, landing—sleek, squat, giant, tiny, silver, camouflage-green.

And finally, of course, the ordnance.

There are five such installations in South Vietnam, with some 40,000 American airmen; five in Thailand, with 25,000 airmen; four to six aircraft carriers operating in and out of the Gulf of Tonkin, with some 10–20,000 personnel; and a dozen smaller American-directed bases throughout Indochina for indigenous air forces.

These installations are, of course, but a small part of the Blue Machine. A logistics network stretching through 18 major air bases in the Pacific back to 112 in the United States provides the men and planes necessary to keep the bombs falling.

"I'm as liberal, as much for peace as anyone else. But war is not a pretty thing. In a guerrilla war, the civilians are going to pay a price. War has now progressed to a point where you're going to bomb civilian targets and that's it. I'll be frank. I'm trained to kill people. I don't like it particularly. But when the time comes, I'm prepared to do it."—American F4 pilot, Saigon, November 14, 1970.

The image of the Air Force that most Americans grew up with was embodied in the fighter pilot. We still think in terms of World War II movies: blue-eyed, blond-haired young men soaring into the sky to defend God and country against the heathen Kraut or Jap.

The Air Force iself is still modeled after this tradition. The F4 and F105 jets, which have done most of the bombing in Indochina, are designed as fighters, not bombers. The training emphasis for pilots is still on the techniques of aerial combat, the need to establish "air superiority."

The pilots have fought few aerial duels in Indochina, however. And bombing villages just hasn't been the same thing. As long as bombing went on in Vietnam, morale remained high. The relatively significant number of military targets, the heavy antiaircraft fire in North Vietnam satisfied the pilots' need for a challenge. And in South Vietnam the goal of providing air support for the 550,000 American troops on the ground seemed worthy enough. As one pilot explained, "Bombing for troops in combat is the most satisfying. It's really great to have them tell you afterwards, 'We'd have been overrun if you hadn't come.' I really like working with people."

With the switch to bombing Laos and Cambodia, the raison d'etre of the Air Force seems to have disappeared. Antiaircraft fire is relatively light. Plane losses in Laos have averaged four a month for the last year, for example, compared to 20 a month in North Vietnam during 1965–1968. There are no American units to support. There are few large bridges, factories, or other targets which seem worth hitting.

Pilot: "Our 500-pound nape cannisters are newer, they have a better dispersal pattern than the older 1,000-pounders."

Information officer: "Hey, you're not supposed to talk about the napalm."

Pilot: "No ———. Why not?"

Information officer: 'Well, you know those college kids. Pretty soon they're going to put poor Dow Chemical out of business. You're not supposed to talk about it to the press."

Pilot: "Well, it seems pretty ridiculous to me that people can be so emotional about how you kill people. What's so bad about nape anyway?"—conversation at Danang Air Force Base, November 1970.

The pilots themselves tend to be an odd combination of hot rodder and technocrat. On the one hand, they spend a good deal of time discussing the technical details of their work and take it quite seriously. On the other hand, as one pilot says, "Pilots are more immature than most civilians their age. They sort of like to play cowboys and Indians. That's part of the attraction of being a pilot." On a visit to Danang Air Force Base, I was surprised to see shark's teeth and mouths painted on the noses of the F4s. "It's good for morale," a pilot explained proudly.

Pilots tend to get restless without a challenge. This has led to increasing frustration with their role in the last two-and-a-half years. One pilot explained, "You go up over Laos and it's just not that satisfying. All you're doing is bombing roads and inanimate objects. But even that's more exciting than South Vietnam. In Laos at least you get some antiaircraft fire."

Such problems were illustrated in a long interview with several F4 pilots at Danang in November, 1970. Conversation for the first several hours, as is usually the case, was rather dry and technical. Discussion focused on the capabilities of different aircraft and kinds of ordnance, weapons-delivery systems, and navigational problems.

At one point, however, the pilots were asked if they got any feedback on people killed in action as a result of their raids. As the men in the room began to chuckle, one pilot explained: "You've hit on a rather sore point, you know. You could say there's kind of a controversy between us and the grunts on that subject." He then went on to explain that the pilots felt that the foot soldiers were taking credit for aerially-inflicted casualties.

The pilots grew gradually more and more indignant as they told personal anecdotes of having been "robbed" of "kills." A typical example was given by the pilot who exploded, "One day we went in over a North Vietnamese military camp on top of a mountain. It was right out in the open, so we could see it and everything. We plastered the place, napalm, 500-pounders, the works. I know we had kills, you could see people running all over the place, buildings burning. There was no way for there to be no KIA. But do you know what happened? The grunts came in and reported 25 enemy killed by ground fire. All they did was shoot their M16s into the corpses and then claim they'd killed them. The nerve. Can you imagine?"

Such haggling over body counts does not, of course satisfy the pilots' competitive urges. And though they try to compensate by striving to win the "Gunfighter of the Month" award—based on percentage of bombs dropped in the target area—it hardly suffices. As one F4 pilot said, "Bombing the North really keeps morale up. Every man likes to feel that he's an adventurer. I'll tell you, it's exciting to come down the chute with the flak flying all around you. The general attitude around here is 'let's keep the war going, it's dying.' "

". . . our air activities are governed by strict Rules of Engagement and Operations Authorities designed to minimize civilian casualties.—Assistant Secretary of Defense Doolin, Kennedy hearings, May 1970.

". . . the United States Air Force contribution was limited to striking at [military targets] . . . it was the policy not to attack populated areas."—former Ambassador W. H. Sullivan, Symington hearings, fall 1969.

The pilots' indifference to the air campaign in Laos and Cambodia is a major factor in the constant strikes against villages. As one pilot who has bombed in both northern and southern Laos explains it, "Sure, we're supposed to follow Rules of Engagement, like not bombing within 500 meters of an active village. But all of these rules and regulations don't mean ——— when you have a guy in an aircraft. Ninety-five per cent of the guys

have no qualms about dropping bombs anywhere. Very few differentiate where the hell they bomb."

The bombing of civilians is also a result of the fact that pilots cannot easily locate military targets in Laos and Cambodia. The guerrillas move through the forest at night in small groups. There are no munitions factories or exposed military camps, and arms depots are hidden underground. And since the targets that are traceable, such as trucks, are of minor importance, pilots tend not to risk bombing from lower altitudes. "When you go down in Laos, you don't face a very bright future," an F4 pilot said, "and frankly, I'm just not going to risk my ——— for a ——— truck." From higher up, especially in the monsoon season, the bombing takes place without the pilot ever seeing the ground below. It is not surprising that one pilot estimated that only one of ten bombs generally falls anywhere near the target. Many of these bombs fall on villages, for, in places like Laos and Cambodia, most villages are located on or near the road. "When you have to bomb trucks one by one, you're going to kill hundreds and hundreds of civilians," one pilot says.

Pilots who cannot locate any targets are discouraged from wasting their bombs by dumping them at sea or in unoccupied forests. "The pilot who doesn't get rid of his ordnance somehow," a pilot says, "is a rare exception." So they end up striking the only thing they can see from the air—villages.

"Nixon Administration officials, as did those in the Johnson and Kennedy Administrations, say that never before has such care been taken to spare civilians in bombing raids."—George Wilson, The Washington Post, April, 1971

Another factor leading to low Air Force morale has been the military ineffectiveness of the bombing.

The major success claimed for the bombing by the Pentagon is that it destroys seven of eight trucks moving down the Ho Chi Minh Trail. This appears to be more a reflection of what some of us call the "Leff Syndrome," however, than reality.

Arnie Leff, an Air Force doctor at Udorn Base in Thailand, achieved some local fame during the great Gonorrhea Crisis in the fall of 1969. Charged with controlling venereal disease for Udorn's airmen, Leff was instructed by his hospital commander to get the rate below one case per 1,000 men per day for the month of December, 1969. Trying his best, the good doctor lectured, charted, and examined. But, alas, the rate was still 1.5. A hospital superior ordered him to lower the figures anyway. Although he refused, Leff later found it common practice elsewhere for rates to be finagled. Incensed, Leff asks, "If they'd change gonorrhea rates, what else would they falsify?"

All available evidence suggests that they falsify the high "truck-kill" ratio.

No less an authority than former Defense Secretary Robert McNamara, after all, revealed in the fall of 1968 that bombing raids on the Ho Chi Minh Trail had reduced the flow of men and supplies by no more than 10–15 per cent.

Subsequent events seem to bear this analysis out: communist successes against the South Vietnamese invasion in February 1971; the uncovering of supply complexes in the A Shau Valley in May, 1971; significant guerrilla advances in southern Laos during the same months; the ongoing communist military success in Cambodia despite the closing of Sihanoukville port. All this suggests that however many trucks are being destroyed from the air, communist forces are suffering few serious supply problems.

"My way of killing people is better than their way. The Pathet and North Vietnamese are a plague. We have to eliminate them. They have no regard for human life."—F4 pilot, Danang, November 28, 1970.

Despite the inefficiency of the bombing, there is little likelihood that it will be halted.

The Air Force argues strongly that bombing has been most successful. Even where it admits limited failure, as for example in the inability of the bombing of North Vietnam to halt the flow of supplies into the South, it ascribes this to improper constraints placed on it by civilians.

As one F4 pilot put it, "Targeting for air war North was done by Washington. This gives the enemy the advantage. The whole problem comes from Kennedy's 'flexible response' idea. You hit me on the foot, I hit you on the ankle. You hit me on the knee, I hit you on the shin. But it doesn't work. If you hit me on the foot, I should slug you with a club and put you out of commission.

"I'm not saying we were right. Let's face it, we just attacked the ———. But when we did decide to bomb them, we should have kicked the ——— out of them."

Some critics see an element of cynicism in continued Air Force claims of success. They suggest that they are produced to justify more money from Congress, and more weapons development.

While there may be some truth in this, there seems no doubt that Air Force personnel are by and large sincere in their belief that bombing has been effective, not because it has cut off supply lines, but because it has made the enemy "pay a price" for his conquests. Guerrillas in Indochina, it is argued, are an implacable force bent on military victory, and whatever we do to make it more difficult for them is justifiable.

"This war from the pilot's standpoint is a very impersonal one, whether or not you believe the goals that the government prescribes for us. Most of the pilots just go along and figure, well, it's a job. You fly. You see flak at night. That's about as close to war as we get. Sometimes you get shot down, but you don't see any of the explosions. You can look back and see 'em, but you don't see any of the blood or any of the flesh. You go out, fly your mission, you come back to your air-conditioned hooch and drink beer or whatever. You're not in contact with it. . . ."—Randy Floyd, Marine Corps pilot.

The increasing automation of the American military effort in Indochina will have an impact extending far beyond that unhappy region. One of its far-reaching ramifications is the change it is bringing to the psychology of warfare.

It is not only that few of the Laotian or Cambodian peasants presently living under the bombing have no idea what an American is, why the United States is bombing them—it is also that few of the Americans involved in the air war have ever seen a Laotian or Cambodian.

Navigators plot bombing raids on coordinates, not villages; pilots pull levers from thousands of feet up, not triggers at human forms 100 yards away; photo interpreters see bomb craters and destroyed "enemy structures," not headless children or napalmed grandmothers; a Stinger pilot—whose machine can put a bullet every square foot in an area the size of a football field—stares ahead into the inky darkness, periodically firing when two pips on his computer coincide. Any corpses below lie far from his consciousness.

And those few Americans who do know Laotians or Cambodians express little but warmth and affection for them. The past and present American ambassadors to Laos, for example, both speak frequently—and no doubt sincerely—of their deep admiration for its people. Neither has shown any noticeable discomfort as they wander through Laotian refugee camps, chatting and smiling with people against whom they had earlier approved bombing raids.

In the Era of the Blue Machine, war is gradually becoming a technical exercise, bereft of malice or rancor, an elemental expression of the art of killing. Men are increasingly freed from the hatred, doubts, greed, or rationalizations that killing usually entails. The issue of guilt is becoming meaningless, conscience irrelevant. The pilot, bomb-loader, and the policymaker have no intention to kill. Psychologically, therefore, they do not.

"The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited."—Article 25, Hague Convention on Land Warfare, 1907.

The issue of war crimes is reduced to absurdity.

The chief U.S. prosecutor at the Nuremberg trials, Telford Taylor, talks of two principles which establish aerial bombardment as a war crime: 1) if the means of bombardment of civilian targets are disproportionate to their military value; and 2) if bombing is carried out against civilians in reprisal for military acts over which they have no control.

In rural theaters such as Laos or Cambodia, any means of bombardment would be disproportionate—enemy stores and soldiers are not located in the villages. Antiaircraft positions are not located there, either.

Moralists may wonder why an Ambassador Godley continues overseeing bombing strikes in Laos while a Lieutenant Calley languishes in jail. The lieutenant, after all, was convicted for killing unarmed and unresisting civilians. And bombing strikes in Laos, for which the ambassador bears responsibility, are killing unarmed and unresisting civilians as a matter of course.

But that is precisely the point. In countries such as Laos, the act of automated war itself is the war crime. There are no Calleys or Medinas to accuse.

And barring the unlikely event of the superstate itself being vanquished, its policymakers are hardly likely to admit to—let alone convict themselves of—war crimes.

"A lot of people in the States underestimate what we're up against. They're just primitive little jungle fighters, sure. But they're shrewd, good tacticians. They have equipment, too, like the SAMs up North. And they use a lot of the stuff we discard like tin cans. They make fuses out of them. And they'll make a damn good booby trap out of a couple of boards and some nails."—F4 pilot, Danang Air Force Base.

As such a war continues, ideological, economic, and political considerations assume a secondary role.

Perhaps when the war began it was primarily a struggle between freedom and communist totalitarianism, as conservatives see it; or perhaps it was a conflict between American imperialism and national liberation, as the left claims.

But today, with South Vietnam being run by its American-imposed Curtis LeMays, few U.S. leaders claim that democracy is really a factor in the war. Ideological and political questions have long since dimmed in importance, since most people within Indochina have already decided what side they are on. After an expenditure of over $100 billion, the U.S. economic motives have diminished, too.

The main concerns, from the American side, are technical in nature: developing sensors which will allow instantaneous, automatic, and pinpoint bombing of enemy guerrillas; getting hand-held lasers into use instead of ineffective aircraft-directed beams; applying new and better forms of ordnance.

For the guerrillas the war has become primarily a question of persevering, of developing courage, patience, and near-mystical faith in their troops, of continuing to meet technological developments from the air with increased ingenuity and resourcefulness.

It is Ho Chi Minh himself who is said to have remarked to a graduating class of sappers, the elite units of the North Vietnamese army, "You are our answers to the B52s."

The war in Indochina today has become primarily one of technology versus the human spirit.

"The biggest problem I had was to restrain my men's enthusiasm. If I asked for volunteers, all my men would argue to be the first chosen. 'Let me do it, they killed my mother!' 'No, let me go, they destroyed my village,' they would say. Were we afraid of the planes? Oh, no. If they stayed up high, they couldn't hit us. If they came down low, we could shoot them down. We were very angry. The planes didn't come to bomb the soldiers, they tried to kill the villagers. The villagers are just rice farmers. They didn't do anything against those pilots."—Pathet Lao defector, former captain.

The human spirit seems to be triumphing. Interviews with Pathet Lao defectors indicate that far from breaking the enemy's will, the bombing strengthened it. "Before, maybe only 20–30 per cent of the young men would volunteer to join the Pathet Lao army," explains one defector. "But by 1969, 90 per cent and more wanted to join. Nobody really understood what the Pathet Lao meant by 'American imperialism' before the planes came. But by 1969 the attitude was 'better to die fighting than hiding in the holes.'"

In an arena where American-supported ground forces are as lacking in motivation as they are, such sentiments on the other side are a key factor. At this writing, communist guerrillas are the only force in Indochina who believe they know what they are fighting for.

The influx of more than 30,000 refugees from heavily bombed areas during 1970 has made the bombing common knowledge in American-supported zones. Laotians of all political stripes are opposed to the bombings because it caused hardship to their fellow Laotians against whom they bear no enmity, and because they believe it widened the war. They blame Souvanna Phouma's government in part for permitting it. Conversely, they admire the Pathet Lao for standing up to it.

The war in Laos has always been for essentially political ends. The communists have made it clear they are not planning to take over the major towns militarily. The bombing has undoubtedly aided them in achieving a political victory. This may later be true of the other countries as well, making one wonder whether technology can keep up with the growing opposition to the U.S. in Vietnam, if we will resort to even more effective bombs to keep down more strengthened wills.

"I can assure you that my words are those of a devoted pacifist. My very hardest job is to give out medals of honor. If I lived in another country that wanted to be sure and retain its right to self-determination, I would say: "Thank God that the United States exists at this moment of history." We are not bent on conquest or on threatening others. But we do have a nuclear umbrella that can protect others. This is the moral force behind our position. We could be a terrible threat to the world if we were to lose that restraint."—Richard Nixon, interview with C. L. Sulzberger, The New York Times, March 10, 1970.

The issues raised by the air war go far beyond the personal culpability or motives of American leaders. For if the last few years have shown anything, it is that technological growth has a dynamic of its own, independent of the will of individuals. American leaders are more products of this process than its conscious manipulators, more the Man in the Grey Flannel Suit—or sometimes the Mad Hatter—than Big Brother.

The change in the Laos air war from a limited number of prop bombers dropping 500-pound bombs outside of populated areas to hundreds of jet and B52 bombers using laser and TV-guided missiles does not appear to be the result of a series of carefully planned decisions. It was just part of ongoing technological development. The war kept up with the advances; each new improvement was put into action.

Dow, Honeywell, and Lockheed did their part; so did the Air Force, Marines, and Navy, the State Department and the CIA, Standard Oil and Gulf. The momentum was more powerful than the people within it; a belief in technology covered the horrors, much as a belief in religion protected the Inquisition. And without anybody really understanding or caring, thousands of Indochinese villages were destroyed in the process.

"The roar of the bombs and the noise of the planes frightened me terribly. Our life became like one of animals who search to escape the butchers. Each day, across the forests and ditches, we sought only to escape from the bombs. When looking at the face of my innocent child, I could not stop crying for his future. Why do the men in this world not love each other, not live together in peace, not build happiness in development and progress? Human beings, whose parents cherished them, died from the explosions of the bombs. Who then thinks about the affection and love their parents felt for them? As for the other men, do they know all the unimaginable atrocities which can happen here in this war?"—from essay by 35-year-old woman refugee from Plain of Jars.

The questions raised in this, the third year of the Era of the Blue Machine, really have less to do with men than Man.

What does it mean, after all, when the strongest of the species is systematically killing and maiming some of the weakest? . . . the most prosperous regularly destroying the homes and belongings of some of the poorest? . . . the most industrialized constantly devastating the land and food supplies of some of the most rural? . . . and the most technically advanced using their most sophisticated weaponry against a people who pose the most marginal of challenge to their interests?"

In a nuclear age such questions are of more than passing concern.

[From the Armed Forces Journal, Feb. 15, 1971]

BATTLE FOR CONTROL OF HO CHI MINH TRAIL

(By George Weiss and the Journal staff)

Allied Forces have for the past 2½ years been waging, with increasing success, a heretofore secret electronic war along the Ho Chi Minh trail.

Current operations in Laos are providing a climactic test for the Pentagon's new sensor technology and could, as intended, break the back of the enemy's resupply effort and thus lead to a final denouement of the war itself.

Even more significant, in the opinion of several highly placed Journal sources, is the fact that a successful outcome to the Laos/Cambodia/I Corps campaign would be encouraging proof that, contrary to some opinion, the persistent and patient application of superior technology can be decisive in guerrilla war situations.

Here, as pieced together from congressional, DoD, and other sources by Pentagon Editor George Weiss and other Journal staffers, is the real story behind the electronic interdiction program.

THE ELECTRONIC WAR

"We wired the Ho Chi Minh trail like a drugstore pinball machine and we plug it in every night." The Air Force officer who said that was not making an idle boast. Laos has been "bugged" with the most efficient electronic system ever devised. The real secret about the "secret war" is that this is one we may be winning.

The electronic operation began in December 1967. It has grown and been refined. What happens now may affect the future of every man in uniform in every nation in the world.

Warfare has gone electronic.

What it all means is just beginning to filter through. The Senate Armed Services Committee held hearings in November. In late January a censored transcript was released, and for the first time the world got a look at the most classified war of all time.

The Laotian problem had ground rules imposed on it by almost everyone in government above the rank of general. For instance, no American was to fight on the ground in Laos. But, of course, it was agreed that if the infiltration of men and munitions could be slowed it should be. Just how that was to be accomplished was left to the military.

The classic military answer was to close the port at Haiphong. That solution never was politically feasible. The decision was to fight above Laos, harass the Ho Chi Minh trail, reduce the input—and don't get "involved" blockading or endangering Soviet, Chinese, and other shipping off Haiphong.

The following Journal exclusive gives, for the first time, the story of how the Ho Chi Minh trail was bugged and how the bugs help get the ordnance to the targets.

THE BINH TRAM EXPRESS

The distance from Mugia Pass to the DMZ is 75 miles as the crow flies. The trail which covers that 75 miles and on into Cambodia is now more than 3,500 miles in length.

The Ho Chi Minh trail started out as a footpath. Today it is an insane maze of twisting, tangled roads, a rabbit warren. It wasn't planned that way. It developed.

As the Air Force bombed and closed roads, new ones were hacked from the jungle. As the trail became longer and more complicated, the NVA began to develop a system which the U.S. military refers to as The Pony Express. Cargo coming down the trail is passed from truck to truck. This occurs at truck parks and storage areas.

Located along the way are *Binh Trams* (military relay stations) staffed by engineers, transport workers, and anti-aircraft gunners. Each station crew has the responsibility of covering a portion of the trail on each side of its station, maintaining land telephone lines used in moving traffic, and keeping its portion of the road open.

The infiltration begins at nightfall, and by dawn the surviving vehicles must be offloaded and their cargos hidden. The trucks may attempt to make it back into the sanctuary or may be directed to a hidden park where they will remain throughout the daylight hours.

Trucks bringing equipment into Laos are the largest. They carry eight tons of cargo. Trucks on the trail usually carry five tons. The smallest trucks are used for areas where speed is important and carry about three tons.

Speed on the Ho Chi Minh trail is a relative thing. Almost every truck moves in low gear. The explanation is quite simple: The operation (or 98% of it) is carried out in darkness on bad roads and without lights Drivers cover only about a 20-mile portion of the trail each night. They are expected to know every turn and obstacle along their route.

From the Air Force point of view, the efficiency of the trail has been degraded as planned. A ton of munitions may now spend weeks and sometimes months in transit.

Each stop means the trucks must be unloaded and the cargos placed in caves or pits dug in the ground for protection against bombers.

IGLOO WHITE

The code name for the electronic operation is Igloo White. It was designed for fighting a war in hostile territory, offering the

enemy absolute control of their surface territory while maintaining air superiority above it. The system does not require U.S. ground troops to assure success. It meets the restrictions placed upon ground operations in Laos.

As The Journal went to press, U.S. forces were positioned in the Khe Sanh area and had reopened the airstrip. Reports were coming in of U.S. activity in the A Shau Valley. ARVN forces had moved into Laos, but their ultimate deployment was still in question—in a few days' march they could be astride the Ho Chi Minh trail, searching out and destroying the hidden munitions depots.

Repeated Administration statements have reassured the nation that no U.S. combat forces would engage in such actions outside South Vietnam. Indeed, it would not appear necessary. The ARVN has the manpower and equipment to carry out just such a limited action. More important, the ARVN has the morale and ability to do so now, as amply demonstrated by its 1970 operations in Cambodia.

The most likely strategy will be to continue to hammer the Ho Chi Minh trail and the suspected storage areas with B–52 bombers and tactical fighters, while the U.S. ground forces concentrate on keeping the NVA from bringing in next year's munitions supply and the ARVN completely disrupt the NVA logistics lines through the Laotian Panhandle.

The events of the next few months may be the most critical in recent years, and—strange as it may seem—a string of sensors in the Laotian jungle may be the final key to the continued withdrawal of American troops from the war.

[From the Wall Street Journal, Dec. 1, 1971]

LIFE ALONG THE HO CHI MINH TRAIL

(By Robert Keatley)

"A girl—whose hair fell to her breasts—was standing on the running board of a truck and was singing a song entitled 'I Am a Communications and Liaison Girl.' An accompanying flute player was sitting on the hood of the truck. . . . A group of four brothers was standing in front of the truck with their hands placed around each other's shoulders, and a number of others were smoking and occasionally whispered into each other's ears something that seemed to arouse their mutual interests. . . .

"Suddenly an assault youth group, which consisted mostly of girls, passed by in the course of an operation. The girls were carrying heavy packs and, in particular, each carried a small pillow on her back. The blue-and-red trimmings of the pillow could be seen.

"Before the applause (for the song) ended, the expected uproar started:

" 'Look at that girl. . . .'

" 'Where are you comrades going?'

" 'We are going to any place where the enemy exists. Do you brothers think that only you are moving toward the front?'

" 'What a girl!'

"People roared with laughter. It is difficult for an outsider to imagine that this was the environment in which the military transportation units were preparing to move along the path that was studded with bombs and bullets."

No doubt. For this mildly ribald scene takes place at the northern end of the Ho Chi Minh Trail—that 1,550-mile-long maze of roads winding south from North Vietnam, through Laos and into South Vietnam and Cambodia. It's the main supply route for Communist troops fighting in Indochina, and earlier this year a North Vietnamese journalist named Khanh Van presented a remarkable account of life along its many truck trails. The account appeared as a 15-part series in Nhan, Dan, Hanoi's official newspaper, and was presumably designed to rouse patriotic fervor back home. It is full of rhetoric about American and "puppet" (Saigon) aggressors, and heroic tales about North Vietnamese troops who have spent hard years on the trail despite the incessant bombardment.

But it also tells more. It makes clear that trail workers are human beings—not just abstract targets for high-flying U.S. jets—and that they too can hurt, and bleed. It tells of suffering and pain, seemingly endless hard work and constant danger. It reminds an American that war is grim on both sides of the battlefield. And it prompts wonderment at the tenacity of Hanoi's forces, and questions of why they believe this unrelentingly militant road to political power is still so necessary.

The incidents described are a year old. But it's doubtful that trail life has changed much. In fact, the North Vietnamese have finished an unprecedented effort to keep the route open during the rainy season just completed, U.S. intelligence reports say. Traffic there is increasing once more. With the traffic comes the bombing, for President Nixon is trying to stave off major Communist attacks for at least another year while he gets the remaining Americans out of South Vietnam. The U.S. has already dropped more explosives on this trail complex than it dumped on Hitler's Germany during World War II.

"I found that the road was so barren . . . (writes Khanh Van). Along the roadsides various kinds of trees—including one . . . the trunk of which had a diameter so wide that even the outstretched arms of two or three persons could not surround it—had been stripped of their leaves and branches. There remained only bare trunks with pointed tops . . . through the early-morning mist we would have the impression that a flotilla of big sailboats, the masts of which were close to one another, was resting along a river.

". . . On certain days aggressor aircraft in three formations sprayed toxic chemicals over this road. . . . The fire, consuming the dry leaves, burned endlessly for more than one month. The fire burned the branches and sometimes a fire-engulfed branch fell down. . . . the flames from the plastic substance in the bombs splattered the surface of the road and even stuck to the rolling tires of the trucks.

"(A deputy platoon leader) knew in what season the enemy would drop flares all night as if all the electric bulbs in New York City had been brought to illuminate this jungle in order to look in vain for our vehicles.

"I felt (the area) was desolate, boundless and wide open . . . around the control point there was no longer a green leaf or an undamaged tree trunk. . . . All hills and mountains look like immense brown shoals and everything is brown, from high mountain crests to the bottoms of the valleys. . . . Resin from bombs was spread over the roadway. The burned resin was as black as buffalo excrement and the unburned resin looked like dried frog salvia . . . a gust of wind blew. Dust flew like smoke over the hills. I noticed that the earth . . . was pulverized and looked like fine flour. . . . My feet got stuck in the powdered earth. . . . With a heavy downpour this powdered earth would become mud.

"When we first arrived, mango trees blossomed in January and February and chestnut trees blossomed in the rainy season. How fragrant it was Today nothing remains, nothing other than the strong odor of the overturned soil. . . .

"I have tried to listen, but have not heard the sound of crickets at the control point. They must have all died."

Not all Laos has been defoliated of course, but all the trail is dangerous. As might be expected, journalist Van tells of many small victories over the anonymous attacking aircraft; his government portrays trail activity as a personal battle between the logistics workers below and the planes above. His tale is one of esprit and comradeship, and yet the experiences he recounts sound dreadful.

"Comrade Bang, a driver combatant, also told me that previously on every night for a whole week the trucks had to run through arcs of fire all along the section from Milestone 16 to Milestone 41, Route A. It was oppressively hot in the driving cabin. The comrade drivers were deeply concerned about the possibility that their gasoline might catch fire. The road was aglow with the fires started by the bombs.

"Some combatants were killed while transporting gasoline tins on their shoulders.

"Bombs and shells exploded almost continuously. The enemy carried out bombings all day long—in the morning, in the afternoon and at night—and in all forms. Sometimes F–4s dropped bombs. Sometimes F–105s dropped bombs. Sometimes B–52s carried out blanket bombings. Every day, bombs exploded everywhere—in the front, in the rear, on the left and on the right. . . . Around us are many magnetic bombs and 'pink ear-shaped' and 'liver-shaped' mines . . . lying helter-skelter on the ground. We have destroyed just those that are necessary for the safety of our gun emplacements and for the trails leading up and down the hill."

The unexploded bombs must be destroyed. Thus the story of demolition workers Cu and Hien:

"According to enemy calculations, (says Cu) if we want to fill in the bomb craters we must first of all destroy enemy time bombs. If we want to destroy the time bombs we must destroy the magnetic bombs first in order to clear the way to move forward. Sometimes, the enemy fits tails of magnetic bombs to the time bombs in order to deceive us.

". . . Hien and I belonged to the same reconnaissance squad. Our mutual love and esteem were as profound as the mutual love and esteem among kith-and-kin brothers living in the same home. We always stayed close together. We even shared a baked manioc . . . During this season, we had destroyed a total of 99 magnetic bombs.

"Hien moved forward first. After destroying the first bomb, he laughingly said: 'This is the 100th bomb we have destroyed. Today, even if I fell I would not regret it.'

"We took turns moving forward to destroy the bombs. While the dark bomb smoke still was lingering on the surface of the road, Hein rushed forward to destroy the fourth bomb. While he was bending to put down the equipment, the bomb exploded, destroying itself. At that moment, I had the feeling that a tree was falling on my back, knocking me down and squeezing me so that I could not breathe. My saliva became a little salty. . . . I realized that blood was running down my lips and that stones and earth ejected by the bomb explosion completely covered my body. . . . After standing up, I called out to Hien.

" 'The area around the bomb crater was littered with small pieces of cloth—each piece was about two or three centimeters long. I picked them up. It was the cloth of Hien's shirt. . . . His blood soaked the earth of the road where I was standing.' "

The account makes clear that the men on the trail are not only mortals but, specifically, Vietnamese mortals—with a culture quite different from that of the attackers above. Throughout the 15 articles are references to an older way of life that neither communism nor combat has totally destroyed.

A military warehouse, for example, keeps stores of the predictable items—rice, canned meat, powdered eggs—plus "ginseng and even the soft core of young deer antlers," items prized throughout Asia for their alleged curative and aphrodisiac qualities. A medical specialist is discovered "cooking a pot of monkey bone ointment" and various

kinds of ginseng syrup. A stretch of jungle is filled with rare orchids, and soldiers transplant them outside their bunkers. In one spot, soldiers tend a "Garden of Oriental Medicinal Plants," and carry the produce to hospitals in baskets fastened to the traditional shoulder poles.

Once the writer discovers bathing facilities—a rare treat for fastidious Vietnamese on the dusty trail. After washing, one soldier remarks: "You see, we are now as handsome as anyone can be. We don't have to worry about not having girls to marry. If the girls had seen us at the parking lot, they might have run away."

The traveling journalist assures the trail workers that the pretty girls back home all love the "valiant" drivers. But this impresses no one. A trooper replies: "Really? I once heard the girls sing a folksong saying that 'If ever a chach fish is born atop a bamboo tree, I would then marry a driver.'" But this skeptical young soldier has to blush when reminded that he carries "a letter from a girl friend, a 10th grade student, in which she called you 'my love, my eagle.'"

Elsewhere, Mr. Van meets a soldier who recalls that his ninth grade teacher, a Miss Kim Chi, told his class: "If ever you become soldiers, no matter in what armed branch you may be, you must maintain an imposing appearance and a romantic quality. . . . For instance, a signal combatant shows his imposing appearance by braving bomb smoke in order to reconnect the wire, and he has a romantic quality when he installs the wire on trees so that birds can perch on it and sing." It's difficult to imagine GIs getting similar guidance.

Whether the series roused young men back home or filled them with dread can't be known in Washington. Nor did the articles make entirely clear why the mindless fighting continues. Perhaps the war has been going on so long that the fighting men on both sides rarely ask themselves that question any more.

That, at least, seemed to be the mood of one North Vietnamese driver. The driver looked up at an American bomber circling overhead. Then, matter-of-factly, he said:

"They do their work; we do ours."

Chemical Warfare in Indochina

(By Peter Weiss)

A number of the papers delivered at this conference deal with the basic illegality of the presence of American forces in Indochina. This paper deals with one aspect of the conduct of these forces after their arrival in Southeast Asia, namely, the employment of chemical weapons.[1] By its behavior in this regard, the United States has committed and is continuing to commit massive violations of the laws of warfare. This would be so whether its participation in the Indochinese war were legal or not. In addition, the scale on which chemical warfare has been used by United States forces suggests that, as well as known and recognized crimes, a new type of crime, as yet inadequately defined and discussed in legal circles, is being perpetrated in Southeast Asia.

The facts of American chemical warfare in Indochina are, by now, readily available.[2] Two principal types of chemical agents have been used by the United States in Vietnam: gases and defoliants. The latter have also been widely used in Laos and Cambodia and, to a lesser extent, in Thailand.

1. *Gases*—Public knowledge of the use of so-called "irritant" or "non-lethal" gases by U.S. troops in Vietnam dates back to 1965. Three principal types are known to have been used:

(a) DM (diphenylaminochloroasine), a vomiting agent also known as adamsite, which, according to U.S. Army Manuals, is not to be used in situations where "deaths are unacceptable";

(b) CN (chloroacetophenone), the standard riot-control type of tear gas; and

(c) CS (chlorobenzalmalononitrile), a "super tear-gas."

Of these, CS has been, and probably continues to be, the agent most widely used in Vietnam. The effects of CS are described as follows by Prof. Matthew Meselson of Harvard University, one of the world's leading experts on CBW:

"Exposure to CS causes intense pain in the eyes and upper respiratory tract, progressing to the deep recesses of the lungs, causing a feeling of suffocation and acute anxiety. If exposure is not excessive, these symptoms usually pass within minutes after restoration to fresh air. Heavy dosages as may occur in confined spaces or when massive quantities of CS are dispersed, can cause lung damage. Very intense exposure to unprotected skin can cause second degree chemical burns."[3]

According to Congressman McCarthy, who has done more than any other person in American public life to focus attention on the moral and legal implication of American CBW policy and practice, nearly fourteen million pounds of tear gas have been procured for use in Southeast Asia since the beginning of American military involvement in that part of the world. Of this amount, the more effective agent, CS, accounts for ten million pounds, the remainder being CN. Mr. McCarthy states that he "was informed in 1969 that the only limit on the use of tear gas in Vietnam was our ability to produce it."[4]

It is interesting to contrast these figures with the statement made by then Secretary of State Dean Rusk on March 25, 1965, following the first revelations of the employment of gas by ARVN and U.S. troops in Vietnam:

"We are not embarking upon gas warfare in Vietnam. . . . The anticipation is of course that these weapons be used only in those situations involving riot-control or situations analogous to riot-control."[5]

The following year, U.S. Ambassador James M. Nabrit, Jr., in a statement at the United Nations, categorized American use of gas in combat operations as being "for humanitarian purposes."[6]

However, not only has the primary purpose of the use of CS by American forces in Vietnam been to drive enemy troops into the open prior to bombing raids, which can hardly be categorized as "humanitarian", but there are numerous reports of deaths caused by these allegedly non-lethal agents. Cookson and Nottingham, on the basis of NLF Communiques, list twelve incidents during a thirteen month period from January 1965 to February 1966, resulting in over 700 casualties, mostly civilian.

Indeed, most scientific observers agree that, while the three particular agents discussed above are non-lethal when in normal use, i.e., when used in safe concentrations against healthy adults in open spaces, they can cause permanent injury and even death when used in higher concentrations, in confined spaces, or against children and old people. Dr. Alje Venema, former Director of Canadian Medical Services in Vietnam, has reported that, of various gas victims brought to his hospital in Quang Ngai province, the mortality rate was about 10% for adults and about 90% for children.[7]

There have also been isolated and unsubstantiated reports of the use of other types of gases in Vietnam, including BZ, a psychochemical or lethargy-inducing agent[8] and GB, a lethal nerve gas.[9]

2. *Defoliants*—Defoliation by aerial spraying began on an experimental basis in Vietnam in 1961, applied to strips of vegetation bordering on roads, trails and canals. Just as the use of antipersonnel gases was justified on "humanitarian" grounds, so it was stated initially that the purpose of the defoliation program was "to improve the country's economy by permitting freer communications as well as to facilitate the Vietnamese Army's task of keeping these avenues free of Vietcong harassment."[10]

Since then, according to official U.S. figures, some five million acres, or about twelve percent of the entire area of South Vietnam and 50% of its arable land have been subjected to defoliation. With respect to at least half a million acres of this total, the purpose of the operation was not improved visibility, but crop destruction, euphemistically referred to as a "food-denial program."

Comparable total figures are not available for Cambodia and Laos, but it is known that defoliation operations have been and probably continue to be carried out in both countries. Some indication of their size may be gleaned from the fact that, on June 2, 1969, the Cambodian government filed with the U.S. government a claim for $8,500,000, which has been accepted in principle, subject to determination of the permanence of the damage after the current growing season. An unofficial party of American scientists, including Professor E. W. Pfeiffer, estimated that about a third of all rubber trees in production in Cambodia at the time of their visit last winter had been damaged by the operation which gave rise to the Cambodian government's claim.

The chemicals used in the defoliation program, mostly 2,4-dichlorophenoxyacetic acid (2,4-D) and 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) have repeatedly been described in official United States government releases as "non-toxic and not dangerous to man or animal life." However, NLF and later, PRG releases have regularly reported on injuries and deaths caused by aerial spraying of defoliants. A study made by the Japan Science Council in 1967 found that nearly 1,000 peasants and more than 13,000 head of cattle had died as a result of defoliant attacks.[11]

According to a recent release by the Vietnam Women's Union, U.S. forces, during the first ten months of the Nixon administration, have "spread toxic chemicals on 900,000 hectares of crops, causing more than 280,000 victims, most of them children and aged persons, including 500 fatalities."

The official disclaimer of the hazardous nature of the chemicals used in the defoliation and crop destruction programs also appears in a strange light in view of the insistent warning affixed to the containers of these substances available for commercial use in this country, such as "avoid contact with eyes, skin and clothing" or "in case of contact, flush eyes with plenty of water for at least 15 minutes and get medical attention."[12] Yet, these chemicals are regularly used in Vietnam in concentrations ten times the level of those bearing the above-mentioned warning in the United States.

A more ominous side-effect of 2,4,5-T, the defoliant most commonly used in Indochina, was discovered in 1968 and 1969. A study made by a private research laboratory under a grant from the National Cancer Institute found that 2,4,5-T did not cause cancer, but did have clearly demonstrable teratogenic effects. In experiments with rats and mice, relatively small doses of 2,4,5-T produced abnormally high numbers of dead or deformed fetuses. As a result of these studies, the use of 2,4,5-T on food crops was to be forbidden in the United States as of the beginning of this year.[13] It continues, however, to be widely used in Vietnam, where reports of miscarriages and defective births have been steadily on the increase in areas subject to defoliation.[14]

A report dated February 2, 1970 by a PRG medical team which had made a study of miscarriages in Bien Giai and Ta Pang, two villages subjected to heavy defoliation at-

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Footnotes at end of article.

tacks, lists numerous specific instances of miscarriages.

It has also been said by the United States Department of State that the land involved in defoliation and herbicidal operations "is not affected for future use." [15] At other times, this statement has taken the form of an assurance that defoliation and herbicide, as practiced by the United States in Vietnam, produce their effects only for one growing season. American and French scientists and journalists who have visited affected areas in Vietnam have come to different conclusions.

Thus, Professor E. W. Pfeiffer quotes the following dispatch from the New York Times, concerning the effect on the ecology of Vietnam, not only of defoliation, but of mass bombing as well:

"In many of these areas there is no sign of life. . . . There are other places where major battles have reduced the land to desert. At Khe San, millions of tons of bombs have turned the once-green hills into a moonscape of craters and scorched dirt. It is no secret that vast areas have been reduced to barrenness." [16]

As for the effect of defoliation on the fauna of Vietnam, Professors Pfeiffer and Orians had this to say, following their inspection tour to Vietnam in March of 1969:

"As might be expected, the almost complete killing by herbicides of all vegetation in the mangrove areas has had a severe effect on the animals living there. During our tour of the defoliated areas we did not see a single species of insectivorous or frugivorous bird with the exception of barn swallows, which are migrants from the north." [17]

As to the effect on timberlands, the two professors reported the following:

"Two or three sprayings may kill approximately 50 percent of commercially valuable timber in such forests. These areas are being invaded by grasses resistant to forest defoliants and they may prevent the re-establishment of tree seedlings for a long time; even if that does not occur, it will take many decades before a mature forest regrows. Subtle effects, such as changes in the species composition and forest physiognomy, may persist for longer." [18]

An even more serious consequence of defoliation, permanent laterization of the soil, is discussed by Dr. Arthur W. Galston, of Yale University:

It has already been well documented that some kinds of plant associations subject to spray, especially by Agent Orange, containing 2,4–D and 2,4,5–T *have been irreversibly damaged*. I refer specifically to the mangrove associations that line the estuaries, especially around the Saigon River. Up to a hundred thousand acres of these mangroves have been sprayed. . . . Certain tropical soils—and it has been estimated that in Vietnam up to fifty percent of all soils fall into this category—are lateralizable; that is, they may be irreversibly converted to rock as a result of the deprivation of organic matter . . . If . . . you deprive trees of leaves and photosynthesis stops, organic matter in the soil declines and laterization, the making of brick, may occur on a very extensive scale. I would emphasize that this brick is irreversibly hardened; it can't be made back into soil . . ." [19]

3. *Legal Status of Gases and Defoliants.*

The most important treaty in the area of chemical and biological warfare is the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare of June 17, 1925, which provides: [20]

"Whereas the use of asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices, has been justly condemned by the general opinion of the civilized world; and

"Whereas the prohibition of such use has been declared in Treaties to which the majority of Powers of the world are Parties; and

"To the end that this prohibition shall be universally accepted as part of the International Law, binding alike the conscience and the practice of nations:

"Declare:

"That the High Contracting Parties, so far as they are not already Parties to Treaties prohibiting such use, accept this prohibition, agree to extend this prohibition to the use of bacteriological methods of warfare and agree to be bound as between themselves according to the Terms of this Declaration."

Sixty-four countries currently adhere to the Protocol. The United States, which had been the principal moving force in its drafting, is not a party, because lobbying by representatives of the armed forces and the chemical industry was so successful that it was never submitted to the Senate for ratification.[21] However, the United States "is pledged to observe strictly the principles and objectives of the Protocol." [22] In keeping with this pledge, the United States, on December 5, 1966, voted in the United Nations for General Assembly Resolution 2162B (XXI), which "calls for strict observance by all States of the principles and objectives of the Protocol" and invites all states to accede thereto and, on December 20, 1968, voted for Resolution 2454A (XXIII), in which the General Assembly "reiterates its call for strict observance by all States of the principles and objectives of the General Protocol of 17 June 1925 and invites all States to accede to that Protocol." [23]

According to Ian Brownlie, the editor of the British Year Book of International Law, the 1966 U.N. Resolution "assumes that the Geneva Protocol today constitutes general international law and no longer a mere contract for actual parties to it." [24] This is, perhaps, reading more into the resolution than was intended by it. However, the very text of the Protocol suggests that its framers, as far back as 1925, meant it to be merely a codification of existing international law, rather than a new departure. George Bunn, former General Counsel of the United States Arms Control and Disarmament Agency, is only one of several authorities subscribing to this view.[25]

Whether or not the principles of the Geneva Protocol are binding on all nations (and therefore on the United States) in the absence of ratification, whether the Protocol prohibits the use of non-lethal as well as lethal agents (to the extent that such a distinction has any significance), whether it prohibits the use of CBW against non-signatories as well as signatories and whether it applies to second as well as first strikes, are points much debated in the legal and diplomatic literature.

In fact, much of this discussion is a smokescreen obscuring the underlying realities of the CBW picture, which are reasonably clear from a legal, not to mention a moral, point of view.

The overriding, and generally accepted, view is that, even in warfare, it is not permissible to inflict unnecessary injury or death upon civilians, nor to use weapons causing unnecessary suffering against combatants.[26] Everything, of course, turns on the definition of "unnecessary", but it is difficult to see, for instance, how under any reasonable interpretation of this objective, one could justify the deliberate use of chemicals known to cause miscarriages and birth defects, or of gases lethal to children and highly injurious to all persons.

Seen in this light, the great debate over whether, now that President Nixon has announced that he is prepared to resubmit the Geneva Protocol to the Senate for ratification,[27] reservations concerning so-called non-lethal chemical weapons should or should not be made, appear as a macabre exercise in semantics. In fact, President Nixon is saying that the United States is prepared to undertake to refrain from employing certain weapons, which are already prohibited by international law, but reserves its right to continue using certain other weapons, which are also prohibited by international law.

4. *Application of the Law on Chemical Warfare.*

As is well known, the difficulty with implementing the laws of war is that, unless the parties involved in a dispute either submit voluntarily to the jurisdiction of a tribunal, or one party is in a positon to compel the other party so to summit, these laws are no more capable of enforcement than if they were mere moral injunctions. The great contribution of the Nuremberg Tribunal was, not to create, but to define and consolidate, the principle of individual responsibility for war crimes. According to Principle I of the Principles of Internatonal Law recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal, as formulated by the International Law Commission of the United Nations in 1950, "Any person who commits an act which constitutes a crime under international law is responsible therefor and liable to punishment." And Principle IV provides: "The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law, provided a moral choice was in fact possible to him." [28]

In the history of the Vietnam war there appears to be only one incident in which briefly, to prosecuting an individual for the use of chemical weapons. In September 1965, following the initial public outcry against the revelation of the use of gas by American forces in Vietnam, Marine Lieutenant Colonel L. A. Utter was placed under investigation for using forty eight cannisters of CN to clear a cave. According to the Swiss National Committee for Aid to Vietnam, this "humanitarian" move resulted in 35 deaths and 19 casualties, all women and children. At about this time, the White House sanctioned the use of CS and CN in Vietnam and Col. Utter was cleared by a Military Board of Inquiry. It appears, in retrospect, that the offense for which he was being investigated was not the killing of civilians by chemical weapons, but having disobeyed orders not to use such weapons during the period when the United States government was trying to decide what its official chemical warfare policy in Vietnam should be.[29]

It may seem far-fetched to suggest that others who have been responsible for death and injury by chemical weapons in violation of the laws of war should be brought to trial or held accountable for the damage inflicted by their acts or their orders, but that is precisely what the Nuremberg Principles stand for.

There is no time, and this is not the place, to explore the procedural details of such trials or suits. Suffice it to say that certain American lawyers who have studied the problem believe in their possibility.

Governments, after all, cannot be tried unless they have lost a war, nor sued for damages without their consent. But, governments, in any case, do not decide to burn children alive with napalm, or to turn life-giving land into stone, or stock a Mighty Mite into a hole in the ground and fill the lungs of what ever human beings may be below with suffocating toxic fumes. Individuals decide that these things should be done, and individuals do them. Until the law catches up with this gap between human reality and legal fiction, war crimes will continue to be committed, and they will in-

Footnotes at end of article.

clude the perversion of science for criminal ends, as in the case of chemical warfare.

TORONTO, CANADA, *May 22, 1970.*

FOOTNOTES

[1] Chemical weapons are usually lumped together with biological weapons in discussions of this aspect of warfare. However, since biological warfare in Indochina has not been proved, this paper will be confined to a discussion of chemical warfare. Defoliants and herbicides are sometimes referred to as biological warfare agents because they affect the life of plants. However, the more common definition of biological warfare limits that term to use in war of bacterial agents or toxins produced therefrom and excludes the use of chemical agents which have a biological effect.

[2] Richard D. McCarthy, "The Ultimate Folly" (Alfred A. Knopf, 1969), pp. 45–51, 74–88; Seymour M. Hersh, "Chemical and Biological Warfare: America's Hidden Arsenal" (Doubleday, 1969), Ch. 6; John Cookson and Judith Nottingham, "A survey of Chemical and Biological Warfare" (Sheed and Ward, 1969), pp. 14–54, 291–5; Clergy and Laymen Concerned About Vietnam, "In The Name of America" (1968), Chs. III and XI; M. F. Kahn, "Vietnam," in "Chemical and Biological Warfare," Steven Rose, Editor (Harrap, 1968).

[3] The Women's International League For Peace and Freedom, "The Supreme Folly: Chemical and Biological Weapons" (1970), p. 5.

[4] McCarthy, p. 49.

[5] Cookson, p. 16.

[6] McCarthy, p. 47.

[7] Cookson, p. 24.

[8] Cookson, p. 21.

[9] "Lethal Nerve Gas in Vietnam Charged," N.Y. Times, May 8, 1970, p. 62.

[10] Thomas Whiteside, "Defoliation," The New Yorker, pp. 32–69, 2/7/70.

[11] Cookson, p. 33.

[12] McCarthy, p. 78.

[13] Hearings held by Congressman McCarthy in Arizona on February 12, and 13, 1970, revealed that despite considerable damage to livestock resulting from 2,4,5-T spraying, the decision to discontinue such spraying was not yet implemented and was "under study." Press release dated April 7, 1970 from Congressman McCarthy's office.

[14] Whiteside, p. 38.

[15] Whiteside, p. 33.

[16] E. W. Pfeiffer, "Ecological Effects of the Vietnam War," Science Journal, February, 1969, p. 35.

[17] "Mission to Vietnam," Interview with E. W. Pfeiffer and G. H. Orians, Scientific Research, June 9, 1969, p. 27.

[18] Id., p. 28.

[19] Whiteside, p. 37.

[20] 94 L.N.T.S. No. 2138, p 67 (1929)

[21] George Bunn, "Banning Poison Gas and Germ Warfare," Wisconsin Law Review, Vol. 1969, No. 2, p. 378.

[22] Letter dated April 7, 1969 from H. G. Torbert, Jr., Acting Assistant Secretary of State for Congressional Relations to Congressman Richard D. McCarthy, quoted in McCarthy, op. cit., p. 163, at p. 164

[23] The full texts of both resolutions, as well as a comprehensive bibliography on CBW, may be found in U.N. Document A/7575 of 1 July, 1969, "Report of the Secretary-General on Chemical and Bacteriological (Biological) Weapons and the Effects of their Possible Use."

[24] Brownlie, "Legal Aspects of CBW," in Rose, op. cit., p. 141 at p. 143.

[25] Bunn, p 388; O'Brien, "Biological/Chemical Warfare and the International Law of War," 51 Georgetown Law Journal 1, p. 36 (1962).

[26] See, inter alia, Howard Levie, "Some Major Inadequacies in the Existing Law Relating to the Protection of Individuals during Armed Conflict," mimeographed working paper for the 14th Annual Hammarskjold Forum of the Association of the Bar of the City of New York, March 16, 1970, pp. 25 ff.; Charles E. Goddell, "Targets for Further Disarmament: CBW," Policy Paper Series No. 2 CIS #4, Center International Studies, New York University (1969).

[27] Article 22 of Annex IV to the Hague Convention provides: "The right of belligerents to adopt means of injuring the enemy is not unlimited." Art. 23 "especially" forbids the employment of "poisoned weapons" and of "arms, projectiles, and material calculated to cause unnecessary suffering." Section I, Arts. 2 and 3 of U.S. Army Field Manual N. 27–10, "The Law of Land Warfare" (1956), state that the law of land warfare, *both written and unwritten,* seeks to protect "both combatants and non-combatants from unnecessary suffering" and "requires that belligerents refrain from employing any kind or degree of violence which is not actually necessary for military purposes and that they conduct hostilities with regard for the principles of humanity and chivalry."

[28] The text of the Nixon statement on chemical and biological warfare appears on p. 16 of the New York Times, Nov. 26, 1969. The main import of this statement, of course, was the alleged renunication of "all methods of biological warfare", with which this paper does not deal.

[29] "In the Name of America", p. 43.

[30] Cookson, p. 17; McCarthy, p. 48.

[From the Armed Forces Journal, June 7, 1971]

THE COLLAPSE OF THE ARMED FORCES

(By Col. Robert D. Heinl, Jr.)

The morale, discipline and battleworthiness of the U.S. Armed Forces are, with a few salient exceptions, lower and worse than at any time in this century and possibly in the history of the United States.

By every conceivable indicator, our army that now remains in Vietnam is in a state approaching collapse, with individual units avoiding or having refused combat, murdering their officers and noncommissioned officers, drug-ridden, and dispirited where not near-mutinous.

Elsewhere than Vietnam, the situation is nearly as serious.

Intolerably clobbered and buffeted from without and within by social turbulence, pandemic drug addiction, race war, sedition, civilian scapegoatise, draftee recalcitrance and malevolence, barracks theft and common crime, unsupported in their travail by the general government, in Congress as well as the executive branch, distrusted, disliked, and often reviled by the public, the uniformed services today are places of agony for the loyal, silent professionals who doggedly hang on and try to keep the ship afloat.

The responses of the services to these unheard-of conditions, forces and new public attitudes, are confused, resentful, occasional pollyanna-ish, and in some cases even calculated to worsen the malaise that is wracking them.

While no senior officer (especially one on active duty) can openly voice any such assessment, the foregoing conclusions find virtually unanimous support in numerous non-attributable interviews with responsible senior and midlevel officers, as well as career noncommissioned officers and petty officers in all services.

Historical precedents do exist for some of the services' problems, such as desertion, mutiny, unpopularity, seditious attacks, and racial troubles. Others, such as drugs, pose difficulties that are wholly new. Nowhere, however, in the history of the Armed Forces have comparable past troubles presented themselves in such general magnitude, acuteness, or concentrated focus as today.

By several orders of magnitude, the Army seems to be in worst trouble. But the Navy has serious and unprecedented problems, while the Air Force, on the surface at least still clear of the quicksands in which the Army is sinking, is itself facing disquieting difficulties.

Only the Marines—who have made news this year by their hard line against indiscipline and general permissiveness—seem, with their expected staunchess and tough tradition, to be weathering the storm.

BACK TO CAMPUS

To understand the military consequences of what is happening to the U.S. Armed Forces, Vietnam is a good place to start. It is in Vietnam that the rearguard of a 500,000-man army, in its day (and in the observation of the writer) the best army the United States ever put into the field, is numbly extricating itself from a nightmare war the Armed Forces feel they had foisted on them by bright civilians who are now back on campus writing books about the folly of it all.

"They have set up separate companies," writes an American soldier from Cu Chi, quoted in the *New York Times,* "for men who refuse to go out into the field. It is no big thing to refuse to go. If a man is ordered to go to such and such a place he no longer goes through the hassle of refusing; he just packs his shirt and goes to visit some buddies at another base camp. Operations have become incredibly ragtag. Many guys don't even put on their uniforms any more . . . The American garrisons on the larger bases are virtually disarmed. The lifers have taken our weapons from us and put them under lock and key . . . There have also been quite a few frag incidents in the battalion."

Can all this really be typical or even truthful?

Unfortunately the answer is yes.

"Frag incidents" or just "fragging" is current soldier slang in Vietnam for the murder or attempted murder of strict, unpopular, or just aggressive officers and NCOs. With extreme reluctance (after a young West Pointer from Senator Mike Mansfield's Montana was fragged in his sleep) the Pentagon has now disclosed that fraggings in 1970 (209) have more than doubled those of the previous year (96).

Word of the deaths of officers will bring cheers at troop movies or in bivouacs of certain units.

In one such division—the morale-plagued Americal—fragings during 1971 have been authoritatively estimated to be running about one a week.

Yet fraggings, though hard to document, form part of the ugly lore of every war. The first such verified incident known to have taken place occurred 190 years ago when Pennsylvania soldiers in the Continental Army killed one of their captains during the night of 1 January 1781.

BOUNTIES AND EVASIONS

Bounties, raised by common subscription in amounts running anywhere from $50 to $1,000, have been widely reported put on the heads of leaders whom the privates and Sp4s want to rub out.

Shortly after the costly assault on Hamburger Hill in mid-1969, the GI underground newspaper in Vietnam, "G.I. Says", publicly offered a $10,000 bounty on LtCol Weldon Honeycutt, the officer who ordered (and led) the attack. Despite several attempts, however, Honeycutt managed to live out his tour and return Stateside.

"Another Hamburger Hill," (i.e., toughly contested assault), conceded a veteran major, "is definitely out."

The issue of "combat refusal", an official euphemism for disobedience of orders to fight—the soldier's gravest crime—has only recently been again precipitated on the frontier of Laos by Troop B, 1st Cavalry's mass refusal to recapture their captain's command vehicle containing communication gear, codes and other secret operation orders.

As early as mid-1969, however, an entire company of the 196th Light Infantry Brigade publicly sat down on the battlefield. Later that year, another rifle company, from the famed 1st Air Cavalry Division, flatly refused—on CBS–TV—to advance down a dangerous trail.

(Yet combat refusals have been heard of before: as early as 1813, a corps of 4,000 Kentucky soldiers declined to engage British Indians who had just sacked and massacred Fort Dearborn (later Chicago).)

While denying further unit refusals, the Air Cav has admitted some 35 individual refusals in 1970 alone. By comparison, only two years earlier in 1968, the entire number of officially recorded refusals for our whole army in Vietnam—from over seven divisons—was 68.

"Search and evade" (meaning tacit avoidance of combat by units in the field) is now virtually a principle of war, vividly expressed by the GI phrase, "CYA (cover your ———) and get home!"

That "search-and-evade" has not gone unnoticed by the enemy is underscored by the Viet Cong delegation's recent statement at the Paris Peace Talks that communist units in Indochina have been ordered not to engage American units which do not molest them. The same statement boasted—not without foundation in fact—that American defectors are in the VC ranks.

Symbolic anti-war facts (such as the one at Pleiku where an entire medical unit, led by its officers, refused Thanksgiving turkey), peace symbols, "V"-signs not for victory but for peace, booing and cursing of officers and even of hapless entertainers such as Bob Hope, are unhappily commonplace.

As for drugs and race, Vietnam's problems today not only reflect but reinforce those of the Armed Forces as a whole. In April, for example, members of a Congressional investigating subcommittee reported that 10 to 15% of our troops in Vietnam are now using high-grade heroin, and that drug addiction there is "of epidemic proportions."

Only last year an Air Force major and command pilot for Ambassador Bunker was apprehended at Tan Son Nhut air base outside Saigon with $8-million worth of heroin in his aircraft. The major is now in Leavenworth.

Early this year, an Air Force regular colonel was court-martialed and cashiered for leading his squadron in pot parties, while, at Cam Ranh Air Force Base, 43 members of the base security police squadron were recently swept up in dragnet narcotics raids.

All the foregoing facts—and many more dire indicators of the worst kind of military trouble—point to widespread conditions among American forces in Vietnam that have only been exceeded in this century by the French Army's Nivelle mutinies of 1917 and the collapse of the Tsarist armies in 1916 and 1917.

SOCIETY NOTES

It is a truism that national armies closely reflect societies from which they have been raised. It would be strange indeed if the Armed Forces did not today mirror the agonizing divisions and social traumas of American society, and of course they do.

For this very reason, our Armed Forces outside Vietnam not only reflect these conditions but disclose the depths of their troubles in an awful litany of sedition, disaffection, desertion, race, drugs, breakdowns of authority, abandonment of discipline, and, as a cumulative result, the lowest state of military morale in the history of the country.

Sedition—coupled with disaffection within the ranks, and externally fomented with an audacity and intensity previously inconceivable—infests the Armed Services:

At best count, there appear to be some 144 underground newspapers published on or aimed at U.S. military bases in this country and overseas. Since 1970 the number of such sheets has increased 40% (up from 103 last fall). These journals are not mere gripesheets that poke soldier fun in the "Beetle Bailey" tradition, at the brass and the sergeants. "In Vietnam," writes the Ft Lewis-McChord Free Press, "the Lifers, the Brass, are the true Enemy, not the enemy." Another West Coast sheet advises readers: "Don't desert. Go to Vietnam and kill your commanding officer."

At least 14 GI dissent organizations (including two made up exclusively of officers) now operate more or less openly. Ancillary to these are at least six antiwar veterans' groups which strive to influence GIs.

Three well-established lawyer groups specialize in support of GI dissent. Two (GI Civil Liberties Defense Committee and New York Draft and Military Law Panel) operate in the open. A third is a semi-underground network of lawyers who can only be contacted through the GI Alliance, a Washington, D.C., group which tries to coordinate seditious antimilitary activities throughout the country.

One antimilitary legal effort operates right in the theater of war. A three-man law office, backed by the Lawyers' Military Defense Committee, of Cambridge, Mass., was set up last fall in Saigon to provide free civilian legal services for dissident soldiers being court-martialed in Vietnam.

Besides these lawyers' fronts, the Pacific Counseling Service (an umbrella organization with Unitarian backing for a prolifery of antimilitary activities) provides legal help and incitement to dissident GIs through not one but seven branches (Tacoma, Oakland, Los Angles, San Diego, Monterey, Tokyo, and Okinawa).

Another of Pacific Counseling's activities is to air-drop planeloads of seditious literature into Oakland's sprawling Army Base, our major West Coast staging point for Vietnam.

On the religious front, a community of turbulent priests and clergymen, some untary service as un-Christian. Maximilian's Maximilian is a saint said to have been martyred by the Romans for refusing military service as un-Christian. Maximilian's present-day followers visit military posts, infiltrate brigs and stockades in the guise of spiritual counseling, work to recruit military chaplains, and hold services of "consecrations" of post chapels in the name of their saintly draft-dodger.

By present count at least 11 (some go as high as 26) off-base antiwar "coffee houses" ply GIs with rock music, lukewarm coffee, antiwar literature, how-to-do-it tips on desertion, and similar disruptive counsels. Among the best-known coffee houses are: The Shelter Half (Ft Lewis, Wash.); The Home Front (Ft Carson, Colo.); and The Oleo Strut (Ft Hood, Tex.).

Virtually all the coffee houses are or have been supported by the U.S. Serviceman's Fund, whose offices are in New York City's Bronx. Until May 1970 the Fund was recognized as a tax-exempt "charitable corporation," a determination which changed when IRS agents found that its main function was sowing dissension among GIs and that it was a satellite of "The New Mobilization Committee", a communist-front organization aimed at disruption of the Armed Forces.

Another "New Mobe" satellite is the G.I. Press Service, based in Washington, which calls itself the Associate Press of military underground newspapers. Robert Wilkinson, G.I. Press's editor, is well known to military intelligence and has been barred from South Vietnam.

While refusing to divulge names, IRS sources say that the Serviceman's Fund has been largely bankrolled by well-to-do liberals. One example of this kind of liberal support for sedition which did surface identifiably last year was the $8,500 nut channeled from the Philip Stern Family Foundation to underwrite Seaman Roger Priest's underground paper OM, which, among other writings, ran do-it-yourself advice for desertion to Canada and advocated assassination of President Nixon.

The nation-wide campus-radical offensive against ROTC and college officer-training is well known. Events last year at Stanford University, however, demonstrate the extremes to which this campaign (which peaked after Cambodia) has gone. After the Stanford faculty voted to accept a modified, specially restructured ROTC program, the university was subjected to a cyclone of continuing violence which included at least $200,000 in ultimate damage to buildings (highlighted by systematic destruction of 40 twenty-foot stained glass windows in the library). In the end, led by university president Richard W. Lyman, the faculty reversed itself. Lyman was quoted at the time that "ROTC is costing Stanford too much."

"Entertainment Industry for Peace and Justice," the antiwar show-biz front organized by Jane Fonda, Dick Gregory and Dalton Trumbo, now claims over 800 film, TV, and music names. This organization is backing Miss Fonda's antimilitary road-show that opened outside the gates of Ft Bragg, N.C., in mid-March.

Describing her performances (scripted by Jules Pfeiffer) as the soldiers' alternative to Bob Hope, Miss Fonda says her cast will repeat the Ft. Bragg show at or outside 19 more major bases. Although her project reportedly received financial backing from the ubiquitous Servicemen's Fund, Miss Fonda insisted on a $1.50 admission from each of her GI audience at Bragg, a factor which, according to soldiers, somewhat limited attendance.

Freshman Representative Ronald V. Dellums (D-Calif) runs a somewhat different kind of antimilitary production. As a Congressman, Dellums cannot be barred from military posts and has been taking full advantage of the fact. At Ft. Meade, Md., last month, Dellums led a soldier audience as they booed and cursed their commanding officer who was present on-stage in the post theater which the Army had to make available.

Dellums has also used Capitol Hill facilities for his "Ad Hoc Hearings" on alleged war crimes in Vietnam, much of which involves repetition of unfounded and often unprovable charges first surfaced in the Detroit "Winter Soldiers" hearing earlier this year. As in the case of the latter, ex-soldier witnesses appearing before Dellums have not always been willing to cooperate with Army war-crimes investigators or even to disclose sufficient evidence to permit independent verification of their charges. Yet the fact that five West Point graduates willingly testified for Dellums suggests the extent to which officer solidarity and traditions against politics have been shattered in today's Armed Forces.

THE ACTION GROUPS

Not unsurprisingly, the end-product of the atmosphere of incitement of unpunished sedition, and of recalcitrant antimilitary malevolence which pervades the world of the draftee (and to an extent the low-ranking men in "volunteer" services, too) is overt action.

One militant West Coast Group, Movement for a Democratic Military (MDM), has specialized in weapons theft from military bases in California. During 1970, large armory thefts were successfully perpetrated against Oakland Army Base, Fts. Cronkhite and Ord, and even the Marine Corps Base at Camp Pendleton, where a team wearing Marine uniforms got away with nine M–16 rifles and an M–79 grenade launcher.

Operating in the Middle West, three soldiers from Ft. Carson, Colo., home of the Army's permissive experimental unit, the 4th Mechanized Division, were recently indicted by federal grand jury for dynamiting the telephone exchange, power plant and

water works of another Army installation, Camp McCoy, Wis., on 26 July 1970.

The Navy, particularly on the West Coast, has also experienced disturbing cases of sabotage in the past two years, mainly directed at ships' engineering and electrical machinery.

It will be surprising, according to informed officers, if further such tangible evidence of disaffection within the ranks does not continue to come to light. Their view is that the situation could become considerably worse before it gets better.

TOUGH LAWS, WEAK COURTS

A frequent reaction when people learn the extent and intensity of the subversion which has been beamed at the Armed Forces for the past three or more years is to ask whether such activities aren't banned by law. The answer is that indeed they are.

Federal law (18 USC 2387) prohibits all manner of activities (including incitments, counseling, distribution or preparation of literature, and related conspiracies) intended to subvert the loyalty, morale or discipline of the Armed Services. The penalty for violating this statute is up to ten years in prison, a $10,000 fine, or both.

Despite this tough law, on the books for many years, neither the Johnson, nor so far, the Nixon administration has brought a single prosecution against any of the wide range of individuals and groups, some mentioned here, whose avowed aims are to nullify the discipline and seduce the allegiance of the Armed Forces.

Government lawyers (who asked not to be named) suggested two reasons for failure to prosecute. Under President Johnson, two liberal Attorneys General, Messers. Ramsey Clark and Nicholas deB. Katzenbach, were reportedly unsympathetic to military pleas for help and in general to prosecutions for sedition of any kind. Besides, the lawyers said, the courts have now gone so far in extending First Amendment shelter to any form of utterance, that there is doubt whether cases brought under this law would hold.

Whatever the reason—and it appears mainly to be disinclination to prosecute or even test existing law—the services are today being denied legal protection they previously enjoyed without question and at a time when they need it worse than ever before. Continuing failure to invoke these sanctions prompted one senior commander to comment bitterly, "We simply can't turn this thing around until we get some support from our elected and appointed civilian officials."

One area of the U.S. Government in which the Armed Forces are encountering noticable lack of support is the federal judiciary.

Until a very few years ago, the processes of military justice were regarded as a nearly untouchable preserve which the civil courts entered with reluctance and diffidence.

Plagued by a new breed of litigious soldier (and some litigious officers, too), the courts have responded by unprecedented rulings, mostly libertarian in thrust, which both specifically and generally have hampered and impeded the traditional operations of military justice and dealt body blows to discipline.

Andrew Stapp, the seditious soldier who founded the American Serviceman's Union, an organization aimed at undermining the disciplinary structure of the Armed Forces, last year had his well earned undesirable discharge reversed by a U.S. judge who said Stapp's right to unionize and try to overthrow the Army was an "off-duty" activity which the Army had no right to penalize in discharging him.

Libertarian Supreme Court Justice W. O. Douglas has impeded the Army in mobilizing and moving reservists, while his O'Callaghan decision not only released a convicted rapist but threw a wrench into military jurisdiction and court-martial precedents going back in some cases nearly two centuries.

In Oakland, Cal., last year, a federal court yanked some 37 soldiers from the gangplank of a transport for Vietnam (where all 37 had suddenly discovered conscientious objections to war) and still has them stalled on the West Coast some 18 months later.

The long-standing federal law against wearing of Armed Forces uniforms by persons intending to discredit the services was struck down in 1969 by the Supreme Court, which reversed the conviction of a uniformed actor who put on an antimilitary "guerrilla theater" skit on the street in Houston, Tex. As a result the Armed Forces are now no longer able to control subversive exploitation of the uniform for seditious purposes.

TACTICS OF HARASSMENT

Part of the defense establishment's problem with the judiciary is the now widely pursued practice of taking commanding officers into civil courts by dissident soldiers either to harass or annul normal discipline or administrative procedures of the services.

Only a short time ago, for example, a dissident group of active-duty officers, members of the Concerned Officers' Movement (COM), filed a sweeping lawsuit against Defense Secretary Laird himself, as well as all three service secretaries, demanding official recognition of their "right" to oppose the Vietnam war, accusing the secretaries of "harassing" them, and calling for court injunction to ban disciplinary "retaliation" against COM members.

Such nuisance suits from the inside (usually, like the Laird suit, on constitutional grounds) by people still in uniform, let alone by officers, were unheard-of until two or three years ago. Now, according to one Army general, the practice has become so common that, in his words, "I can't even give a directive without getting permission from my staff judge advocate."

RACIAL INCIDENTS

Sedition and subversion, and legal harassment, rank near the top of what might be called the unprecedented external problems that elements in American society are inflicting on the Armed Forces.

Internally speaking racial conflicts and drugs—also previously insignificant—are tearing the services apart today.

Racial trouble is no new thing for the Army. In 1906, after considerable provocation, three companies of the 25th Infantry (a colored regular regiment) attacked white troops and townspeople of Brownsville, Texas, and had to be disbanded. Among the few pre-World War II War Department records still heavily classified and thus unavailable to scholars are Army documents on racial troubles.

Racial conflicts (most but not all sparked by young black enlisted men) are erupting murderously in all services.

At a recent high commanders' conference, General Westmoreland and other senior generals heard the report from Germany that in many units white soldiers are now afraid to enter barracks alone at night for fear of "head-hunting" ambushes by blacks.

In the quoted words of one soldier on duty in West Germany, "I'm much more afraid of getting mugged on the post than I am of getting attacked by the Russians."

Other reports tell of jail-delivery attacks on Army stockades and military police to release black prisoners, and of officers being struck in public by black soldiers. Augsburg, Krailsheim, and Hohenfels are said to be rife with racial trouble. Hohenfels was the scene of a racial fragging last year—one of the few so far recorded outside Vietnam.

In Ulm, last fall, a white noncommissioned officer killed a black soldier who was holding a loaded .45 on two unarmed white officers.

Elsewhere, according to *Fortune* magazine, junior officers are now being attacked at night when inspecting barracks containing numbers of black soldiers.

Kelley Hill, a Ft. Benning, Ga., barracks area, has been the scene of repeated nighttime assaults on white soldiers. One such soldier bitterly remarked, "Kelley Hill may belong to the commander in the daytime but it belongs to the blacks after dark."

Even the cloistered quarters of WACs have been hit by racial hair-pulling. In one West Coast WAC detachment this year, black women on duty as charge-of-quarters took advantage of their trust to vandalize unlocked rooms occuped by white WACs. On this rampage, they destroyed clothing, emptied drawers, and overturned furniture of their white sisters.

But the Army has no monopoly on racial troubles.

As early as July 1969 the Marines (who had previously enjoyed a highly praised record on race) made headlines at Camp Lejeune, N.C., when a mass affray launched by 30–50 black Marines ended fatally with a white corporal's skull smashed in and 15 other white Marines in the sick bay.

That same year, at Newport, R.I., naval station, blacks killed a white petty officer, while in March 1971 the National Naval Medical Center in Bethesda, Md., outside Washington, was beset by racial fighting so severe that the base enlisted men's club had to be closed.

All services are today striving energetically to cool and control this ugly violence which in the words of one noncommissioned officer, has made his once taut unit divide up "like two street gangs."

MGen Orwin C. Talbott, at Ft. Benning, has instituted what he calls "race relations coordinating groups" which work to defuse the resentments of young black troopers at a Georgia base.

MGen John C. Bennett, commanding the 4th Mechanized Division at Ft. Carson, Colo., has a highly successful "racial relations committee" which has kept Carson cool for over a year.

At once-troubled Camp Lejeune, MGen Michael P. Ryan, the Tarawa hero who commands the 2d Marine Division, appears to have turned off the race war that two years ago was clawing at the vitals of his division.

Yet even the encouraging results attained by these commanders do not bespeak general containment of the service-wide race problem any more than the near-desperate attack being mounted on drug abuse has brought the narcotics epidemic under control within the military.

DRUGS AND THE MILITARY

The drug problem—like the civilian situation from which it directly derives—is running away with the services. In March, Navy Secretary John H. Chafee, speaking for the two sea services, said bluntly that drug abuse in both Navy and Marines is out of control.

In 1966, the Navy discharged 170 drug offenders. Three years later (1969), 3,800 were discharged. Last year in 1970, the total jumped to over 5,000.

Drug abuse in the Pacific Fleet—with Asia on one side, and kinky California on the other—gives the Navy its worst headaches. To cite one example, a destroyer due to sail from the West Coast last year for the Far East nearly had to postpone deployment when, five days before departure, a ring of some 30 drug users (over 10 percent of the crew) was uncovered.

Only last week, eight midshipmen were dismissed from the Naval Academy following disclosure of an alleged drug ring. While the Navy emphatically denies allegations in a copyrighted article by the *Annapolis Capitol* that up to 1,000 midshipmen now use marijuana, midshipman sources confirm that pot is anything but unknown at Annapolis.

Yet the Navy is somewhat ahead in the drug game because of the difficulty in con-

cealing addiction at close quarters aboard ship, and because fixes are unobtainable during long deployments at sea.

The Air Force, despite 2,715 drug investigations in 1970, is in even better shape: its rate of 3 cases per thousand airmen is the lowest in the services.

By contrast, the Army had 17,742 drug investigations the same year. According to Col. Thomas B. Hauschild, of the Medical Command of our Army forces in Europe, some 46 percent of the roughly 200,000 soldiers there had used illegal drugs at least once. In one battalion surveyed in West Germany, over 50 percent of the men smoked marijuana regularly (some on duty), while roughly half of those were using hard drugs of some type.

What these statistics say is that the Armed Forces (like their parent society) are in the grip of a drug pandemic—a conclusion underscored by the one fact that, just since 1968, the total number of verified drug addiction cases throughout the Armed Forces has nearly doubled. One other yardstick: according to military medical sources, needle hepatitis now poses as great a problem among young soldiers as VD.

At Ft Bragg, the Army's third largest post, adjacent to Fayetteville, N.C. (a garrison town whose conditions one official likened to New York's "East Village" and San Francisco's "Haight-Asbury") a recent survey disclosed that 4% (or over 1,400) of the 36,000 soldiers there are hard-drug (mainly heroin and LSD) addicts. In the 82nd Airborne Division, the strategic-reserve unit that boasts its title of "America's Honor Guard," approximately 450 soldier drug abusers were being treated when this reporter visited the post in April. About a hundred were under intensive treatment in special drug wards.

Yet Bragg is the scene of one of the most imaginative and hopeful drug programs in the Armed Forces. The post commander, LGen John J. Tolson, and the 82nd Airborne's commander, MGen George S. Blanchard, are pushing "Operation Awareness," a broad post-wide program focused on hard drugs, prevention, and enforcement.

Spearheading Operation Awareness is a tough yet deeply humane Army chaplain and one time Brooklyn longshoreman, LCol John P. McCullagh. Father McCullagh has made himself one of the Army's top experts on drugs, and was last year called as an expert witness by Harold Hughes's Senate Subcommittee on Alcohol and Narcotics.

NO STREET IS SAFE

One side-effect of the narcotics flood throughout the services is a concurrent epidemic of barracks theft and common criminality inside military or naval bases which once had the safest streets in America.

According to the personnel chief of one of the Army's major units, unauthorized absence, historically the service's top disciplinary problem, is now being crowded by the thefts. Barracks theft destroys trust and mutual loyalty among men who ought to be comrades and who must rely absolutely on each other in combat. It corrodes morale and is itself an indicator of impossible conditions in a fighting unit.

At Ft Bragg, primarily because of addict thieves, soldiers in many units cannot even keep bedding on their bunks in barracks. After what used to be reveille, they strip their bunks of bedding and cram it away under lock and key with whatever valuables they dare keep on hand.

Radios, sports gear, tape decks, and cameras—let alone individual equipment—are stolen on sight. Unlocked cars, on the manicured streets of this fine old post, are more likely to be stolen than not. Fayetteville, according to soldiers, abounds with off-post fences who will pay pennies for Army blankets and higher amounts for just about anything else.

Unhappily, conditions at Ft Bragg are not unusual.

Soldier muggings and holdups are on the rise everywhere. Ft Dix, N.J., has a higher rate of on-post crime than any base on the East Coast. Soldier muggings are reported to average one a night, with a big upsurge every pay-day. Despite 450 MP's (one for every 55 soldiers stationed there—one of the highest such ratios in the country) no solution appears in sight.

Crimes are so intense and violent in the vicinity of an open-gate "honor-system" detention facility at Ft Dix that, according to press reports, units on the base are unwilling to detail armed sentinels to man posts nearby, for fear of assault and robbery.

DESERTIONS AND DISASTERS

With conditions what they are in the Armed Forces, and with intense efforts on the part of elements in our society to disrupt discipline and destroy morale the consequences can be clearly measured in two ultimate indicators: manpower retention (reenlistments and their antithesis, desertions); and the state of discipline.

In both respects the picture is anything but encouraging.

Desertion, to be sure, has often been a serious problem in the past. In 1826, for example, desertions exceeded 50% of the total enlistments in the Army. During the Civil War, in 1864, Jefferson Davis reported to the Confederate Congress: "Two thirds of our men are absent, most absent without leave."

Desertion rates are going straight up in Army, Marines, and Air Force. Curiously, however, during the period since 1968 when desertion has nearly doubled for all three other services, the Navy's rate has risen by less than 20 percent.

In 1970, the Army had 65,643 deserters, or roughly the equivalent of four infantry divisions. This desertion rate (52.3 soldiers per thousand) is well over twice the peak rate for Korea (22.5 per thousand). It is more than quadruple the 1966 desertion-rate (14.7 per thousand) of the then well-trained, high-spirited professional Army.

If desertions continue to rise (as they are still doing this year), they will attain or surpass the WWII peak of 63 per thousand, which, incidentally, occurred in the same year (1945) when more soldiers were actually being discharged from the Army for psychoneurosis than were drafted.

The Air Force—relatively uninvolved in the Vietnam war, all-volunteer, management-oriented rather than disciplinary and hierarchic—enjoys a numerical rate of less than one deserter per thousand men, but even this is double what it was three years ago.

The Marines in 1970 had the highest desertion index in the modern history of the Corps and, for that year at least, slightly higher than the Army's. As the Marines now phase out of Vietnam (and haven't taken a draftee in nearly two years), their desertions are expected to decrease sharply. Meanwhile, grimly remarked one officer, "Let the bastards go. We're all the better without them."

Letting the bastards go is something the Marines can probably afford. "The Marine Corps Isn't Looking for a Lot of Recruits," reads a current recruiting poster, "We Just Need a Few Good Men." This is the happy situation of a Corps slimming down to an elite force again composed of true volunteers who want to be professionals.

But letting the bastards go doesn't work at all for the Army and the Navy, who do need a lot of recruits and whose reenlistment problems are dire.

Admiral Elmo R. Zumwalt, Jr., Chief of Naval Operations, minces no words. "We have a personnel crisis," he recently said, "that borders on disaster."

The Navy's crisis, as Zumwalt accurately describes it, is that of a highly technical, material oriented service that finds itself unable to retain the expensively-trained technicians needed to operate warships, which are the largest, most complex items of machinery that man makes and uses.

NONVOLUNTEER FORCE?

If 45% of his sailors shipped over after their first enlistment, Admiral Zumwalt would be all smiles. With only 13% doing so, he is growing sideburns to enhance the Navy's appeal to youth.

Among the Army's volunteer (non-draftee) soldiers on their first hitch, the figures are much the same; less than 14% re-up.

The Air Force is slightly, but not much better off: 16% of its first-termers stay on.

Moreover—and this is the heart of the Army's dilemma—only 4% of the voluntary enlistees now choose service in combat arms (infantry, armor, artillery) and of those only 2.5% opt for infantry. Today's soldiers, it seems, volunteer readily enough for the tail of the Army, but not for its teeth.

For all services, the combined retention rate this past year is about half what it was in 1966, and the lowest since the bad times of similar low morale and national disenchantment after Korea.

Both Army and Navy are responding to their manpower problems in measures intended to seduce recruits and reenlistees: disciplinary permissiveness, abolition of reveille and KP, fewer inspections, longer haircuts—essentially cosmetic changes aimed at softening (and blurring) traditional military and naval images.

Amid such changes (not unlike the Army's 1946 Doolittle Board coincidences intended in their similar postwar day to sweeten life for the privates), those which are not cosmetic at all may well exert profound and deleterious effects on the leadership, command authority and discipline of the services.

SOULBONE CONNECTED TO THE BACKBONE

"Discipline," George Washington once remarked, "is the soul of the army."

Washington should know. In January 1781, all the Pennsylvania and New Jersey troops in the Continental Army mutinied. Washington only quelled the outbreaks by disarming the Jersey mutineers and having their leaders shot in hollow square—by a firing squad made up of fellow mutineers.

(The Navy's only mutiny, aboard USS *Somers* in 1842, was quelled when the captain hanged the mutineers from the yardarm while still at sea.)

If Washington was correct (and almost any professional soldier, whether officer or NCO, will agree), then the Armed Forces today are in deep trouble.

What enhances this trouble, by exponential dimensions, is the kind of manpower with which the Armed Forces now have to work. As early as three years ago, U.S. News and World Report reported that the services were already plagued with ". . . a new breed of man, who thinks he is his own Secretary of State, Secretary of Defense, and Attorney General. He considers himself superior to any officer alive. And he is smart enough to go by the book. He walks a tightrope between the regulations and sedition."

Yet the problem is not just one of troublemakers and how to cope with them.

The trouble of the services—produced by and also in turn producing the dismaying conditions described in this article—is above all a crisis of soul and backbone. It entails—the word is not too strong—something very near a collapse of the command authority and leadership George Washington saw as the soul of military forces. This collapse results, at least in part, from a concurrent collapse of public confidence in the military establishment.

General Matthew B. Ridgway, one of the Army's finest leaders in this century (who

revitalized the shaken Eighth Army in Korea after its headlong rout by the Chinese in 1950) recently said, "Not before in my lifetime . . . has the Army's public image fallen to such low esteem . . ."

But the fall in public esteem of all three major services—not just the Army—is exceeded by the fall or at least the enfeeblement of the hierarchic and disciplinary system by which they exist and, when ordered to do so, fight and sometimes die.

Take the case of the noncommissioned and petty officers.

In Rudyard Kipling's lines, "The backbone o' the Army is the noncommissioned man!"

Today, the NCOs—the lifers—have been made strangers in their own home, the regular service, by the collective malevolence, recalcitrance and cleverness of college-educated draftees who have outflanked the traditional NCO heirarchy and created a privates' power structure with more influence on the Army of today than its sergeants major.

NO OFFICE FOR THE OMBUDSMAN

In the 4th Mechanized Division at Ft. Carson, Sp 4 David Gyongyos, on his second year in the Army, enjoys an office across the hall from the division commander, a full-time secretary, and staff car and driver also assigned full time. He has the home phone numbers of the general and chief of staff and doesn't hesitate to use them out of working hours when he feels like it.

Gyongyos (with a bachelor's degree in theology and two years' law school) is Chairman of the division's Enlisted Men's Councils, a system of elected soviets made up of privates and Sp 4s (NCOs aren't allowed) which sits at the elbow of every unit commander down to the companies. "I represent, electively," Gyongyos expansively told this reporter, "the 17,000 men on this post."

The division sergeant major, with a quarter-century in the Army, who is supposed to be the division's first soldier and—non-electively—father and ombudsman of every soldier, has an office which is not even on the same floor with the general (or Sp 4 Gyongyos either). He gets his transportation, as needed, from the motor pool. He does not "rap" freely over the phone to the general's quarters.

The very most that Gyongyos will concede to the sergeant major, the first sergeants, the platoon sergeants—the historic enlisted leadership of armies—is that they are "combat technicians." They are not, he coldly adds, "highly skilled in the social sciences."

The soldiers' soviets of the 4th Division represent an experiment in what the Army calls "better communications". Conditions throughout the rest of the Army do not quite duplicate those at Carson, but the same spirit is abroad. And experienced NCOs everywhere feel threatened or at least puzzled.

Most major units of the Army, Navy, and Air Force have some form of enlisted men's councils, as well as junior officer councils. Even the trainee companies at Ft. Ord, Calif. have councils, made up of recruits, who take questions and complaints past their DIs to company commanders and hold weekly meetings and post minutes on bulletin-boards. General Pershing, who once said "All a soldier needs to know is how to shoot and salute", would be surprised.

THE VOCALISTS

As for the officers, said a four-star admiral, "We have lost our voice."

The foregoing may be true as far as admirals are concerned, but hasn't hampered short-term junior officers (including several West Pointers) from banding together into highly vocal antiwar and antimilitary organizations, such as the Concerned Officers' Movement (COM). At Norfolk, the local COM chapter has a peace billboard outside Gate 2, Norfolk Naval Station, where every sailor can profit by the example of his officers.

Inspection—one of the most important and traditionally visible tools of command—is being widely soft-pedaled because it is looked on as "chicken" by young soldiers, sailors, and airmen.

In a move "to eliminate irritants to Air Force life" all major Air Force commands got orders last year to cut back on inspection of people and facilities.

"You just damn near don't inspect barracks any more," said one Air Force colonel, "this is considered an irritant." Besides, he added (partly to prevent barracks theft and partly for privacy) airmen keep the keys to their own rooms, anyway.

Aboard ships of the Navy, where every inch of metal and flake of paint partakes in the seaworthiness and battle readiness of the vessel, inspection is still a vital and nearly constant process, but even here, Admiral Zumwalt has discouraged "unnecessary" inspections.

If officers have lost their voices, their ears have in many commands been opened if not burnt in an unprecedented fashion via direct "hot lines" or "action lines" whereby any enlisted man can ring up his CO and voice a gripe or an obsenity, or just tell him what he thinks about something or, for that matter, someone.

Starting last year at Naval Air Station, Miramar, Cal., sailors have been able to dial "C-A-P-T" and get their captain on the line. The system so impressed Admiral Zumwalt that he ordered all other shore stations to follow suit, even permitting anonymous calls.

At Ft Lewis, Wash., soldiers dial "B-O-S-S" for the privilege of giving the general an earful.

At the Air Force Academy, cadets receive early indoctrination in the new order of things: here, too, a cadet (anonymously, if he wishes) can phone the Superintendent, record his message and, also by recording receive the general's personal thanks for having called.

WORD TO THE WHYS

"Discipline," wrote Sir John Jervis, one of England's greatest admirals, "is summed up in the one word, obedience."

Robert E. Lee later said, "Men must be habituated to obey or they cannot be controlled in battle."

In the Armed Forces today, obedience appears to be a sometime thing.

"You can't give them an order and expect them to obey immediately," says an infantry officer in Vietnam. "They ask why, and you have to tell them."

Command authority, i.e., the unquestioned ability of an officer or NCO to give an order and expect it to be complied with, is at an all-time low. It is so low that, in many units, officers give the impression of having lost their nerve in issuing, let alone enforcing orders.

In the words of an Air Force officer to this reporter, "If a captain went down on the line and gave an order and expected it to be obeyed because 'I said so!'—there'd be a rebellion."

Other officers unhesitatingly confirmed the foregoing.

What all this amounts to—conspicuously in Vietnam and only less so elsewhere—is that today's junior enlisted man, not the lifer, but the educated draftee or draft-motivated "volunteer"—now demands that orders be simplistically justified on his own terms before he feels any obligation to obey.

Yet the young soldiers, sailors and airmen might obey more willingly if they had more confidence in their leaders. And there are ample indications that Armed Forces junior (and NCO) leadership has been soft, inexperienced, and sometimes plain incompetent.

In the 82d Airborne Division today, the average length of service of the company commanders is only 3½ years.

In the Navy, a man makes petty officer 2d class in about 2½ years after he first enlists. By contrast, in the taut and professional pre-WWII fleet, a man required 2½ years just to make himself a really first-class seaman.

The grade of corporal has practically been superseded in the Army. Sp 4s hold most of the corporals' billets. Where the corporal once commanded a squad, today's Army gives the job to a staff sergeant, two ranks higher. Within the squad, it now takes a sergeant to command three other soldiers in the lowly fire-team.

"This never would have happened," somberly said a veteran artillery sergeant major, "if the NCOs had done their jobs . . . The NCOs are our weak point." Sp 4 Gyongyos at Ft Carson agrees: "It is the shared perception of the privates that the NCOs have not looked out for the soldiers."

When B Troop, 1st Cavalry, mutinied during the Laos operation, and refused to fight, not an officer or NCO raised his hand (or his pistol) or stepped forward. Fifty-three privates and Sp 4s cowed all the lifers of their unit.

"Officers," says a recently retired senior admiral, "do not stand up for what they believe. The older enlisted men are really horrified."

Lieutenant William L. Calley, jr, an ex-company clerk, was a platoon leader who never even learned to read a map. His credentials for a commission were derisory; he was no more officer-material than any Pfc in his platoon. Yet the Army had to take him because no one else was available. Commenting on the Calley conviction, a colonel at Ft Benning said, "We have at least two or three thousand more Calleys in the Army just waiting for the next calamity."

Albert Johnson, the tough Master Chief Petty Officer of the Atlantic Fleet, shakes his head and says: "You used to hear it all the time—people would say, 'The Chiefs run the Navy.' But you don't hear it much any more, especially from the Chiefs."

A HARD LOT AT BEST

But the lot of even the best, most forceful leader is a hard one in today's military.

In the words of a West Point lieutenant colonel commanding an airborne battalion, "There are so many ways nowadays for a soldier that is smart and bad to get back at you." The colonel should know: recently he reduced a sergeant for gross public insubordination, and now he is having to prepare a lengthy apologia, through channels to the Secretary of The Army, in order to satisfy the offending sergeant's congressman.

"How do we enforce discipline?" asks a senior general. Then he answers himself: "Sweep it under the rug. Keep them happy. Keep it out of the press. Do things the easy way: no court-martials, but strong discipline."

Toward the end of the eighteenth century, after years of costly, frustrating and considerably less than successful war, Britain's armed forces were swept by disaffection culminating in the widespread mutinies in most of the ships and fleets that constituted England's "wooden walls" against France.

Writing to a friend in 1797, Britain's First Lord of the Admiralty said, "The Channel Fleet is now lost to the country as much as if it was at the bottom of the sea."

Have things gone that far in the United States today?

The most optimistic answer is—probably not. Or at least not yet.

But many a thoughtful officer would be quick to echo the words of BGen Don A. Starry, who recently wrote, "The Army can defend the nation against anything but the nation itself."

Or—in the wry words of Pogo—we have met the enemy, and they are us.

[From the Los Angeles Times, May 2, 1971]

POLICE SHOTS—KILLING NAGS CONSCIENCE IN SEATTLE

(By Richard T. Cooper)

SEATTLE.—Larry Eugene Ward, while he lived, was as anonymous as a particle of smoke, an invisible struggler in the slippery world of the ghetto.

Alive in Seattle's predominantly black "Central Area," he was submerged in a culture so amorphous that people often go unnoticed even by census-takers. Dead, he has gained a certain nagging fame.

Ward, 22, twice wounded and three times decorated by the Army for combat service in Vietnam, was shot to death by police early May 15, 1970, as he alleged fled from the scene of a bombing attempt.

How he came to be there, and the manner of his dying raised questions that, almost a year later, still trouble this city's black community and at least some white officials.

DISTURBING ASPECTS

Several participants, including police, now refuse to comment, but interviews with others who were involved and examination of official records and other documents reveal these disturbing aspects of the incident:

All available evidence indicates that Ward was recruited to plant the bomb by a convicted robber and parole violator who was acting as an undercover informant for the Federal Bureau of Investigation and the Seattle police.

Ward had no known record of involvement with radical or violent groups.

"The police wanted a bomber and I got one for them. I didn't know Larry Ward would be killed," the informant later told an official of the Washington State Penal System.

The informant allegedly had tried earlier to interest a former Black Panther in planting bombs at two different locations.

LAST-MINUTE CHOICE

Ward, according to a later sworn statement by the informant, was chosen to plant this bomb only at the last minute, when police had already set their trap and the former Panther could not be found.

Police say they shot Ward to prevent his escape after he ignored orders to halt, but sworn testimony by the officers involved indicates that two offiers had overtaken him in their car as he fled down the sidewalk and two more were in position just ahead. Additional police units were stationed nearby.

Further, police at the scene knew Ward had been delivered there by the informant. They also knew the informant was waiting in his car just down the street from where Ward was killed.

A coroner's jury investigated the incident and the majority ruled—3 to 2—that Ward had died by police gunfire, "by criminal means."

NO PROSECUTION

This phrase encompasses murder and manslaughter but not excusable or justifiable homicide, the jurors had been instructed. It was the first such verdict against a Seattle policeman in memory, but local officials have declined to prosecute.

Requests for a federal investigation under civil rights laws, first made by the Ward family's lawyer on May 29, 1970, have also produced no results.

The informer was released from jail after he offered to help authorities solve the bombings and he remained free even after being found guilty of an armed robbery committed while on parole from another felony conviction.

A parole officer who wanted to arrest the informer after he failed to appear in court for sentencing on the robbery charge was asked by the FBI and others to take no action. The parole officer agreed, though he had complained earlier that the informant should not have been released.

At the shooting scene, the informant was allowed to drive away and he remained at large for about four months. A bench warrant for his arrest was not issued until June 17, 1970, court records show, more than a month after Ward's death.

UNUSUAL PROCEDURE

Normally, a bench warrant would have been issued when the defendant first failed to keep a court date, in this case in late April, almost a month before the shooting.

When the informant finally was rearrested last September, he was processed hurriedly through the King County (Seattle) Jail and sent to the state prison because "his safety requires immediate transfer," according to prison records.

Later the informant was quietly moved to a federal prison in another part of the country, again for his own safety. "He was a marked man" after his role in the Ward shooting, a knowledgeable official said privately.

While prosecutors took no action in the wake of the coroner's jury verdict, Seattle police reacted to it by threatening a protest strike, there was also wide praise for the minority conclusion that Ward's death was "not by criminal means."

CORONER CRITICAL

Among the critics of the jury was King county Coroner Leo Sower, who had conducted the inquest.

To much of the black community and to some within the police department, the case illustrates what they see as a greater tolerance of deadly force used against blacks than against white suspects.

Coroner's jury foreman Edward Russell, 43, who is black, said recently, "it seemed little priority was given to taking Ward alive. It was almost an afterthought."

"They had enough time and advance information to do a better job of planning and putting men into strategic place," he said. "There was enough evidence to show negligence on the part of the officers."

Several of those interviewed about the incident noted that earlier last year, when white radicals fled after planting a bomb near the University of Washington campus, Seattle police chased and captured them without firing.

ENTRAPMENT ISSUE

The Ward case also raises questions about entrapment and other problems when law enforcement agencies use undercover operatives, particularly where police are under public or political pressure.

Entrapment, which is illegal, occurs when police or their agents solicit or encourage a person to commit a crime he presumably would not have committed without the encouragement.

Before the Ward incident, Seattle had been plagued by a series of bombings, more than 60 in the previous two years, according to one count.

The homes of two white state legislators living in the Central Area had been bombed. So had the Morris Handcastle Real Estate office at 24th Ave. and Union St., where Ward was allegedly lighting the bomb when police closed in.

Hardcastle's, fairly or unfairly, is regarded by the black community as deeply involved in maintaining Seattle's pattern of segregated housing. It is something of a symbol.

Public pressure for a solution to the bombings had become intense early last year and the authorities were making little progress, knowledgeable sources recall. It was then that the FBI and police began their relationship with the informer.

STILL A MYSTERY

A year later, police concede they still know almost nothing about who was behind all the bombings.

It is generally agreed, however, that Larry Ward was not.

He had been honorably discharged from the Army on March 27, 1970—only seven weeks before his death.

One of the youngest of nine children, Ward grew up in a fatherless but comparatively stable family. His mother, Gertrude, for many years held both day and night jobs to support her children. Larry's oldest brother, Sgt. Bobrie Ward, 37, is a 16-year veteran of the Air Force. His oldest sister, Mrs. Shirley G. Brown, is married, works in a Seattle hospital, and has a daughter in college.

Of the other children, only Joey, 19, a draftsman for the Burlington Northern Railroad, and 15-year-old Janet, a student at Garfield High School, now live at home.

Larry also attended Garfield. He dropped out, then obtained his diploma in the Army. He served 15 months in Vietnam, winning two Purple Hearts and an Army commendation medal.

According to his family, Ward had spent the weeks after his discharge "catching up on his dating," staying up late watching television, and hanging around a nearby pool hall with friends. He had applied for several jobs, however, and was scheduled to take a Post Office employment exam the day after his death.

IGNORED PANTHERS

Some of his friends "tried to get Larry to join the Panthers before he went into service but he wasn't interested," Mrs. Ward says, "He wasn't the type of boy who was uptight about blacks or stuff like that. He liked a good time."

"Afterwards," said Larry's sister, Shirley, a police officer "had the nerve to tell me my brother was a nice guy, no bad record, never been involved in anything political, that it was just something that happened."

"We weren't after your brother," she quoted the officer as saying.

Joey who is openly bitter, seemed to express what others feel when he said, "The simple fact is they didn't have no bomber and they needed one to take to court.

"They meant to kill the bomber but they didn't know it would be Larry."

The police informant who has admitted luring Ward into the trap is a 26-year-old black convict named Alfred R. Burnett, described by his parole officer as "a supermanipulator . . . the kind of guy who could always slick some other guy into doing his dirty work."

OFFERED "DEAL"

The parole officer, Richard Hooper, had been Alfie Burnett's counselor when he was in prison for burglary about five years ago and had his case when Burnett, out on parole, was arrested for robbery late in December, 1969.

Early in February, 1970, almost two months before Larry Ward was to leave the Army, Burnett asked to see his parole officer.

"He said he had information as to who was behind the bombings in the Central Area," according to Hooper. "What he was after was to make a deal: let him out of jail and he'd tell who was doing it."

"To tell the truth, I didn't believe him," Hooper said in a recent interview, noting that nothing in Burnett's background indicated contact with the militant groups that are widely suspected of instigating the bombings.

RELEASED ON BAIL

Hooper passed Burnett's proposal along to the King County prosecutor's office, however, and on March 6, 1970, Burnett was released on $5,000 bail. Security for the bond was put up by a well-known former leader

of the Panthers in Seattle, Curtis Harris, though curiously, Harris says he did not know Burnett personally at the time.

Since being charged with a felony is a technical violation of parole, Hooper had filed a "detainer" making Burnett ineligible for bail, but had removed it late in February on orders from his superiors.

Court records indicate Burnett failed to appear for his March 24 trial date but on March 30 he appeared and pleaded guilty. Sentencing was set for April 22 and Burnett was allowed to remain free.

Burnett did not appear for the sentencing, Hooper recalls. Normally, an arrest warrant would have been issued immediately, but in this case action was deferred not once but several times over the succeeding weeks.

ARREST PREVENTED

As his parole officer, Hooper was unhappy about the situation and decided finally to arrest Burnett himself. The FBI, the police, and the prosecutor's office asked him to wait, however. The FBI said Burnett was feeding them information, Hooper recalls.

Burnett's movements while he was free are not fully known, but a reasonably clear picture of his role in the Ward incident can be pieced together from his sworn statement to the family lawyer, from interviews with some of those directly involved, and from testimony at the inquest.

He was feeding police a series of tips about bombings. Stakeouts were arranged, but each proved fruitless.

Burnett was also talking about bombings to people in the black community, including Jimmy Davis, the former Panther and Ward's close friend.

BOMBING PROPOSAL

It was sometime in April that Burnett told Davis "he knew a way we could pick up some money by bombing the Model Cities office," Davis says. "I just said it sounded all right and I might think about it."

Davis is the one Burnett had chosen to plant the bomb at Hardcastle's too, though he may never have mentioned the specific target. And Davis had spoken about Burnett's proposition to Ward.

On the night of May 14, Burnett says in his sworn statement, the police called and "they told me it would be set up around 2:30 (a.m., May 15).

Burnett immediately began looking for Davis, but could not find him. "I looked all over and every time I would be here, he would be somewhere else, and we never got in touch.

"Time was running short," Burnett said in the statement, "so I went to his friend's house where he usually would be at." Joey Ward remembers being awakened by Burnett's auto horn and he summoned Larry, who was also sleeping.

STREET CONVERSATION

Ward and Burnett had a conversation on the street. It was then about 2:20 a.m.

According to Burnett, Ward hinted that he knew about the bombing plan and "I says, 'Well, it is going off tonight, it's supposed to blow apart in half an hour,' and he (Ward) said, 'Well, can't you find Jimmy?,' and I says, 'No,' and he says. 'How much money did he give you?' "

The amount was $75 and Burnett told Ward, "I will give it to you along with the bomb." He quotes Ward as saying, "I will do it."

Burnett says he and Ward then drove past the Hardcastle office several times. They stopped at a gas station and Burnett, making an excuse, called the authorities one last time.

"I distinctly told them that it was Ward instead of Davis," Burnett said in his statement. "I told them he was unarmed, and they asked me what kind of car I was in, what my license number was, and what color it was."

Burnett said he could not remember who he talked to in the Intelligence unit but that he used a telephone number he had been given in advance.

Burnett said he let Ward out of the car at Hardcastle's on the corner of 24th Ave. and Union, then drove about half a block north on 24th to wait.

The area along Union is largely commercial; 24th Ave. at that point is a narrow street lined with modest houses.

As they later testified at the inquest, tactical squad police officers Frederick M. Aesquivel and Norman L. Putnam Jr., also waited, sitting in their unmarked car farther north down 14th Ave. ahead of Burnett.

They said they could see everything that followed.

Two other men from the tactical unit, officers John R. Hannah and John W. Garner, were watching from a closer vantage point. They were in Garner's private automobile in the parking lot of the Liberty Bank diagonally across the intersection from Hardcastle's.

"At the time the area was just as still as could be," Garner testified later. The officers on the stakeout were linked directly to each other by radio, as well as to the police dispatcher, and records show they talked back and forth as the incident progressed.

RADIO REPORTS

Hannah and Garner saw Burnett's car pass several times. They reported it by radio and were told the informant was driving.

They saw Ward approach Hardcastle's, circle the building and scan the street carefully, then kneel and place a package by the front door.

Moments later, they said, a flare of light appeared and they assumed the bomb had been lit. Garner described what he saw on the radio, opened the car door, and yelled "police officers, hold it right there."

Garner testified that Hannah did not open fire with his shotgun until Ward started running, though police experts testified that two charges from the gun struck the doorway area.

As Ward ran north on 24th Ave. toward Burnett's car, Hannah and Garner pursued him in their vehicle, Hannah firing again.

When they closed to within about 60 feet of him, Ward, still running, stepped off the sidewalk. The officers say they feared he would run between the houses and Hannah again shouted for him to stop.

Ward veered back onto the sidewalk, half turning his upper body toward them, the officers testified. Garner said he thought Ward was going to fire at them, though no weapon was visible and none was found in the area.

Hannah fired once more. The charge hurled Ward off the sidewalk, killing him almost instantly. Two large buckshot pellets had pierced both lungs and his heart. Other pellets had inflicted lesser wounds.

Officers Aesquivel and Putnam, meanwhile, had closed in from in front of Ward, allowing Burnett to drive away. The two officers had stopped their car in the middle of 24th Ave. and, Aesquivel testified, were preparing to shoot Ward themselves when Hannah's last shot struck.

The officers indicated they had not coordinated their activities to assure capturing Ward alive because, they said, Aesquivel and Putnam had not informed Hannah and Garner of their presence at the scene.

Nor was the exact location of other officers assigned to the stakeout known, they said.

SAW MANY POLICE

Burnett, in his statement, said about four police cars passed him closing in on Ward when the shooting started and he saw six or eight men he believed to be plainclothes officers on foot near the real estate office when Ward started running.

The tactical unit officers who testified at the inquest said they had learned of the impending bomb attempt when they reported for duty on May 14. The information was from the FBI, they were told.

Later that night, additional information was forwarded to the tactical units assuring them the tip was reliable.

Then, at about 2:20 a.m. on May 15, the police radio dispatcher testified, he received a call on the department's special telephone line to the FBI.

The dispatcher said he was told the "informant was driving the suspect car and that the suspect had a bomb, that it was three sticks of dynamite taped together, and that he was going to try to stall the suspect until 2:30 and that the suspect was going to bomb the Morris Hardcrest Realty."

The FBI did not say the bomber would be unarmed, according to the dispatcher.

The head of the police intelligence unit, Capt. John Williams, was notified and he assured the dispatcher that a stakeout had already been set up.

Capt. Williams now refuses to discuss any aspect of the incident; he called in a stenographer and turned on a tape recorder recently when a reporter sought to interview him.

UNANSWERED QUESTIONS

In this case, however, questions have survived without answers for almost a year.

Ed Russell, foreman of the inquest jury, said recently, "I think there is still a feeling that something may happen, but people don't have their hopes too high."

What Russell's "something" might be is unclear. King County officials could decide to investigate further, even to indict some of those involved. So could federal authorities.

Neither possibility is considered likely, however, and as time passes Larry Ward's fate becomes only another bitter raindrop falling on the black community.

PATROLLING THE EMPIRE—THE NEW U.S. COUNTERINSURGENCY

(By Stephen B. Connolly and William Lightbourne)

Oderint, dum metuant. ("Let them hate so long as they fear.") Lucius Accius, quoted in Cicero's *Phillipic*, I. 14.

It is a relatively simple matter for a nation with immense economic power to acquire a network of client states, rule them through indigeneous comprador classes, and integrate their economies with that of the paramount power in a raw-material and market kind of relationship. If that paramount power has, in addition to its economic power, adequate technological capabilities, it is assured of maintaining the client network against the incursions of other would-be paramount powers. However, it is quite another matter to maintain the network in the face of determined opposition on the part of the neocolonial populations. It is just such a determined opposition that has involved the U.S. in a decade-old war in the paddies and jungles of Indochina—a war costing hundreds of thousands of lives, and hundreds of billions of dollars.

The U.S.'s network in Southeast Asia was established in the aftermath of World War II, the War having caused the erosion of Dutch and Japanese influence in the area while enhancing that of the U.S. Following the French defeat at Dienbienphu, the Indochinese area was added to the U.S. defense perimeter in Asia, which then stretched from Korea to Thailand. This perimeter was to be defended on the basis of Truman's "cold war" strategy—that is, any attempt on the part of the Soviets (and later the Chinese) to violate the perimeter would be met with American force. It was this cold war policy—created by Truman and adhered to by his successors—that led the U.S. to a major war in Korea, support of a counter-revolutionary campaign in the Philippines, the brink of

war during the Quemoy-Matsu crisis, and the Vietnam tragedy. However, the fact that Vietnam occurred as a result of the same essential political premises as occasioned Korea should not be allowed to obscure the fact that the military strategies which have been developed and implemented in Vietnam make this conflict very much more important than just another "cold war" gone hot.

There are any number of facts about the military campaign in Southeast Asia that are well known, and often commented upon—among them that: the U.S. has dropped more bombs in Indochina than were dropped in the entire Pacific Theatre of World War II; that the U.S. has had over forty thousand of its young men killed in this war; that this has been the longest war in American history; etc. The list of facts to attest to the magnitude of the American effort in Vietnam is endless. Yet, even as the U.S. and its allies march into another "neutral" nation, we are left with the feeling that if there was ever a bottomless pit, this is certainly it. But viewing the magnitude of the efforts and the paucity of the visible victories leaves a series of unanswered questions. With all of this effort, why hasn't the war been won? Have the strategic planners gone completely insane? Are the U.S.'s military commanders total incompetents? And in the final analysis, is this kind of anti-guerrilla war in Asia feasible under any strategic conditions? To deal with these questions it would be necessary to consider the specific strategies that have been employed in the Vietnam war—and these usually haven't been adequately considered, at least not by "critics" of the war. This is largely attributable to the fact that most of the critics view the entire war as immoral and unconscienable—that is, it is a political conflict among the Vietnamese people, and should be settled as such, without the benefit of U.S. war technology. To the extent that some of the war critics are now beginning to deal with the strategies and tactics of the war, the tendency has been to examine those aspects of the strategy that would make the U.S. commanders culpable of "war crimes." They may very well be culpable, but it is still important to examine the general nature of the strategies used in Vietnam—important for three reasons. (A) The strategies have changed twice, a fact that is not generally appreciated; (B) there are many in the U.S., particularly radicals, who argue that the war has come home—that tactics developed in Southeast Asia are currently being practiced in the United States; and (C) a comprehension of the strategies currently being employed in Indochina serves as a very useful model for predicting the future of America's foreign policy, not only with the members of the client network, but also with the enemies of the network.

THE NEW FRONTIER AND AMERICAN POLICY IN THE THIRD WORLD

Among the changes that John Kennedy brought to U.S. politics in 1961, probably none was so far reaching as the changes in the relations of the U.S. and the "Third World." This revision stemmed from necessity rather than from style. The immediately preceding years had seen in the Third World, among other unfavorable developments: the success of revolutionary movements in Indochina (1954), and Cuba (1959); and at the time of Kennedy's accession, Algerian revolutionaries were bringing their liberation struggle to a successful conclusion. It would be no exaggeration to suggest that in 1960 U.S. policymakers viewed the changing situations throughout the underdeveloped world with a dismay that approached horror—not only because these revolutionary victories had added numbers to the "other side," but also because the new regimes that emerged were openly bent on promoting and aiding similar revolutions throughout the Third World.

In 1961, the view from the White House was that not only might such revolutions prove contagious, but that the U.S. was largely unprepared to prevent or terminate them. In 1961, Eisenhower's approach to defending the Empire was seen as both prohibitively expensive and basically impractical—that is, neither nuclear threats nor the use of World War II-type conventional force seemed a viable counter-force to organized and sophisticated guerrilla revolutionaries. In the aftermath of the CIA's Bay of Pigs disaster in 1961, and the "almost" Pathet Lao victory in Laos in the same year, Kennedy was determined that the U.S. should develop and embark upon a strategy capable of inhibiting the spread and the success of guerrilla movements.

The strategy which grew out of this determination was to be known as "counterinsurgency," and in its most elemental form, Kennedy's counterinsurgency strategy amounted to a combination of: military; para-military; social; economic; psychological; and "civic action" operations, to be carried out by the U.S. and its clients against insurgency movements. ["Insurgency" is used here to refer to "all types of non-conventional forces and operations. It includes guerrilla, partisan, subversive, resistance, terrorist, revolutionary and similar personnel, organizations and methods . . . (It) includes acts . . . conducted for the purposes of eliminating or weakening the authority of the local government." U.S. Army Field Manual, FM-31-15, *Operations Against Irregular Forces*, p. 3.] As Kennedy envisaged counterinsurgency, and as he integrated the strategy into his foreign policy, the military was not intended to be, or become, the primary factor. Rather, the strategy which he envisioned was based upon the belief that nationalist revolutions in the Third World were the direct result of the crushing socio-economic deprivations that existed in those areas. Kennedy wished for a strategy that would win for the United States—and its client regimes—the "hearts and minds" of the people. Thus the emphasis was to be placed on "benevolent" programs designed to ameliorate the worst of the deprivations, or more accurately what Washington perceived as the most pressing problems and conflicts. The U.S. military's role was to be restricted to the utilization of highly trained military specialists who were to serve as trainers and advisers to the national militaries in America's client network, thus saving the U.S. the immense cost of maintaining a large occupation force in crisis areas.[1]

COUNTERINSURGENCY IN INDOCHINA

Among Kennedy's advisors there was some disagreement with this "hearts and minds" approach to counterinsurgency, notably on the part of economist Walt W. Rostow. From Rostow's perspective, such socio-political reform measures as Kennedy envisioned were not feasible in any situation in which there was an on-going insurgency movement. On the one hand, argued Rostow, such a situation was far too unstable to permit capitalist "growth" to proceed, and on the other, such reforms as might be affected would likely be subverted by an efficient guerrilla movement.[2]

In 1959, the Vietnamese National Liberation Front (NLF) had renewed the liberation struggle in South Vietnam that had been suspended in 1954. By the first year of Kennedy's Presidency, the regime of Ngo Dinh Diem faced a perilous future, and it was clear that without sustained U.S. assistance his government would fall. Viewing this Vietnamese crisis, Rostow argued that only a large-scale commitment of U.S. combat forces could save the Saigon government, but Kennedy sided with his "hearts and minds" strategists and entrusted his Vietnam policy to Roger Hilsman's State Department Bureau of Research and Intelligence.

In response to the immediate NLF-guerrilla threat, the Kennedy government committed U.S. military and CIA advisers to train and assist the Army of the Republic of Vietnam (ARVN). The rationale for this military commitment, wrote Hilsman, was that Kennedy appreciated that if the other efforts of the U.S. were to succeed then the U.S. would have to be able to guarantee the physical security of rural and urban residents. If it could be demonstrated to the indigeneous population that they could be effectively protected from the NLF, then the possibility would be enhanced that they would make the "choice of refusing to cooperate" with the enemy. In this manner, Hilsman reasoned, the guerrillas would be denied their most valuable resource—the rural population.[3]

The long-term, non-military aspect of the Kennedy program in South Vietnam was to institute a "system of government services and assistance" that would end the traditional isolation of the rural areas from Saigon—the intention being to transfer the dependence of the rural population away from the guerrillas to the central authorities. Thus, *the de-emphasis of the role of the military in Kennedy's counterinsurgency strategy was clearly qualitative rather than quantitative.* That is, their physical presence was considerable while their role was auxiliary.

While the practice of counterinsurgency was continuing in Vietnam, the development of the model was progressing in the United States. Tens of thousands of civilian and military officials were being sent through counterinsurgency centers at Fort Bragg (N.C.), Fort Gurlick (Canal Zone), Quantico (Va.), and the Industrial War College in Washington, prior to being posted abroad. As a supplement to government research and analysis centers, the Kennedy government distributed large counterinsurgency research grants, both to universities and private research centers in the U.S. Much as the Eisenhower administration had made use of the universities for nuclear research during the 1950's, Kennedy (vis the Department of Defense and the CIA), promoted counterinsurgency studies at universities such as Columbia, Berkeley, American University, and Michigan State, (to name only the foremost). Private research centers were also to be the beneficiaries of this new military science. Scholars at the RAND Corporation, the Institute for Defense Analysis, and the Stanford Research Institute, became the government's primary civilian technicians in the field of counterinsurgency strategy and tactics. (The largest of these institutions, the RAND Corporation, is a private research center initially established to serve the Air Force. In recent years it has been expanded from weapons system-analysis to the world's largest counterinsurgency center. Its trustees are drawn from private industries, universities, and the media. Located in Santa Monica, California, RAND's staff includes hundreds of social, behavioral, and natural scientists, engineers, etc. "Most of its projects," according to Dartmouth's Lawrence Radway, "are begun under contract with the armed forces . . ." In all military projects, the RAND staff has access to the most classified of information, and the confidence of highest of the nation's leaders. For further information: Lawrence Radway, *Foreign Policy and National Defense*, (Palo Alto: Scott, Foresman and Co., 1969).)

By 1963, the Kennedy administration had created a "round-robin" type structure, employing both behavioral asocial scientists and the technicians of the physical sciences. Commenting on this alliance in his *American Power and the New Mandarins*, Noam Chomsky described it as one in which "engineers"

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dogenous" (internally, from the local popu the behavioral social scientists design and implement "experiments" to test Third World peoples and their resources against newly-devised control mechanisms. Then, (as today), it was not uncommon to find a RAND social scientist or a Berkeley political scientist working alongside U.S. Army military advisory teams in the hamlets and rural villages of Southeast Asia. Nor was it surprising that secretly-funded CIA conduit foundations should have set up experimental "control laboratories" throughout South America, utilizing the most liberal of social scientists to study security-related behavior patterns of the indigena, (i.e. American University's Project Camelot).

In spite of the government's emphasis on reform programs, and the encouragement of civilian groups and agencies in the counter-insurgency field, a possibly inevitable mutation of the strategy began to occur—particularly in the realm of practical application of the strategy. As counterinsurgency programs became an increasingly important part of the operations of the Department of Defense, and as spending on these programs continued to increase within the military establishment, military leaders began to reject the notion that theirs should be the secondary role in the strategy. As General David Shoup, a former Commandant of the Marine Corps has noted: Vietnam had become an area in which "top ranking Army officers wanted to project Army ground combat units . . . to test plans and new equipment."[4] Thus, the military leaders at the Pentagon wished to do the things that Kennedy wished to avoid—turn the Vietnam war into an American war.

As Kennedy still saw the role of the U.S. military in less-developed countries, it was to be limited to an advisory and training function. The various national armies would then be at the disposal of the local U.S. Chief-of-Mission and his military experts. Or, as Robert McNamara expressed it:

"The United States cannot be everywhere simultaneously. The balance of forces and the variable alternatives which challenge us in the changing contemporary world can only be conquered with faithful friends, well-equipped and ready to carry out the duties assigned to them . . . The Military Aid Program . . . helps in maintaining military forces which complement our own armed forces.[5]

This U.S. military role was advocated to Kennedy by two counterinsurgency experts: the State Department's Rober Hilsman, and the British Institute of Strategic Studies' Sir Robert Thompson.

These two strategists felt, as did Kennedy, that insurgencies, were internal matters which could never be completely defeated by the mere use of force. In their view, if the U.S. were to rely solely upon force in its campaign against the NLF, not only would the "infected population" be alienated from the Saigon regime but it might very well be made more sympathetic to the insurgents. [This alienation would result from the negative aspects stemming from the pursuit of a military solution—the destruction of rural resources, crops, civilians, etc.] The permanent defeat of the NLF, Hilsman and Thompson argued, could only be achieved by the application of political and social programs "to which military measures were subordinated." The actual situation in Vietnam, they had discovered, was one in which the U.S. advisers were applying a shot-gun approach; that is, they were directing the available military force indiscriminately against all areas in which the NLF was operative. Because of the over-extended and diffuse nature of this approach, the entire anti-NLF campaign was becoming less and less effective, as "the insurgency movement had infected all areas of the countryside."[6]

In light of the power of the NLF, Thompson advised that if the U.S. were to avoid an imminent failure, it should withdraw the ARVN troops to whatever secure base areas then remained, and begin the construction of what he termed "strategic hamlets". A decade before, Thompson had advised the British Imperial General Staff that if it was to defeat the Malayan insurgents it would first have to secure a minimal number of base areas. In Vietnam, Thompson was even more convinced of the need for strategic hamlets. In his view, if the U.S. did not direct the Vietnamese campaign in that direction, all future efforts to defeat the NLF would be both expensive and ineffective.

This strategic hamlet policy was based upon what later became known as the "oil blot principle". The principle, as Thompson presented it, was that the U.S. and the Government of Vietnam (GVN), should select those areas, both urban and rural, with the fewest number of active insurgents and begin fortifying the villages and hamlets in the selected areas. [This would necessitate "starting small", for as Thompson noted in his *Defeating Communist Insurgency*, most of South Vietnam's rural provinces were under the effective control of the NLF.] Within these hamlets, the U.S. and GVN agents should concentrate their sociopolitical programs, and "priority in respect to security measures should be given to the more highly developed areas of the country." The concentration of U.S.-ARVN counterinsurgency measures in these select areas was not seen by Thompson as a loss factor. To the contrary, he maintained, there would be many occasions when the U.S. would have to accept the fact that the guerillas would maintain "control over remote areas" as a result of "infiltration across inaccessible borders". If the U.S. were prepared to accept this and initiate the process of securing its base areas, Thompson believed that there would then be an increased chance of implementing successful socio-political programs. Once these base areas were effectively controlled, the U.S. and GVN could begin the expansion of their counterinsurgency operations outwards, into the areas previously controlled by the NLF.[7]

L. B. J. AND COUNTERINSURGENCY

In 1964, the obvious paralysis of the ARVN, (and the fact that it was being used more to further political ambitions of its individual generals than to fight the NLF), convinced Lyndon Johnson that the Saigon government would not survive without a massive increase in U.S. support and combat functions there. Such an extension of the direct military role of the U.S. was enthusiastically supported by such advisers as Rostow, national security expert McGeorge Bundy, and the Defense Department's McNamara. [According to Hilsman, it was essentially Rostow's argument that had persuaded the President on this course.][8] The rationale of this extension of the war was clearly stated by General William Westmoreland, when he said: "Everything a nation does—any nation—must be behind the protective shield provided by its military services."[9] Thus, the U.S. combat role in South Vietnam, and the bombing of North Vietnam, were both intended as the "protective shield" behind which the Saigon government could embark on those stop-gap socio-political reforms intended to win for it the "hearts and minds" of its people.

In January of 1964, Hilsman left the government in opposition to the new direction being taken in counterinsurgency strategy, and with his departure the management of the policy was removed from the State Department to the Pentagon and National Security Council. [This managerial change was to affect not only the Indochina war, but largely marked the eclipse of the State Department as a significant participant in foreign policy development and execution.] Military supervision of the U.S.'s Third World policy was consistent with Rostow's belief that in the final analysis, the U.S. military would provide for those underdeveloped countries which were "besieged by communist insurgency," the "security required for law and order, nation-building, and all those other requisite conditions of the 'take-off' stage of (capitalist) development and growth." Although the Johnson Presidency saw the commitment of U.S. forces in areas other than Southeast Asia, it was in his continuous and increasing allocation of combat forces in Vietnam, between 1964 and 1967, that he demonstrated his faith in the Rostow-Bundy-McNamara counterinsurgency strategy.

Although the Johnson government greatly increased the use of U.S. military force throughout the Third World, it nonetheless continued to try to use this force as a "protective shield." Despite the bullets, bombs and napalm—despite the bloody and expensive "search and destroy" missions—the primary objective remained, as it had been, under Kennedy, the stabilization of these client areas by means of selective improvements in sociopolitical conditions. [To be sure, improvements that were to result from such nations experiencing a capitalist "take-off"—all fully consistent with the interests of the Metropolitan powers.]

The increased U.S. role in the shooting war increased the visible costs of Vietnam to the American people. The subsequent erosion of popular support for U.S. involvement, coupled with the psychological defeat suffered by the U.S. at the time of the 1968 Tet offensive, combined to cost Johnson the Presidency. His successor was to significantly alter the nature and tactics of counterinsurgency. Prior to his election, Richard Nixon had written an article in *Foreign Affairs* in which he described what he saw as being "Asia After Viet Nam."[10] His vision revolved around the future lessening of the highly visible U.S. presence in the Far East—this to be accomplished in the long-run by encouraging America's Asian allies, particularly Japan, to take their places on the front lines of the Pacific Rimlands as a bulwark against future insurgent challenges to U.S. client control. What Nixon saw as being the short-range prerequisite to this goal was a successful conclusion of the Vietnam war—successful to the extent that it allowed the U.S. to create secure client governments in Saigon and Bangkok. This was, (and remains), the task of his new counterinsurgency program—the so-called "Vietnamization" policy.

In the years prior to Nixon's assuming office, there had been, on the part of a number of influential social scientists at private and academic research centers, a growing rejection of the "hearts and minds" counter-insurgency strategy of the Kennedy government, and of the indiscriminate "big stick" strategy of the Johnson government. These scholars were far more sympathetic to the positions enunciated by the new President's principal foreign policy adviser, Harvard's Henry Kissinger, who as early as 1956, had written:

"The problem of the uncommitted states cannot be solved . . . merely by an economic grouping of powers. It is related to the whole U.S. posture. Anti-Americanism is fashionable today in many parts of the globe . . . We should of course seek to allay legitimate grievances, but we would be wrong to take every criticism at face value . . . *Popularity is a hopeless mirage in a situation which is revolutionary* because old values are disintegrating and millions are groping for a new orientation. For this reason it is impossible to base policy solely on what people desire; a revolutionary situation is distinguished by its dissatisfactions, which join in protest against the existing order but which can

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propose no clear substitute. This is the reason why most revolutions have been captured by a small minority which could give a sense of direction to popular resentment. *In the uncommitted areas popularity may therefore be less important than respect.*" [11]

These social scientists presented an analysis, dealing with the defeat of insurgency movements, that differed in several respects from the Rostow-Bundy-McNamara and the Hilsman-Thompson strategies. Essentially, while they accepted the contention that socio-economic deprivation creates political resentments, they argue that where an insurgency system of any magnitude existed it would have to be systematically destroyed before meaningful socio-political reforms should be undertaken. The scholar who has been most responsible for the new Nixon strategy is a systems analyst, Charles Wolf, Jr., of the RAND Corporation. [Since 1961, the going method of analysis in the Pentagon has been the quantitative approach. According to Morton Helperin, *Contemporary Military Strategy*, pp. 33–42, the quantitative approach incorporates two techniques as tools for investigation. The first one applied by defense strategists is defined as systems analysis. It is applied by an investigator who wishes to assess the effectiveness of military weapons and strategies as complete systems. The second technique is the cost-effectiveness comparative method—known in years past as the "biggest bang for the buck."]

ENTER THE NEW MACHIAVELLIANS

In two important, (and essentially ignored), works: *American Policy and the Third World*, and *Rebellion and Authority: An Analytic Essay on Insurgency Conflicts*, [The latter co-authored by the University of Chicago's Nathan Leites], Wolf explicated the counterinsurgency strategy now operative in Southeast Asia. Wolf's analysis pictures insurgency movements as organized systems, competing with American power for the control of Third World states. Considering Indochina, Wolf advocates the application of high-profile, labor-intensive force by the U.S. and its allies against the insurgency organization. According to Wolf's strategy, it is both uneconomical and impractical to seek the allegiance of the indigenous population in the midst of an on-going rebellion. To introduce socio-political programs at such a time would, Wolf maintains, not only fail in its objectives, but ultimately be counterproductive. The new Wolf-Kissinger-Nixon strategy revolves around the use of force, and is based upon the postulate that groups behave "rationally: calculates costs and benefits to the extent that can be related to different courses of action, and makes choices accordingly." [12] As a result, the "influencing of popular behavior requires neither sympathy nor mysticism, but rather a better understanding of what costs and benefits the individual or the group is concerned with." [13] The programs now being implemented in Vietnam to influence the costs and benefits to the population are based on the "primary consideration . . .(of) . . . whether the proposed measures are likely to increase the cost and difficulties of insurgent operations and help disrupt the insurgent organization, rather than whether it wins popular loyalty and support, or whether it contributes to a more equitable, productive, or efficient use of resources." [14] This disregard for the socio-political programs of the "hearts and minds" strategists is not mere callousness. To the contrary, it is rooted in military-political realities. As Wolf argued, to introduce such socio-political programs concurrently with an on-going insurgency rebellion would only make available "inputs" available to the guerrilla, (i.e. food, supplies, materials, information, technology, etc.), which the insurgent would convert into yet more intense revolutionary activities. Thus, when computing the costs and benefits that are most likely to motivate the indigenous population to favorable political behavior, Wolf's Machiavellian strategy concludes that force and the threat of force, is by far a more effective counterinsurgency policy than are any attempts to win over the "hearts and minds" of an apathetic peasantry.

[In *Land Tenure and Rebellion: A Statistical Analysis of Factors Affecting Government Control in Vietnam*, a RAND Memorandum prepared for the Pentagon's Advanced Research Projects Agency, Edward J. Mitchell presents data substantially confirming Wolf's force vs. "hearts and minds" thesis. Mitchell concluded that the greater the "inequality of land tenure," the greater the degree of Saigon control in rural Vietnam. He based this conclusion on two factors, (1) the "docility and low aspirations of poorer peasants," and (2) "the enhanced power of the landlords in such areas."] [15]

The specific tactics of Vietnamization have therefore become a matter of applying the costs and benefits approach in such a way as to maximally influence political behavior. The application of such tactics in Southeast Asia has resulted in the initiation of a sliding scale of violence: "confiscation" of a village population's chickens are a simple technique, suggested by Wolf, to make the population aware that aiding the guerrillas in any way is not in their immediate best interests. If the warning is not heeded, and support for the insurgents continues, then the "razing of houses" or the annihilation of an entire village is certain to make the point clear—and is a valid part of counterinsurgency. However, this application of force in Vietnam is not generally carried out in the same indiscriminate manner that Thompson had complained of in 1962. To the contrary, it is carried out in a highly discriminating manner—aimed all the while at the organization of the insurgency.[16]

Wolf had advised U.S. military planners to study insurgency movements in the same manner as a corporation studies a market competitor—that is, as having ultimately the same goals (control), and utilizing ultimately the same means (a highly organized manipulation of violence.). Today his systems approach to insurgency is mirrored in the Pentagon strategy in Indochina. As the U.S.'s on-site executor of Vietnam policy, General Creighton Abrams, has recently contended, the primary role of the military in Vietnam must be the destruction of the enemy's system. (*Time*, Feb. 15, 1971.) In accordance with Wolf's advice, the U.S. is dealing with the NLF in functional terms—as an organization requiring "inputs," "conversion mechanisms," and utilizing the converted inputs as "outputs."

Thus the insurgency movement obtains its inputs from one of two sources: the "endogenous" (internally, from the local population); and the "exogenous" (externally, from sympathetic states in the international environment.) These inputs then go through the conversion process, which (involving needs such as training, storage manufacture, coordination, direction, etc.), is essentially dependent upon the insurgents' ability to secure and hold a base area, either within the crisis-state, or adjacent to it. Eventually these inputs will reemerge, typically as political and military activity having two objectives: the renewal of the internal support mechanism; and the subversion and overthrow of the local government.

Current U.S. counterinsurgency strategy is designed to make the functioning of the insurgency system impossible. It is the realization of what the insurgency system in Southeast Asia amounts to, and consideration of what the U.S. will have to do, (and is doing), to destroy it, that makes the future of the war fairly predictable.

MARCHING TO HANOI

Dealing with the most immediate threat posed by the Vietnamese insurgents—violent outputs—the U.S. is continuing to upgrade the quality of the ARVN, while maintaining in the Southeast Asian area elite U.S. strike units: the Air Force, flying from bases in Thailand, South Vietnam, and aircraft carriers in the South China Sea; the Air Cavalry, stationed at bases along the Vietnamese coast; and the Third Marine Division, stationed on vessels in the Gulf of Tonkin. It is the hope of the U.S. Military Assistance Command in Vietnam that the ARVN will prove capable of handling threats from all but main-force North Vietnamese Army (NVA) units. Backed by massive U.S. air and firepower, the ARVN seems to have made progress in securing the Second, Third, and Fourth Military Districts. [This is not to suggest that the NLF is no longer active in these areas—they are, and their 1970 attack on Dalat in the Central Highlands proves it. However, their level of military activity in these Districts has been scaled down significantly. The most successful NLF military activity now seems to occur in the northernmost First Military District—the area once known as I Corps.]

As insurgent military activities in most of South Vietnam now seem to have been brought within tolerable limits, the direction of the U.S.–ARVN efforts has been concentrated on the destruction of the remainder of the system—that is, the conversion mechanisms and inputs. Considering the conversion process, the U.S. strategists have been determined that the N.L.F. is largely dependent in this respect on base areas in which it can prepare to carry out its military activities. These base areas were located in the more remote rural areas of Vietnam, and areas of lesser importance were situated along the eastern border of Cambodia. To ensure the destruction of these sanctuaries, the U.S. has engaged in a campaign which, among other things, has involved: the declaration that such remote areas were "free fire zones," (within which, everything that moves is presumed to be an armed enemy and is destroyed); a policy of defoliation, which has resulted in the deforestation of an area the size of Massachusetts; and the U.S.-ARVN invasion of Cambodia. The degree of success that this anti-conversion campaign has enjoyed is anybody's guess—there is simply inadequate information to provide the basis for intelligent conclusions. However, the CIA-assisted ouster of Norodom Sihanouk, and the subsequent invasion of Cambodia have already proved to be counterproductive. The new alliance in Cambodia, of pro-Sihanouk neutralists, Khmer Rouge insurgents, and Vietnamese Communists, have made that country the most seriously endangered by insurgents in the entire area.

In the long-run, the most dramatic and significant aspect of the new U.S. counter-insurgency in Indochina is the campaign designed to limit the insurgents' inputs. The strategy is concerned with both the endogenous and exogenous inputs, prescribing different treatments for each. The endogenous inputs are considered to be: peasant volunteers and draftees; military materials appropriated from the government; foodstuffs donated to, or confiscated by, the insurgents; intelligence and information supplied by the rural population; and, the day-by-day support and shelter offered by the peasantry. To limit the availability of volunteers and draftees, U.S. strategists have conducted extensive surveys dealing with the propensity of certain character-types to cooperate with the NLF. [One of the most inclusive of these studies, Frank Denton's, *Volunteers for the Viet Cong*, a RAND Memorandum prepared for the Office of the Assistant Secretary of Defense/International

Footnotes at end of article.

Security Affairs, described such character-types on the basis of age, past negative experiences with the Saigon authorities, economic background, socio-economic frustrations, education, and peer-group relationships.] With the information provided by such studies, the authorities have embarked upon a program to intern, draft, or kill the vulnerable character types. The problem presented by the insurgents' appropriation of government equipment has been met largely through the improvement of ARVN combat units, and the suspension of socio-political programs in infected areas. To inhibit the insurgents' access to food, the authorities have engaged in policy of crop-destruction in NLF-controlled areas, while in contested areas, a policy of food confiscation and limited distribution is being employed. [By the policy of limited distribution, it is hoped that the peasant population will receive enough to survive, but lack any surplus that they might willingly make available to the insurgents.]. The problem of day-by-day support for the insurgent is most easily handled. It involves the simple expedient of raising the costs of such support for the population. Two of the best-known examples of this cost-raising are: the Army's destruction of My Lai, and the CIA's Project Phoenix. The former was a punitive operation carried out against the villagers in an area in which the NLF had recently been active, while the latter, though much more sophisticated in nature, were merely a punitive program designed for the assassination of low-echelon NLF collaborators.

The final aspect of the U.S.'s current counterinsurgency strategy involves the elimination of the NLF's exogenous inputs. Since the ouster of Sihanouk, the Cambodian port of Kompong Som has been effectively closed to the NLF. As a result, all of its exogenous inputs now come from North Vietnam, channeled through the Ho Chi Minh trail network in eastern Laos and northern Cambodia. Originally, U.S. strategy for reducing the level of such inputs to the NLF consisted of the interdiction of supply trails—that is, the intensive aerial bombardment of the areas through which the supply trails run. However, the number of trails involved, their natural camouflage, and a terrain that was unfavorable to aerial warfare reduced the effectiveness of aerial interdiction to nuisance value. Faced with this fact, the Nixon government has embarked on a more direct approach—the U.S.-ARVN invasion of Southern Laos. This invasion has not only failed, it has also sharply narrowed the U.S.'s available options in Southeast Asia. The crushing defeats handed elite ARVN units like the 39th Rangers, in addition to disasters like the forced evacuation of Sepone, will certainly have damaged the morale of the ARVN. The invasion has only reiterated the reality that the ARVN is not a match for main-force NVA units. Given this reality, Nixon is faced with only three alternatives: (1) he may indefinitely maintain large numbers of U.S. combat forces in Vietnam as a counter-force to the NVA, and not expand the war further—an option not guaranteed to win votes in the 1972 elections; (2) he may abandon his Vietnamization policy and withdraw the remaining U.S. forces, knowing as he does so that he leaves the Thieu-Ky regime to a certain defeat; or (3) he may elect for a U.S. invasion of North Vietnam—the objective being the final elimination of both the NVA and the NLF's exogenous inputs. In October of 1970, Nixon made clear how far he was prepared to go in the elimination of North Vietnamese aggression. At that time he made a statement "which puts the enemy on warning that if it escalates while we are trying to de-escalate, we will move decisively and not step by step." [18]

The likelihood is that Nixon will order an invasion of North Vietnam—perhaps before this article is printed. To let the war drag on would cost him his Presidency. To withdraw immediately would be to make himself the "first President to preside over an American defeat." It would also mean the probable loss of Laos and Cambodia from the U.S. camp; the loss of the Vietnamese off-shore oil franchises; the loss of access to the Mekong River Delta development; and would leave the U.S.'s staunchest Asian ally, Thailand, facing hostile governments along its entire eastern border—governments that might be inclined to assist that country's own domestic insurgents. The only serious objections to such an invasion that are likely to be raised within the President's circle of advisers concern the possibility of conflict with China. Against such arguments will be ranged the positions of two groups: the President's counterinsurgency experts who will maintain that the on-site destruction of North Vietnam is the only way to bring the war to an end—before 1972; and the strategic planners, who have for twenty years maintained the position that the time to deal with China is now. [Whether or not China would actually respond to a U.S. invasion of the North is a matter of speculation. It would hardly seem to be in her best interest to engage the U.S. in a war which would almost certainly be nuclear, but the Chinese have long been sensitive to the presence of hostile forces on its immediate borders. Additionally, the recent visit of Chou-en Lai to Hanoi may be an indication of significant Chinese commitment to the continued existence of North Vietnam.]

The final question that remains is this: assuming that the Wolf-Kissinger-Nixon counterinsurgency strategy is carried out to its logical conclusion—the invasion of North Vietnam—and assuming that it will not lead to a war with China, is it a winning strategy? Will it terminate the insurgency in Southeast Asia to such a degree that the South Vietnamese government can be fairly said to "control" its own territory? There is of course, no way of proving the point, one way or the other. But if one were to accept the validity of the systems approach analysis of insurgency movements, then one must agree (however reluctantly), that if the organization can be destroyed at its functional level, then the movement will be destroyed. For so long as an opposition movement is organized, the organization is understood by the authorities, and the authorities possess sufficient force, then the opposition movement continues to exist at the pleasure of the authorities only. The only way in which authorities who are using this approach can be beaten, is if they either lack sufficient power, or are themselves organizationally destroyed. The United States has the former, while the National Liberation Front of Vietnam cannot do the latter.

FOOTNOTES

[1] See: Roger Hilsman;; *To Move A Nation;* New York; Dell Publishing Co., Inc.; 1964.

[2] *Ibid.*

[3] *Ibid.*

[4] General David M. Shoup (ret.); "The New American Militarism"; *The Atlantic;* April 1969; p. 55.

[5] U.S. Congress, Senate Hearings, *Statement of Robert McNamara, Secretary of Defense, before the Senate Foreign Relations Committee in Support of FY 1967 Military Assistance Programs,* "What should be the Foreign Policy of the United States"; April 20, 1966; p. 79.

[6] See: Sir Robert Thompson; *Defeating Communist Insurgency; New York;* Frederick A. Praeger; 1966; p. 122.

[7] *Ibid;* pp. 56–7; 123–6.

[8] Hilsman; *To Move A Nation; op. cit.;* P. 527.

[9] General William Westmoreland; "Counterinsurgency"; *Tricontinental-11;* March-April 1969; pp. 91–2.

[10] See: Richard M. Nixon; "Asia After Viet Nam"; *Foreign Affairs;* October 1967.

[11] Found in: Henry Kissinger: "Reflections on American Diplomacy"; *Foreign Affairs;* October 1956; pp. 37–56.

[12] Nathan Leites and Charles Wolf, jr.; *Rebellion and Authority: An analytic essay on insurgency conflicts;* Chicago; Markham Publishing Co.; 1970; p. 29.

[13] *Ibid.;* p. 30.

[14] Charles Wolf, jr.; *United States Policy and the Third World;* Boston; Little, Brown & Co.; 1967; p. 69.

[15] Also see: Edward J. Mitchell; "Inequality and Insurgency: A Statistical Study of South Vietnam"; *The RAND Corporation;* June 1967; pp. 1–23; (P–3610).

[16] Wolf; *United States Policy; op. cit.,* p. 66; and Leites and Wolf; *Rebellion and Authority; op. cit.;* pp. 96 & 156.

[17] Leites and Wolf; *Rebellion and Authority; op. cit.;* p. 35.

[18] As quoted by: Daniel Ellsberg; "The Murder in Laos—The Reason Why"; *New York Review of Books;* March 11, 1971.

Mr. HÉBERT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Speaker, I rise in support of House Resolution 918 and call for its passage as an essential step toward full assertion of congressional responsibility in determining the course and extent of our involvement in the Indochina war.

The information sought in this resolution is information that Congress and the American people must have. It is difficult to comprehend how an administration which came to office with a pledge to square with the American people about the war in Vietnam could continue to shroud its conduct of that war in secrecy and it is even more difficult to comprehend why the Congress lets the administration get away with it.

There is a crisis of confidence in Government today. It is present in every corner of our Nation. I doubt that there is one Member of this House who is not aware of the skepticism and distrust Americans have for their Government these days.

If we are going to rebuild that confidence, if our constituents are ever to believe in the things we say and do, then we must strip away the secrecy and doubletalk which characterizes so much of what goes on here in the Nation's Capital. And there is no better place to start than with the truth about the air war over Indochina, for this war is at the very root of our crisis of confidence.

I commend my friend and colleague from New York (Mrs. ABZUG) for her energy and initiative in pressing this resolution and I urge its passage.

Mr. SEIBERLING. Mr. Speaker, I rise in support of this resolution.

It is not that some of the information is not available, but what is on trial here is the credibility of the Congress of the United States. The American people,

whether all of us have gotten the message or not, are incredibly disillusioned with Government. Part of the responsibility is right here in this House.

I have here an editorial from last week's Akron Beacon-Journal which is headlined "Ours Not To Reason Why?" This editorial refers to the gentlewoman from New York's effort to get the kind of information the American people ought to be entitled to have and the amazing reactions of some of the members of the committee and their statements when they try to oppose it.

I am not going to put this editorial in the RECORD, because I want to make it clear that I am not trying to pinpoint any individual here. I just want to read a paragraph from this editorial:

> Maybe it doesn't seem amazing to you. Maybe the amazement only arises out of a newsman's bias that the people have a right to know what their government is doing—within limits of reason, where such things as the safety of men in the services are concerned—and that the responsible members of Congress need to know to make sense in what they are legally required to do.

Last month, Mr. Speaker, I conducted a survey among the people in my district. I got 17,500 replies. In answer to the question "Do you believe that the Federal Government attempts to keep more information secret than it should?" 68 percent of the people said "yes" and 23 percent said "no." In answer to the question "Do you think the Congress is meeting the basic needs of the country?" 81 percent said "no" and 11 percent said "yes."

I suggest, gentlemen, there is a relationship between those two things. If there is doubt here as to whether the information should be given to the people of this country, that doubt ought to be resolved in favor of the public's right to know.

Mr. HÉBERT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, the discussion this afternoon has centered around the people's right to know.

Let me say I agree very strongly with that right. I believe that this Congress has an obligation to make sure that they do know. The obligation is to provide the people with the truth; not with a lot of rhetoric and heifer dust, if I may use that phrase.

In one of her statements made here just now and before the Committee on Armed Services last week in support of her resolution, the gentlewoman from New York (Mrs. AZBUG) claimed that through the bombing of predominantly civilian populated areas, thousands and thousands of North Vietnamese civilians had been killed or injured. She ignored the fact that on the very same day she made that charge, the North Vietnamese Communists themselves only claimed the loss of 13 civilians, and it is very possible that those 13 were killed by munitions fired by the Communists themselves.

The gentleman from Ohio (Mr. SEIBERLING) talks about a poll that he conducted of the people in his district. I sent a questionnaire to the people in my district, and I may say that my people are representative of the United States, because they come to live in my part of Florida from all over the United States. In reply to my questionnaire 101,000 persons responded. One question was "Do you believe the news media should have the right to publish or broadcast secret Government information dealing with national security?" The answer was yes 11.1 percent, no 86.2 percent, and 2.6 undecided.

Mr. Speaker, the people do have a right to know and they want to know as long as it does not affect the national security, but they want to know the truth; they do not want it distorted and full of rhetoric.

Mr. HÉBERT. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, it has been said many times already today but let me say again that the information which this resolution seeks to make public is available to Members of Congress who request it. Some of it has to be on a confidential basis, of course, but none of it is withheld from Congress. Much of it cannot be published because it makes military planning and emergency measures available to the enemy.

Mr. Speaker, I do not think we want to make this information available to those responsible for the deaths of 50,000 American youths.

The security of America requires that we not do it. It is not necessary in order that the Congress and its committees and its Members can have all of the information that they need about America's defense and defense programs.

It is not a good time to project such a proposal. At this particular moment the Defense Establishment has its hands very full. The situation in Vietnam is in a state of flux. It is changing from day to day and even from hour to hour. The Pentagon does not need another unworkable requirement.

And, Mr. Speaker, I hope the Members will just think of the great harm that could be done by the passage in the House of Representatives of this resolution. I am amazed that it ever got this far; it should not be before the Congress. We have downgraded this great establishment by even considering this resolution—yes, a great deal of harm could be done by this type of meddling—and that is all it is; it is meddling; it can only encourage and help the enemy—the enemy—the people who have launched a massive invasion of South Vietnam intended to embarrass the United States and to destroy the South Vietnamese Government, the people who have refused to negotiate in a responsible way for peace. They are the only ones who can benefit from this.

Mr. Speaker, we still have Americans in Vietnam, a lot of them. Most of them are not combat forces. They could be surrounded and carted off to prison camps in North Vietnam. Does any Member of this body want to be a party to making that possible through the disclosure of unwarranted information to North Vietnam?

This resolution can do that very thing, regardless of the good intentions of the sponsors.

I doubt very seriously that the requirements of this resolution could be met even if it were approved by Congress, and I do not think for a moment it is going to be approved. But in any event it would be an irresponsible and unjustifiable slap at the Pentagon and at the Vietnamization program and at the administration.

This is my administration also. We have but one President and one administration. It is for all America. We have a particular responsibility to uphold it in moments of crises.

No, Mr. Speaker, this is no time to show a lack of confidence in America. This is a time to reject ill-conceived plans which give comfort to our enemies and hope that such proposals do not come back to haunt us again.

Mr. GERALD R. FORD. Mr. Speaker, would the gentleman from Florida yield to me?

Mr. SIKES. I will be happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I have listened from the beginning to the discussion on this resolution.

I think we should make it crystal clear, and we ought to reiterate it, that the information which the people who have spoken on behalf of the resolution seek, that this information is available in the files of the House Committee on Armed Services. In other words, any Member of the House can see the requested information if he or she will take the time to visit the office of the Committee on Armed Services.

Second, however, if one carefully reads this resolution and if it is approved and the Department of Defense was required to furnish this information, I know of no individual or group who would benefit more than the enemy. This is information that not only helps the enemy from a military point of view, but is information that could only hurt the United States and the 69,000-plus Americans who are still in South Vietnam on behalf of the United States.

Mr. SIKES. The passage of the resolution would give us nothing that is not already available to the Congress. It would only make important military information more readily available to the enemy.

Mr. HÉBERT. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. GUBSER).

Mr. GUBSER. Mr. Speaker, I think there is one thing that everyone in this Chamber will agree upon. We all want the war in Vietnam to come to an end. The only disagreement is how it can be done with honor.

When we debate a resolution of this kind we should look beneath the obvious and beneath the surface and try to analyze what really is at stake.

It is my honest opinion, Mr. Speaker, that what we are arguing is the question

of whether or not we have a government of law and whether or not we should take a step toward anarchy.

The dictionary says that anarchy is a state of lawlessness. I contend that each time we fail to respect a law we take a step in the direction of anarchy. I would like to develop that theme.

There is one point on which I find myself in agreement with the gentlewoman from New York (Mrs. ABZUG). I believe that I am quoting her correctly when she said that we as Representatives of the people have a right to the information requested in the pending resolution. I agree with the gentlewoman, but I must also reemphasize what has been repeatedly stated here this afternoon—we have that right now. Get up out of your chairs, take the subway or walk over to the Rayburn Building, ask permission to see the answers to these questions. They are there—just look at them.

I wonder how many of you are going to bother to read the information sought by this resolution. It is there waiting for all of you—right now.

To emphasize this point, I would like to read into the RECORD a portion of the House rules. Rule XI, section 27c, says:

All committee hearings, records, data, charts and files shall be kept separate and distinct from the Congressional office records of the Member serving as Chairman of the Committee; and such records shall be the property of the House and all Members of the House shall have access to such records.

Rule XI, section (e) provides that—

No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Committee.

On June 28, 1971, the Committee on Armed Services by unanimous consent authorized its Chairman to prepare a set of rules applicable to all Members of the House who are desirous of reading all or any portions of any classified information in the committee files. These rules were subsequently drafted by the chairman and sent to every single Member of the House.

And at this point, Mr. Speaker, under leave to revise and extend my remarks, I shall include the full text of the rules I have referred to.

The material referred to follows:

TEXT OF RULES

Rules of the House Armed Services Committee to be followed by Members of Congress who wish to read all or any portion of certain classified information in the Committee files:

1. Such classified information will be kept in secure safes in the Committee rooms. Members will be admitted to the room in which the information is kept after inquiring in Room 2120.

2. Only Members of Congress may have access to such information.

3. Such information may not be removed from the room and a member of the Committee staff will be in the room at all times.

4. The staff member will keep a record of all Members who see such classified information or any portion thereof.

5. The staff member will maintain an access list showing the time of arrival and departure of all persons entering or leaving the reading room.

6. The reading room will be open from 8:30 a.m. until 5:30 p.m. each working day and from 9:00 a.m. until 12:00 noon on Saturday.

7. The staff member will make a complete document inventory at the close of each business day.

8. No notes, reproduction or recordings may be made of any portion of such classified information.

9. The contents of such classified information will not be divulged to any unauthorized person in any way, form, shape or manner.

10. Members of Congress before reading such classified information will be required to identify the document or information they desire to read, identify themselves to the staff member, sign the log and sign the Top Secret information sheet if such is attached to such document.

Now, there is another point on which I fail to agree with the gentlewoman from New York, and that is when she goes on beyond saying that we as Representatives of the people have a right to this information, and she says, "Our constituents have a right to it."

As the gentleman from Florida stated so aptly, what is public information becomes information available to the enemy. And just as in a crossword puzzle, when one answer does not appear until you get the words which surround it, and suddenly it looms out at you, enemy intelligence analysts piece together seemingly unrelated facts to reveal meaningful information.

And that is why we have a law in this Nation which says that the Commander in Chief—and I do not care whether it is President Kennedy, President Johnson, or President Nixon, I do not care what party the President belongs to—it is the Commander in Chief, under our law, who has the right to determine what is sensitive information, and what may help the enemy.

I say that if we, as individual Members of Congress, presume to take the law unto ourselves—if we presume to place ourselves above the knowledge and the right and the superior information that is available to the Commander in Chief and say that we, as individuals, can determine what is sensitive and what is not, then the entire security and classification system is going down the drain. We will have ignored our law and take a step in the direction of anarchy.

I ask you to vote against that step and vote this resolution down.

Mr. HÉBERT. Mr. Speaker, I yield the balance of the time remaining to the distinguished minority member of the Committee on Armed Services, the gentleman from Illinois (Mr. ARENDS).

Mr. ARENDS. Mr. Speaker, this resolution is ridiculous on its face. It asks for detailed information not readily available, and if assembled and made available would serve no useful purpose in our deliberations.

The specifics of our military operations in Southeast Asia to be disclosed in their entirety would give immeasurable aid to the enemy. The specifics requested in this resolution make as much sense as having our commanding officers in the field fully disclose to the opposing forces exactly what he has on hand and what he intends to do.

Our Committee on Armed Services is kept informed of all our military operations. At no time has any information been withheld from us.

Mr. Speaker, I am constantly amazed at some of the questions raised by Members of this great body, and I am constantly amazed by the attitudes displayed by some of the Members of this body—a body which I have learned to love and to respect over the years.

It distresses me. Just what are we trying to accomplish in the procedure such as presented here today? There are more important things for our Armed Services Committee to do than day after day, over and over again, explore matters that have no relevancy to any decision we are called upon to make.

It would be no exaggeration to say that it is not useful information that some people want. It is the publicity that they might obtain in simply seeking it. In so doing they are misleading the American people, and they are misleading our allies. They are unwittingly giving comfort, if not actual aid, to our enemies.

During the time our President was in China, he was constantly confronted with statements that had appeared in the CONGRESSIONAL RECORD, particularly statements made by Members of the other body. The leaders of China quoted verbatim statements made by Members of the Congress. They had the impression that these statements constituted the thinking of the American people and that they represented our national policy. And nothing could be further from the facts.

And yet the leaders of China took these statements as being the policy of this great Nation and on them they hung their hat, so to speak, and made their plans and programs accordingly. Both in this body and outside this body there are some who have, for reasons beyond all understanding, uttered statements that have served only to encourage our enemies.

What is the purpose of all this? I ask that question in all sincerity. I hope we have not arrived at the point in the history of this great country of ours that there are now some in this great Nation who would actually welcome our defeat. I cannot believe it, and I do not want to believe. Surely we have not reached the point where personal political prominence, or national recognition, is more important than our country's international stature.

What has been taking place, and what is taking place here today, amazes me. It disturbs and distresses me.

Mr. Speaker, I trust that as we struggle with the critical problems now confronting us internationally that we proceed as Americans, not as Republicans or Democrats—that we forget the mistakes of the past, regardless of who is to blame for them—and that we look forward to the future with one purpose and one intent; that is, to maintain the freedoms, and the rights that we have in this great Nation of ours.

My colleagues—let us today vote down this resolution and make it emphatic—let us make it so emphatic that this will end, once and for all, this kind of thing in the Congress of the United States.

Mr. METCALFE. Mr. Speaker, I rise in support of this resolution of inquiry because I have reluctantly concluded that the House of Representatives, under existing rules and procedures, does not have adequate access, on a continuing basis, to the type of information sought by this resolution. I believe firmly that in the midst of this most serious period in our Nation's involvement in the Vietnam war it is incompatible with the public interest for Members of Congress not to have the answers to these questions.

The thunder of gunfire has shaken us awake from our trance-like acceptance of administration claims that the war is winding down, that Vietnamization is succeeding, that the South Vietnamese can "hack it" on their own and that American involvement in the Vietnamese war is coming to an end. But if the administration is correct in its assertion that the North Vietnamese have undertaken a massive new military initiative, then clearly its previous assertions about successful Vietnamization and a diminishing war are questionable. And equally clearly, if we are dispatching mighty air and sea armadas to the Indochina theater, with ever-escalating rumors of ground troop alerts circulating across the United States, then, at the very minimum, we as Members of Congress must have the information called for in this resolution.

Some Members of this body believe that this resolution of inquiry is hostile to the administration at a time of military crisis; at a time when it is the duty of Americans in general and the Congress in particular to follow the lead of our President. Yet it seems to me that if our experience in Vietnam has any lesson, it is that telling the truth to the American people and their congressional representatives is no mistake, but the highest measure of sound, pragmatic policy.

The Pentagon papers make it unmistakeably clear that our blunders in Vietnam did not occur because the American public, or the American Congress, had too many facts at its disposal, but rather because they were not told the whole truth. It is the considered judgment of many Members of this body that the previous administration plunged this Nation into these endless battles in Vietnam by systematically hiding the facts of our intervention from the rest of the country. Recently published studies of the Tonkin Gulf incident raise very serious questions about whether the 1964 Tonkin Gulf resolution could ever have achieved passage in the Congress if the American people and the Congress had the whole story.

I note in the current Newsweek, in the Washington Post of the past 2 days, and on the television networks last night that yet another collection of "secret" papers on the war has surfaced into the full glare of public scrutiny. These former state secrets, called the National Security Study Memorandum, were compiled in response to 28 detailed and complex questions posed by Presidential Adviser Henry Kissinger. The subjects covered included the efficacy of U.S. air power employed in the various Indochina theaters, the capabilities of the South Vietnamese military forces, the capacities of the South Vietnamese Government to compete in a political struggle with the other side, and so on. Many of the secret answers to these questions are chilling appraisals of losing situations—appraisals that stand in utter contrast to the optimistic official reports that the administration makes to Congress.

At this moment I must ask my fellow Members of Congress: Do you think that the answers to the questions posed in this resolution will surface, just as surely as these past "secrets" have emerged? Do you think that concerned Americans, now employed by one Government agency or another, will eventually make these answers known in their own well-intentioned effort to contribute toward ending the war?

Can we as a nation afford to learn the facts only by conspiracy, to sneak real truths and snare honest studies, while we arrest and indict and imprison those men and women responsible for bringing us the truth?

Let us put an end to the coverups and falsehoods inherent in the claims that military security justifies continued suppression of the answers to these questions. The answers to each and every question proposed in this resolution are known to our adversaries in Hanoi. The only people to whom these questions are "classified" are the American people, and their representatives in the Congress.

History and recent experience convinces me that it is the right of Congress to know the answers to the questions posed by this resolution—that it is the duty of Congress to insist that these questions be answered so that we can do our job of informed deliberation—and that support of this resolution is the only prudent, pragmatic course for a Congress determined to prevent a repitition of the blunders of the past.

I urge your support for this resolution of inquiry.

Mr. FINDLEY. Mr. Speaker, in general, I believe the executive branch should supply more, not less, information about military operations of the United States. For that reason I have generally supported resolutions of this type.

In one particular respect I find this resolution to be defective and, therefore, will vote to table it. The defect is very important. It is expressed in subsection (7) wherein the executive would be required to give the target date, if any, for full independence by Saigon of support by U.S. military forces.

I believe the President should have such a date, but should not mention it to others. To permit even the most limited distribution of this information would expose our withdrawal program to severe hazards that might cost American lives.

Otherwise the resolution seems to deal entirely with facts of past actions that should be available to Congress.

Mr. BENNETT. Mr. Speaker, all of the appropriate purposes of this resolution have been heretofore accomplished, since all of the information sought thereby is now available to every Member of Congress in the offices of the Armed Services Committee; and all of the unclassified material has heretofore been made available to the general public. In response to my questioning during the hearings of the committee, it was stated categorically that the only material not made available to the press and media, that is, material still classified, is material which if made public could be of help to the enemy to the endangerment of U.S. troops. Yet even all this classified material is now available to Members of Congress. Hence, it is clear that it would not be in national interest to pass the resolution before us.

Mr. McCLORY. Mr. Speaker, I am opposed to the adoption of the resolution proposed by my colleague from New York (Mrs. ABZUG). My opposition does not result from any lack of desire to secure prompt and accurate answers to the series of inquiries which are set forth in this resolution. On the contrary, far more information than is sought by the resolution is vital in arriving at intelligent judgments at this critical stage in our history and at this crucial period of the Vietnam war.

Mr. Speaker, my initial interest is in the reasons for, and the extent of, the large-scale invasions by the regular forces of North Vietnam. As one of our military leaders in South Vietnam remarked recently:

> It is difficult to understand why North Vietnam is launching its attack at this time. Had the North Vietnamese leaders waited a few more months, the remaining combat forces of the United States would have been out of Vietnam.

Accordingly, it is appropriate, first of all, to determine what motivates the enemy in escalating the war at this stage when every reasonable effort is being made on our side to deescalate and terminate the conflict—even before securing release of our prisoners of war, whom the North Vietnamese continue to hold as hostages under cruel and inhuman circumstances.

Mr. Speaker, the efforts of President Nixon to wind down the war and withdraw from Vietnam have given assurance of a final termination of this unfortunate conflict, which he and this administration inherited.

Mr. Speaker, the import of the resolution—House Resolution 918—is an implied attack against this administration. It seeks to question the responses which administration spokesmen have made and to gain partisan or personal publicity out of the cruel and unfortunate events of a war which President Nixon is dedicated to end.

Mr. Speaker, the remarks on the floor today by the sponsor of this resolution strip away any pretense of bipartisan or objective inquiry. The sponsor has openly attacked the President and has charged him with violations of earlier actions taken by this body. I reject these charges and repudiate the claims and implications which she has made.

Mr. Speaker, the current escalation of the war has not been at the initiative of this administration. Quite the contrary,

the response of our forces are: First, in defense of our American men; second, in support of our continued withdrawal; and third, in furtherance of the program of Vietnamization—intended to place this conflict where it rightfully belongs—within the sole control of the Vietnamese Government and its own political and military leaders.

Mr. Speaker, I intend to accept the invitation of the chairman of the Armed Services Committee to review the report of proceedings before the committee, including the classified material which has been furnished for the benefit of Members of Congress. I intend to keep strictly confidential every bit of information which is denominated as secret or otherwise classified. I do not believe that national loyalty permits any less degree of conduct and fidelity.

Mr. Speaker, I hope that the North Vietnamese invaders will be stopped—and, indeed, turned back. In any event, I am confident that the steps which have been taken at the direction of the President in recent days have contributed to the safety of our own American forces and can contribute to a continued withdrawal of our men—and the hastening of the day when we can realize an enduring peace.

Mr. EDWARDS of California. Mr. Speaker, I rise in support of House Resolution 918. I believe that it is essential for the Congress to have the information that this resolution directs the administration to furnish us. We have seen, during the course of this despicable war, a continuing relinquishment of our powers and responsibilities. Many of my colleagues have seen this abandonment of responsibility as a question of national security. It has often been stated as a question of whether we in the Congress should not be cooperative with our President, as he pursues a military situation seen to be vital to American interests.

Our bombing of Hanoi and Haiphong places our involvement in a clearer light. It has seemed apparent to many of us for a long time that Vietnamization is a sham. It seems clear that President Nixon would like to continue to fight on. It seems that he is intent on a military victory to protect the power of Nguyen Van Thieu in South Vietnam.

It has seemed for quite some time that Mr. Nixon's promise of 4 years ago "for a secret plan to end the war" was a plan without a blueprint for peace.

President Johnson began heavy bombing of the north 7 years ago. Can anyone believe that more bombing can bring peace to Indochina? Can even the Pentagon continue to claim that these accelerated military activities are to "protect our retreating forces?" Do any of us really even know the extent of our newest escalation of the war?

Are we to sacrifice world peace, the SALT talks, current diplomatic initiatives with the Soviets and China for a corrupt military dictatorship in South Vietnam? It appears to be so.

What is left to say to our people who question the very nature of their country? Can we still deny those of our countrymen who say the United States is an aggressive country? Can any of us help but see that it is not the Russians, not the Chinese, but Americans who are saturating with bombs a small and distant country? Is Mr. Nixon's pride and political future worth the toll in human suffering?

We are acting for old and anachronistic reasons and we cannot win. The Vietnamese have fought for generations. It may be that the South Vietnamese forces feel they are fighting for something—though the desertion rate among the troops leaves this open to question. It is undeniably true that the North Vietnamese feel they are fighting for something. And why are our young men fighting? Our people have been generous to a fault with the lives of their sons—tolerating the political and military folly perpetrated in Indochina by past Presidents. The Nation seems willing to suffer on for a while yet, as long as all our efforts are directed toward removing our military presence from Southeast Asia. President Nixon has promised to do this. Yet, he appears to be continuing old policies.

Can we blame these policies on Presidents, past and present, without also looking to ourselves for blame? For have we not abrogated our responsibility to the American people and to common decency? Can we continue to allow President Nixon to inexorably push us toward a goal which appears to be the cruel extermination of the people of Vietnam?

I say that we must demand an accounting from President Nixon. This resolution will require him to furnish us, and we are after all the makers of law, with an assessment of our current troop strength in South Vietnam, the number of troops in combat, information about the number of sorties, shell tonnages and costs throughout Indochina as well as any increases in movements of planes, troops, ships, supplies, and equipment to Southeast Asia since March 15. We have the right, and more importantly the responsibility, to hear from the President whether he does indeed have a target date for completion of Vietnamization. The American people expect an end to this war. In fact, they demand an end to this senseless bloodshed. Since the President seems unwilling to provide this action, it will probably be necessary for us to act. We should have acted to end this war long ago in my view. We must have the information this resolution calls for to act wisely and responsibly. House Resolution 918 has my most complete support and I urge passage.

Our thanks should go to our colleague (Mrs. ABZUG) for sponsoring this resolution.

Mr. RANDALL. Mr. Speaker, I cannot support House Resolution 918. The reason is that as a member of the House Armed Services Committee I was present in committee on Tuesday, April 18, when there was a full and complete hearing on the subject matter of the resolution. By rollcall vote the committee voted 32 to 4 to report this bill to the floor adversely. This means that the Committee on Armed Services voted to oppose the enactment of this resolution.

I support the motion of Chairman HÉBERT to table this resolution. While I happened to be one of the 32 members of the committee who voted to report this resolution adversely, let me say that in my judgment this resolution should have been tabled in the committee and never reached the floor of the House. The committee took 1 entire day to listen to the author of this resolution. We listened patiently to the author of the resolution. In my judgment the chairman of our committee showed a great measure of patience to the lady from New York.

After the entire morning had been devoted to the proponents of this resolution, the committee went into executive session. All afternoon the answers to the questions propounded by the Member from New York were spread upon the record. We were given the very latest facts and figures on all of the things asked for in the resolution. These were taken down by shorthand reporters and were transcribed. Under the rules of the House this information is available not only to the members of the Armed Services Committee, but to any Member of the House. The only requirements are that a Member must visit the offices of the Armed Services Committee and agree to follow the rules of the House that any classified material shall not be reported.

Now, Mr. Speaker, we have heard a lot about what constitutes the real issue here. There have been those who argue that this is just another phase of the battle for freedom of information. We have heard that the real issue is the right of the people to know and be informed. These suggestions are as far removed from the true issue as night from day.

Perhaps one of the real issues involved is whether or not classification should continue to be as strict and severe as at the present time or whether there should be a reduction in the amount of material that is classified. But until such time as these laws are revised, I would hope that we would all agree that we are a society of laws and not of men.

The resolution before us today should probably be described in the words of the lawyer as "moot." All the information required by the author of the resolution is available—every bit of it to every Member.

For my part, I hope that Members will avail themselves of the privilege to have access to the answers to the questions contained in the resolution. I would hope Members will respect the rules of the House and abide by the admonition that these facts are not to be published.

Now we come to the most important reason why I must oppose this resolution. Proceeding upon the assumption that every Member of the House is a loyal American and would do nothing either to hurt our country or endanger the lives of our fighting men now in Vietnam, it is somewhat difficult to understand why there remains an insistence that the answers to the inquiries of House Resolution 918 should be published. The real central objection to the revelation of the facts and figures which this resolution will require the President and Secretary of Defense to spread upon the record is that it means that we are thereby handing over our game plan to the enemy.

To enact this resolution would be somewhat akin to require one coach of a football game to prepare the diagrams and plays that he intended to use and send them over to the coach of the other team. With the game plans of his advisory coach in his hands, preparation could quickly be made to provide defense to these plans. All of the element of surprise would be removed. In an athletic contest it is a matter of winning or losing a game. On the battlefield to give away our plans could cost thousands of lives.

Mr. Speaker, I hope our colleagues who have proposed this resolution may be treated charitably. A far greater issue than freedom of information or the right of the public to have possession of certain facts and statistics is involved here. What is involved is a great risk to our American boys in Vietnam whose lives could become subject to sacrifice if the enemy has all of the information required by this resolution.

I shall never be a party to this kind of a risk or danger. I hope there are not many in this House who want to assume such a great risk to our fighting men.

Mr. HÉBERT. Mr. Speaker, I move to lay House Resolution 918 on the table, and on that vote I demand the yeas and nays.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state the parliamentary inquiry.

Mr. GERALD R. FORD. Mr. Speaker, am I correct that those who support the Committee on Armed Services vote "aye" on this motion, and those who support the resolution vote "no"?

The SPEAKER. The gentleman is correct.

The yeas and nays were ordered.

The question was taken; and there were—yeas 270, nays 113, answered "present" 2, not voting 48, as follows:

[Roll No. 123]

YEAS—270

Abbitt	Burleson, Tex.	Dorn
Abernethy	Burlison, Mo.	Downing
Alexander	Byrnes, Wis.	Dulski
Anderson, Ill.	Byron	Duncan
Andrews, Ala.	Cabell	du Pont
Andrews, N. Dak.	Caffery	Dwyer
Annunzio	Camp	Edmondson
Archer	Carlson	Edwards, Ala.
Arends	Carter	Erlenborn
Ashbrook	Casey, Tex.	Evans, Colo.
Ashley	Cederberg	Evins, Tenn.
Aspinall	Chappell	Fascell
Baker	Clancy	Findley
Baring	Clark	Fish
Belcher	Clausen, Don H.	Fisher
Bell	Clawson, Del	Flood
Bennett	Cleveland	Flynt
Betts	Collier	Ford, Gerald R.
Bevill	Collins, Ill.	Forsythe
Biaggi	Collins, Tex.	Frelinghuysen
Blackburn	Colmer	Frenzel
Blatnik	Conable	Frey
Boggs	Crane	Fuqua
Bolling	Curlin	Garmatz
Bow	Daniel, Va.	Gettys
Bray	Davis, Ga.	Gibbons
Brinkley	Davis, Wis.	Goldwater
Brooks	de la Garza	Gonzalez
Broomfield	Delaney	Goodling
Brotzman	Dellenback	Gray
Brown, Mich.	Denholm	Green, Oreg.
Brown, Ohio	Dennis	Griffin
Broyhill, N.C.	Derwinski	Gross
Broyhill, Va.	Devine	Grover
Buchanan	Dickinson	Gubser
Burke, Fla.	Dingell	Haley
Hammer-schmidt	Mathis, Ga.	Schwengel
Hanley	Mayne	Scott
Hansen, Idaho	Meeds	Sebelius
Hansen, Wash.	Michel	Shoup
Harsha	Miller, Ohio	Shriver
Harvey	Mills, Ark.	Sikes
Hays	Mills, Md.	Sisk
Hébert	Minshall	Skubitz
Heinz	Mizell	Slack
Henderson	Mollohan	Smith, Calif.
Hicks, Wash.	Monagan	Smith, Iowa
Hillis	Montgomery	Smith, N.Y.
Hogan	Morgan	Snyder
Holifield	Mosher	Spence
Horton	Murphy, N.Y.	Springer
Hosmer	Myers	Stanton, J. William
Hull	Natcher	Steiger, Ariz.
Hunt	Nedzi	Steiger, Wis.
Hutchinson	Nelsen	Stephens
Ichord	Nichols	Stratton
Jarman	O'Hara	Stuckey
Johnson, Calif.	O'Konski	Sullivan
Jonas	Passman	Talcott
Kazen	Pelly	Taylor
Keating	Perkins	Teague, Calif.
Kee	Pettis	Teague, Tex.
Keith	Peyser	Terry
Kemp	Pickle	Thompson, Ga.
King	Pirnie	Thomson, Wis.
Landgrebe	Poff	Thone
Landrum	Powell	Van Deerlin
Latta	Preyer, N.C.	Veysey
Lennon	Price, Ill.	Waggonner
Lent	Price, Tex.	Wampler
Lloyd	Purcell	Ware
McClory	Quie	Whalley
McClure	Quillen	White
McCollister	Railsback	Whitehurst
McCormack	Randall	Whitten
McCulloch	Rarick	Widnall
McDade	Rhodes	Wiggins
McDonald, Mich.	Roberts	Williams
McEwen	Robinson, Va.	Wilson, Bob
McFall	Robison, N.Y.	Wilson, Charles H.
McKay	Rogers	Wright
McKevitt	Rooney, N.Y.	Wyatt
McKinney	Rousselot	Wydler
Mahon	Ruppe	Wylie
Mailliard	Ruth	Wyman
Mallary	Sandman	Young, Fla.
Mann	Satterfield	Zablocki
Martin	Saylor	Zion
Mathias, Calif.	Scherle	Zwach
	Schmitz	
	Schneebeli	

NAYS—113

Abourezk	Eilberg	Obey
Abzug	Foley	O'Neill
Adams	Ford, William D.	Patten
Addabbo	Fraser	Pepper
Anderson, Calif.	Fulton	Pike
Anderson, Tenn.	Gaydos	Podell
Aspin	Giaimo	Pucinski
Badillo	Grasso	Rangel
Barrett	Green, Pa.	Reid
Begich	Griffiths	Reuss
Bergland	Gude	Riegle
Biester	Halpern	Rodino
Bingham	Hamilton	Roe
Boland	Harrington	Roncalio
Brademas	Hathaway	Rooney, Pa.
Brasco	Hechler, W. Va.	Rosenthal
Burke, Mass.	Heckler, Mass.	Rostenkowski
Burton	Helstoski	Roush
Carey, N.Y.	Hicks, Mass.	Roy
Celler	Hungate	Roybal
Chisholm	Jacobs	Ryan
Clay	Karth	St Germain
Conte	Kastenmeier	Sarbanes
Conyers	Koch	Scheuer
Corman	Kyros	Seiberling
Cotter	Link	Shipley
Coughlin	Long, Md.	Steele
Culver	McCloskey	Thompson, N.J.
Daniels, N.J.	Matsunaga	Tiernan
Danielson	Mazzoli	Udall
Dellums	Melcher	Ullman
Diggs	Metcalfe	Vanik
Donohue	Mikva	Vigorito
Dow	Minish	Waldie
Drinan	Mink	Whalen
Eckhardt	Mitchell	Wolff
Edwards, Calif.	Moorhead	Yates
	Murphy, Ill.	Yatron

ANSWERED "PRESENT"—2

Howard	Leggett

NOT VOTING—48

Blanton	Davis, S.C.	Esch
Byrne, Pa.	Dent	Eshleman
Carney	Dowdy	Flowers
Chamberlain	Edwards, La.	Fountain
Galifianakis	Long, La.	Rees
Gallagher	Lujan	Runnels
Hagan	McMillan	Staggers
Hanna	Macdonald, Mass.	Stanton, James V.
Hastings	Madden	Steed
Hawkins	Miller, Calif.	Stokes
Johnson, Pa.	Morse	Stubblefield
Jones, Ala.	Moss	Symington
Jones, N.C.	Nix	Vander Jagt
Jones, Tenn.	Patman	Winn
Kluczynski	Poage	Young, Tex.
Kuykendall	Pryor, Ark.	
Kyl		

So the motion to table was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Fountain for, with Mr. Nix against.

Mr. Miller of California for, with Mr. Stokes against.

Mr. Davis of South Carolina for, with Mr. Hawkins against.

Mr. Staggers for, with Mr. Rees against.

Mr. Steed for, with Mr. Esch against.

Mr. Winn for, with Mr. Macdonald of Massachusetts against.

Until further notice:

Mr. Jones of Tennessee with Mr. Chamberlain.

Mr. Young of Texas with Mr. Kuykendall.

Mr. Blanton with Mr. Vander Jagt.

Mr. Dent with Mr. Eshleman.

Mr. Flowers with Mr. Morse.

Mr. Runnels with Mr. Lujan.

Mr. Hanna with Mr. Hastings.

Mr. James V. Stanton with Mr. Kyl.

Mr. Stubblefield with Mr. Johnson of Pennsylvania.

Mr. Jones of Alabama with Mr. Symington.

Mr. Kluczynski with Mr. Byrne of Pennsylvania.

Mr. Gallagher with Mr. Carney.

Mr. Long of Louisiana with Mr. Moss.

Mr. Hagan with Mr. Madden.

Mr. Jones of North Carolina with Mr. Patman.

Mr. McMillan with Mr. Dowdy.

Mr. Pryor of Arkansas with Mr. Galifianakis.

Mr. GARMATZ changed his vote from "nay" to "yea."

Messrs. LONG of Maryland, WOLFF, and DANIELS of New Jersey changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HÉBERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

SECOND SUPPLEMENTAL APPROPRIATIONS, 1972

Mr. MAHON. Mr. Speaker, pursuant to the order of the House on April 19, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14582) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 2

hours, the time to be equally divided and controlled by the gentleman from Ohio (Mr. Bow) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14582, with Mr. BROOKS in the Chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Texas (Mr. MAHON) will be recognized for 1 hour, and the gentleman from Ohio (Mr. Bow) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, the bill before us touches almost every department and agency of the Government. It is the second supplemental appropriation bill for fiscal year 1972.

The bill is not above the budget in any respect. The total amounts are within the budget estimates for 1972 contemplated in the 1973 budget submitted in January.

There are two titles to the bill, title I and title II. Title II, as you will note from the report—and the report is available to Members—contains the sum of $2,386,000,000 for pay increases. That sum represents a reduction in the budget estimates of $249 million.

The great majority of the money for the pay increases is for the Department of Defense. The committee, in its study of the requirements of the Defense Department, found that all the funds requested by the Department of Defense were not required and so reductions in the sum of over $200 million were made.

The general supplemental items are contained in title I. The bill provides $1.7 billion for a variety of activities. The budget estimates for these purposes aggregated a sum much higher than that. The committee recommends a reduction below the budget in title I of $402 million.

About 85 percent of the bill total is for costs which at this point in time are relatively uncontrollable—that is, they are pursuant to mandatory provisions of law that give us little or no discretion over them at this point in time in the budgetary and appropriations process.

The funds in title II for increased pay costs of $2.4 billion fall in this category.

The appropriation for public assistance grants, which is mandatory under existing law, totals $806 million.

Payment of workmen's compensation benefits in the amount of $22 million is not controllable.

The civil service and retirement fund appropriation required by law is a little over $109 million.

Then for retired pay of the military there is another $154,312,000 uncontrollable item.

So, Mr. Chairman, 85 percent of the bill—some $3,478,000,000—is made up of items which are relatively uncontrollable and for which we have little or no option but to provide for.

Now there are some other appropriations in the bill which are of interest to Members.

There is $70 million in this bill for the disaster loan fund of the Small Business Administration.

In this bill there is $95 million, which represents the budget estimate, for the Neighborhood Youth Corps summer employment and recreational support program. The program has been widely supported.

There is $51 million for firefighting in the Forest Service, and the bill includes $170 million of additional funds for the Amtrak railroad program.

I have already made some reference to reductions made in connection with the bill. Reductions in Pay Act cost requests total $249 million. There was a request of $320 million for the International Development Agency. That is not included in the bill. It was stricken from the bill.

An item of $45 million in the budget for the helium procurement program was deferred, and the civil service retirement request pursuant to postal employee pay increases was reduced by $63 million.

Those are some of the major items. I need not remind the Members of the House that this Government, in order to operate this year, is having to borrow in the neighborhood of $40 billion. A fraction of the borrowing is from the trust funds but the rest of it is from the private sector.

I know a number of amendments will be offered to the bill. Only about 2 months remain in the fiscal year. This does not seem to me to be a timely moment to offer amendments to increase the pending measure. In addition, the bill is composed largely of uncontrollable items which have been previously sanctioned by the Congress.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding. If it is agreeable with the Chairman, I would like to raise a couple of questions in relation to chapter I, which deals with agriculture, and environmental and consumer protection.

I note in the committee report that the committee recommends the addition of $5 million to the fund established to reimburse beekeepers for losses, subject to the indemnity provision of the Agricultural Act of 1970. When this provision was before the Congress back in 1970, I voiced concern about getting into the indemnity obligation in the beekeeping industry. Can someone explain why in the world we need $5 million to indemnify beekeepers? That seems like an extraordinary amount of money.

Mr. MAHON. At this point I would like to yield to the gentleman from Mississippi, the chairman of the subcommittee that conducted hearings on this matter.

Mr. WHITTEN. Mr. Chairman, may I say to my friend from Illinois that I have similar thoughts about the amount of money which should be involved. The act was passed, and whatever amount is determined based upon that act will have to be paid one way or the other.

The committee was advised that the sum total in this bill has to do with losses which have already occurred. Let me read from the report:

> The Committee recommends the addition of $5,000,000 to the fund established to reimburse beekeepers for these losses and calls on the Department to require full and proper documentation of the cause and extent of such losses. Provision should be made to examine the qualifications of those on whose opinion claims against the Government are being paid.

So this is not a payment as such, but it is a fund from which the amounts will be paid. The claim total is in the neighborhood of the amount of money that would be put in there. It is my belief that the amounts of claims paid should be considerably less than the amount presently claimed, judging by past experience.

Mr. FINDLEY. I understand one beekeeper is trying to establish a claim, or perhaps has established a claim, for $800,000 in indemnity payments.

Can the gentleman explain how a beekeeper can establish such a claim?

Mr. WHITTEN. Frankly, I do not understand how he could. The Congress made this retroactive to January 1, 1967, so from the list of claims given to the committee, this totals the claimed losses for that period of time. Our hearings show that we on the committee called on the Department to require proof, as we would in any other case, so as to be absolutely certain that the money is owed. If it is owed, it would have to be paid. Again, this appropriation goes into a fund. It does not provide for the payment except where the claim is fully established under the law.

Mr. FINDLEY. I wonder if, out of the gentleman's experience with this indemnity program up to now, he will not join me in expressing the hope that the program will be terminated with the termination of that legislation, the Agriculture Act of 1970.

Mr. WHITTEN. The gentleman asks me to go pretty far. The Congress passed the law and said he should have indemnity if he proves injury. He will not be paid unless he proves his claim. We in this bill are providing a fund through which payments may be made if the claim can be proven.

Mr. FINDLEY. I hope it can be terminated with the act of 1970.

I would like to ask a further question.

There is a provision dealing with the Federal Crop Insurance Corporation, providing for "administrative and operating expenses" the amount of $136,-

000, "which may be paid from premium income." I hope this insurance program would be on a self-financing basis one of these days. I wonder if we could make a little legislative history and make that word "may" mean "shall." Is that the intent of the committee?

Mr. WHITTEN. That is the intent of the committee.

Mr. FINDLEY. The intent is to have it read "shall"?

Mr. WHITTEN. In my understanding it is justified on the basis it would be paid from the premiums.

Mr. FINDLEY. I am glad to hear that.

I would also like to ask about an item on the same page which would transfer a little over a million dollars from the "cropland adjustment program" to the expenses for the Consumer and Marketing Service. Was the cropland adjustment program ever funded?

Mr. WHITTEN. My recollection is that contracts were let in 1966 and 1967, and that frequently there is a variant between the actual amount owed and the estimate the committee has made, and this transfer of funds would be because funds were available. We would not have done so otherwise.

Mr. FINDLEY. There was some adjustment.

Mr. WHITTEN. Yes.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MAHON. Before doing so I would like to say that I trust subsequent debate will provide sufficient information on the subject of funds which may or may not be due to beekeepers. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, do I understand this calls for $4,124,123,358?

Mr. MAHON. The gentleman is correct, and that is a reduction of more than $651 million below what the administration requested.

Mr. GROSS. That was their asking or dickering price. But is this not one of the largest supplemental appropriation bills we have had in the last 20 years or more, exclusive, of course, of World War II?

Mr. MAHON. It is a large one. Congress has increased the pay of the military and civilian workers to such an extent that this bill had to be big in order to accommodate the increases in salaries and provide for other payments which are mandated by the laws which the Congress has passed.

Mr. GROSS. But the fact remains that this is one of the largest deficiency appropriation bills the House of Representatives has considered in the past 20 years; is that not correct?

Mr. MAHON. Well, it is one of the largest bills. There have been larger ones. I do not have the exact statistics before me.

Let us say it is a large bill, and I regret that it is as large as it is. It is here because of the actions of the Congress and the requests and actions of the Executive.

Mr. GROSS. And this is piled on top of the regular appropriations for fiscal year 1972; is that not correct?

Mr. MAHON. It is piled on top of that, but it is not in excess of the 1972 budget proposed in January. This is a part of the President's overall budget program.

Mr. GROSS. And this in the face of the fact that we have $450 billion of Federal debt and the debt ceiling will have to be increased—or, at least, some of the leaders of the House say that the debt ceiling will have to be increased, probably to $500 billion, in June or July of this year.

Mr. MAHON. I believe it is fair to estimate that the debt during fiscal year 1973 will cross the $500 billion mark. I doubt it will go quite to that figure within this fiscal year, but certainly we are moving toward a half trillion dollars.

As I pointed out earlier, and as has been pointed out many times on this floor by many Members, we are going to have to borrow about $40 billion or so this fiscal year in order to pay our bills. It is an unwholesome situation. But in spite of that unwholesome situation there will be requests made for additional appropriations today well in excess of one-half billion above the committee recommendation.

So this is a situation which requires very prayerful and profound study by the Members of the House of Representatives.

Mr. GROSS. I do not know about the profoundness of the study, but I do know it ought to be a prayerful study. Somebody had better begin to do a little praying in terms of the fate of this country and of this Government to survive this kind of punishment.

Now, let us come down out of the stratosphere, from $4 billion-plus to something more comprehensible to most of the citizens of this country, including the gentleman from Iowa. I do not really comprehend $4 billion.

Getting down out of orbit, I note in the bill that there is apparently a million dollars for the cost of currency realinement of appropriations at the State Department. Are we embarked in this bill on currency realinement? Just what does this mean?

Mr. MAHON. This relates to the dollar devaluation and the commitments made by the State Department.

Frankly, I was not present at these particular hearings. This matter was given primary consideration by the subcommittee headed by the gentleman from New York (Mr. ROONEY), the ranking minority member of such subcommittee being the gentleman from Ohio (Mr. Bow). I would be glad to yield to either of those gentlemen for a comment.

This is a simple explanation of the situation. Congress upon the request of the President devalued the dollar by 8.57 percent, and this is the reason for these amounts in this bill.

Mr. GROSS. If the gentleman is referring to the gentleman from Texas and the gentleman from Iowa, "we" did not do this, because I feared that this would be a followup to the so-called devaluation of the dollar. Now we are getting it right between the eyes.

Mr. MAHON. The gentleman is correct. When the dollar devaluation legislation was before the other body last month it was passed by a vote of 86 to 1. When it was before this body last month it was passed by a vote of 342 to 43.

The gentleman from Iowa was one of the 43 voting not to devalue the dollar. Of course, it was a disturbing experience to all of us to vote to devalue the dollar. The fact is that to some extent we have priced ourselves out of world markets, we have overspent, and we have borrowed heavily in order to pay our bills. When I say "we," I mean the country and not the gentleman from Iowa and the gentleman from Texas. To some extent we have taken actions which have undermined the currency of this country. This brought about this situation or helped bring it about. I am hopeful before too many months this country will take necessary action to begin to shore up our fiscal situation.

Mr. GROSS. Now, how far do we go? How many other items in this bill are predicated upon realinement of the dollar?

Mr. MAHON. I must say the bill we hope to take up later this afternoon after we have concluded with this one will provide $1.6 billion as a result of the dollar devaluation.

Mr. GROSS. I am well aware of that bill, but I am talking about this one.

Mr. MAHON. That is where the major adjustment will have to be made and not in this bill.

Mr. GROSS. Yes. But I will say to my good friend from Texas, the chairman of the Committee on Appropriations, the bill to come up perhaps later this afternoon will take care of so-called international lending institutions. I am talking now about the realinement of the currency in the operation of this Government of the United States. How many more items in this bill are expenditures based upon realinement of the deliberately devalued dollar?

Mr. MAHON. I will say I do not offhand know of any more, but out of the many items in the bill there may be one or two. I will check during the debate, and I will be glad to discuss the matter further with the gentleman.

After checking, may I add that there are four items identified in the bill as arising from currency realinement. They are mentioned at various places in the report, and total, I believe, just over $1.1 million.

Mr. GROSS. Why does not the State Department make its contribution to the cause of fiscal sanity in this country by taking care of this $1 million in the operation of the Department? I do not understand this.

Mr. MAHON. After the hearings were conducted it was a decision of the subcommittee and then the full Committee on Appropriations that up to about $1 million should be provided, and that is where we are.

Mr. GROSS. That is just like plucking $1 million out of thin air and handing it over to them. You are not going to do

that for anybody else in this country, and you know it.

I am talking about a principle of what we are doing here and what we are embarking upon. I do not think I have ever seen a bill before in my 24 years in the Congress in which a dollar was appropriated or earmarked for the purpose of realining currency.

Mr. MAHON. I applaud the gentleman's eloquence and conviction in connection with this matter, but, of course, the die was cast when the recommendation was made by the administration and was acceded to by the Congress to devalue the dollar. These are the facts of the matter.

Mr. GROSS. I do not want to prolong this and the gentleman from Texas has been very generous in giving me time, but we come right back to the uncontrollables, do we not, and the fact that Congress is not controlling. Congress is supinely voting for measures that call for $1 million in this bill, a small amount by comparison with the total, but the next bill calls for $1.6 billion to realine currencies around the world.

Mr. MAHON. I would hope and pray that we will not be called upon for another realinement and another $1.6 billion in addition to this and that Congress will not overspend and overappropriate and approve amendments excessively increasing the deficit, generating more inflation. To make democracy work and to prevent the collapse of this country, some degree of restraint is going to be required.

Mr. GROSS. The gentleman is absolutely right, but we have no answer yet for the question of why did the Congress of the United States supinely bow to the demands of the administration which requested this sort of thing. Why does Congress not refuse these requests?

It does not reject these requests. That is the point and that is why we are in such deep financial trouble.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Florida.

Mr. GIBBONS. May I respond just a minute to the gentleman from Iowa. I want to call the gentleman's attention to the fact that he has not seen anything yet.

We will have coming up here in a few weeks a bill that authorizes $30 billion in appropriations on a continuing basis over a 5-year period—a 5-year program—sometimes called revenue sharing. So, the gentleman will have plenty of time under the closed rule to explain his position on that.

Mr. GROSS. Mr. Chairman, if the gentleman from Texas will yield further, how do you share what you do not have?

Mr. GIBBONS. I do not know. I have tried to figure that out also.

Mr. MAHON. I thank the gentleman. It is a fact that the House will soon be called upon to pass a bill out of the Ways and Means Committee involving in excess of $25 billion for a 5-year period.

Mr. GIBBONS. $30 billion.

Mr. MAHON. And that bill will not require any further action of the Congress. However, that is another day and another bill and another problem.

Mr. Chairman, I reserve the balance of my time.

Mr. BOW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I shall not take the time of the committee for any lengthy explanation of the bill.

I think the distinguished gentleman from Texas has well explained it.

I think the thing we ought to do is to get down, as soon as we can, to the reading of the bill, because there will be a great deal of debate on some of the amendments and we may be here until a late hour if I take too much of your time.

However, I would like to yield at this time 5 minutes to the gentleman from Massachusetts (Mr. CONTE) who will put the bee on us.

Mr. CONTE. Mr. Chairman, last year when the Committee on Agriculture proposed to pay beet farmers for not growing grain, I thought we had just about reached the ultimate in ridiculous legislative proposals. You will remember, however, that I was able to top that distinguished committee by suggesting my own amendment to pay the Washington Senators for not growing corn in their outfield. Both of those proposals met with the fate they obviously deserved. I was hopeful that that would be the end of this body's serious consideration of ridiculous proposals.

The supplemental appropriations bill we are considering today, however, contains funding for a program that just about has to be the ultimate in governmental ineptitude.

Believe it or not we are paying beekeepers for dead bees. What is worse, we are paying beekeepers for dead bees that were supposedly killed by federally approved pesticide control activity.

You may think I am making too much of a small thing, but, when I look at the amount of the claims submitted under this beekeeper indemnity program, I can understand why our constituents often suspect us of having bats in our belfry—or, more appropriately in this case, bees in our bonnet. We have created a monstrosity—a real honey of a grab bag.

At present, 28 beekeepers are filing claims, each of which total $100,000. At a maximum of $20 per destroyed hive, that is a lot of dead bees. The beekeeper blessed with the largest quantity of dead bees appears to be Jim's Valley Apiaries of Sunnyside, Wash. He has submitted claims for over $1½ million over the past 5 years.

Some people may consider the beekeeper's profession to be a dangerous one, but in this case it is the taxpayer who is getting stung.

I imagine our friend Jim out in Sunnyside walks around singing the 1968 song entitled "Honey Bee." The words go something like this.

> Honeybee, honeybee,
> Won't you be my honeybee
> Honeybee, honeybee,
> Sweet as sugar candy to me.

I imagine he sings a little louder when he reaches the line:

> Take me honeybee
> From my misery.

According to the claims Jim has submitted for the past 5 years, he has lost a minimum of 12,937 hives from pesticide activity each year for the past 5 years. I would think that the administrator of the program would be just a little suspicious over such claims.

When my friend Mr. WHITTEN, of Mississippi, questioned the administrator over the suspicious nature of these figures, the administrator could only answer:

> We will strengthen the record the next time we come up.

That reassuring answer came from Administrator Frick of the Agriculture Conservation and Stabilization Service. You all remember Mr. Frick. His administrative abilities were well publicized a while back when the newspapers found out that his former holdings in California farmlands were involved in violations of the farm subsidy program he administers.

Even if we assume for the sake of argument that the claims were based on an accurate count of bee corpses, how do we know that the bees died from pesticides. Mr. Frick testified that they have not even checked on the cause of death to justify the claims. If bees die in an area where pesticides are used, we pay for them—all of them. Apparently, in these areas bees can only die from one cause.

You may wonder, justifiably, what the Department of Agriculture is doing to take action against the people who are applying pesticide in such a way that results in bee deaths. At the hearings, my colleague Mr. ANDREWS of North Dakota asked Mr. Frick:

> Do you proceed against the incautious or imprudent chemical applicator?

The answer was "no."

Mr. Andrews continued:

> In other words, an individual can fly over bee colonies and lay down pesticides and irrespective of his liability, you go right ahead and pay for the bee loss.

Mr. Frick admitted that this was the case.

Mr. Chairman, I am submitting for the RECORD a copy of the statistics on all claims for $100,000 or more filed for the years 1967 to 1971 under this program. I ask my colleagues to study them. I believe you will all share my astonishment over the extent of this folly.

Of course, we should protect our honeybees, but I hardly think we are protecting them by paying exhorbitant prices for their corpses.

Bees are important. Live ones pollinate crops. It now appears that dead ones pollinate private pocketbooks.

BEEKEEPER INDEMNITY PAYMENT PROGRAM—BEEKEEPERS FILING CLAIMS FOR THE YEARS 1967-71 WHICH TOTAL $100,000 OR MORE

Name and address of beekeeper	1967	1968	1969	1970	1971	Total
Arizona:						
James R. Smith, Yuma	173,315	175,142	73,815	43,665	36,710	502,647
Troy Cowan, Casa Grande	54,740	79,500	41,755	31,235	5,895	213,125
Eugene R. Metz, Tolleson	60,065	42,780	35,895	22,660	40,320	201,720
Merton E. Davis, Chandler	58,290	39,665	24,270	17,395	1,520	141,140
Charles L. Emmons, Welton	17,590	30,000	26,770	31,110	9,915	115,385
James F. Craven, Tolleson	41,200	31,030	30,350	3,915	.....	106,495
Arkansas: Vaughn Wilson, Batesville	33,765	17,350	14,405	13,645	29,645	108,810
California:						
Huston Honey Co., Corona	134,760	130,735	144,210	132,560	93,125	635,390
Jay Parkinson, Vista	65,440	72,320	67,355	75,760	15,615	296,490
D. L. Denny, Hanford	12,640	18,120	38,850	25,125	45,350	140,085
Alfred Mueller, Bakersfield	30,360	23,185	52,035	19,915	11,645	137,140
Andy J. Nachbaur, Jr., Dos Palos	12,000	23,120	32,000	29,955	32,100	129,175
I. N. Brown, Calipatria	37,770	32,275	20,295	20,565	4,685	115,590
James Austin, Brawley	30,530	26,575	26,375	26,435	4,445	114,360
Robert and Loreen Allen, Westmoreland	29,235	27,485	18,765	15,415	14,375	105,275
Wilbur D. Shirley, Hanford	13,555	17,630	21,880	27,240	20,900	101,205
O. T. Mandrapa, Calexico	23,205	23,040	19,845	19,755	14,285	100,130
Mississippi: Stover Apiaries, Mayhew	91,626	167,577	161,877	152,027	235,721	808,828
Nebraska: Robert Martin, Neligh	37,595	23,900	24,480	32,635	.....	118,610
South Dakota: Schmidt Honey Farm, Winner	46,650	48,230	50,410	52,085	.....	197,375
Washington:						
Jim's Valley Apiaries, Sunnyside	347,520	336,705	296,930	278,160	258,750	1,518,065
J. C. Holt, Richland	65,525	40,665	19,855	15,755	38,235	180,035
Wells D. Rose, Yakima	40,230	33,960	35,765	33,475	28,060	171,490
Troy Monholland, Wapato	38,085	26,715	9,650	50,770	46,260	171,480
Lyle Hibbard, Grandview	26,165	27,870	33,060	27,390	55,260	169,745
Rex Haueter, Quincy	25,500	24,500	25,695	26,200	24,790	126,685
Sidney L. Hiatt, Ephrata	.....	25,000	25,000	25,000	34,220	109,220
Richard Boylan, Ephrata	.....	25,460	20,395	26,800	28,100	100,755

Mr. DENNIS. Mr. Chairman, would the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would just like to say that I was so taken with the gentleman's musical rendition here a moment ago that I thought I would give him the benefit of a little verse about the honey bee:

The Honey Bee's a busy soul.
He has no time for birth control.
And that is why, in times like these,
There are so many sons of bees.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

Mr. BOW. Mr. Chairman, I yield myself such time as I may consume.

I might say that I too was quite taken by the extreme interest of the gentleman from Massachusetts, and the gentleman from Indiana in bees, but so as to complete the record, if there is anyone in the Chamber who would like to talk about the birds, I will be glad to yield for that purpose, so that we will have both the birds and the bees story.

Apparently nobody wants to talk about the birds, so I will reserve the balance of my time.

Mr. MAHON. Mr. Chairman, I yield to the gentleman from California (Mr. SISK) who will make further reference to Federal expenditures involving bees. The RECORD should be amply clear as to the action which the Congress has taken through its committees and otherwise, with respect to this subject.

Mr. Chairman, I gladly yield to the gentleman from California who will be able to provide pertinent details.

Mr. SISK. Mr. Chairman, may I say to my good friend, the gentleman from Ohio, I really have nothing to say about birds—not on this occasion anyway.

But I am always a little bit amused by my good friend, the gentleman from Massachusetts, you know, because he gets pretty well steamed up when we get into agriculture. I may be, I suppose, foolish to get into this, since I am not on the Committee on Appropriations, but it is a little bit curious, you know, about some of our conservationist friends. I believe I am a conservationist myself. But we have some pretty far-out boys here and there and they have been screaming and raising all kinds of cain around here in the last few years about certain kinds of chemicals and pesticides that agriculturalists have been using and have used to kill mosquitoes and control malaria.

I recognize that it is a foolish position, I suppose, that anyone would stand up here and defend DDT. But this is an illustration of just how silly and asinine some of the so-called jerkwater scientists who have just become experts overnight apparently in connection with pesticides have trapped us into.

DDT does not affect bees. It will not kill bees. It does not harm bees at all. In fact, they seem to thrive on DDT. But the Government comes along and says that you cannot use DDT any more. You have to stop using DDT, and they come up with no reasonable alternative.

Many of you have heard this poppycock from start to finish saying we had to discontinue the use of DDT. So they suggested a substitute. So we started using substitutes and bees started dying not by the thousands but by the millions and, I suppose, by the billions. Frankly, they have wiped out a large number of bee colonies in Arizona and many areas of the South and in the Dakotas and in California among other places.

I do not happen to be the author of this particular bee bill which apparently is under fire here. It was offered by a former distinguished Member of this House, Mrs. Catherine May. A number of us joined her because again it was based on a reasonable justification and the act frankly was in the public interest. The action of the Government caused millions of dollars of damage to a lot of individuals.

In line with the many precedents that this House has, I think that what the Committee on Appropriations has done is simply to come up here and make available funds which are required under the law. Surprisingly enough, this House voted, as I recall, pretty substantially in support of Mrs. May's bill at that particular time and it became a part, of course, of the 1970 Agricultural Adjustment Act.

Actually, that is the history of this and all there is to it. But I do want to leave this thought with you. We get so concerned about, as I say, some of these Johnny-come-lately experts on pesticides, that we rush out and rush in where angels fear to tread and do away with chemicals in some cases.

Frankly, and I still believe that DDT is one of the safest chemicals that we have ever used in this country, and I believe that even the information coming in today will indicate that we probably made some serious mistakes so we substitute some other substitute that we are being forced to use which destroy not only bees but a lot of other things.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. SISK. I yield to the gentleman.

Mr. CONTE. I am not going to debate the merits of DDT as opposed to some other pesticides because I am not an expert.

Mr. SISK. I am not an expert either, I will say to the gentleman.

Mr. CONTE. If you read this record, and you must get it—it is on page 1649 of the hearing record for the second supplemental appropriations bill 1972. There are $10,500,000 in claims. They do not know whether these bees died of pesticides or frost or whether they died of a natural death or from arthritis or from anything else.

This is the thing that burns me up. Sure there may be some merit in it, but that does not mean we should provide a grab bag, without any checks.

People are going to the Government and saying—I have a million dead bees and you pay me.

As I said before, the taxpayer is getting stung. Now as a taxpayer, I am one man who is going to stand up here for the taxpayers as long as I have some breath in my lungs.

Mr. SISK. I admire the gentleman's courage although sometimes I think he gets a little bit off the beaten path. But I do admire his courage.

Let me again say, I will read the record because I think it might be interesting.

But the fact is, as I recall, this specifically authorizes an investigation by the Department of Agriculture to make a determination. I am inclined to believe on the basis of information I have, that there are probably very good and appropriate ways of determining whether or not in truth the bees died of pesticides or insecticides.

I do not think this is any great mystery, and I would not consider that that should be an insurmountable scientific task to determine. If, for example, the Department has in essence rather pro-

miscuously attempted, as has been suggested, to pay out sums of money that are not justified, then, of course, it has administratively made a serious mistake. I do not think the act itself permitted any such looseness in the operation of the program. But I will read the record.

Mr. CONTE. I wish you would. It was a lot worse. The record has been cleaned up somewhat, I am told. Mr. Frick was asked the question as to how the bees had died. He said they could have died a natural death. He suggests that that is possible, and he had no way of telling whether the bees had died because of pesticide—see page 1678, of the second supplemental appropriations hearing 1972.

The other thing that troubles me no end is this. We have a lot of beekeepers in my district in western Massachusetts. Nearly every dairy farmer up there has some beehives. Yet as you go through the record, you do not see any of them claiming a plugged nickel for any damage to their bees up there. Why, I ask the gentleman from California, every time there is a handout like this program or the cotton subsidy program, the money goes to Texas, California, and Arizona.

Mr. SISK. I might say to my colleague that I was not aware that I had any claims from anywhere in my district. It is possible that we may have. But again, as I said, I am not carrying any particular ball here for beekeepers. But I was familiar with the subject, being on the committee at the time the authorization went through.

Today, we are merely providing funds, as I understand it, to enable the Department to pay what are considered to be legitimate claims under the act. It is their responsibility, and again I would find it difficult to believe, scientifically, that the Department does not have people to go out and determine whether or not bees in quantity had died from a pesticide.

Mr. ROSTENKOWSKI. Mr. Chairman, today, the House will act on the second supplemental appropriation bill of 1972. In title I—general supplementals, chapter VII, the Labor and Health, Education and Welfare section, the committee has allotted $95 million for the Neighborhood Youth Corps and recreation support program. This additional amount will provide a total of $270.7 million or 609,300 enrollment opportunities for both programs combined.

On many occasions in the past, both on the House floor and in testimony before the Appropriations' Subcommittee, I have attempted to call to the attention of my colleagues the problems of youth job and recreation program availability in the inner cities during the summer months. Each year these important programs have been insufficiently funded. Each year our cities have received these allocations with inadequate time allowed to develop really competent programs. In spite of all this, these programs have, somehow, proved relatively successful.

The demand for Neighborhood Youth Corps job slots, alone, in the 111 cities served by the Corps, was 900,000 for the summer of 1972. This figure does not represent the number of youngsters who qualified for these programs—their numbers far exceed this figure. It is only representative of the amount of young men and women that each city was capable of administratively servicing and the amount of jobs that could be made available in each city. Why then are these programs—programs that deal with the very fabric of our cities—so traditionally underfunded?

It was obvious in the summer of 1971 that the additional supplemental of $95 million was grossly inadequate for these programs to be fully effective and reach their proper potential. Yet, this year, these programs are being funded at the exact same level, when what was needed was a supplemental of at least $200 million.

I have, along with many of my colleagues in the House, made several pleas, both to the President and to the Appropriations Committee for a substantial increase in funds for the Neighborhood Youth Corps and the recreation support program. Our requests have apparently fallen on deaf ears.

Mr. Chairman, I know what summer in the city is like. I know the frustration and the impatience that can be experienced by inner city youth who have nothing to do with their time and no place to channel their energies. Through the Neighborhood Youth Corps and the recreation support program these kids have a chance to do something—to learn a skill—to get out of the city and into the country to parks and recreation areas. These programs have undeterminable value but without adequate financial support, they cannot hope to provide their desperately needed services.

I am convinced, Mr. Chairman, that on this issue we in the Congress have failed to properly perform our function. Year after year these job and recreation programs are neglected. They were created to protect our cities from another summer like 1968—but now that the immediate threat has passed it seems we feel no great concern for these programs. Mr. Chairman, by neglecting the potential of these programs, we are ultimately neglecting the potential of those that they were meant to serve—our youth.

Mr. McDADE. Mr. Chairman, I wish to draw the attention of my colleagues to language contained in the Forest Service account of H.R. 14582, the second supplemental appropriations for fiscal year 1972. I refer to the provision in the full committee report permitting release of U.S. Forest Service funds in the event of a serious outbreak of the gypsy moth. This measure would permit, for the first time, a transfer of Forest Service funds from one account to another to match funds designated by any State for emergency control measures against the gypsy moth. It would enable any State to proceed at once with appropriate action, at the request of local communities.

To my colleague, the gentlelady from Washington, the Honorable JULIA HANSEN, I express my gratitude for her support of this provision. She has once again demonstrated her concern for, and attention to, this serious environmental problem.

I also wish to commend the full committee chairman, Hon. GEORGE MAHON, and the ranking minority member, Hon. FRANK BOW, for their support of this provision in the full committee.

The report's provision for a transfer of funds will enable States to act promptly against the gypsy moth without rerequiring a new supplemental. Egg masses are already present in epidemic proportions in much of the Northeastern United States. Moreover, as the pest moves West and South into areas of even more ideal breeding conditions, there is a threat of greatly increased gypsy moth populations.

Is the infestation, in fact, a disaster? The answer is emphatically, "Yes." "This pest can kill our conifers in a single year; our oaks, and many other hardwoods, in 2 years of defoliation. It endangers the entire ecosystem of areas it defoliates.

The environmental impact is obvious. Stark, leaf-stripped forests constitute a major fire hazard. Trees with dying roots fail to hold soil against erosion, and endanger our watersheds. Birds and small animals which depend on woodland cover for food and shelter are made homeless. Without shade trees, even climate conditions are altered.

There is also a severe economic impact on recreational areas which depend on the scenic qualities of trees to draw campers and tourists. Even in populated areas, the omnipresent gypsy moth caterpillar enters homes easily and creates a domestic nuisance.

The provision for a transfer of funds is intended to enable States plagued by this pest to come to the Federal Government for assistance with assurance that matching requests will be accommodated. The Forest Service will now be authorized to transfer funds from other interagency accounts to meet their needs, much as it transfers funds expended in fighting forest fires.

I have had continual discussions with Department of Agriculture experts on the subject of pest control methods. They have informed me that aerial spraying with an approved chemical can provide satisfactory if temporary relief from the gypsy moth. They are also exploring the use of more permanent biological or microbial controls. These are still in the experimental stage, but appear promising. To aid pilot field research into these, and other new antipest devices, I last month introduced legislation, H.R. 13332, authorizing $4 million to the Department of Agriculture and the National Science Foundation to determine the safest and most effective means of eradicating the gypsy moth, and similar pests, once and for all.

We will have sufficient funding in the regular appropriation bill for fiscal year 1973 to insure an effective research program, one that will provide an effective and acceptable remedy. Meanwhile, the language in this report will facilitate control efforts that are available today by giving assurances to States that their requests for matching Federal dollars will be honored.

Mrs. GRASSO. Mr. Chairman, again

this year many of our young people face the agonizing prospect of a long and bleak summer without a job.

Though more and more students enter the summer job market each year, the commitment to assist local communities in their efforts to find employment for our young citizens remains stagnant. A case in point is the Neighborhood Youth Corps program.

It is deeply disappointing to me that the administration's request for this program, as reported out of the Appropriations Committee and included in the second supplemental we are considering today, does not meet the pressing summer employment needs of our young people. From all indications, the Neighborhood Youth Corps bill likely to be passed by the Senate comes closer to fulfilling our responsibilities to the Nation's young people than the House bill. It is my heartfelt hope that the House-Senate Conference Committee on this appropriations measure will see that the summer jobs program is fully funded. Only then will our youth have adequate summer employment opportunities.

The opportunities they require are great. The Neighborhood Youth Corps program, which forms the heart of the summer jobs program, has been highly successful in the economically hard-hit cities of our country. The administration's budget for both the Neighborhood Youth Corps and the recreation support program, including the supplemental increase we are considering today, is about the same as it was last year—a sum of $270.7 million. This funding will be used to provide 609,300 9-week jobs for young people in both programs. Funding for the Neighborhood Youth Corps itself under this bill amounts to $257.9 million.

Following an extensive nationwide survey of the summer job needs of our cities, the U.S. Conference of Mayors estimates that at least 947,900 10-week jobs are required this summer for the Neighborhood Youth Corps program, at a cost of $444 million—or $186.1 million more than the funding considered adequate by the administration. State labor department officials in Connecticut maintain that summer job needs under the Neighborhood Youth Corps program are, indeed, greater this year than last. At that time the projected number of job slots needed was over 10,000, though less than 7,000 jobs were available to our young people.

Earlier announcements by the administration of a summer program providing over 1 million jobs for young people was encouraging news. Unfortunately, closer examination of the administration proposal reveals that at least one-third of those jobs must be provided by the private sector—by business and industry—without cost to the Federal Government. In the face of present economic difficulties, prospects of jobs in the private sector for young people are actually less than the number available last year.

What young people need this summer is jobs—not false hopes. It is my hope that Congress will see to it that enough summer jobs for young people will be available.

Mr. ROSTENKOWSKI. Mr. Chairman, I will support the amendment when it is offered by my good friend and colleague, SIDNEY YATES.

The need for increased grants for bilingual education has been amply demonstrated. Existing programs in many cities have been quite successful, but the demand for bilingual education has far exceeded the limited funds that are made available.

In my own State of Illinois alone, there are between 80,000 and 100,000 bilingual students—students who could greatly benefit from a program of this type. Unfortunately, only $220,000 of the total $35 million appropriation has been made available for use in Illinois.

The story is very similar in many other States. The need is there, but the funds are not. In order for our bilingual citizens to reach their full potentials in the scholastic, social, and economic spheres in this country, it is necessary that they be given the opportunity to better understand and articulate the language of the society in which they have chosen to live.

Mr. Chairman, I urge my colleagues to support the Yates amendment. It will make bilingual educational opportunities more available to those in need.

Mr. ROGERS. Mr. Chairman, I rise in support of H.R. 14582. I notice in the bill before us an additional appropriation of $5.6 million for operation of the U.S. Public Health Service hospitals. I am heartened by this action since only last July the House was considering an appropriation bill which would have reduced the fiscal year 1972 appropriation for operating these hospitals by $14.2 million from fiscal year 1971. At that time, the House adopted my amendment to restore these funds and thus insure the continued operations of these facilities, until the Congress could thoroughly consider the Department of Health, Education, and Welfare's plan to transfer or close these hospitals and clinics. Shortly thereafter the Subcommittee on Public Health and Environment conducted extensive hearings on this matter and the Congress adopted House Concurrent Resolution 370 which expressed the sense of Congress that these hospitals remain open and within the Public Health Service. I might also add that the subcommittee recently visited the Public Health Service hospital in Seattle, Wash., and held public hearings on the future of that fine hospital. The subcommittee will continue to conduct a thorough review of HEW's plans with respect to the PHS hospitals and clinics.

I am also heartened to see that the Appropriations Committee has included language in this bill which would authorize the Food and Drug Administration to utilize $8 million of previously appropriated but unexpended funds for construction of field laboratories to be used to implement badly needed food inspection activities. The Subcommittee on Public Health and Environment held extensive hearings on the problem of food inspection last August and September at which time Commissioner Edwards of the FDA expressed his concern on the woefully inadequate funding for food inspection activities. He indicated the need for nearly doubling the FDA budget to adequately meet the monumental food inspection responsibilities of the agency. While this is not the answer to the problem by any means it is certainly a step in the right direction.

Mr. VANIK. Mr. Chairman, I want to commend the distinguished gentleman from New York, (Mr. BINGHAM) on his amendment. I support his amendment to restore $8.2 million to the Developmental Disabilities Service Act of 1972.

The Developmental Disabilities Services Act has been a new major Federal program to aid the mentally retarded and victims of cerebral palsy and epilepsy.

It was unconscionable that the fiscal year 1972 appropriation of $30 million was cut back to $21.7 million in Conference Committee.

There are 4½ million handicapped children in this country that do not go to school. The adult lives of these children will consist of nothing but "bleak desperation."

How could we cut back programs that will give these isolated handicapped children a fighting chance.

Not only do I support the amendment of the gentleman from New York, but I also hope that legislation is developed to extend an education to all these children who have been denied their right to an education.

Mr. MAHON. Mr. Chairman, I have no further requests for time in general debate.

Mr. BOW. I suggest that the Clerk read.

Mr. MAHON. I, too, suggest that the Clerk read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONSUMER AND MARKETING SERVICE

CONSUMER PROTECTIVE MARKETING AND REGULATORY PROGRAMS

For an additional amount for "Consumer Protective, Marketing, and Regulatory Programs", $665,000.

AMENDMENT OFFERED BY MR. STEPHENS

Mr. STEPHENS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEPHENS: Page 2, after line 17, insert the following:

RELATED AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

GRANTS FOR BASIC WATER AND SEWER FACILITIES

For grants authorized by section 702 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102), $650,000,000 to remain available until expended.

Mr. STEPHENS. Mr. Chairman, I have written a letter to every Member explaining what my amendment would do. My amendment would provide an additional $650 million of badly needed funds for basic water and sewer facilities. The supplemental appropriation bill we are considering has no money in it whatsoever for those funds. It is a program that provides 50–50 money for grants and loans to the municipalities of the United States, big and little, but the big ones have a better way to finance such programs than the smaller ones.

Just a month ago this House passed legislation providing $18 billion for the

construction of sewage treatment plants. I feel very strongly that the Housing Department's 702 grant program for water and sewer lines is complementary to and necessary for the successful carrying out of the water and sewage treatment plant programs. As I have said on two other occasions when I offered amendments to increase these funds, to construct a treatment plant without the necessary sewer lines, the pipes, is like constructing an electric powerplant without wires and poles.

I hold in my hand a compendium of an official directory, the pending applications filed with the Housing and Urban Development Department on the backlog of water and sewer applications. Every page is covered. There are several billion dollars of backlog applications. Part of this is due to the administration's policy of impounding funds appropriated by the Congress.

Fortunately, a new section 658 was added by Public Law 92–226, to the Foreign Assistance Act, which will do a great deal in bridling the executive branch's efforts to thwart the congressional will in this area. This provision provides that no funds appropriated under the Foreign Aid Act may be utilized after April 30, 1972, unless funds impounded for fiscal year 1971 in the Department of Agriculture, and in HUD, and in HEW have been released for obligation and expenditure. Although I would point out this is not dealing with this particular provision, this particular section I am talking about, we have set a precedent to say that the funds heretofore appropriated will be utilized.

I believe it is vital that my amendment be adopted today: First, because this Nation is now in the throes of a pollution crisis. A great many things have been added which are called pollution, but basically it is clear water and sewage disposal.

All of us have received innumerable applications and complaints from local government officials as to the desperate situation in which they have found themselves. Standards, and correctly so, are currently being set higher and higher as regards water pollution, but this is occurring at the very time that high interest rates have increased the burden of municipal financing. Also, at the same time, recession has reduced the State and local tax collections. This is also in the face of many rising expenditures in other areas.

The adoption of my amendment is mandatory as an antipollution measure. Of equal importance, moreover, is the fact that this $650 million will have a multiplier effect throughout our entire country. It will employ men, both on and off the job. For every laborer who is hired to lay iron pipe, a workingman will be hired to produce it at the foundry.

My amendment is also an antirecession amendment.

I urge the Members to support my amendment which would provide $650 million for the HUD water and sewer program. It will take up the complete authorization that goes through this fiscal period covered by the supplemental. All items have been authorized and most of this has been appropriated heretofore without the money being expended. That is why I offer it now, so it can be considered. We will assume our responsibility to see appropriate priorities established for the people of the United States.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, did I understand the gentleman's amendment to go to line 17, page 2 of the bill?

Mr. STEPHENS. That is correct. This has been handled under the Department of Agriculture in recent times.

Mr. GROSS. I know, but that is under the subtitle of "Consumer Protective Marketing and Regulatory Programs."

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(On request of Mr. THOMPSON of Georgia, and by unanimous consent, Mr. STEPHENS was allowed to proceed for 3 additional minutes.)

Mr. STEPHENS. Mr. Chairman, my amendment adds a new section which says:

RELATED AGENCIES, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT GRANT FOR BASIC WATER AND SEWER FACILITIES

For grants authorized by section 702 of the Housing and Urban Development Act of 1965, $650 million, to remain available until expended.

Mr. Chairman, it is a separate section.

Mr. BURKE of Massachusetts. Mr. Chairman, I rise today in support of an amendment to the supplemental appropriation bill. In my opinion, the amendment is necessary to correct a fatal omission in the appropriation bill. The bill contains no funds for grants for basic water and sewer facilities. This omission is difficult to condone since the program itself was passed by the House last June on a voice vote, so popular a program has it become; but programs do need funding if they are going to be put into operation—if they are going to be realized.

The fact of the matter is, I know of no program on the local level today which is in greater demand, occupies more of my staff's time and my own personal attention than the water and sewer grant program administered by the Department of Housing and Urban Development. As a matter of fact, right now I can think of no community in my district which has not got some form of application pending before HUD. The documentary evidence behind each application is so impressive, the need so great, that I do not envy for one instance the regional administrator whose task it is to shift through the many applications before him and determine which one deserves some of the limited funds available. And—there is the rub—the funding for this most popular of all local government programs with the Federal Government is just too limited. The waiting line is just too long. By the time the application is approved, quite often original cost estimates have risen substantially. The local communities which have to provide the matching funds are understandably hard pressed to condone such costly delays. On the other hand, the programs are so massive and costly that local communities on their own just cannot afford them. They would add to already heavily overburdened local budgets and, ultimately, local property taxes.

Now I am well aware that the problem of limited funding for this program does not stem from any reluctance on the part of Congress to support the program with the necessary funding. The problem has been a consistent and determined policy on the part of the Office of Management and Budget to impound funds authorized and appropriated for this program by Congress. In my opinion, however, it would be the height of folly for Congress to refrain from appropriating the authorized amount for this program in this fiscal year on the grounds that money is still in the pipeline for this program or is currently being impounded. To me, this would represent total legislative abdication to the executive department's arrogant decision to slow down this program by withholding full funding.

We would, in effect, be reinforcing executive abrogation of congressional authority. It is not my intention today to get deep into the whole impoundment controversy and try to place the blame on which administration started the practice, which administration continued the practice, and which administration has withheld the most money since impoundment began. Suffice it to say that congressional opinion has been expressed legislatively on several occasions by this Congress about the practice and it has been invariably negative. How the problem will be solved constitutionally will not be decided here today.

My point is this, that the fate of a good program may well be decided here today. I, for one, do not want to see this program wither on the vine because of lack of full congressional support. If I wanted to be totally political about this, I suppose you could say that I want to place the full burden for explaining to the people around this Nation come November why there have not been more approvals given under this program, squarely on the shoulders of the administration where it belongs. If the administration wants to impound the funds I am proposing we appropriate today, then they will indeed have explaining to do come November.

The pressure, Mr. Chairman, for these funds is not the result of a number of towns scratching around, trying to find ways of spending Federal money as has been suggested by some about other Federal grant programs. The tremendous response to this program stems directly from the existing backlog in water-sewer modernization and construction which existed when section 702 of the Housing Act of 1965 was passed. In other words, Mr. Chairman, section 702 was passed because a real problem existed. There was a demonstrated need for this kind of local program. Mr. Chairman, we have gone too far down the line since then in the direction of improving our environment to be stopped in our tracks because of the Executive Department's capricious decisions as to which program's funds will be withheld at any given time. The people want the basic minimum safe-

guards of sanitation and pure drinking water and because they want it, the local town meetings are voting overwhelmingly in favor of such programs. Town after town around this Nation has coughed up its part of the cost of providing such services to their population. The local taxpayers have indicated again and again a willingness to share added responsibility for this program. The problem has been the Federal Government's inability to come up with its fair share in case after case.

Mr. Chairman, I do not think the problem is one of wild land development and reckless speculation in local communities across the country. The administration of the program has built into the program numerous safeguards in the form of regional planning council approval, environmental reports and considerations, and so forth and so on. The applications that survive the elaborate screening and deliberate roadblocks against encouraging further overdevelopment and land speculation are programs which have addressed themselves to genuine needs and have been well put together.

Mr. Chairman, as my distinguished colleague from Georgia has pointed out, this House just passed a Water Pollution Control Act, authorizing $18 billion for the construction of much needed sewerage treatment plants—a vital part of a major attack on water pollution. It would be totally inconsistent with the spirit of this act for the House now not to appropriate the 702 program which is, after construction of much needed sewage treatment plant program.

In closing, I just want to add my support and firsthand testimony to the need for this amendment. The New England regional office of HUD is swamped with a backlog of millions of dollars worth of applications. Some I know personally have been filed and refiled several times now. Many have been approved but go wanting for lack of funding. I would be doing less than my job of representing my district if I did not urge your support of this amendment today.

Mr. WHITTEN. Mr. Chairman, I rise in opposition to the amendment.

It is hard to differ with my friend from Georgia and others here who would like to see us do overnight everything which possibly could be done. I have a record, I believe, which compares favorably with others as to trying to see that we move ahead as fast as we can to protecting the environment, which includes the water and sewage treatment and sewage lines.

Here is the situation that faced the committee. We have heard described earlier the financial situation of the country.

In 1971 the budget request was for $150 million. The Congress provided $350 million, and promptly $200 million of this was frozen by the Office of Management and Budget.

In fiscal year 1972 the amount before the committee was $150 million, to which the gentleman from Georgia offered an amendment. We recognized the need and raised it to $500 million. In addition to that $500 million, the remaining $200 million from 1971 continued to be available.

Therefore, in fiscal year 1972 the total amount available was $700 million for HUD water and sewer grants, $500 million more than the administration requested, and that $500 million is now frozen.

The budget for fiscal year 1973 plans on using only $200 million of the $500 million now frozen.

We have similar situations with regard to other items.

The point of it is that when $500 million is already frozen, plus more than $100 million which has not been approved for use, and to add $650 million to it would express high optimism but would not do anything to make additional funds available.

As I understand the situation, many local governments now are delaying sewer permits because of development problems and because treatment plants are not available.

I agree with my friend from Georgia that this type of program is essential to the success of treatment plants and for proper operation and so forth.

Mr. STEPHENS. Mr. Chairman, will the gentleman yield on the figures he gave a minute ago?

Mr. WHITTEN. I yield to my friend from Georgia.

Mr. STEPHENS. Actually, we have a backlog of money that has been frozen. I agree with the gentleman. But we have authorized $700 million, almost, more than we have expended. If we do not authorize or do not appropriate the funds I ask for, this will be entirely lost and the President will not have an opportunity to decide whether he wants to do it or not. That is why I offer it now.

If we wait until the next time we have an authorization come up, it will come up in the housing bill. We will not have a housing bill, so far as I can tell, until August or possibly September. So we will have no money at all until the fall or later for water and sewer grants.

Mr. WHITTEN. Am I not right that the frozen funds are no year funds, and those frozen now would continue to be available until the new bill is passed?

Mr. STEPHENS. If we do not put the money in, and appropriate it, it will stay frozen.

Mr. WHITTEN. Existing funds, which the Congress has appropriated, which are unused, which are frozen by the Office of Management and Budget, will continue available until the time that the new authorization is passed and until approved for a grant. If I understand the gentleman's amendment, it would add only to the frozen funds.

Unless we can get the hundreds of million dollars presently appropriated, released and made available; unless we can get the Office of Management and Budget or the President to release those funds, we would just pile on top of frozen funds additional funds to be frozen. For that reason I do not see why it is necessary to add this $650 million at this point in this bill.

Mr. STEPHENS. Even if we had no necessity at this time, I still believe we ought to be on record in this Congress as setting a priority again on expending for water and sewer the proper amount to do the job.

Mr. WHITTEN. I do not know of any more desirable program, but I do not want to set a precedent in this Congress that even though the funds are not being used, and even though the people in many local communities are deciding they prefer other things rather than this, that we feel we have to commit ourselves by full appropriations to the full amount of every authorization passed before the authorization expires.

I say again when you have half a billion dollars and you are not getting that used, we do not need to provide another $650 million to put on top of it. We do not act too sound now from a financial standpoint.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask the distinguished chairman of the subcommittee several questions.

As I recollect the comments made by him independently as well as in the colloquy with the gentleman from Georgia, there was a $200 million appropriation made for fiscal 1971 followed by a $500 million appropriation made for fiscal 1972 in this program.

Mr. WHITTEN. My figures show that in fiscal year 1971 $350 million were made available, $200 million of which were frozen.

Mr. GERALD R. FORD. Actually they permitted for obligation $150 million out of the $350 million?

Mr. WHITTEN. That is right. Then in 1972 the House put in $500 million, which was added to the $200 million which had remained frozen, for a total of $700 million.

Mr. GERALD R. FORD. How much was permitted for obligation in fiscal year 1972?

Mr. WHITTEN. In fiscal year 1972 approximately $200 million of the $700 million.

Mr. GERALD R. FORD. Leaving approximately a $500 million carryover?

Mr. WHITTEN. That is right.

Mr. GERALD R. FORD. From the previous fiscal year?

Mr. WHITTEN. That is right.

Mr. GERALD R. FORD. How much did we or more correctly are we likely to make available for the program in fiscal year 1973?

Mr. WHITTEN. That is under consideration by the committee now and it will come before the House in the regular bill.

Mr. GERALD R. FORD. So we have a backlog of $500 million in fiscal year 1972?

Mr. WHITTEN. That is right.

Mr. GERALD R. FORD. And the current fiscal year ends in a little less than 3 months.

Mr. WHITTEN. That is right.

Mr. GERALD R. FORD. And your committee is considering the request for fiscal year 1973 now?

Mr. WHITTEN. That is right. And from the attitude of the committee members and from the expressions that have

been made thus far, they are certainly in support of this program. However, to add in a supplemental $650 million, is just adding to the amount of frozen funds. We will bring in the regular bill in such amounts as the House and the Congress sees fit to put into it, and that will end up in the bill having been recommended by the committee.

Mr. GERALD R. FORD. There is $500 million in this account for fiscal year 1972 that has not yet been authorized for obligation, and we have 2 months left in this fiscal year?

Mr. WHITTEN. That is my understanding.

Mr. MAHON. Will the gentleman yield?

Mr. GERALD R. FORD. I yield to the distinguished chairman of the Committee on Appropriations.

Mr. MAHON. Of the $200 million which is available for obligation as a part of the administration plan for fiscal 1972, as of April 10 we are told that only $91.7 million has been approved. I shall ask permission later on to put in the RECORD some information which I have here which shows that these programs are being reexamined and many of these applications are not valid or do not, for one reason or another, materialize, and that much additional information is required. There is a lot of room for a reconsideration of the validity of numerous applications which are pending. I think the Congress and certainly the Committee on Appropriations want to do a good job in this important field of water and sewer lines.

But with a total in excess of $600 million still available in the overall, it just seems almost irresponsible, with all due respect, to consider adding $650 million to that at this time.

This would indicate that the House thinks money grows on trees. It would indicate that we are not aware that these huge amounts of uncommitted funds are available.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. GERALD R. FORD was allowed to proceed for 5 additional minutes.)

Mr. MAHON. Mr. Chairman, under leave to extend, I include an excerpt from the Department's fiscal year 1973 budget justifiation for this program supplied to the committee. It deals with the matter of reviewing applications and gives some pertinent statistics delineated between "preliminary" applications and "full" applications.

Review of Preliminary Applications. The Department accepts preliminary applications for processing or referral regardless of size of community, or type of public work or facility involved. Of the anticipated 800 preliminary applications estimated to be filed with the Department of Housing and Urban Development in fiscal year 1973, 200 referrals will be made to other Departments for detailed review and processing.

Those preliminary applications which rank lowest in terms of the Department's rating system are returned to the applicant. Also returned are those preliminary applications which obviously are ineligible because of lack of planning or some action on the part of the applicant which legally or administratively disqualifies the project. In previous years the applications on hand have far exceeded the program level. Current Department policy discourages holding applications for more than 90 days. Based on the criteria of the project selection system unfunded applications will be returned. This new policy will result in a substantial increase in rejection of preliminary applications in 1972 as preliminary applications from previous years which have no chance of being funded will be returned. The table showing a detailed breakdown of the processing of preliminary applications follows:

PROCESSING OF PRELIMINARY APPLICATIONS

[Dollars in millions]

	Estimate 1972	
	Number	Amount
On hand, start of year	1,349	$639.8
Preliminary applications received	1,200	500.0
Total	2,549	1,139.8
Less:		
Referred to other agencies (net)	200	60.0
Withdrawn or rejected	1,400	600.0
Converted to full applications	500	250.0
On hand end of year	449	229.8

Review of Full Applications. Applicants who submit preliminary applications that meet the standards of the Department are invited to submit complete or "full" applications for final technical review. Those found to be satisfactory are approved and funds are reserved for the project. The following table shows the processing of full applications.

PROCESSING OF FULL APPLICATIONS

[Dollars in millions]

	Estimate 1972	
	Number	Amount
On hand, start of year	162	$85.7
Full applications received	500	250.0
Total	662	335.7
Less:		
Withdrawn or rejected	100	50.0
Grant reservations (excluding cancellations)	400	200.0
On hand, end of year	162	85.7

Mr. STEPHENS. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. Yes, I yield to the gentleman from Georgia.

Mr. STEPHENS. I would like to say this. We will have to do what I am proposing in order to have any money for the 1972–73 appropriation bill for this budget because we do not have any authorization for the 1972–73 appropriation bill. I say this because we have not yet reported out a bill from the Subcommittee on Housing to the Committee on Banking and Currency, and if we do not do this, we will not have any appropriation.

Mr. GERALD R. FORD. Let me ask the gentleman this question:

As I understand it, the other body has passed a housing bill and in that housing bill there is a provision comparable to the one under which we are not operating.

I understand also that a subcommittee of the House Committee on Banking and Currency has approved a housing bill that would include provisions in this category. I was told that this morning by the chairman of the subcommittee.

Is that correct?

Mr. STEPHENS. We have not reported out a bill nor approved a bill as yet. We have a tentative bill but I have not seen the language contained in it. We are hoping to meet this week to see the language of the bill insofar as the committee is concerned.

Mr. GERALD R. FORD. Would the gentleman agree that the Committee on Banking and Currency has until June 30 to recommend its version to the House and the Congress has until that date to pass a final version and it is not totally accurate to say that there will not be any program in this category after July 1, 1972?

Mr. STEPHENS. I would say that is a possibility, but I do not say it is likely.

Mr. WHITTEN. Mr. Chairman, will the distinguished minority leader yield to me?

Mr. GERALD R. FORD. Yes, I yield to the gentleman from Mississippi.

Mr. WHITTEN. May I say that I think we are overlooking the fact that whether this amendment is defeated or agreed to at this time we have $700 million on hand, and of that amount only $91 million in grants has been approved. May I say further that our subcommittee is proceeding with its hearings, although we have not as yet heard from HUD representatives before the committee. But, our committee certainly plans to bring it in here in some form when the regular bill is brought up. In other words, this entire situation will be dealt with in the committee and then the Congress will have an opportunity in the regular bill to deal with it at that time.

So, we have these funds on hand which are "no year" funds—which are continuing funds.

Mr. GERALD R. FORD. Let me make this perfectly clear, although I think the chairman answered this question in his last comment. However, I would like it clearly on the record that the $500 million to $700 million that has been appropriated for this program and is a matter of law available is under the category of "no year" funds which means it is available for subsequent utilization by the executive department; is that correct?

Mr. WHITTEN. That is my understanding. I do not think there is any question about it.

Mr. MAHON. The gentleman is absolutely right.

Mr. WHITTEN. The problem is a matter of release of the funds, but insofar as the law is concerned the funds are fully available and will continue so.

Mr. GERALD R. FORD. The gentleman is saying that in the fiscal year that begins on July 1, there will be that amount of money on funding available until the Committee on Banking and Currency acts on its housing bill and until the Congress passes a housing bill that covers this area?

Mr. WHITTEN. Taking a leaf from the speech which was made by my friend from Massachusetts (Mr. CONTE), there will be three times as much money avail-

able for 1972–73 as we have been able to get released during the current year.

Mr. GERALD R. FORD. Mr. Chairman, I yield back the balance of my time.

Mr. KEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment that I am supporting is an amendment sponsored by Mr. STEPHENS of Georgia. We are asking for $650 million for the 702 program of the housing bill. This is to provide for water facilities, pipelines and sewer lines; 50 percent of the cost will be borne by the Federal Government and the remaining 50 percent by the local government.

The appropriations bill as reported contains no funds for grants for basic water and sewer facilities. This is an important program, and has been in effect since 1965. It has as its purpose the correction of a basic pollution problem which confronts this Nation.

The President's budget for 1972 did not include any additional authority for continuing the water and sewer facility grants. You may recall that last year the House voted, by an overwhelming majority, to appropriate $500 million for fiscal year 1972. The President has not spent these funds, notwithstanding the fact that there is a backlog of applications totaling over $1 billion.

I know of no program more vital than to provide our cities and communities with the means of assisting its citizens with adequate water and sewer facilities. What purpose is served for a community to have a sewage treatment plant if it does not have the lines to provide for its effective utilization.

The House has recently passed one of the strongest and most comprehensive water pollution bills in our history. Water pollution represents one of the major problems that we face now, and will for a number of years. I urge the support of every Member of the House in providing funds to permit adequate financing in 1973 of the basic water and sewer facilities authorized by section 702 of the Housing Act of 1965.

Mr. HECHLER of West Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I trust that the amendment offered by the gentleman from Georgia (Mr. STEPHENS) containing funds for water and sewer lines, will be adopted, since so many of these projects will be of direct benefit to the State of West Virginia.

The Department of Housing and Urban Development's 702 program, if funded, would cut substantially into the great backlog of applications now pending. Many of these applications and some of the most serious needs occur in the State of West Virginia. I am very pleased that my colleague from West Virginia (Mr. KEE) is here with us today to vote on the pending Stephens amendment, because we need every vote we can get in order to make progress in the fight against pollution. Adoption of the Stephens amendment would be a substantial step forward in our struggle for clean water.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words.

I think we are united in the opinion that we should have an adequate clean water program. Recently, this House passed an $18 billion program of grants for the construction of waste treatment plants over a period of 3 years.

In addition to that, there is $700 million available for sewer and water facilities for this year. That much is available right now.

Of that $700 million, only $91 million of applications have been processed for expenditure according to information secured informally today by the committee staff.

Therefore it would seem to me to be the better part of discretion on the part of those who want to act responsibly in fiscal matters not to virtually double the $700 million already available by adopting this amendment.

Certainly I believe every Member can explain to his constituents that he is doing all he can, and that he has helped provide hundreds of millions of dollars for this program and that over $600 million remains unused at this time. But what good does it do to appropriate more money at this time? It is like piling Pilion on Ossa to provide more and more money when it will not accomplish anything except to show that apparently this House does not have sufficient respect and admiration for the dollar and prudent and proper procedures.

So, Mr. Chairman, I urge the defeat of the amendment offered by the gentleman from Georgia (Mr. STEPHENS) on the ground that it is inappropriate at this time.

Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. STEPHENS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. STEPHENS. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. VANIK. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, in this appropriation there appears to be no provision for increasing funds in the section 13 school lunch program. This is the special services program used to provide for summer feeding and year-round preschool feeding of low-income children.

In view of the current need for this program and the cutbacks seemingly in vogue around the country on these programs, I would like to inquire whether your committee is going to insist that the impounded funds under section 32 be used in these vital areas?

As I understand it, we passed last year Public Law 92–32 which authorized up to $135 million in section 32 funds for feeding programs.

Mr. Chairman, I would like to inquire whether some effort will be made to utilize these impounded funds or direct the administration to provide them?

Mr. WHITTEN. I do not know any way we can force the release by the executive branch of any funds. But as to any available funds I am advised that about $6 million remains available for June. That is the information we have.

Of course, as to frozen or withheld funds, that is beyond the control of the committee, as the gentleman knows.

Mr. VANIK. I understand that. Present funds in this program are being provided from both a regular appropriations bill as well as some section 32 funds which come out of the tariff. The problem is that not enough of these section 32 funds are being used. The result is a failure to feed these children.

Mr. WHITTEN. Funds now available are out of section 32.

Mr. VANIK. I hope the committee will in some way bring about a utilization of impounded funds.

Mr. WHITTEN. While there have been no questions raised about the $8 million included in the bill for the hire of additional food and drug inspectors and for related matters, before we move on to chapter II, I would like to briefly discuss this very important item and the reasons for the committee's action in this area. This amount was added in full committee at the initiation of the subcommittee. No request was made by the administration for additional funds. The reasons why the committee took this unusual step are fully explained in the report and I include the report in the RECORD at this point in order to assure that the committee's intent is fully understood:

FOOD AND DRUG ADMINISTRATION—BUILDINGS AND FACILITIES

No supplemental funds are requested by the Food and Drug Administration in the bill before us. However, an extensive study of the Food and Drug Administration by the Survey and Investigations Staff of the Appropriations Committee was begun in early September at the request of the Committee. An additional study was then made by the General Accounting Office. Many problems were disclosed. Among other things revealed on a spot check basis was the fact that about 40 percent of food processing plants were unsanitary and further that inspections which disclose such conditions average about 5 to 7 years apart, notwithstanding an increase of 15 percent in the appropriations for this agency for the current year.

These facts were confirmed in hearings before the Committee on the 1973 budget. It was also developed that $21.5 million in monies appropriated from 1964 to 1968 for construction of field laboratories is presently available and, $8,000,000 of which in the opinion of the Committee can best be used to proceed immediately to meet pressing problems. New laboratories may be needed, however, no survey has been made and facilities begun now would not be available in less than three years.

It is the opinion of the Committee that with the critical inspectional problems immediate action is required now. Accordingly, the Committee has written language authorizing that $8 million of unused funds in the buildings and facilities account be used now primarily for inspectional activities.

The Committee has also approved the use of such amounts as may be necessary of the $8 million for the renovation and equipping of existing vacant or underutilized facilities to provide additional laboratory capability immediately.

This action does not preclude the future funding for laboratories previously authorized, but conditions have changed consider-

ably since these funds were originally approved. The Committee expects the Agency, in view of the present need for immediate action, to arrange for the use of existing underutilized laboratories, including laboratories of other Federal agencies, which could become operational much more quickly than new construction.

While the Committee has made these increased inspectional funds available until expended, it will expect the inspectors to be hired as quickly as is prudently possible.

Approval of this supplemental will have no effect on the overall budget totals since it is a reprogramming of funds already appropriated.

To summarize, the most important parts of the report emphasize that the $8 million is urgently needed as is shown by the committee and GAO investigations. The funds will be derived from funds previously appropriated and will have no effect on the overall new obligational authority. The money can be prudently spent because it is available until expended.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

EMPLOYMENT STANDARDS ADMINISTRATION

FEDERAL WORKMEN'S COMPENSATION BENEFITS

For an additional amount for "Federal workmen's compensation benefits", $22,000,000.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES: Page 10, line 13, insert the heading "OFFICE OF EDUCATION" and a new section reading as follows:

"For an additional amount to the Office of Education for the "Follow Through" program, $9,000,000 as authorized by law."

Mr. YATES. Mr. Chairman, I offer this amendment to restore the funds necessary to keep alive an outstanding educational program for our schoolchildren who have moved from the Headstart program into the first grades of primary school. The program has been cut from $68 million to $59 million. This is a program for the kids who are 6 and 7 years old, after they have completed the Headstart programs which take them through kindergarten.

It was begun 3 years ago as an experimental program, and since its inception it has been acknowledged by everybody—everybody without exception—to be a great success. The children love it, and those who have participated in it have literally bloomed under its special guidance. The reading and math ability of the children in this program is, in most cases, 2 years beyond their grade.

The parents like it. They participate. They join in with the teachers in this very innovative and constructive program in a partnership to teach the kids. Even Secretary Richardson likes it. He expressed the view that the program has been a significant achievement, and yet the Office of Education decided to cut the program by $9 million and the committee went along.

It is a strange act in view of the praise given the program by everybody. Why did the Office of Education cut the funds? It was a mistake pure and simple. It was a goof, and I am sure the Office of Education would admit it. They told the Congress they wanted to cut the per-pupil cost. They did not want to eliminate any programs, merely to cut the per-pupil cost.

As a matter of fact, in the justification that they filed with the Appropriations Committee it was asserted that all the programs will be continued. The per-pupil cost was all that would be cut. Now they have slashed the program. Programs are being cut in communities all over the country, including in my city of Chicago, in my district, in the Ogden school, where a very fine program is being killed as a result of the slash by the Appropriations Committee and the Congress.

It was argued in the committee by my good friend from Illinois (Mr. MICHEL) that this program is too expensive, that it costs $750 per pupil. He also argued that it is a research program that ought to be added now.

Well, both arguments are without foundation. Yes, this is a research program, but that is one of the reasons it is more expensive than ordinary programs are. We are moving into areas that have hitherto been unexplored. All of us know what the cost of research has been in programs that have been undertaken in the Department of Defense. We know how expensive they have been. We have seen costs double, even triple, and sometimes without criticism.

For example, I recall the SR 71 program where $1,100 million was spent to construct two planes, one of which crashed and the other ended up in a museum.

We recall the loan of $250 million to keep the Lockheed Co. alive.

Is it too much to restore a $9 million cut to keep the education of our children alive after we have done an act of that kind?

Is the growth and development of our children less important than the research and development programs which are approved every day for the military?

This program is achieving cooperation among the races that is sought to be achieved by the busing program, and it is being done without the busing of children.

Finally, my good friend from Illinois (Mr. MICHEL) said it should have been included in title I funding. Perhaps that will happen in the future, but for the next school year, unless my amendment is approved, the funds for this program will carry $9 million less and programs all over the country will be eliminated.

If he wants the money for title I at some future time, I think his committee should put the funds in. But one thing is certain. If these funds are not approved, the next school year will go into effect in September without these programs. This is our last chance to vote funds to continue this program. We know this is a good program. We know it has succeeded. We know it will give us data to permit education patterns in the future to follow. Should we allow that program to be killed now?

Mr. Chairman, this vote on my amendment is a vote for children's progress. I urge Members to support my amendment.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment. I have heard about being against motherhood and being against sin. So they say, well, one must be for motherhood and against sin, but one is not supposed to be against children. Well, I certainly do not relish that role.

I want to call attention of the Members to the fact that we are getting near to the end of the fiscal period. Despite the alarms voiced by my friend, the gentleman from Illinois, the roof of this Capitol is not going to fall in. The schools in the metropolitan areas are not going to collapse. This just is not going to happen.

The regular appropriation bill for 1972—may I emphasize this is a supplemental appropriation bill, and we are not talking about the regular bill for 1972. This is the supplemental bill. The regular bill for 1972 included $60,060,000 in this Follow-through program.

This is the first of May, to all intents and purposes. That is the problem. The $60,060,000 already appropriated is the full amount of the 1972 budget request. This is the full amount. It is true the 1972 appropriation is a reduction from the 1971 appropriation. This program is forward-funded. What does that mean?

It means the 1971 appropriation supported the projects in operation during the current school year, that is, 1971–72. Now, there are currently 160 projects in operation, enrolling 74,800 children. During the next school year there will be 134 in operation.

HEW is going to discontinue funding 26 projects next year. I do not blame them. Do Members know why? There is absolutely no evaluation—none whatsoever—in those projects to establish their effectiveness in relation to cost. There has been no evaluation in those projects. This is the situation we have. But with this funding available—and we have it here—they will be able to serve more children—serving more children is the name of the game here—at a lower average cost. What do we want? Diamonds? That is perfect.

Further, this program is strictly experimental. Watch this foot-in-the-door business. Members know there is nothing more permanent in Washington than a temporary agency or a temporary building or a temporary license. Watch this one. This is supposed to be trying out different approaches to find which ones are most effective in improving the educational achievement for children in the lower income families—and everybody is for that.

Since this is an experimental and demonstrated program, it was not intended, nor expected, that each individual project would be supported indefinitely by the Federal Government, particularly in those cases where there is no way of measuring the results.

The methods that are found most successful can be picked up by other schools. We intend that they be picked up. We are going to see that they are picked up. If they do not pick them up, we will make them pick them up, for other schools, to make them a part of their regular curriculum, or in projects supported under title I of the Elementary and Secondary Education Act. They are there.

Mr. Chairman, this is strictly an experimental and demonstration program. It was not intended by the Congress, and it is not expected, that each individual project would be supported forever. So certainly under the circumstances this amendment should be rejected.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding.

I know that the gentleman from Pennsylvania (Mr. FLOOD) would not knowingly or willfully delude the House, but I believe that may have been the effect of some of his statements.

The point is that when he spoke of forward funding he was speaking of the school year that starts next September, and when he talks about this being a supplemental appropriation bill, what he might have intended, or perhaps the effect of his words, at least, was to give the House the impression that the funds are going to be used up on June 30 of this year. Nothing is further from the truth. This money is for the next school year. If my amendment is not voted up, then this program will be $9 million short and the program will have to be cut back.

Mr. OBEY. The gentleman is absolutely correct.

The fact is, there are 26 follow-through projects, one of which is located in my district, which are going to be eliminated in the next school year unless this amendment is passed.

The fact is that in my district—and I suspect in many others—the reason being given by the bureaucrats for discontinuance is that it is because of the $9-million cut. That is what the local people are being told. In a letter to my followthrough coordinator, the deputy commissioner for school systems, Duane Matthews wrote, "these difficult funding discussions were necessitated by the $9-million reduction in the followthrough national funding level and the resulting impossibilities of refunding all projects." This school district is not especially wild about Federal money. It is a rather conservative area and looks with some skepticism on Federal money. Yet I have found a tremendous reaction against the announcement that that program is going to be cut in my district. In fact, some parents want to come up, on their own money, to appeal to the Government to restore that project. I believe that says something as to the success of the program.

Mr. Chairman, I would like to read something which I believe indicates what we are trying to get at.

A few years ago I got a report from an old teacher of mine, from the high school from which I graduated. He was distressed about the problems some of these kids are having in traditional schools. He told me he had given a test to some 300 high school seniors, in his high school history classes, asking them just to tell how the "Star-Spangled Banner" was written. He gave them a week to go over a sheet which he put out ahead of time, before he gave the test.

This is what he got back from some of those kids at the time of the test.

The title itself was misspelled 31 times. Some of the titles were "Spandle Baner, Stars Spangles Banner, Spaugal Banner, Stars Bangle Banner, Spangaled Banner, Spangled Banner, Stangel baner, Spanded Banner, Star Bankle Banner, Spandes Ander, Sprackle Baner, Spanal Baner, Sparled Bander," and so forth.

I would like to read one story from a student who later graduated. This was what he wrote when he was asked to describe how the National Anthem came into being. He said:

> Our National Anthem was written by Francis Sodke, he was an athernay, while on a ship the British were fighting with us. Key did not think he could hold out. When the smoke settled he saw the flag flying still. The next cupple mornings his brothers told him to send it to a radio program. People liked and sang it. It was wrote in 1814 of Sept. 12. John Smith wrote the music. When Key died the President said the flag would fly over him all the time.

That kid graduated. I am not trying to laugh at that kid. And it is true, this happened some time ago. But the point I am trying to make is that if we have been wasting money we have been wasting it trying to use traditional methods to get through to kids who cannot learn in a traditional way.

The follow through program is aimed at getting to potential failures when it is still possible to change their future. It is meant to explore, for the future, different and productive methods for getting students to learn. I submit that it is a far greater waste of money to continue to provide traditional methods, such as we have provided, than it is to explore new ways of teaching.

I think at least some of that seed money is going to be far more effective than money which we spend in traditional ways.

I urge you to support the gentleman's amendment. I think it is one of the best amendments we are going to see here today.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and members of the committee, I cannot argue with the success of a good many of the projects in the follow through program, but let us keep this thing on track.

The reason for our having established these follow through projects around the country was, as the chairman of the committee indicated in his earlier remarks, to establish an experimental base so that we could move from the experimental stage to an operational stage throughout the country. This could be done, of course, in title I of ESEA.

While the gentleman has one of the projects in his district that has been eliminated, it is obviously one of the 26 that has not proven to be as good as the other ones we have in being around the country.

It is quite natural for any Member who has one of these projects in his district that has been eliminated to make a pitch on this floor for the continuation of the program and to obtain additional money, because it just means that much more for that project in his district. It is perfectly understandable.

However, I am saying we have to look at the national effort here. What we have in mind is utilizing what we have learned in those good projects and pushing them from the experimental stage to operational and doing it in every school district that has a title I program around the country.

Mr. YATES. Will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman.

Mr. YATES. Everybody concedes it to be a good program. The point is that the Office of Education goofed when they came before the Committee on Appropriations that it was reduced because they were going to cut back on the per-pupil cost. But if you examine the justifications, you will find the same number of projects was proposed to be continued in the next fiscal year. Now, they are $9 million short and are cutting back on the program. It does not mean it is not a good program. It is a good program. But it means that they goofed. My amendment corrects that mistake.

Mr. MICHEL. I do not have any testimony before the committee that indicates there was goofing on the part of anybody in their presentations to us.

Mr. YATES. It is obvious, if the gentleman will yield further, because they asked for less money for the same number of projects and did not cut back on the per-pupil cost.

Mr. MICHEL. The gentleman can use his own kind of arithmetic if he wants to. There is no question it is a very expensive program with a per-pupil cost of $740 to $750.

The point I want to make is that you want to apparently continue the program on an experimental basis but it ought not be perpetuated that way. We want to get it beyond that stage and on to the working level.

Mr. YATES. The gentleman said it is an experimental program. The gentleman is exactly correct. But is not an experimental program which benefits our children as important as an experimental program for the military programs that constantly escalate in cost but which we approved nevertheless?

Mr. MICHEL. We do not want to have an experimental program run forever, for heaven's sake.

Mr. FLOOD. Will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman.

Mr. FLOOD. Of course, Mr. Chairman, the purpose here is to be helping children, not to help some Member's project. I would be doing the same thing if I were he. The project has as its purpose

helping children. There is going to be an increase from 74,800 children to 91,650 children. Children. Forget about projects. We are trying to help children.

Mr. YATES. Will the gentleman yield further?

Mr. MICHEL. Yes, I will.

Mr. YATES. I was talking to the distinguished gentlewoman from Oregon (Mrs. GREEN) earlier this afternoon about this program. She pointed out how terribly difficult it was for children who have come through the Headstart program to be thrown into the usual of our school programs with overcrowded classes and too few teaching assistants. She thought it was necessary to continue the follow through program.

That is the point I make. What has been done by this reduction in funds is the cutting out a few of the programs that are now in effect in various parts of the country and letting the rest of the program exist, an action which is patently discriminatory.

Mr. MICHEL. I will say in response to the gentleman from Illinois that the very nature of an experimental program is one which should be flexible enough to adjust to change. If we can reduce the per pupil cost during the life of an experimental program, we should do it for this naturally would leave us with the additional resources to include more children in the experiment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES).

The question was taken; and on a division (demanded by Mr. YATES) there were—ayes 16, noes 52.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES: Page 10, line 13, insert the heading "OFFICE OF EDUCATION" and a new section reading as follows:

"For an additional amount to the Office of Education for the 'Bilingual Education' program, $15,000,000 as authorized by law."

Mr. YATES. Mr. Chairman, there are over 7 million Spanish-speaking, French-speaking, and American Indian children in this country who are eligible to participate in the bilingual educational program—7 million. Yet, there are only 83,000 of such children who are in these programs. That is because there are not enough funds which have been made available for the program.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. YATES. Yes; I yield to the gentleman from Illinois.

Mr. MICHEL. Where does the gentleman get the figure of 7 million? The testimony before our committee was 5 million.

Mr. YATES. The statistic I have shows 7 million, although I will accept the gentleman's figure of 5 million.

The contrast is still great—5 million children and 83,000 in the bilingual programs. There is not enough money in this program.

There is an authorization of $100 million. However, this committee voted only $35 million for this fiscal year. Of that amount, the Office of Management and Budget froze $10 million for half of this fiscal year. Only recently it made the $10 million available for these programs.

Mr. Chairman, of the $35 million which was made available, three States received $20.5 million. California received $7.5 million, Texas received $5.5 million, and New York received $2.5 million.

The city of Chicago, from which I come, and where there are 10 percent of the people who are Spanish speaking, receives $220,000.

The large urban areas of the North and the Midwest have been virtually bypassed by this project. Thus, the schools have not been able to meet the needs of the Spanish-speaking children of the families who are coming into the big cities in great numbers. The result for the children is often frustration and despair.

Education is the lifeblood of our Nation. The development of basic reading and writing skills is the sine qua non of success, and yet children who speak English as a second language are not developing these essential skills. I frequently hear from inner-city schoolteachers that the children are eager to learn and they want desperately to please, yet we are shortchanging them by denying them an adequate foundation through lack of funds.

I do not say that California should not receive the major share of these funds. They should receive more because they are not receiving adequate funds for the number of Spanish-speaking children they have. I do not say that Texas should not receive the $5.5 million. They should receive more. I do not say that New York should not receive the $2.5 million they receive. Certainly not. They should receive more. The point is that this whole program is drastically underfinanced.

And I urge—I urge that my amendment be approved, because it will restore not the full funding of the program, not even half of the program, but it will raise the funding level of the program up to $50 million.

Mr. Chairman, again I ask that my amendment be approved.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. YATES).

Again, Mr. Chairman, I have a special interest in this program. I was raised in St. Augustine, Florida, and I talked Spanish, as kids do, before I talked English.

I know these people because I was raised with them through nearly all of my young adult life, and they know, as well as I know, that I would be a true friend of theirs.

Again I must oppose the proposed amendment. This is a supplemental appropriation bill. The appropriation already available, Mr. Chairman, to this program for fiscal year 1972—and remember, we are talking about fiscal year 1972—is $35 million. This represents an increase—now, listen—an increase of $10 Oakland is not radically different from crease—over the 1971 appropriation.

You say we are not concerned? Indeed we are. I am.

This is also—now, near this—this is also an increase of $10 million over the presidential budget request for the fiscal year 1972. We put in $10 million over the President's 1972 budget request; that is what we are talking about. We put it in.

Like the followthrough program which we just discussed, this program is forward funded.

Let me nail this down for you, Mr. Chairman. The 1972 funds that I am talking about will be used to support projects in operation during the coming 1972–73 school year, which begins this coming fall. Do not forget that.

And this program, again—and watch this—this, by the intent of the Congress, is an experimental demonstration program which has been expanding, and probably will continue to expand. I hope. There is nothing wrong with that. And let me say that in the 1973 budget, which with the help of God, I will bring on the floor the first week in June of 1973—and this will be a help, and you will be glad to hear that—in the 1973 budget there is an increase of $6,130,000 for this program. It is going up over $6 million more, plus the $35 million for fiscal year 1972, which was an increase of $10 million over the 1971 appropriation.

Now, the rule of reason must apply. There is a much greater need for bilingual education. You cannot intelligently debate that, of course you cannot.

But, notice this, the Office of Education, in our hearings this year said there are another 230,000 children enrolled in bilingual education classes supported by local—and they should be—they should be—by State—and they should be, they should be—and through other federally funded programs. This is over and above the children in the programs supported by the $35 million we are talking about. It seems pretty obvious that the Federal Government is in this program.

We obviously cannot support all bilingual education. Even the chicanos do not expect that. Of course, they do not. They are reasonable people—any more than we should be the sole source of support for education of the handicapped. The Federal Government does not support all education for the handicapped. The Federal Government does not support all education for any special group.

The role of the Federal Government here is, as in so many other areas, First, to find out and demonstrate what works best.

What is the matter with that?

Second. To product materials that can be used in school systems all over the country.

What is the matter with that?

Third. To provide a kind of base on which other schools and the States can build.

What is the matter with that? That is the law that you passed. You were for it then. Certainly, you should reject this amendment.

Mr. YATES. Mr. Chairman, I think words like those of the gentleman from Pennsylvania should not be wasted on so few Members of the House. So I make the

point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred and two Members are present, a quorum.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, very briefly I should commend the author of the amendment for last year having pointed out to this House an inequitable distribution of these bilingual education programs.

It was on the strength of his inquiries last year that buttressed our case with the department to move to see that there was a better distribution out in the country on these bilingual education programs.

In the latest announcement of 39 new projects, three of them will be in the city of Chicago, as I pointed out to the gentleman—the Seward School, the Jackson-McLaren School and the Kosziuszko School.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. YATES. I know about the three projects. Does the gentleman know that the city of Chicago had filed for 10 projects?

Mr. MICHEL. No; I did not know that but in any area where Federal funds are being doled out there are always going to be a greater number of applications filed than can be approved. That runs through the gamut of governmental activity.

Let me just point out to the gentleman, in March when we held our hearings for the fiscal year 1973 budget, I asked specifically of Dr. Wickline:

Is there any geographical area of the country currently being neglected in this program?

Dr. Smith responded and he said:

If you asked that earlier, I would say yes. I would think the additional projects we are funding this year should take into account those areas to which we did not direct funds prior to this time.

Then Dr. Marland, the Commissioner of Education added:

I would like to add to that, if I may. This is a project grant system awarded competitively by the Office of Education. It was quite clear in the early history of this program that we were getting far more sophisticated and promising proposals from one sector of the country than we were getting from another. When we found this was causing a bias in the distribution of the moneys, a very appropriate bias according to the law in putting the money where the most promising things were offered, we sent it to the less sophisticated part of the country to encourage those States to work harder so they could mount better proposals. As Dr. Smith said, we have now reached reasonable equity among the States.

With that I ask the defeat of the gentleman's amendment and let us proceed with the reading of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

For payment of principal and interest on defaulted loans guaranteed under part B of title VI of the Public Health Service Act, $50,000,000, to remain available until expended.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES: Page 11, line 3, insert a new section reading as follows:

"For an additional amount to implement the Comprehensive Manpower Training Act of 1971 for the 'Urban Doctors' Program, $150,000 as authorized by law."

Mr. YATES. Mr. Chairman, a few years ago, Health, Education, and Welfare Secretary Robert Finch warned that:

Our failure to provide adequate health services and personnel would "invite the emergence of two parallel health care systems, one for the poor and one for the affluent—separate and unequal.

Mr. Chairman, we not only invited them, we have them.

Studies in Chicago have revealed some startling facts. The infant mortality rate is among the highest in the Nation—higher than New York, Los Angeles, and Philadelphia. In poor black communities, 34 out of 1,000 children do not reach their first birthdays. Each year 14,000 women receive no prenatal care. The death rate in childbirth and from postnatal complications is 170/1,000, or 10 times the national average. Throughout life, the poor and the black suffer a serious disease rate three times higher than the nonpoor.

The poor of Chicago usually get their first and only medical attention in the emergency rooms of private and public hospitals. In 1969, 80 Cook County hospitals handled more than 1.5 million cases. Only 10 percent of these cases were true emergencies; at least 40 percent did not require the attention or resources of an emergency department.

This situation puts an extremely heavy burden on strained hospital resources. In 1970 it was reported that 14 private Chicago hospitals were considering moving to the suburbs. Closing even a few of these hospitals would increase the crushing load at Cook County Hospital, which is the only public institution serving 5 million citizens and which already handles 30 percent of the total emergency room cases.

Where the poor live, there are no doctors. When they are sick, the situation is also intolerable for patients, they must travel considerable distances, wait long hours, are often turned away, and they have no alternative source of medical care. It is estimated that emergency room visits constitute two-thirds to three-quarters of all physician visits in some poverty areas. Fifty percent of the patients admitted to emergency rooms in 1969 had no family physician.

This is not primarily a function of cost; there are simply not enough doctors. One Chicago area study revealed more physicians practicing in a single suburban medical building than in the entire west side ghetto with a population of more than 300,000. In the Kenwood-Oakland area on the south side the physician-population ratio is 1:9,000. The situation is steadily deteriorating; in 1930 the ratio was 1:260. In the past 40 years, Chicago's inner city neighborhoods lost 2,000 doctors; in the decade 1960–70 alone the number dropped 60 percent.

Mr. Chairman, these problems are acute in Chicago, but they are not unique to that city nor even to urban America. A survey conducted by the Baltimore City Health Department in 1970 discovered that 15 of the city's census tracts, each with a population of more than 5,000, had no primary care physicians. A similar study of metropolitan Washington found significant imbalances in the geographical distribution of doctors. This is not only an urban problem It is a rural problem as well. Four counties in southern Illinois have only one doctor each; 132 counties throughout the country have no practicing physicians.

Large sections of our inner cities and rural areas are aptly described as "medical wastelands" where few doctors working exceptionally long hours are unable to provide adequate care and specialized services.

Mr. Chairman, we have been talking for a long time about remedies for the Nation's doctor shortage. No one disputes the maldistribution and fragmentation of health services; but, unfortunately, for various reasons none of the programs aimed at poor communities has been very successful.

Private initiatives have foundered. In 1970 physicians voted to terminate the Chicago Medical Society's emergency house-call program for patients without a family doctor. There were not enough general practitioners to support it. Last year the Johns Hopkins Medical Institutions gave up on a plan to establish a prepaid group practice program in east Baltimore. They found that they had to integrate at least 10 combinations of benefits with an equal number of eligibility combinations in at least five major financing programs. They also had to undertake discussions, make applications, and negotiate contracts with 12 different administrative agencies at three levels of government.

Public programs have not solved the problem. Medicaid has relieved some of the burden of medical costs but done little to encourage physicians to practice in low-income areas. Office of Equal Opportunity neighborhood health centers according to a recent evaluation, have done a good job in implementing comprehensive health care in some areas. Nonetheless, they have had difficulty attracting and holding full-time, long-term, indigenous staffs. The absence of career commitment in these clinics is reflected in moonlighting, absenteeism, and tardiness.

Higher pay, "forgiveness on loans," and expansion of medical schools have also proved ineffective. As long as the demand for health services increases in nonpoverty areas, the inducements will be there rather than in the ghetto. The hard fact is that few physicians choose

to practice in urban poor communities; they have not responded in anything approaching large enough numbers to the incentives to do so.

This is also true of ghetto residents. Excellent opportunities exist for a few promising students to become doctors, but there are few incentives for them to return to the ghetto and every reason for estrangement from it. Typically, the student spends 4 years away at university, 4 in medical school. and 2 more years in internship and residency. In this manner the ghetto is far more likely to be deprived than benefited.

What is needed is a significant change in the manner doctors are selected and trained. To this end a group of students and faculty at Northwestern University Medical School and Central YMCA Community College has developed an urban doctors program, based on the idea that the best physician for an urban poor community is a person who comes from the community, maintains continuous contact with it, and provides services to it throughout his training.

The urban doctors program proposes to recruit promising students from local high schools, support them through 2 years of community college, guarantee successful students admission to medical school, provide them with a curriculum tailored to the health needs of the ghetto, and enable them to assume increasing responsibility in community health clinics and hospitals.

The urban doctors program would not coerce students into practice in poverty communities by waivers of loans or other means. What the program would do is minimize the displacement of people. We would no longer need to speak of returning to the ghetto; the UDP students would remain part of their community. The program also has promise for staffing hospitals and group practices.

Unfortunately, the urban doctors program is not yet producing physicians. Its originators insisted on making no false starts without insuring students that they would be able to complete the 6-year training program. They also declined to draw on the already strained scholarship and loan funds of the Chicago medical schools. Common to many promising social programs, the obstacle is funding.

By several criteria the program furthers national goals which we have written into law. The Comprehensive Manpower Training Act—Public Law 92-157—provides for the correction of doctor shortage and maldistribution and for the recruitment of low-income minority group students. Yet the money has not been available. Last year the physician shortage area scholarship program—sections 784-786 of the act—received the minimum appropriation, $5 million. This amount is inadequate to support such programs as UDP, let alone to meet national needs in this area. UDP planners have been discouraged from submitting a request for Federal assistance. Meanwhile, citizen groups which originally embraced the program enthusiastically are growing exceedingly impatient with the lack of results.

The urban doctors program has received the endorsement of Secretary Richardson, officials of the National Institutes of Health, the American Medical Association, the major Chicago newspapers, members of the Illinois congressional delegation, and local and State medical societies. The AMA and the National Urban Coalition contributed to the cost of planning.

The sponsors propose a modest beginning with 25 students. The plan is not expensive—approximately $1 million, or $35,000 per physician, which compared to the normal cost of training a single doctor is estimated to be $100,000.

This program will not cure the syndrome of health care deprivation in our cities. But there is every promise of radically changing such appalling doctor-population ratios as 1:9,000 and improving such infant mortality rates as 34:-1,000. I strongly urge Members to approve $150,000 under the Health Manpower Training Act in order to initiate the urban doctors program.

Mr. FLOOD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as an old attorney general of a great State and a trial lawyer, I have heard of special pleading. I never did musicals, but there was an old song, "Chicago, Chicago, a wonderful town," et cetera, et cetera.

The gentleman from Illinois appeared before our subcommittee. As usual he was very eloquent in talking about Chicago and the problems there, and there are problems in Chicago, there are in every city. He told us about the shortage of doctors in the inner city. But the Labor-HEW Subcommittee has heard hours and hours of testimony on this problem. We are well aware of this problem, and we believe HEW is well aware of this problem and is attempting to do something to correct it through the Health Manpower program, which is budgeted for over half a billion dollars for 1973; through grants for health service centers which are budgeted for $114 million; through the National Health Service Corps budgeted for $15 million; and through other related programs.

So, Mr. Chairman, it is not as if we didn't know that this problem exists. We know it exists and we are doing something about it—and you can see from the figures I just quoted it is a lot more than just lipservice.

Under the Health Manpower Program there are such specific things as forgiveness provisions in student loans for those students who practice in shortage areas after graduation. Then there is a new program called Health Manpower Education Initiative Awards just started this year with $20 million of funds appropriated under the Health Manpower program. This new program has three purposes: first, the establishment of networks for educating health manpower in underserved areas, second, significant expansion of programs to train physicians' assistants, and three, recruitment of students into health careers who are likely to practice in severe shortage areas.

Mr. Chairman, these programs I am talking about are nationwide programs. They are not for one school or one particular group of 25 students. But these programs are available to students in Chicago and to schools in Chicago on just the same basis as those in any other part of the Nation.

Of course, the amendment should be defeated.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Iowa.

Mr. GROSS. I thought the committee was already being liberal in this area.

Mr. FLOOD. So did I.

Mr. GROSS. In the line just above, dealing with medical facilities guarantee and loan fund, the committee put in $50 million on the basis of testimony by a Dr. Vernon E. Wilson, who said this in support of his request:

> It is basically, from our point of view, a request to establish a fund so that we can say to people, if something goes wrong, we will have it. We do not anticipate any expenditure from this in the next year or two.

I thought the committee was really being liberal in allocating $50 million with so little justification and for an uncertain period of time.

Mr. YATES. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. FLOOD. I yield to the gentleman from Illinois.

Mr. YATES. With respect to what the gentleman from Iowa has stated, that has nothing to do with the doctor shortage. They are providing concrete facilities desperately needed. The fact remains there are very few doctors in the inner city, just as there are very few doctors in the rural areas. We need programs like this so that the people can have support.

Mr. METCALFE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am in full support of the amendment offered by my distinguished colleague from Illinois.

The area he referred to in his introductory remarks, the Kenwood-Oakland community, is in the First Congressional District, which I have the honor to represent.

I believe we must address ourselves to the needs. One has to be a part of that inner city, which I am, in order to fully understand the needs.

Moneys that are presently appropriated, in order that our young blacks and other minorities may have an opportunity to train, are not filtering down.

Surely there is a need; and there is need for a commitment. Too many of our doctors go to medical school and then forget about the inner city, and the inner city is deteriorating and in need of their services.

Thus it is important for us to recognize that we must give incentives and we must encourage these youngsters to go ahead and let them know what their responsibility is to their community.

Right now I live only 10 blocks from where I grew up, so I am sensitive to the needs there, and I know one of the greatest needs is the need for medical care. Where we the black people in the United States only have 3 percent of the total number of 300,000 physicians, yet we enjoy 11 percent of the population. Every effort is being made to raise that level so

that those of us who are familiar with the inner city can come back and raise the level to remove all of these disparities. For that particular reason I urge you to support the amendment offered by the distinguished gentleman from Illinois.

I firmly believe that we, as legislators must seek new answers to the inequities and disparities facing us in the delivery of health care services. All of us are fervently commited to making our governmental system work—of this, I have no doubts. But we must do more than merely pay lipservice to these ideals. As decisionmakers we must show creativity, imagination, and boldness when confronted with rapidly deteriorating situations as we are witnessing today in the health field.

It is in this vein that I call your attention to just such an attempt at resolving the health care dilemma in which the costs have risen during the sixties, almost twice as fast as prices for all consumer items—a health system which ranks 14th internationally in infant birth mortality—a health system that only works and prospers when people are sick—a system which provides no incentives to keep people well. Mr. Chairman, fellow Members, this is a very regrettable situation indeed.

I do not propose, for 1 minute, that there is any one answer to the health care crisis. However, I think that the Urban Doctors program offers some hope for a particularly bleak situation in my congressional district, and hopefully for other urban areas facing similar health care problems.

I am concerned that the national average of 22 deaths per 1,000 births is a statistic that does not truly reflect the situation in the Kenwood-Oakland community in Chicago which is in my district. In this area, there are 45 deaths per 1,000 births, and this is an area of 10 blocks by 10 blocks.

Characteristically, an urban medically underserved area such as Kenwood-Oakland is not radically different from the rural medically deficient area. The fact that the physician-population ratio is 1 to 9,000 on the south side of Chicago is not especially meaningful to that rural family in Casswell County, N.C., in which there is one doctor for 19,055 people. Clearly, our health care crisis is not a matter of race, occupation, or section. Rather, it is without a doubt a national issue.

The urban doctors program is a very simple concept. It proposes to deal with the national shortage of doctors by initiating a program to get more inner-city students into the medical profession. Basically, this is a pilot project, a favored technique of starting any new social program. Specifically, the project would allow 25 gifted and highly motivated high school students from the ghetto to receive scholarships through 2 years of undergraduate work and 4 years in a medical school. Upon completion of medical school the participants would remain in the ghetto and render the services that are so desperately needed. If this amendment is adopted, it will be the best spent $150,000 in a long time.

I hasten to add that the American Medical Association has endorsed this program. This pilot-program approach was the same advice given by the AMA recently before the Health and Environment Subcommittee when it testified on health maintenance programs. The American Medical Association is a very old and prestigious professional organization and their support for this program certainly cannot be classified as going too fast.

Finally, we must not stop here with the urban doctors program. I had the honor of chairing the National Conference on the Status of Health in the Black Community last December 9–11, at Meharry Medical College, Nashville, Tenn. At that time we called for a coalition of forces which includes not only physicians and dentists, but other health professionals vitally concerned with the health care of our Nation. We must move toward solutions and understand that sound programs must be developed for overcoming these innumerable obstacles. We must understand questions concerning the development of allied professional fields so that we can train more minority members to pursue such occupations. We must structure manpower training programs to make upward mobility possible and eliminate dead end positions.

Gentlemen, we must begin today, and adopt this amendment setting up the urban doctors program. Thank you.

Mr. ROYBAL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the amendment simply because I recognize its great need.

I come from an area in Los Angeles that is the poorest and in a small section the richest in all the State of California. The section I am referring to is the poor section of my district. Where I know the problem of poor medical care has existed for many years.

Prior to the time I came to the Congress I was a member of the Los Angeles City Council and, as chairman of the public health and welfare committee of that council, I recognized the problem existing them. Prior to that time I was a health educator working the poor sections of the State of California. I saw that the condition of poor medical care existed back in 1940 and even prior to that time. I knew this condition could only be remedied by making available the scholarships and the money that was necessary to make it possible for youngsters who lived in the ghettos of the State and this Nation to gain the necessary skills and then to be able to go back and practice medicine in those ghettos. I think this is the appropriate time to start this kind of a project.

Mr. Chairman, I am sure the gentleman from Illinois did not seek to amend this bill because he wants to take place only in Chicago. It is being done for the entire Nation. Once it is started I believe it can be done and should be done in the State of California and in every State of the Union. An opportunity should be made available for young men and women to practice medicine in the ghettos in which they were reared.

I say that this is an appropriate time because the youngsters of today are telling us that we are the generation of neglect that the moment we started to earn $100 a week we moved out of our neighborhoods; we went to Beverley Hills or to the more affluent sections of our communities. I know there is a great deal of truth to this. What they are saying now is that we must go back to these neighborhoods to help them with their problems, to practice medicine as an example so that we can make available our skills to the people who still remain there. That is what is being promoted if this amendment is approved. That is what I believe should be done so that those in the various communities in the United States who want to practice medicine can first of all get the opportunity to acquire the needed skills and then go back to their old neighborhoods and give them the proper kind of medical care, which is something they are not getting today.

They are being exploited in most instances in the ghettos in the United States.

Mr. Chairman, I believe that this can be the beginning that we are seeking to make good medicine available to people, regardless of their particular income, and the only way it can be done is by people who understand them, people who came from the ghettos themselves and people who are willing to make it possible to give them what they really deserve.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Illinois.

Mr. YATES. The distinguished gentleman from Pennsylvania (Mr. FLOOD) read a long list of programs which are supposed to deal with the doctor shortage.

The fact is that none of those programs have worked to any measurable extent. Yes, they are good programs, but they haven't made any doctors who want to practice in the ghettos. The fact is that the doctors go where they can establish the best practice for themselves.

It is only through a program of the kind I suggest that we can achieve this purpose. Think of it—all we are asking is $150,000 to start this program whereby we will be able to bring—doctors to the ghettos, doctors who have lived in the ghettos, doctors who grew up in them. These will be young men who have agreed that after they have received their degrees they will go back to the areas they live in.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. Yes, I yield to the gentleman from Pennsylvania.

Mr. FLOOD. My friend, the gentleman from Illinois, has indicated that these people do not go back into these areas. The facts happen to be different.

There are many, many of these students in these ghettos who are taking advantage of these loans, but who will not have to return the loans if they do serve in their local area.

Secondly, these are brandnew programs just passed by the Congress. They are just getting started.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent (at the request of Mr. YATES), Mr. ROYBAL was allowed to proceed for 2 additional minutes.)

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman from Pennsylvania makes a very eloquent statement but the statistics are to the contrary.

The statistics show where there is one doctor for 9,000 people in the inner city areas. They are accurate statistics.

Mr. FLOOD. Mr. Chairman, if the gentleman will yield to me, I will say to the gentleman that these are brandnew programs passed by an act of Congress. I misspoke when I used the past tense about them going back to the ghetto. We are just now getting these programs underway. They are designed for the very purpose to which the gentleman from Illinois refers.

We are going to see that this is carried on year after year, and we have reasonable cause to believe they will go—future tense—back to the ghetto.

Mr. ROYBAL. The gentleman from Pennsylvania is correct in the fact that some of these people will go, but they do not include the people we are talking about. They do not include anyone else.

Mr. YATES. Apparently not, because I do not know of anyone in my area who wanted to get into the medical schools simply to serve the community in which they live.

Mr. FLOOD. Well, we are funding them in the 1973 budget. There are many, many doctors, including paramedics, who will be engaged in these programs, and we are going to see these programs carried through.

Mr. YATES. The programs to which the gentleman from Pennsylvania refers are all programs which are just beginning. I called the Department of Health, Education, and Welfare in connection with the budget to which my amendment is attached and they told me they have $5 million for the program but they have not begun to use the money.

Mr. Chairman, this is an amendment which should be adopted.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me just make one or two brief comments here. As fine a suggestion as this might be of my friend, the gentleman from Illinois (Mr. YATES), that we try something new, I want to say that I am all for exploring new approaches to meeting this real need to get doctors to serve in the less desirable areas of our country, but, having heard no testimony before our committee other than from Mr. YATES himself I must raise several questions.

Specifically, what is the criterion for choosing the students in the first place? What level of achievement would they have to have in order to qualify and, then, obviously, if it is an accelerated program, it would probably have to be somewhat inferior to the kind of first-class training that a doctor now receives at our med schools today.

Moreover, after 6 years—if that is the target date when one would expect the first student to receive a full-fledged degree or a kind of a subdegree because they will not be getting everything that the average medical student is getting, I am wondering what kind of criticism there may be when these doctors' professional competence will be something less than these high standards required for those graduating in an otherwise normal fashion from our medical schools today.

Mr. MICHEL. Are the ghetto residents going to be satisfied with a second-rate doctor who did not complete the normal curriculum and courses?

Mr. YATES. If the gentleman will yield, in answer to his questions, the students will be selected in the same way they are selected now by the universities and by the medical schools. There is a cooperative endeavor here.

Mr. MICHEL. But obviously they would not be the grade-A caliber people. The only people who get accepted today are those with the highest grades.

Mr. YATES. If the gentleman will yield further, the gentleman talks about the selection of students, and we are talking about the selection of students by Northwestern University Medical School, and by the community college, both of which have been through this process for an endless number of years.

Second, with reference to the point the gentleman raises about inferior doctors, I would point out that this is one of the things the American Medical Association has fought strongly over the years. The American Medical Association has given its approval to this program. The AMA actually gave $10,000 to get it started.

Mr. MICHEL. I would like to have their testimony before our committee, rather than just by word of mouth here on the floor.

Mr. YATES. I doubt you would approve the appropriation even if the AMA did appear, because your committee never accepts any such proposals.

Mr. MICHEL. You know better than that.

Mr. YATES. Well, hardly ever.

And if the gentleman will yield further, with reference to your third question, I would say that the people who live in the district represented by the gentleman from Illinois (Mr. METCALFE) would say:

> We want to have a doctor, even one who has been graduated in 6 years rather than 8 years, because we do not have any doctors now; no doctors at all.

That is the situation.

Mr. MICHEL. Can you guarantee that these young men would marry the kind of a girl who would permit them to practice in these areas?

That is the real problem—most of our medical students take their internship or residency in the big cities, and then they marry a gal who does not want to go back to that little rural community, or to the ghetto, either. She wants to be out in an affluent society where she can go to the opera and participate in the good cultural life.

Mr. YATES. That is the trouble with what is happening today. Here you have a program under which 25 highly qualified and sensitive students, and able students, will be selected. Why do you oppose this? Why should it not be tried? It deserves the chance to go ahead.

Mr. MICHEL. I will simply say to the gentleman that as good as this project may sound and how much promise it may have, I would like to hear some official testimony from those who have conceived it.

If the testimony is good and sound we may want to try several variations on the central theme expressed here.

I just cannot bring myself around to support the gentleman's amendment without knowing more precisely what we're talking about here. We are currently funding too many experiments that have not been sufficiently thought out beforehand.

Mr. RYAN. Mr. Chairman, I want to commend the gentleman from Illinois for offering an amendment which would appropriate an additional $50 million for title VII of the Elementary and Secondary Education Act for fiscal year 1972.

As an original sponsor of the Bilingual Education Act, I have repeatedly stressed the importance of increasing the consistently inadequate funding level of this desperately needed program. In January of this year, I introduced a bill, cosponsored by 10 of my colleagues (H.R. 12424) to provide a supplemental appropriation of $65 million for fiscal year 1972 to bring the appropriation for title VII up to the full authorization level of $100 million. In 1971, I introduced a bill to increase the appropriation for title VII by $55 million, a figure that represented the difference between the amount authorized and that appropriated for fiscal year 1971. In 1970, I introduced a bill calling for a supplemental appropriation of $18.75 million to bring the appropriation figure up to the level of the authorization, in this case $40 million. And again in 1969, I introduced legislation to provide a supplemental appropriation of $22.5 million for title VII for fiscal year 1969, again a figure that would have brought the appropriation figure up to the amount authorized.

The funding levels for bilingual education programs have never been realistic in light of the number of children who stand to benefit from this type of assistance. Only $7.5 million was appropriated for fiscal year 1969, despite the fact that $30 million had been authorized. The appropriation was increased to $21.25 million for fiscal year 1970, although the authorization had been for $40 million. The appropriation was again increased for fiscal year 1971, to $25 million, an amount that was $55 million below the authorization level. And, as I have mentioned, the $35 million appropriation for fiscal year 1972 is $65 million less than the amount authorized.

The bilingual education program, first funded in the 90th Congress, provides for programs which will meet the special needs of children of limited English-

speaking ability. It also provides for research and pilot projects for improved techniques for teaching English, for adult education and special training programs to prepare qualified individuals to become teachers in bilingual education programs. Bilingual programs stress the importance of the history and culture of the participants, employing the contributions that a particular culture has made to American society.

There is no question of the need for these programs. In the United States, there are over 3 million schoolchildren who do not have a good command of the English language, children for whom English is a second language.

The severity of the problem can be seen if we look at the situation in New York City alone. In a speech before the U.S. Civil Rights Commission on February 15 of this year, New York State Commissioner of Education Ewald B. Nyquist stated that according to the most recent New York City school census, there are 160,815 children who have English language difficulties, 94,800 of whom are Puerto Rican pupils with moderate to severe language handicaps.

The dropout rate between 10th and 12th grades for Puerto Rican students in the Bronx, Manhattan, and Brooklyn, ranges between 57.8 and 66.5 percent. While Puerto Rican pupils account for 25 percent of the New York City school population, only one Puerto Rican in a hundred receives an academic diploma. Twelve percent of Puerto Ricans of college age pursue a higher education, while 45 percent of college age people in the general population go on to college.

Forty-one of the 66 elementary schools with the lowest reading levels have over 50 percent Puerto Rican enrollment. Moreover, 66.8 percent of the fifth graders in the 88 elementary schools with 50 percent Puerto Rican pupils are 1 year below grade levels on MAT scores and 46.6 percent are 2 years or more below.

At the eighth grade level in 24 junior high schools with 50 percent or more Puerto Ricans, more than 50 percent are 3 years to 3 years and 9 months below grade level and 31.6 percent are 4 years below; 78.1 percent are 1 year to 1 year 9 months below grade level.

Yet this situation is not unique to New York City. It is equally serious in the Southwest where many Mexican Americans have settled. In June of 1967, Monroe Stweetland of the National Education Association, testifying before the House Education and Labor Committee stated:

> Spanish-surnamed children lag almost 2 years behind the educationally-disadvantaged Negro child, and from 4 to 5 years behind the average Anglo-American child.

He went on to say:

> Most of these young people experience academic failure in school. At best, they have limited success. A large percentage become school drop-outs, and little headway is being made against this problem.

It is obvious that this is a problem that is truly national in scope.

Many non-English-speaking students, new residents of the United States, are faced with the many problems involved in resettling. They need to adjust to their new surroundings, an often totally alien environment. Yet, a further burden is imposed on these youngsters when they are placed in an educational setting in which they are not able to communicate. The benefits that these children reap from this type of educational process are minimal.

What will be the ramifications of our failure to adequately fund a program designed to enable a large group of children to overcome a serious handicap? These children will continue to be denied the full benefits of a primary and secondary education and this, in turn, will affect their employment opportunities. They will enter the labor market ill prepared to compete with those who did not have a language barrier to overcome during their all-important school years.

At this point, I would like to speak about what is, and always has been, an inequity in the distribution of funds under the bilingual education program. Under this program in 1970, New York State received $1.5 million, California $7.2 million, and Texas $4.7 million. That these allocations were inequitable is clear when we examine the number of Spanish-surnamed children school in those States in 1970: New York had 300,000, California 500,000, and Texas 600,000.

In meetings, which I arranged for Members of the New York congressional delegation, the Office of Education conceded that New York State and New York City have been shortchanged in the past in the allocations of funds for bilingual education programs. Unfortunately, the Office of Education has not taken the necessary steps to remedy this inequity, for the figures for continuation costs for bilingual education programs for fiscal year 1972, illustrate that this inequity is being continued—California will receive almost $8.5 million, Texas $6.1 million, while New York will be given only $2.9 million.

The money for these programs is being concentrated in certain regions of the country while other areas, particularly New York State and New York City, lack the resources to meet adequately the needs of children who need this assistance. No justification has been offered by the Office of Education for this disparity; indeed, as I have pointed out, the Office of Education has admitted that inequities do exist and that they should be corrected. It is time for these words of concern to be converted into concrete action, so that the bilingual education program can adequately serve people in all areas of the country, not just those living in selected regions.

We cannot continue to shortchange large groups of children in the classroom. We must increase their chances for success instead of preparing them for inevitable failures and hopelessly uphill struggles. It is essential that Congress appropriate the full authorization for bilingual education.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES).

The question was taken; and on a division (demanded by Mr. YATES) there were—ayes 26, noes 57.

Mr. YATES. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SOCIAL AND REHABILITATION SERVICE

GRANTS TO STATES FOR PUBLIC ASSISTANCE

For an additional amount for "Grants to States for public assistance", including $2,850,000 for transfer to the appropriation for "Salaries and expenses, Social and Rehabilitation Service", $806,291,000.

AMENDMENT OFFERED BY MR. BINGHAM

Mr. BINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BINGHAM: Page 11, insert after line 8 the following:

"REHABILITATION SERVICES AND FACILITIES

"For an additional amount for grants under Title I of the Developmental Disabilities Services and Facilities Construction Act (amending Title I, Part C of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended), $8,300,000, to remain available until June 30, 1974."

Mr. BINGHAM. Mr. Chairman and members of the committee, this amendment would merely restore what the House did last July.

Last July the House adopted, on the motion of the gentleman from Connecticut (Mr. GIAIMO) an amendment which increased appropriations under the Developmental Disabilities Services Act to a total of $30 million.

That sum was reduced in conference to $21.7 million. My amendment would simply restore the original figure that the House voted last July.

I think everyone knows that the services for the retarded and for the cerebral palsey victims and epilepsy victims are in a state of near crisis in this country. They certainly are in a state of crisis in my State of New York and the directors charged with the responsibility for these programs are begging for additional funds. They have programs that are ready to go, Mr. Chairman, and we should not have to wait for the new appropriation bill which may be many months in coming, even if the gentleman from Pennsylvania can bring it to us in June—that does not mean that we will finally get to vote on it in June. It may well be toward the end of the year before we finally get to vote on any new appropriation bill.

We have States that are begging for funds.

I would like to call to the attention of the distinguished chairman of the House Appropriations Committee, the gentleman from Texas (Mr. MAHON), that Texas was allotted only $640,000 for the year 1972 and has requests pending for services under this act of $1,500,000. So it goes in other States—Louisiana, New Jersey, and New York.

Yesterday I inserted in the RECORD a series of statements from directors of these programs showing how they are hurting because this program which was launched with such fanfare in 1970 as the answer for the victims of cerebral palsy, epilepsy and mental retardation—

that program is falling so far short of promise.

I would like to see this House appropriate $83 million in a supplemental budget for this program because that is the additional amount that Congress authorized. In March, I submitted that request to the Appropriations Subcommittee on Public Health and Welfare. However, today, I have cut it by 90 percent down to $8.3 million which would bring us back to what we voted in the appropriation process last July.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. VANIK. Mr. Chairman, I want to congratulate the gentleman on his amendment. I think his amendment is very important and very essential to every community in the United States.

Mr. BINGHAM. Mr. Chairman, I thank my colleague, the gentleman from Ohio.

Mr. KOCH. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. KOCH. Mr. Chairman, I rise in support of the gentleman's amendment. We can do no less for the developmentally disabled in this country. This amendment would add $8.3 million to the existing $21.7 million appropriation.

The greatest portion of the developmentally disabled are the mentally retarded. There are approximately 6 million mentally retarded people in this country—and over 5½ million are living in the community needing the comprehensive services that can be provided by DDSA sponsored programs. These include infant services, preschool classes, day care, activity programs, sheltered workshops, parent counseling and protective services. In addition, DDSA can help meet the costs of constructing these community facilities.

The States are already spending some $400 to $500 million for community services to the mentally retarded—in addition to the one to one and a half billion they spend on care of the retarded in State institutions. Surely the Federal Government can provide the very modest sum of $30 million to assist in teaching the retarded so they can be self-sufficient and in many cases able to work in the community or in sheltered workshops. The DDSA programs have met with great success in providing community based services and training for people who might otherwise be institutionalized.

In a statement issued on November 16, 1971, President Nixon pledged:

> To enable one-third of the more than 200,000 retarded persons in public institutions to return to useful lives in the community.

In increasing the DDSA appropriation today, the Congress will be taking a step toward realizing this laudable goal set by the President.

Mr. Chairman, I think that there can be no question that the States are in a position to effectively use the additional $8.3 million. In the case of my State, New York, the Department of Mental Hygiene has received 105 proposals for DDSA funding; these proposals total an estimated $10.4 million while the allocation to New York is only $1.4 million. With an additional $8.3 million appropriation for the country, New York would receive approximately $554,000 more in funds—still not enough, but a help. The gap between the needs and the allocation in New York is duplicated in almost every State. Recently the National Association of Coordinators of State programs for the Mentally Retarded conducted a survey that showed that most all States need and could effectively use 3 to 10 times the amounts available to them. The Association generally found that DDSA money—

> Is vitally important because it helps the States which are strapped with tremendous financial problems to demonstrate innovative techniques for deliverying services to developmentally disabled.

Mr. BINGHAM. Mr. Chairman, I thank my colleague, the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. BIAGGI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York, (Mr. BINGHAM), to increase by $8.3 million, the fiscal year 1972 appropriation under the Developmental Disabilities Services Act. This act could be the major source of Federal funds to aid the mentally retarded if sufficient funds were appropriated.

The amount proposed in this amendment is fair since it represents the difference between what the House appropriated for the program in July of last year, and what was actually appropriated after the conferees cut back the House figure.

Mr. Chairman, several months ago I made a surprise visit to Letchworth Village State School for the mentally retarded and witnessed first hand the deplorable conditions which existed there. Subsequent visits to other New York facilities for the mentally retarded produced the same horrible results. The conditions were both shocking and uncivilized. Shocking because the patients are treated worse than animals and uncivilized because our treatment of the mentally ill and the mentally retarded is an example of how little we have progressed in some areas since the Middle Ages. Indeed, the conditions which I witnessed in these institutions made Dante's Inferno read like a children's storybook.

Moreover, it is difficult for me to understand how, while we await the return of Apollo 16 from the moon, we must bare witness to these primitive conditions in our facilities for the mentally retarded here on earth.

In order that we may begin to improve the conditions in these facilities, I urge my colleagues to join with me in support of the amendment offered by the Gentleman from New York (Mr. BINGHAM), and include the $8.3 million for this program. We have neglected this problem far too long.

Mr. BINGHAM. Mr. Chairman, I thank my colleague, the gentleman from New York.

I would like to make one more point, Mr. Chairman, before I sit down, and that is that this program is designed to get away from care of the developmentally disabled in the large institutions like Willowbrook and Ledgeworth Village in New York State, bring care back into the communities where the retarded and handicapped can be served by smaller health centers.

Again I reiterate I am only asking that the House stand behind what it voted last July and what it surrendered in the course of the conference with the Senate.

Mr. FLOOD. Mr. Chairman, I oppose the amendment. I am very fond of the gentleman from New York. There are a number of reasons I would like to agree with him on the amendment, but unfortunately there are a number of reasons I simply cannot. I believe you know what they are.

Let me tell you very simply. The Development Disabilities Act became law in October 1970. For fiscal year 1971 $11,215,000 was appropriated. This is for formula grants under the act. That was done. But—here is the "but" or "however"—it was too late in the year. Almost all of the 1971 appropriation remained unobligated at the beginning of fiscal year 1972. All that money was unobligated. Do not forget. This is a supplemental appropriation bill for 1972. There is where the money was at the beginning of that year. For fiscal year 1972—and wait until you hear this—we appropriated another $21,175,000 for the State grants. This was $10,500,000 over the President's budget. That is what we did.

This program is slowly, very, very slowly, getting underway. That is not your fault, Mr. Chairman. It is not my fault. Believe this. Only 18 out of some 56 State plans for the use of these funds have been approved; $15 million remains totally unobligated out of the 1972 appropriations of $21,715,000. Imagine that—totally unobligated. Wait until you hear this. As a matter of fact, there are $900,000 from the 1971 appropriation which has not yet been obligated. Good heavens. Enough is enough. This money is distributed by a rigid formula among the States, and that rigid formula is not some bureaucratic gobbledygook or hanky-panky regulation. This is in basic law. You passed this law overwhelmingly. But this program is simply not getting underway. They cannot get underway, and that is their fault, not the Congress. They just are not off the ground, and this money couldn't be used in the time remaining in the fiscal year.

There is the situation as of the end of this fiscal period.

I certainly sympathize with this fine Member from New York and his good intentions. I know him and I knew his father before him. There has been no greater servant that has appeared from the State of New York in this House than Congressman BINGHAM, of New York—never. I am in a position to know and have been for a long, long time. He is not wrong in this thing. It is a question of timing. His purpose is right. His intent is right. We are not going to let him down. I assure you we intend to have the 1973 HEW-Labor appropriation bill on this floor as soon as possible after the Memorial Day recess.

Believe it or not even the Department of Defense appropriation will be on the floor before the end of June. These things are moving. We are going to get out of here in a hurry. This will be all right. These people will not be hurt.

The Chairman. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM).

The amendment was rejected.

AMENDMENT OFFERED BY MR. KOCH

Mr. KOCH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KOCH: Page 11, insert after line 8, the following:

"REHABILITATION SERVICES AND FACILITIES

"For an additional amount for grants under section 303 of the Public Health Service Act for hospital improvement for the mentally retarded and hospital in-service training for the mentally retarded, $6,500,000."

Mr. KOCH. Mr. Chairman, this amendment provides $6.5 million for the hospital improvement-inservice training program—HIP–HIST—for State institutions for the mentally retarded. This is a modest sum of money and yet it affects a population in desperate need of assistance: the 6 million people in our country who are mentally retarded, 200,000 of whom are in institutions. The current appropriation is $6.5 milion. This amendment would provide a total of $13 million for expenditure in fiscal year 1972 for HIP–HIST projects.

The need is far greater, but the organizations which have so much to do with the developmentally disabled have decided they cannot get as much as is necessary, and they have agreed upon this modest and reasonable, sum. The organizations supporting this amount did not pull it out of the air, but they decided this is the minimum they needed to deal with the problem. They are:

American Association on Mental Deficiency;

Council for Exceptional Children;

Epilepsy Foundation;

United Cerebral Palsy Association;

National Association of Coordinators of State Program for the Mentally Retarded; and

Association of Mental Health Directors.

I want to tell the Members about one institution, Willowbrook in New York, which has become infamous for its deplorable conditions. This is not the only institution that would receive funds under this amendment because there are many institutions in other States of the Union that are in similar circumstances. But let me tell the Members about Willowbrook, because that has become the classic institution.

There are 5,200 patients, most of them mentally deficient children, many of them incontinent, many of them not able to feed themselves. As a result of television exposure, everyone in this country became aware of the hard realities inside this institution: that many children are unable to feed themselves and because of the shortage of staff some are dying as a result of food aspiration. A mentally disabled child who is not able to feed himself requires assistance; normally 20 minutes is what should be accorded so as to avoid forced feeding. At Willowbrook a child in such circumstances is fed in 4 minutes, and the director of the hospital has said some children actually die during the year because of this kind of treatment—because the child gets food in his lungs instead of in his stomach.

The doctor in charge of one of the hospitals told me that if he had people who could provide physical therapy, and if the children could be trained when they are first institutionalized, they could be made ambulatory and taught to take care of their personal needs instead of ultimately ending up in boxes.

In fact, it has been through HIP financed projects that we have found that most all retardates respond to training when given attention and therapy in early childhood.

The moneys provided in my amendment could be used, not only to meet the immediate needs of the children, but also to enable the institutions to embark on programs which would get the children out of the hospitals and back home with their families.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. KOCH was allowed to proceed for 2 additional minutes.)

Mr. KOCH. But instead these children end up in boxes, literally boxes, and cribs for children who will never walk.

What I am saying, to those who are fiscally conservative, who are interested in a plight which calls out for our attention, is that it is in the fiscal interest of this country, to provide this sum of money, which would be used to get the children out of the institution and back into their homes.

The cost of institutionalizing a child is now more than $6,000 a year. Better that we spend some money today for therapy and training so that the retarded can return to the community instead of being doomed to lifelong institutional care.

We must have more than rhetoric. We are dealing with children who cannot fend for themselves, who are dying as a result of not being fed in an adequate way, who are inconsistent and therefore are living in their own filth, because there is no one to train them.

This $6.5 million I am proposing is miniscule in the face of the enormous costs now borne by the States for institutional care: Some $1 to $1½ billion a year.

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. KOCH. I am delighted to yield to the gentleman from Ohio.

Mr. BOW. The gentleman's story is one that relates a terrible thing, but I am just wondering if it is a shame for New York. We have a committee here which has been considering that the State of New York is now offering to put up $20 million to build a new United Nations building. Why do they not take that $20 million they want to build the United Nations building and let the State of New York use it to take care of these poor children.

Mr. KOCH. I say to the gentleman, that is an irrelevant argument. I happen to agree with the gentleman that lots of money is spent by every State and city in this country on programs which ought to be scrapped, but what does that have to do with providing for these children?

Mr. BOW. It has this to do with it: There is $20 million in the State of New York that they want to use to build a United Nations building, and they could use that for these children.

Mr. KOCH. There are also many programs in the Federal budget that are not so urgent and might be scrapped. But what we have before us at this point is only the question of how we are going to respond to the needs of these innocent victims of fate. The shame is not just New York's but the country's. The deplorable conditions in Willowbrook are duplicated in almost every State of the Nation; they are a product of years of neglect by all levels of Government.

Mr. FLOOD. Mr. Chairman, I have gone to jury myself, and have emotionally told people about injustice, when I have little else to go on.

The only trouble with this amendment is that my friend from New York does not recognize the significance of the day of the month it is.

If he thinks for 5 seconds that I am going to challenge him on what he said about these poor children, certainly not. I have been to those places long before he came to this Congress. There is not a word he said about some of these deplorable conditions that is not absolutely so, in spades.

But to get back to the significance of today's date.

Mr. Chairman, it is now April 26. After the bill passes the House it will have to be considered by the Senate. With a bill of this size and scope there are inevitably many Senate amendments. We will have to go to conference, and the House and Senate will have to act on the conference report. I do not think there is much doubt but that it will be around the end of May before the President signs this bill and the funds become available. So, quite aside from the merits of the program I submit that it is too late to seriously consider a 1972 supplemental appropriation for a program of this kind. And, Mr. Chairman, this is especially true in view of the fact that we intend—and fully believe that we can comply with our intentions—to report the regular Labor-HEW appropriation bill for 1973 to the House within a few days after the Memorial Day recess. That is when an amendment of this type should be considered.

Mr. Chairman, there is $6,500,000 available for this program in fiscal year 1972. To add another $6,500,000 to the 1972 appropriation this near the end of the fiscal year, and this near to the time when the regular annual bill for 1973 is to be considered by this House just does not seem at all reasonable. The amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. KOCH).

The question was taken; and on a division (demanded by Mr. KOCH) there were—ayes 9, noes 62.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MEMBERS' CLERK HIRE

For an additional amount for "Members' clerk hire", $1,500,000.

Mr. STEPHENS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have noted that the Appropriations Committee has proposed to defer, for technical reasons, an administration request of $320 million for the first installment of the U.S. contribution to the International Development Association. It is important to point out, however, that the committee's report reflects agreement with the need to fulfill the full U.S. contribution to the association. In fact, the committee stated that it had no intention of denying the three installments of $320 million each in the next 3 fiscal years.

I welcome the committee's expressions of support for the appropriation of the full amount of the proposed U.S. contribution to IDA. IDA is the major multilateral vehicle for providing essential development assistance to the poorest countries of the world and serves our interests so well by assuring that the burden of providing this assistance is shared fairly among the developed nations of the world.

There is urgent need for the appropriation of the first installment. IDA ran out of its regular funds in June of 1971 and since then has been operating on advance contributions from other donor countries. These funds are now exhausted and IDA has ceased making new commitments. Once the first installment of the U.S. contribution is made available the United States can then commit itself to the full third replenishment obligation that the committee has indicated it is prepared to support. This will mean that all contributions, including our own, will come into effect. We should not hold up IDA's operations any longer. The development process through IDA should go on and our action is necessary to trigger it.

I think we can accomplish this objective without acting in a way inconsistent with the Appropriations Committee's objectives. The conferees may be faced with a situation of a Senate bill containing the first installment for IDA as a fiscal year 1972 supplemental item. I would hope that the conferees for this House could accept the IDA item as proposed by the Senate because of the urgency of bringing the third replenishment into effect. Should this action be taken, the request for a regular 1973 installment now pending for the regular foreign assistance appropriation should be reconsidered and taken up in accordance with the time schedule envisioned by the Appropriations Committee.

AMENDMENT OFFERED BY MR. CASEY OF TEXAS

Mr. CASEY of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CASEY of Texas: On page 12, after line 10, insert a new paragraph:

"ARCHITECT OF THE CAPITOL

"CAPITOL BUILDINGS AND GROUNDS

"HOUSE OFFICE BUILDINGS

"For an additional amount for 'House Office Building', $330,000, to remain available until June 30, 1973."

Mr. CASEY of Texas. Mr. Chairman and members of the committee, you will recall that the House by its action last week took over the Congressional Hotel and directed that it be converted to office space with the exception of the top floor and the bottom floor. If we are going to make effective use of this as quickly as we can after June 1, there must be some remodeling done on six floors. This is all minor remodeling such as the repair of a boiler, closing doors and opening some doors, and purchase of some hardware.

So, what we are talking about is $200,000 for remodeling, and for personnel to operate the building and keep it clean, $125,000, and incidental repairs and operation materials $5,000, or a total of $330,000.

There is no furniture provided for in the funds requested because the clerk can use his furniture account for that purpose when they find what use is going to be made of the space.

Mr. Chairman, I urge the adoption of the amendment.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CASEY of Texas. I yield to the gentleman from Iowa.

Mr. GROSS. I hope it is not proposed to put elevator operators on the elevators in this hotel which is to be taken over by the House of Representatives.

Mr. CASEY of Texas. There were no elevator operators requested. It involves just cleaning people, engineers to handle the boilers, the heating and air conditioning systems and janitorial services. There are no elevator operators that I know about and no request was made for them. They listed as personnel cleaning people and maintenance people, but no elevator operators were mentioned.

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. CASEY of Texas. I yield to the gentleman from Ohio.

Mr. BOW. We are in accord with the amendment, Mr. Chairman, and accept it on this side.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

I think that there is no opposition to this amendment, Mr. Chairman, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CASEY).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, as authorized by section 601 of the Rail Passenger Service Act of 1970, as amended, $170,000,000, to remain available until expended: *Provided*, That this appropriation shall be available only upon the enactment into law of authorizing legislation by the Ninety-second Congress.

The CHAIRMAN. For what purpose does the gentleman from Ohio (Mr. VANIK) rise?

POINT OF ORDER

Mr. VANIK. Mr. Chairman, I make a point of order against the $170 million appropriation for Amtrak.

The CHAIRMAN. The gentleman will state his point of order.

Mr. VANIK. Mr. Chairman, the authorization has not yet been made. The fact that the authorization passed the House of Representatives would not make the appropriation valid.

The CHAIRMAN. For what purpose does the gentleman from Texas rise?

Mr. MAHON. Mr. Chairman, the House has passed the authorization bill. It has not been enacted into law. I think the point of order is well taken.

The CHAIRMAN. Does the gentleman from Texas concede the point of order?

Mr. MAHON. I concede the point of order, Mr. Chairman.

The CHAIRMAN. For what purpose does the gentleman from Iowa rise?

Mr. GROSS. It is, further, legislation on an appropriation bill.

The CHAIRMAN. The Chair understands that the chairman of the committee concedes the point of order. Therefore, the point of order is sustained.

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. VANIK. Mr. Chairman, I am pleased that my point of order to the $170 million appropriation for Amtrak has been sustained.

I am opposed to the $170 million included in this bill for Amtrak. It is ridiculous to spend $170 million to perpetuate a memory. The wisdom achieved in waste comes at too high a price—we have already wasted quite enough on this program.

A case can be made for intercity rail transportation between points in high-density corridors. I would support this kind of a program in preference to the present national plan of Amtrak which was engineered to get votes rather than provide an effective use of transportation dollars.

This experiment has already demonstrated its failure. The public has not provided any convincing interest in utilizing rail transportation except for commuter services in large metropolitan areas. A regional mass transit system or rapid rail system in high-density corridors can provide a substantial cost-benefit ratio. A national system such as Amtrak is totally indefensible. The Federal Government cannot afford massive contributions to a nationwide system. An inadequate, infrequent, unreliable rail system for a small group of passengers will constitute an abyss of waste.

Retired railroad employees have pass privileges on the Amtrak system. These citizens earned the right of free railroad travel as a condition and fringe benefit of their labor contracts. They should not be deprived of this earned privilege. Nor should the taxpayers of the Nation be called upon to subsidize hundreds of millions of dollars to maintain a railroad passenger system in order to meet the obligation of the railroads to their former employees.

I am preparing legislation to increase

railroad retirement benefits to include reimbursement in lieu of the retirement right of free—subsidized—rail travel. This should be infinitely less expensive to the general taxpayer and more tangible to the retired employee.

The shift of Amtrak support to regional or corridor programs which have a reasonable prospect of success would receive more adequate funding to insure their success. I expect to support mass transit extensions in urban areas and corridors.

Federal expenditures in these times in particular must face the extreme test of need and propriety. Amtrak appears to be a patient in terminal illness—we cannot postpone an inevitable demise.

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PICKLE. Mr. Chairman, I had hoped that we might have been able to make it plain to the House that the $170 million being appropriated for Amtrak was clearly to be used both for the general budgeted items in Amtrak as well as the international connections which had likewise been authorized. Section 601 of the National Railway Passenger Act as amended by the House authorizes the expenditure of funds for both general Amtrak operation and for the general international connections.

Although the committee had reduced the overall sum to $170 million, I am pleased that the chairman of the subcommittee and chairman of the committee has expressed to me the clear intention of the Appropriations Committee that the international connections should be instituted. The need for the international connections between the United States, Canada, and Mexico was underscored by the Secretary of Transportation some 2 years ago, and we have reached the point where the House has included these routes in the basic passenger system.

Had the point of order not been raised, these expressions would have been made again by the Appropriations Committee. The Members of the House should read the language in the report on page 46 wherein it says the following:

> The authorization bill, H.R. 11417, includes $2 million for three internation connections to Montreal and Vancouver in Canada and to Nuevo Laredo in Mexico. The Committee feels that service to these points would be a desirable addition to the system, and, therefore, directs that $2 million of this appropriation be allocated to establish and operate these connections.

May I further make inquiry of the gentleman from Texas, the Chairman of the committee (Mr. MAHON) what later action would the gentleman think the House could expect on this particular part of the pending legislation pertaining to Amtrak?

Mr. MAHON. In reply to the gentleman, I would say that the funds probably would be restored in the other body. There may be some modifications.

Of course, this is unpredictable at this moment. But the authorization is in the process of being finalized. This does not mean that this is the end of the matter, of course.

Mr. PICKLE. Does the gentleman mean that he is going to wait until the specific appropriation is submitted to the House, or could we expect another supplemental appropriation if the other body takes action?

Mr. MAHON. If the other body puts funds in this bill for this purpose, then the amendment of the Senate would be brought back to the House for a separate vote.

Mr. PICKLE. I thank the gentleman.

(Mr. CONTE (on request of Mr. Bow) was granted permission to extend his remarks at this point in the RECORD.)

Mr. CONTE. Mr. Chairman, I wish to indicate my support of the $170 million in this bill which would allow the National Railroad Passenger Corporation the needed financial resources to continue its operations until July 1, 1973.

As ranking minority member of the House Transportation Appropriations Subcommittee, I have long been dismayed by the steadily declining quality and quantity of rail passenger traffic in the United States. In an effort to halt that decline, I supported the original legislation creating the Corporation now known as Amtrak. No one would argue that Amtrak has been an unqualified success. However, I do believe its initial activity offers some hopeful signs of encouragement.

Indications are that after almost a year of operation, the decline in passenger traffic has been arrested on the system as a whole, and the Metroliner service and the Boston-New York service on conventional trains are up substantially over 1970. Amtrak is now carrying about 15 million passengers on an annual basis.

I also believe that Amtrak's losses have been somewhat misunderstood. If the Corporation had not been created, the Nation's railroads would have lost at least $358 million on passenger service in the 12-month period ending this coming June 30. Against this figure, Amtrak will have a deficit of $154.6 million for that period and $124 million for the next fiscal year—admittedly on a much reduced system. Amtrak's losses must also be balanced by the fact that the railroads are going to be able to pay somewhere between $60 and $80 million a year more in income taxes.

At any rate, I am convinced that Amtrak needs our further support so that it has sufficient opportunity to develop a viable, attractive railroad passenger service system in the country. I wish also to express my complete agreement with the committee's direction that $2 million of this appropriation be allocated to establish and operate international connections to Montreal and Vancouver in Canada and Nuevo Laredo in Mexico. In closing, I urge my colleagues to endorse the committee's recommendation for the Department of Transportation in this bill.

Thank you, Mr. Chairman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $399,400.

Mr. MAHON. Mr. Chairman, we have now reached page 20, title II of the bill. Title II of the bill deals with the increased pay costs which are represented in the budget estimates and which are the result of legislation which has been enacted.

Therefore, Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to any points of order or amendments at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Chairman, reserving the right to object, and I shall not object, I would like to ask one question:

This bill contains nothing for the war in Vietnam; is that correct?

Mr. MAHON. If the gentleman will yield, it contains nothing other than the pay of the personnel as a result of the increased rates that have been previously enacted.

Mr. GROSS. Of course, that is service-wide?

Mr. MAHON. That is right.

Mr. GROSS. But this bill contains nothing; no appropriation for the war in Vietnam?

Mr. MAHON. The gentleman is correct.

Mr. GROSS. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Is there any point of order against the remainder of the bill?

(The paragraph of the bill to which the following point of order relates reads as follows:)

FEDERAL HOME LOAN BANK BOARD

Increases of $177,000 in the limitation on the amount available for administrative expenses and of $351,000 in the limitation on the amount available for nonadministrative expenses): *Provided*, That none of the funds available for administrative or nonadministrative expenses of the Federal Home Loan Bank Board shall be used to finance the relocation of all or any part of the Federal Home Loan Bank from Greensboro, North Carolina, nor for the supervision, direction or operation of any district bank for the fourth district other than at such location;

POINT OF ORDER

Mr. FLYNT. Mr. Chairman, I make a point of order against the language in the bill beginning after the colon on line 25 of page 42, and which continues through line 6 on page 43, which reads as follows:

Provided—

And so forth, down through "at such location."

I make the point of order on the ground that the language goes beyond the scope of the time frame covered by this appropriation bill, by the pending legislation.

Mr. JONAS. Mr. Chairman, I make a point of order.

The CHAIRMAN. The Chair will state that the Chair is already considering a point or order.

Mr. JONAS. Mr. Chairman, if the

Chair will permit me, may I state that my point of order goes to the point of order raised by the gentleman from Georgia (Mr. FLYNT), it involves the point of order made by the gentleman from Georgia, in view of the fact that the gentleman from Georgia has made the point of order seeking to strike part of a paragraph. I make the point of order against the entire paragraph beginning with line 21 on page 42, and extending down through line 6 on page 43.

The CHAIRMAN. Does any other Member desire to be heard on the point of order?

Has the gentleman from Georgia (Mr. FLYNT) completed his statement on his point of order?

Mr. FLYNT. The statement of the gentleman from Georgia on the point of order is completed.

Mr. MAHON. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Texas (Mr. MAHON) is recognized.

Mr. MAHON. Mr. Chairman, under the government corporation control law, we are entitled to enact an annual budget involving the handling of corporate funds. That is what this goes to, and it is a limit on those funds.

It would appear to be clearly in order. So I trust, Mr. Chairman, that the point of order will not be sustained.

Mr. BOLAND. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Massachusetts is recognized.

Mr. BOLAND. Mr. Chairman, I am reading from page 8455, United States Code, under title 31.

Paragraph 849 reads as follows:

§ 849. Consideration of programs by Congress; enactment of necessary legislation; effect of section on certain existing authority of corporations.

The Budget programs transmitted by the President to the Congress shall be considered and legislation shall be enacted making necessary appropriations as may be authorized by law, making available for expenditure for operating and administrative expenses such corporate funds or other financial resources or limiting the use thereof as the Congress may determine * * *

Mr. Chairman, that is precisely what the language of the bill does. It limits the funds of the corporation, and it is my contention that the point of order is out of order.

The CHAIRMAN (Mr. BROOKS). The Chair is prepared to rule.

The gentleman from Georgia (Mr. FLYNT) makes a point of order against the language in the bill on page 42, line 25 to page 43, line 6.

The proviso in this paragraph goes to all of the expense funds that might be available to the Federal Home Loan Bank Board. It does not merely restrict the funds in this bill.

The Chair finds the restriction is not limited to funds in the bill and must be construed as legislation.

The Chair therefore sustains the point of order made by the gentleman from Georgia (Mr. FLYNT).

Further, if any part of a paragraph is vulnerable to a point of order and a point of order is directed to the whole paragraph, then that whole paragraph is stricken, if the point of order is sustained to a part thereof. Therefore, the point of order made by the gentleman from North Carolina is sustained as to the whole paragraph.

AMENDMENT OFFERED BY MR. JONAS

Mr. JONAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONAS:
On page 42, after line 20, insert:

FEDERAL HOME LOAN BANK BOARD

(Increases of $177,000 in the limitation on the amount available for administrative expenses and of $351,000 in the limitation on the amount available for nonadministrative expenses): *Provided*, That none of the funds made available for administrative or nonadministrative expenses of the Federal Home Loan Bank Board by this Act shall be used to finance the relocation of all or any part of the Federal Home Loan Bank from Greensboro, North Carolina, nor for the supervision, direction or operation of any district bank for the fourth district other than at such location;

PARLIAMENTARY INQUIRY

Mr. THOMPSON of Georgia. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from North Carolina yield?

Mr. JONAS. I yield for a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. THOMPSON of Georgia. Will the gentleman's amendment be made available to the Members in writing in the event we would like to offer an amendment to the amendment? I have not seen a copy of it.

The CHAIRMAN. That is not a parliamentary inquiry, but the gentleman from North Carolina will probably be able to answer the gentleman's question.

Mr. JONAS. If the gentleman will permit, copies are available at the desk there.

(By unanimous consent, Mr. JONAS was allowed to proceed for an additional 5 minutes.)

Mr. JONAS. Mr. Chairman, I hate to take this time at this late hour, but the sequence of events which I shall describe is so incredible that I feel notice should be taken of them. I refer to the arbitrary action of the Federal Home Loan Bank Board in summarily moving the Federal home loan bank from Greensboro to Atlanta. This action was taken without any notice to anybody, including the 98 people who work for the bank in Greensboro, without any notice to the 700 savings and loan institutions which comprise the Fourth District of the Federal Home Loan Bank System, and without any notice to the board of directors of the Greensboro bank. The action was taken in a meeting on December 8, 1971, lasting 15 minutes, and consisted of the Federal Home Loan Bank Board adopting a resolution which provided that:

Effective immediately, the Federal Home Loan Bank in Greensboro is moved to Atlanta; and effective immediately, the Articles of Incorporation are amended to change the name of the bank from "Greensboro" to "Atlanta," and providing that Atlanta hereafter shall be the principal office of the bank.

The minutes of that December 8 meeting show that there was no discussion of this proposed move of the bank. This is incredible within itself, but to make it more incredible, the fact is that the Greensboro bank board of directors was to meet 2 days thereafter or on December 10, 1971, in a regular monthly meeting in Palm Beach, Fla., and the Federal Home Loan Bank Board knew about that meeting. They knew that the Greensboro board met every month. They knew that the board would be in session in Palm Beach in 2 days. But in the face of all that the FHLBB proceeded to adopt this resolution without, as I have said, giving anybody any notice whatsoever.

Mr. EVINS of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I am glad to yield to the gentleman from Tennessee.

Mr. EVINS of Tennessee. What is the status of the building in which this agency is housed in your State of North Carolina? I understand this building cost a great deal of money.

Mr. JONAS. I am just getting to that. That is the next most incredible thing about the whole transaction. I hold in my hand a picture of the bank building in Greensboro, N.C. It cost $1,800,000 and has been occupied less than 2 years.

The Federal Home Loan Bank Board here in Washington, without consulting the board of directors of the bank, and because they have the raw, naked power to do it, passed a resolution which will force the abandonment of this bank and the transfer of the Bank's facilities and 98 employees to Atlanta. Do you know what that will cost? The board took that action on December 8, 1971, and we had a hearing on it on December 15. We asked them what it was going to cost. They could not tell. They had not made any determination of what it would cost.

We asked them how many of the employees would move. They did not know. They had not made any study of that. We asked them what space in Atlanta would cost that they would use in substitution for this brandnew, magnificient building. They did not know. They had not made any study of that. They could not answer any of those questions.

We asked them to prepare answers and come back and be ready to discuss the matter with the committee after the first of the year. This was on December 15, 1971.

After Congress came back in January, they presented supplementary information which indicated that this move is going to cost $339,000 in out-of-pocket moving expenses.

Additional information furnished discloses the fact that half of the employees will not move to Atlanta and will leave the Bank's employe rather than do so.

Further information disclosed that a lease has been signed for space in Atlanta renting four floors of a new building, and these four floors have been vacant since the middle of last year. Do Members know what is going to be paid in rent for those four floors? It is $23,000 a month, and over a period of 5 years, the rental paid out will be $1,400,000 at the very same time a building is being abandoned

in Greensboro which cost $1,800,000. The FHLBB cannot tell the committee what is going to be done with the building.

Mr. EVINS of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I yield to the gentleman from Tennessee.

Mr. EVINS of Tennessee. Mr. Chairman, I support the gentleman's amendment. They will not even appear before the committee to justify their actions. I want to have a hearing on this matter.

Mr. JONAS. Mr. Chairman, not only that, but we were planning to have another hearing on the regular budget on March 13. I got word during the preceding week that they were about to authorize the signing of this new lease, so I called the board chairman, but could not reach him. He and all members were out of town, but I did reach Mr. Leibold, the General Counsel of the Home Loan Bank Board, and I asked him to urgently request on my behalf, and I think I was speaking for the chairman of the subcommittee, because he agrees with me about this, and asked him to hold up the signing of this lease for just 3 days until we could have this hearing.

Mr. Leibold reported back later in the day that the three-man Home Loan Bank Board had a long-distance telephone conference and decided to go ahead with the lease. The General Counsel, whose name I have already mentioned, responded to a letter from the attorney for the Greensboro Home Loan Bank, in which he requested advice as to whether it would not be desirable to put an escape clause in the lease, so they could get out from under in case legislation introduced last December should be enacted, and this move prevented. Do the Members know what the General Counsel advised? He advised that he did not think it necessary to put an escape clause in the lease and advised the Greensboro lawyer to go ahead and have the lease signed in the face of the fact that we were to have a hearing 3 days later.

I ask: What is the reason for all this haste? Why would the Board suddenly pass this resolution on December 8 when the Bank Board of Directors was going to have a meeting in Palm Beach on December 10, 2 days later? The Board of Directors is supposed to run the bank. The Home Loan Bank Board does not own this bank; it is owned by the 700 savings and loan institutions in the fourth district. And it is their money, as is the $1,800,000 which is invested in the Greensboro building and their money that is being wasted by forcing this costly move.

Instead of asking advance approval of the Bank Board, instead of getting the concurrence of the Bank Board before the action had been taken, in order to window dress this procedure, and in order to be able to say they got the approval of the Greensboro Bank board, they asked the board to pass a resolution on December 10 approving the transfer. One member of the board made the statement that the matter was presented to the bank board as a fact that had already been accomplished. This is as much as to say we would like your approval of the action we have already taken; but if you disapprove, what can you do about it; the transfer to Atlanta was ordered day before yesterday and was effective immediately.

The Home Loan Bank Board told our committee they consider they have the legal right to do this, whether the bank board of directors approves it or not. I do not believe a Government bureau should run roughshod that way over citizens of the United States whose money is at stake. And I do not believe they should run that roughshod over 98 employees.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(On request of Mr. THOMPSON of Georgia, and by unanimous consent, Mr. JONAS was allowed to proceed for 2 additional minutes.)

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I yield to the gentleman from Georgia.

Mr. THOMPSON of Georgia. Did I correctly understand the gentleman to say that there was a lease signed which has no escape clause, and that regardless of what happens to this particular amendment, the U.S. Government is going to be obligated to spend money?

Mr. JONAS. The gentleman did not so understand. I said that the U.S. Government is not involved in this except in a supervisory position. The money involved belongs to the people who own the 698 member savings and loan institutions, who are members of this bank and who own it and ought to have something to say about how it is run.

I will say this: Although the General Counsel advised the lawyer for the Greensboro Board that an escape clause was not necessary, there happens to be one in the lease, which I have on the desk there and which I will be glad to have the gentleman examine. There is an escape clause or a paragraph which may provide a way out if Congress prevents this move to the bank to Atlanta.

I would advise the Board if they make that effort to get another lawyer instead of the General Counsel here who advised the attorney in Greensboro that an escape clause was unnecessary and to go ahead and execute the lease without one.

Mr. THOMPSON of Georgia. If the gentleman will yield for a further question, as I understand the gentleman's amendment it would prohibit the use of any of the funds appropriated in the section for any administrative and nonadministrative expenses related to the relocation of the Federal Bank Board, or the operation in that area other than at Greensboro.

Mr. JONAS. That is right. That is all I can do.

Mr. THOMPSON of Georgia. Were the funds put in this to finance the transfer?

Mr. JONAS. No; not specifically. This is the only thing we can do. We are not a legislative committee. We are an appropriations committee. We have a responsibility of supervising the administrative and nonadministrative funds of the Federal Home Loan Bank Board, and we have a right to put a limitation on the amount of funds belonging to the association that the Board can spend. That is all my amendment does. It only goes to the funds provided in this bill. I wish it could go beyond this bill but, if the House approves my amendment today we will try to insert a limitation on the regular bill which should be before you soon.

Mr. BOLAND. Mr. Chairman, I rise in support of the amendment offered by the gentleman from North Carolina.

As the gentleman from North Carolina indicated, the Congress has the responsibility of oversight over the administrative expenses and operations of the Federal Home Loan Bank Board. That power is given to the Congress by the Government Corporation Control Act. There is no question that the law clearly states that we have the power to limit the administrative and nonadministrative expenses of Government corporation.

Let me say, Mr. Chairman, as was adduced in the hearings, the statements of the gentleman from North Carolina are factual.

One of the reasons why we had a hearing on this particular matter was due to the interest of the distinguished gentleman from North Carolina (Mr. JONAS) and also the distinguished gentleman from North Carolina (Mr. RICHARDSON PREYER) in whose district the fourth district Federal Home Loan Bank is located, in Greensboro, N.C. When the hearings were opened on this particular matter, I made this statement, addressing the chairman of the Federal Home Loan Bank Board:

> I might say the Congress has expressed itself many, many times on the removal of Government agencies from one location to another. During the course of this session on at least three, if not more, occasions, one of the Members of Congress tried to write restrictions on the building of additional buildings in the District of Columbia and relocating Government agencies from other areas into the District, or establishing new buildings in the District of Columbia.
>
> The concern of the Congress is that we have been impacting particular areas in the United States with Government agencies and taking Government agencies from one area into areas that are already impacted by Government agencies.
>
> The concern of all of us in the Congress is that this can be overdone. There is an expression of concern on the part of the members of this committee and of other Members who are vitally interested in the transfer of your district bank in Greensboro to Atlanta.

One of the reasons given, Mr. Chairman, for leaving the bank in Greensboro, as the gentleman from North Carolina (Mr. JONAS) pointed out, is that they are located in a brand new building occupied in May of 1970, and built at a cost of $1.8 million. It is a one-purpose building. It was built specifically for the bank. One of the reasons given for the move is the need for additional space. This structure was designed with the idea in mind that additional space could be added to this building when needed. This structure has the capacity to accommodate the construction of an additional floor and would provide an additional 14,400 square feet of usable office space.

So I say to the gentlemen of the committee, the issue is a very simple one. It is whether or not you are going to permit this Government corporation to move from its present location in a brand new building in Greensboro, to Atlanta, Ga., when there is no real reason for the move.

I am delighted to yield to the gentleman from North Carolina, in whose district the bank at Greensboro is located.

Mr. PREYER of North Carolina. Thank you, Mr. Chairman.

I want to thank the gentleman from Massachusetts (Mr. BOLAND) and the gentleman from North Carolina (Mr. JONAS) for the attempt they have made to keep this building in its present location.

I do want to express on the part of the citizens of Greensboro their sense of outrage about this.

As has been pointed out, this is a new building, only a year and a half old. When it was built there was no suggestion made at the time that any sort of a move such as this was forthcoming or contemplated. All of the reasons for this move have been destroyed by the subcommittee one after the other until now we get down to some statistical remarks about the mailing being maybe a little better and the phone connections being maybe a little better, none of which are real reasons. They are given reasons. I do not know what the real reason is or why there is this unseemly haste and arbitrary action that has been taken.

This is something which this Congress ought to examine carefully. I urge all of you support this amendment offered by the gentleman from North Carolina (Mr. JONAS) and I hope we in the Congress can send back a few messages of our own that arbitrary, capricious action on the part of a few people without any consultation with the people whose lives and careers are affected by it is something that this Congress is not going to stand for. I urge your support.

Mr. JONAS. Will the gentleman yield?

Mr. BOLAND. Yes. I yield to the gentleman from North Carolina.

Mr. JONAS. Is it not true, I ask my colleague from North Carolina, that immediately after the announcement was made that this move had been ordered 10 of the employees resigned, including a senior vice president of the bank, and today it appears that half of the banking personnel in Greensboro have indicated they will not move even if the bank finally goes to Atlanta?

Mr. PREYER of North Carolina. Will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from North Carolina.

Mr. PREYER of North Carolina. Approximately 50 percent of the bank personnel have indicated they will resign. The cost of the first year's move comes to approximately $800,000, including the cost of moving supplies, while you are sitting there with a building costing $1.8 million that is owned by the bank.

AMENDMENT OFFERED BY MR. FLYNT TO THE AMENDMENT OFFERED BY MR. JONAS

Mr. FLYNT. Mr. Chairman, I offer an amendment to the amendment.

Amendment offered by Mr. Flynt to the amendment offered by Mr. Jonas: Strike the following language:

"*Provided*, That none of the funds made available for administrative or nonadministrative expenses of the Federal Home Loan Bank Board by this Act shall be used to finance the relocation of all or any part of the Federal Home Loan Bank from Greensboro, North Carolina, nor for the supervision, direction or operation of any district bank for the fourth district other than at such location;".

(By unanimous consent, Mr. FLYNT was allowed to proceed for 3 additional minutes.)

Mr. FLYNT. Mr. Chairman, I offer this amendment to accomplish the purpose which was initially accomplished by the point of order which I made to the proviso in this section of the bill.

The Congress should not and is not qualified to make administrative decisions of Government departments, executive departments, independent Federal agencies, or quasi-public corporations.

This is an action affecting the location of the Fourth District Federal Home Loan Bank which is under the supervision and jurisdiction of the Federal Home Loan Bank Board.

The Congress of the United States in its judgment and in its wisdom has delegated the operation and supervision of the Home Loan Bank industry, very properly, to the Federal Home Loan Bank Board and to the District Federal Home Loan Banks.

Regardless of how anyone might feel as to what happened in March of this year between the General Counsel for this Board and my devoted friend, the distinguished gentleman from North Carolina, not even the gentleman from North Carolina or anyone supporting his amendment to this bill would say for 1 minute that the Congress of the United States has the time or the appropriate authority to regulate the operation of an individual bank or the Federal Home Loan Bank Board.

Mr. Chairman, if we attempted to do this, the operations of the Congress of the United States would be closed for all other purposes.

There are many of these district Federal Home Loan Banks scattered throughout the United States. One of these banks serves the district and the Federal Home Loan Bank industry of every single Member of this House.

I do not believe, Mr. Chairman, that it is appropriate for the Congress of the United States, by whatever reasons it is motivated, to attempt to interfere with the internal operation of an agency of Government about which there has not only never been the first hint of any scandal—there has never been the first hint of any scandal—in the operation of this great agency of the Government and of the separate and collective district Federal home loan banks which are located in various parts of the United States.

First of all, all of us have the right to our opinions and our judgments on this or any other issue.

But, Mr. Chairman, as was stated by the Associate Justice of the Supreme Court, Justice Oliver Wendell Holmes:

No man has a right to be wrong in his facts.

Mr. Chairman, this move of the Fourth District Federal Home Loan Bank Board from Greensboro, N.C. to Atlanta, Ga., was not a hurried-up operation. This has been discussed at great length for at least 2 years. It was unfortunate that the contract for the construction of the building—and it is a fine building—was entered into before this discussion really became finalized.

But there are many sound reasons for the action of the Federal Home Loan Bank Board, in determining that this bank should be relocated in Atlanta. In the first place, Atlanta is more centrally located. If you take the geographical area served by this Fourth District Federal home loan bank, and you draw a circle around both Greensboro and Atlanta, most of the business, most of the population and most of the new applications and servicing of existing institutions would be located more conveniently to Atlanta, Ga., than to Greensboro, N.C.

The reasons for the relocation of the fourth district bank from Greensboro to Atlanta are as fundamental as the urgency of this country's housing and thrift needs, and the changed role that the savings and loan industry is playing in meeting those needs. As a $200 billion industry providing the major part of the Nation's housing funds at a time when housing is on of our first national priorities, savings and loans simply must have Federal home loan banks which perform with maximum effectivness.

This imperative is especially powerful in the fourth district, where the original pattern left one bank to deal with a huge slice of territory. Today the fourth district has more than twice the average of the other 11 districts in both assets and number of associations. The service and supervision of a region like this is a massive and profoundly important challenge.

It is the Federal Home Loan Bank Board's responsibility to help the district bank meet that challenge. One of the tools given to the Board by statute, and reinforced six times by precedent, is the authority to adjust the banks' locations. This authority has been exercised because the fourth district bank's directors determined that the present facilities are inadequate, and the Federal Home Loan Bank Board had to decide whether money should be spent to retain the bank in a less than optimum location, or to establish it in a city uniquely suited to its needs.

The first alternative was expansion. The Board found that the addition of a second floor to the building would cost, at a minimum, $500,000 to $550,000. The bank has not purchased nearby land, and holds no purchase options, so that the space required for parking would have to be acquired at an estimated cost of $125,000 to $150,000. Expansion would thus cost almost 40 percent of the original expenditure for the land and the construction of the present building—$1,735,000.

The other alternative was to move the

bank's operations. The building would then be sold, a possibility for which it was expressly designed. Its book value—excluding land—in November 1971 was $1,438,208.80. The Board found costs of facilities, personnel—all of the bank's professional staff apparently intend to relocate—and operating needs in Atlanta to be very comparable to Greensboro levels. With anticipated savings on several organizational changes, the financial issue was thus largely neutralized.

The issue of effectiveness remained, and with it the question, "How can the location of a Federal home loan bank enhance its performance?"

First, it can make the bank accessible to its members. Interaction with members is, after all, at the basis of the bank's reason for being. Atlanta is slightly closer to the district's center than is Greensboro. While Baltimore is 353 miles closer to Greensboro than to Atlanta by air, Miami and Mobile are 114 and 306 miles nearer Atlanta, respectively. But more to the point, Atlanta lies at the intersection of six legs of three interstate highways, and possesses the world's fourth ranking airport in passenger service, with direct and frequent flights throughout the district and the Nation. It is one of 33 cities in the country with overnight postal service, and has unsurpassed telephone and telegraph networks.

Second, a city can bring a bank in contact with the governmental services sharing its goals and problems. In the entire country, only Chicago and Atlanta contain the main regional offices of all of the following housing and finance agencies: HUD, FHA, FNMA, GNMA, the FDIC, the Comptroller of the Currency, and the Federal Reserve. Complex and urgent housing problems can no longer be approached by haphazard, uncoordinated government. Neither can the Nation's thrift needs. If the bank staff, and the examiners and FHLMC personnel who share its building, do not have close ties with these agencies, the whole region is affected.

Atlanta offers the bank countless other benefits. It has enough court reporters to drain the backlog of cases which has mounted behind Greensboro's single reporter. It has a pool of 43,000 persons involved in banking, finance, insurance, and real estate. It has the regional offices of the Civil Service Commission and General Services Administration.

Atlanta has all the advantages of a vast city, and at the same time it has a vast city's involvement in the vital issues and problems of today. To the Fourth District Federal Home Loan Bank it will bring both service and challenge.

Much of this business, as the gentleman from North Carolina pointed out, is handled by mail. Those who are familiar with the banking business and the banking industry are aware what days of delay mean in banking transactions. The airmail service and other mail service out of Atlanta are far superior to corresponding services out of the city of Greensboro, N.C.

Yes, the Federal Home Loan Bank Board undertook to pass a resolution to relocate the Fourth District Federal Home Loan Bank Board, but the gentleman from North Carolina did not point out that the board of directors of the then Greensboro Bank voted unanimously, with one vote being changed subsequently, to concur in this move.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from North Carolina.

Mr. JONAS. Mr. Chairman, I must correct my friend, because I did point out that 2 days after the Board passed a resolution which said "effective immediately" the Greensboro Bank board did have a meeting in Palm Beach, Fla., and approved what had already been accomplished.

Mr. FLYNT. By a unanimous vote.

Mr. JONAS. There was absolutely no discussion. It was presented, as one member said, as an accomplished fact, to take it or leave it.

I interrupted the gentleman from Georgia because I was afraid the gentleman did not hear me mention that Greensboro Bank board meeting.

Mr. FLYNT. I did not understand the gentleman from North Carolina to say that the Greensboro Bank board voted unanimously to concur in the action of the Federal Home Loan Bank Board, and I do not believe that the gentleman from North Carolina used the word "unanimously" in his remarks.

Mr. JONAS. No, I did not use the word "unanimously." I think the record will show there was no record vote taken; it was that casual.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. FLYNT. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. RUTH. Mr. Chairman, reserving the right to object, will someone else have an opportunity to speak when the gentleman finishes?

The CHAIRMAN. The Chair will state that under the rules others will have an opportunity to speak.

Mr. RUTH. I thank the Chairman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. FLYNT. The board of directors of the then Greensboro Federal Home Loan Bank Board is a substantially autonomous board of directors. If the Greensboro board had not concurred that the move suggested and directed by the Federal Home Loan Bank Board was in the best interest of the general public and the operation of that bank, then there would certainly have been deciding votes, and possibly a majority vote against the resolution to move.

Mr. Chairman, this bank will not only service Greensboro, N.C., it will not just serve Atlanta, Ga.—and I am sorry that the controversy arose—but in the interest of the people who will be served by the Fourth District Federal Home Loan Bank Board, I respectfully urge the adoption of the amendment to the amendment offered by the gentleman from North Carolina (Mr. JONAS).

Mr. LANDRUM. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I am happy to yield to the gentleman from Georgia (Mr. LANDRUM).

Mr. LANDRUM. Mr. Chairman, the implication is left here, I am afraid, or the implication is made that the money spent for this building in Greensboro, N.C., about which criticism is being made because of its being vacated, is money that was appropriated by the Congress to build this building. That is not true, is it? The money was not appropriated by the Congress, and it was not taken from the public Treasury; it was money generated by the bank.

Mr. FLYNT. My colleague, the gentleman from Georgia, is as usual eminently correct. There are no Federal funds involved in this building. This building and the operation of this entire Federal Home Loan Bank system are generated by the industry itself.

This move has the approval of the overwhelming majority of the industry and members of the general public who will be served by the Fourth District Home Loan Bank wherever it is located.

Mr. Chairman, I urge the adoption of my amendment.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair has noted the names of Members standing at the time of the unanimous-consent request.

Mr. MAHON. Mr. Chairman, I did not mean to ask for time on the amendment. Will the Chair strike my name from the list?

The CHAIRMAN. Yes.

Under the limitation of time, each Member will be recognized for 1 minute.

The gentleman from North Carolina (Mr. RUTH) is recognized.

Mr. RUTH. Mr. Chairman, my good friend, the gentleman from Georgia, first mentioned that we could get the mail quicker from Atlanta to Florida than we could from Greensboro. I wonder if he thinks that we are still operating on the Pony Express?

Mr. FLYNT. Mr. Chairman, will the gentleman yield?

Mr. RUTH. The gentleman took 2 minutes under unanimous consent, and I am going to finish my comments.

It is a shame that we have to become involved in a disagreement between North Carolina and Georgia. I am sure Members really do not enjoy it. But I am going to tell the Members what they are going to get a chance to do. They are going to get a chance to vote against a three-man bureaucracy that takes a most unusual action and rapidly moves a land bank.

Members are going to get an opportunity to vote against a waste of money.

I am not claiming that the U.S. Congress is wasting the money. I am claiming it is a waste of money of the people who operate the bank in North Carolina.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. BLACKBURN).

Mr. FLYNT. Mr. Chairman, I ask unanimous consent that my time may be alloted to the gentleman from Georgia (Mr. BLACKBURN).

The CHAIRMAN. Is there objection to the request of the gentleman?

Mr. CEDERBERG. Mr. Chairman, I reserve the right to object. I do not think I will object, but I would like to object because I would like to hear all these Members speak. I think they have a great story and it makes for a great closing of the evening. It probably will not resolve anything. I withdraw my reservation of objection.

The CHAIRMAN. The gentleman from Georgia (Mr. BLACKBURN) is recognized for 2 minutes.

Mr. RUTH. Mr. Chairman, reserving the right to object, I would like to state that I do not object.

Mr. LANDRUM. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Georgia (Mr. BLACKBURN).

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The gentleman from Georgia (Mr. BLACKBURN) is recognized for 3 minutes.

Mr. BLACKBURN. Mr. Chairman, I agree with my colleague (Mr. RUTH) that it is a very painful thing that the whole Congress has to be involved in what appears to be a provincial dispute between the State of Georgia and the State of North Carolina. Let me say on my own behalf, and speaking on behalf of the other members of the Georgia delegation, that we never approached the Home Loan Bank. When we first became aware that this move was being contemplated, we were advised that the move was being contemplated because it was far more efficient to have this operation located in the business and financial hub of the Southeast.

Let us keep in mind that we are talking about the operation of the Home Loan Bank Board, whether it be located in Greensboro, Atlanta, or any other city or any other part of our country. We are talking about an operation that is engaged is not merely a billion-dollar business but billions of dollars. The Home Loan Bank Board has done more to provide housing for the people of our country—the low, the moderate, and the upper income families of our country—than any other single institution. Its operations have truly been exemplary operations for all Federal agencies to follow, and to create any implication that they have acted irregularly or illegally in this particular instance is doing a great disservice, in my opinion, to a very fine Federal institution.

I am confident from my discussions with the members of the Federal Home Loan Bank Board that their sole motivation was to bring about a better, a more efficient operation of this very fine institution.

Let us keep this matter in perspective. We are not talking about losing any money from the Federal Treasury. It is painful for me to speak in opposition to anyone for whom I hold as much respect as well as affection as I do our colleague from North Carolina (Mr. JONAS), but he has never implied that the Federal Home Loan Bank Board did anything illegal, and I do not think anyone would pretend that they did. We all face this in our representation of our districts. There is always the possibility that some operation of a Federal agency is going to be taken away from our district, and if we set a precedent here today of saying that just because a very popular and beloved Member of our body feels his district or part of his district is being injured by the operation of a Federal agency, the Congress is going to move in and substitute its judgment for that of the body that is charged with the responsibility of managing a Federal agency, we will never pass another major piece of legislation in this body. We will be too busy taking care of whatever quarrels may exist between and among our individual Members and the Federal agencies involved.

Gentlemen, I urge you to vote for the Flynt amendment to the Jonas amendment, and at that point we can get on with the business of the Congress.

The CHAIRMAN. The chair recognizes the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, I do not think this is really a fight between North Carolina and Atlanta, Ga. I think the issue here is whether bureaucracy will be permitted to run roughshod over little people who have to depend upon their particular operation for their lifeblood, and in this case it is the Federal Home Loan Bank Board.

The Federal Home Loan Bank Board has been located in Greensboro, N.C., for 22 years. Certainly there was no attempt to move it before, even as late as 2 years ago when they were constructing the new building which cost approximately $2 million. The controversy may have arisen when Mr. Clark, a member of the Federal Home Loan Board from Atlanta, Ga., was appointed to the national board. It was then that the urgency to move the bank to Atlanta arose.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. MIZELL. I yield to the distinguished gentleman from North Carolina.

Mr. JONAS. Mr. Clark, is a member of the Federal Home Loan Bank Board and he is from Atlanta. He was not a member of the board when the building was built in Greensboro. He came on the board subsequent to the occupancy of the building in Greensboro.

Mr. MIZELL. That explains the reason for the move to Atlanta, Ga.

I think this move is completely uncalled for and I urge the adoption of the Jonas amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, the sole question we are deciding is whether or not this Congress is going to attempt to run the administrative affairs of the Federal Home Loan Bank Board or whether we are going to recognize that they are an autonomous group which is sincerely concerned about serving the interests of the public by working in the most efficient environment possible, and in order to promote the well-being of the people, they want to make available the facilities of their bank in the most efficient manner.

Atlanta is the banking center of the entire Southeast. It is a transportation hub. It is a commercial hub. Those factors undoubtedly had much to do with the decision of the Federal Home Loan Bank Board to move the bank after some 20-odd years in Greensboro. I regret that Greensboro is losing this bank, but we must always be concerned about the needs of the people of the entire area that is concerned, not merely the popularity of a Representative here in Congress or just the desire of that Representative to have a Federal Home Loan Bank Board located within his area.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL of North Carolina. Mr. Chairman, I rise in support of the Jonas amendment and in opposition to the Flynt amendment.

All of the gentlemen from Georgia are saying the Congress should not be involved in these decisions which are made by the independent regulatory agencies. They are saying we in the Congress should in no way interfere with these decisions that are made by these agencies or departments. But I see some of the decisions which are being made that change the intent of the laws which are written by the Congress, and it seems to me the Congress of the United States should be involved, and it seems to me the Congress of the United States should be exercising more oversight authority.

For that reason I think the amendment offered by the gentleman from North Carolina (Mr. JONAS) should be passed, and the appropriate legislative committee of the House of Representatives should be looking into the activities of the Federal Home Loan Bank Board.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Chairman, I yield to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER of North Carolina. Mr. Chairman, I thank the gentleman from Massachusetts.

Mr. Chairman, it is true that the Home Loan Bank Board in Washington had the legal right to make this move, but that does not mean the decision does not have to be based on reason. It cannot be arbitrary just because there is the right to do it. If we examine the record of the hearings in this case, we will find every reason given has been completely destroyed. They have shifted from one reason to another. When one is destroyed, they move on to another. There is no real reason in it. It is a move without meaning.

Mr. Chairman, I urge this Congress to support the Jonas amendment and vote down the Flynt amendment.

Mr. BOLAND. Mr. Chairman, let me say the Government Corporation Control Act gives the Congress specific authority, particularly with reference to the administrative expenses. I would ask that the Committee vote down the amendment offered by the gentleman from Georgia and vote for the amendment offered by the gentleman from North Carolina.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. JONAS).

Mr. JONAS. Mr. Chairman, may I say quickly that, first, I live 100 miles from Greensboro, and my district does not come close to Greensboro. Also, I am a great booster of Atlanta. It is a great city. I do not blame people from Georgia for wanting to live there, but that does not mean everybody in the United States wants to, or wants to move to Atlanta. We have great cities in North Carolina, and Greensboro is one of them. This should not be a question of a contest between Greensboro and Atlanta.

As far as I am concerned, I got disturbed about this when I found the three-man Federal Home Loan Bank Board had suddenly, without any public notice or notice to the board of directors of the Greensboro Bank, at a meeting which lasted only 15 minutes, the minutes of which disclose no discussion about the proposed move and the minutes of previous meetings show no discussions, arbitrarily voted to move this bank effective immediately. I do not approve of Government bureaus running roughshod over people and institutions they are supposed to regulate and supervise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. FLYNT) to the amendment offered by the gentleman from North Carolina (Mr. JONAS).

The question was taken; and on a division (demanded by Mr. FLYNT) there were—ayes 13, noes 61.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. JONAS).

The amendment was agreed to.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BROOKS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14582) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. MAHON. Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossement and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count.

One hundred seventy-eight Members are present, not a quorum.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll:

The question was taken; and there were—yeas 344, nays 16, not voting 73, as follows:

[Roll No. 124]

YEAS—344

Abbitt	Carter	Frelinghuysen
Abernethy	Casey, Tex.	Frenzel
Abourezk	Cederberg	Frey
Abzug	Celler	Fulton
Adams	Chappell	Fuqua
Addabbo	Clark	Gallagher
Alexander	Clawson, Del	Garmatz
Anderson, Calif.	Clay	Gaydos
	Cleveland	Gettys
Anderson, Ill.	Collier	Giaimo
Anderson, Tenn.	Collins, Ill.	Gibbons
	Colmer	Goldwater
Andrews, Ala.	Conable	Gonzalez
Andrews, N. Dak.	Conte	Goodling
	Conyers	Grasso
Archer	Corman	Gray
Arends	Cotter	Green, Oreg.
Aspin	Coughlin	Green, Pa.
Aspinall	Culver	Griffin
Baker	Curlin	Griffiths
Baring	Daniel, Va.	Grover
Barrett	Daniels, N.J.	Gubser
Begich	Davis, Ga.	Gude
Belcher	Davis, Wis.	Halpern
Bell	de la Garza	Hamilton
Bennett	Delaney	Hammer-schmidt
Bergland	Dellenback	
Betts	Dellums	Hanley
Bevill	Denholm	Hansen, Idaho
Biaggi	Derwinski	Hansen, Wash.
Biester	Dickinson	Harrington
Blatnik	Diggs	Harsha
Boggs	Dingell	Harvey
Boland	Donohue	Hathaway
Bolling	Dorn	Hays
Bow	Dow	Hechler, W. Va.
Brademas	Downing	Heckler, Mass.
Brasco	Drinan	Heinz
Bray	Dulski	Helstoski
Brinkley	Duncan	Henderson
Brooks	du Pont	Hicks, Mass.
Broomfield	Eckhardt	Hicks, Wash.
Brotzman	Edmondson	Hillis
Brown, Mich.	Edwards, Ala.	Hogan
Brown, Ohio	Edwards, Calif.	Horton
Broyhill, N.C.	Eilberg	Hosmer
Broyhill, Va.	Erlenborn	Howard
Buchanan	Evans, Colo.	Hull
Burke, Fla.	Fascell	Hungate
Burke, Mass.	Fish	Ichord
Burleson, Tex.	Fisher	Jacobs
Burlison, Mo.	Flood	Jarman
Burton	Flynt	Johnson, Calif.
Byrnes, Wis.	Foley	Jonas
Byron	Ford, Gerald R.	Jones, N.C.
Cabell	Ford, William D.	Karth
Caffery		Kastenmeier
Camp	Forsythe	Kazen
Carlson	Fraser	Keating
Keith	Obey	Sikes
Kemp	O'Hara	Skubitz
King	O'Konski	Slack
Koch	O'Neill	Smith, Calif.
Landrum	Passman	Smith, Iowa
Latta	Patten	Smith, N.Y.
Leggett	Pelly	Snyder
Lent	Pepper	Spence
Link	Perkins	Springer
Lloyd	Pettis	Stanton, J. William
Long, Md.	Peyser	
McClory	Pickle	Steele
McCloskey	Pike	Steiger, Ariz.
McClure	Pirnie	Steiger, Wis.
McCollister	Podell	Stephens
McCormack	Poff	Stratton
McDade	Powell	Stuckey
McDonald, Mich.	Preyer, N.C.	Sullivan
	Price, Ill.	Symington
McEwen	Purcell	Talcott
McFall	Quie	Taylor
McKay	Quillen	Teague, Calif.
McKevitt	Railsback	Teague, Tex.
McMillan	Randall	Terry
Mahon	Rangel	Thompson, Ga.
Mailliard	Reid	Thompson, N.J.
Mallary	Reuss	Thomson, Wis.
Mann	Rhodes	Thone
Martin	Riegle	Tiernan
Mathis, Ga.	Robinson, Va.	Udall
Matsunaga	Robison, N.Y.	Van Deerlin
Mayne	Rodino	Vanik
Mazzoli	Roe	Vigorito
Meeds	Rogers	Waggonner
Melcher	Roncalio	Waldie
Metcalfe	Rooney, N.Y.	Wampler
Michel	Rooney, Pa.	Ware
Mikva	Rosenthal	Whalen
Miller, Ohio	Rostenkowski	Whalley
Mills, Md.	Roush	White
Minish	Roybal	Whitehurst
Mink	Ruppe	Whitten
Minshall	Ruth	Widnall
Mitchell	Ryan	Wiggins
Mizell	St Germain	Williams
Monagan	Sandman	Wilson, Bob
Montgomery	Sarbanes	Wolff
Moorhead	Satterfield	Wright
Morgan	Saylor	Wyatt
Mosher	Scherle	Wydler
Moss	Schneebeli	Wylie
Murphy, Ill.	Schwengel	Wyman
Murphy, N.Y.	Scott	Yates
Myers	Sebelius	Yatron
Natcher	Seiberling	Young, Fla.
Nedzi	Shipley	Zablocki
Nelsen	Shoup	Zion
Nichols	Shriver	Zwach

NAYS—16

Ashbrook	Devine	Landgrebe
Blackburn	Findley	Rarick
Clancy	Gross	Rousselot
Collins, Tex.	Haley	Schmitz
Crane	Hall	
Dennis	Hutchinson	

NOT VOTING—73

Annunzio	Hastings	Nix
Ashley	Hawkins	Patman
Badillo	Hébert	Poage
Bingham	Holifield	Price, Tex.
Blanton	Hunt	Pryor, Ark.
Byrne, Pa.	Johnson, Pa.	Pucinski
Carey, N.Y.	Jones, Ala.	Rees
Carney	Jones, Tenn.	Roberts
Chamberlain	Kee	Roy
Chisholm	Kluczynski	Runnels
Clausen, Don H.	Kuykendall	Scheuer
	Kyl	Sisk
Danielson	Kyros	Staggers
Davis, S.C.	Lennon	Stanton, James V.
Dent	Long, La.	
Dowdy	Lujan	Steed
Dwyer	McCulloch	Stokes
Edwards, La.	McKinney	Stubblefield
Esch	Macdonald, Mass.	Ullman
Eshleman		Vander Jagt
Evins, Tenn.	Madden	Veysey
Flowers	Mathias, Calif.	Wilson, Charles H.
Fountain	Miller, Calif.	
Galifianakis	Mills, Ark.	Winn
Hagan	Mollohan	Young, Tex.
Hanna	Morse	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hunt for, with Mr. Price of Texas against.

Until further notice:

Mr. Roy with Mr. Winn.
Mr. Annunzio with Mr. Chamberlain.
Mr. Kee with Mr. Kyl.
Mr. Carey of New York with Mr. Galifianakis.
Mr. James V. Stanton with Mrs. Dwyer.
Mr. Hébert with Mr. Vander Jagt.
Mr. Holifield with Mr. Hastings.
Mr. Sisk with Mr. Mathias of California.
Mr. Ashley with Mr. McCulloch.
Mr. Pucinski with Mr. Esch.
Mr. Fountain with Mr. Kuykendall.
Mr. Evins of Tennessee with Mr. McKinney.
Mr. Dent with Mr. Eshleman.
Mr. Davis of South Carolina with Mr. Lujan.
Mr. Macdonald of Massachusetts with Mr. Morse.
Mr. Charles H. Wilson with Mr. Don H. Clausen.
Mr. Steed with Mr. Patman.
Mr. Blanton with Mr. Mills of Arkansas.
Mr. Danielson with Mr. Veysey.
Mr. Nix with Mr. Johnson of Pennsylvania.
Mr. Miller of California with Mr. Long of Louisiana.
Mr. Stokes with Mr. Scheuer.
Mr. Hawkins with Mr. Madden.
Mr. Stubblefield with Mr. Staggers.
Mr. Byrne of Pennsylvania with Mr. Rees.
Mr. Flowers with Mr. Young of Texas.
Mr. Roberts with Mr. Ullman.
Mr. Runnels with Mr. Lennon.
Mr. Mollohan with Mr. Jones of Alabama.
Mr. Kyros with Mr. Jones of Tennessee.
Mr. Kluczynski with Mr. Hagan.
Mr. Hanna with Mr. Badillo.
Mrs. Chisholm with Mr. Carney.
Mr. Bingham with Mr. Pryor of Arkansas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

HARMFUL DRUGS ARE INCREASINGLY BEING USED IN SPORT COMPETITION

(Mr. STAGGERS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. STAGGERS. Mr. Speaker, for many more years than we in this Chamber can look back on, athletic competition has been regarded as a useful and vital means for the development of the human spirit and the encouragement of those qualities among the young which prepare them to face the challenges of the real world.

Now, however, information has come to my attention indicating that harmful drugs are increasingly being used at various levels of competition in certain sports for the purpose of enhancing performance. Not only are the persons who use these drugs misguided, but they are finding that the drugs may not improve performance, may adversely affect physical and mental health, and may ultimately lead to serious consequences. If the drug culture gains acceptability in this part of our national life, sports and the Nation will suffer irreparable harm.

At my request, a preliminary inquiry has been conducted by the staff of our Investigations Subcommittee. This inquiry reveals that extensive abuse of drugs by athletes does in fact exist in many sports. It has further been ascertained that athletic participants of all ages and levels of competition are involved. We recognize that this problem is not of recent origin but has existed in sports for many years. What concerns us now are allegations that the problem is becoming more widespread.

It might be argued that professional athletes, whose livelihoods are at stake, are mature individuals who should be permitted to make a personal decision on the use of drugs. They may believe that drugs aid or prolong their participation in sports. This, however, is contrary to the spirit of sport and athletics as I understand it from my 4 years of experience as a high school and college coach. Despite this feeble defense for the use of drugs by professionals, I strongly feel that when the youth of this land, whether because of sheer hero-worship or because of a burning desire to succeed in athletic competition, copy the professional and resort to taking drugs in an attempt to improve performance, then drugs on any level are no longer a private matter. We have received information that this is occurring.

I am not referring to restorative drugs or legitimate medical treatment. I am talking about drugs which have highly questionable clinical use and which have been described as dangerous.

They include amphetamines, commonly referred to as "uppers" or "pep" pills taken as stimulants, and anabolic steroids taken to increase weight and improve strength.

Medical authorities are in general agreement that the use of drugs such as these in athletics may produce serious physiological side effects and even death. Further, we have been informed that athletes, like other persons, may develop a drug dependency resulting in increased dosage requirements which may lead to habituation and psychological addiction.

Leaders within the athletic community recognize the problem and in some instances are attempting to deal with it. Professional baseball has embarked upon an extensive drug abuse educational program for the benefit not only of its players, but also the youth of the country. In amateur sports, testing procedures have been adopted at the Olympic level to deal with the problem.

If the nations of the world can put aside political differences and overcome langauge barriers for the good of sport, it would seem that responsible athletic officials in this country should be able to deal with the problem. While it is encouraging to see some action in this area, we must ask whether enough is being done soon enough.

Traditional sports activity has always called into play qualities which are most admirable in the human spirit: self-denial; discipline; mutual respect; intelligence; and courage. Perhaps this is why, as Americans, we have always looked at athletic competition as something more than a diverting spectacle. We have looked to it to tell us something about ourselves. With all of its pageantry, action, and danger, and its ever present alternatives of victory and defeat, organized sport presents us with something that echoes the larger struggle that all must engage in in this life. In my opinion, all this is jeopardized and even destroyed when drugs are used to artificially stimulate performance.

There is no known pill which will produce a winner or replace honest competition. Recent tests in international competition revealed that there were more losers than winners among drug users.

For these reasons, I have asked the staff of the special Subcommittee on Investigations to develop further information in this area to determine the extent of the danger. I am not suggesting, at this point, that congressional action is necessary or desirable. We hope, of course, that self-regulation in some form will be effective. It seems to me, however, that the matter calls for a thorough investigation at this time to insure that proper safeguards are established.

FRANK BOYDEN OF DEERFIELD—A TRIBUTE

(Mr. SYMINGTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SYMINGTON. Mr. Speaker, my colleagues, a sequoia has fallen. Short in height, he used to smile ruefully and say, "I wish I were a little taller." But have Deerfield graduates ever known a taller man? No, no matter where we stood, we looked up to Frank Boyden. And educators will agree, he towered over this century. He will be missed, yet he will be found, in every proper response, every ennobling gesture, every decent impulse that moves a life he touched. We mourn, yet we rejoice that he had so much to give, and God gave him time to give it. To Helen Childs Boyden, his wise and lovely natured inspiration for all those years, we offer our love and dearest thoughts.

Mr. Speaker, I would like here to place before this House, the thoughts I shared, September 20, 1967 at an Academy Dinner honoring Mr. Boyden:

REMARKS OF CONGRESSMAN JAMES W. SYMINGTON

To what tests has America not been exposed in this period of transition—since she turned the corner into the 20th century? To which of them has Deerfield and her graduates not been exposed, and not met, and passed? The mechanization of agriculture, the power of labor, urban migration, the income tax, a world war, industrial growth, speculation, depression, a second world war, the communist challenge, its mitigation, cold war, race tension at home and the emergence of new nations, new threats to freedoms and "limited" war: from bloomers to miniskirts, and from balloons to space shots—America has moved. Could a school prepare boys for life in such a nation, in such a world, over such a period under the

aegis of one authority? Clearly, not. And that's why Deerfield is so fortunate, so blessed to have had a new headmaster every year for the past 63 years. Each year a man unblinded by passing novelties yet unfettered by the dogmas of the past, whose spirit is renewed with each changing season, relating always to the season and the world around, but tendering ever the gift of memory, a mansion of values that weathers and re-emerges from Pocumtuck snows, April rains and the heat of each new summer's discontent. The fact that all these insights, all these perspectives, all these headmasters are collected in one boy-building, sulkey-driving, base-hitting, Helen fed, fund-raising man, Frank L. Boyden is, to be sure, a remarkable coincidence.

When I asked Bob Crow for further guidance on tonight's adventure, he suggested a title along the lines of the effect of the Deerfield experience on public service. By "public service" I will take to mean any activity in which graduates are engaged. For, in this "ask not" time, directly or indirectly our performance and attitudes in any walk of life must be measured against some standard of citizenship which, for Deerfield, means service. There is no denying that the question must be reduced for all of us here to this: What is the effect of *Frank Boyden's* guidance on the lives and works of the thousands of boys who've trudged Albany Road and straightened up at the sight of him, who have slowed down from a reckless pace through the corridor at the cautioning sound of his voice, who have sat at his feet and in the embrace of his nature in the evening meetings, who have been steadied and repaired from the inside out in personal talks with him, who have absorbed his rejection of show and sham and discourtesy, as well as his respect for the good try however short of the mark?

In a time when high school principals and college presidents are toppled ungently from authority or even from their feet by the changing tides of student unrest, how good it is to remember one who by a little movement of the shoulder could silence 500 lusty shouts. In a time when bootless vandalism is destroying millions of dollars of school property annually, how good it is to know there is still one who can stand before the multitude, and say, "One among you has had the misfortune to break a window in the new dorm. Please come tell me about it tomorrow," and confidently expect the malefactor to make his contrite appearance.

Probably the severest test any of us can apply to our decisions, whether in government, business, profession, or simply in the field of human relations is:

1. What would Mr. Boyden do?
2. How would he do it?

We have only to consider such a test to realize how imperfect is the world we live in. The gap between what is done and what should be done, i.e., what Boyden would do, as well as between how things are done and how he would do them, is so great that it staggers the imagination and sobers thought. Frank Boyden, the attorney, the doctor, the scientist, the businessman, the government official, the advertising executive—is there any question he would be a success? More importantly, is there any question that he would find the formula for such success in ways less calculated to cheapen or dehumanize the American character than many in current vogue today? The very magnitude of the gap between the Deerfield ideal and contemporary compromise suggests the true value of the Deerfield experience.

All the school ever asked of us was our best. That was good enough on the Second Midgets, the First Juniors, in the classroom, in our relations with each other, with the faculty. I was even forgiven a case of sophomoritis although, as the headmaster said at the time, it was a pity I had to get it in my junior year.

None of us has a corner on Deerfield reminiscences. It seems almost a presumption to speak, in this way, about the school to fellow graduates, better to say fellow fallen angels from the Deerfield ideal.

We can only hope not to squander the whole legacy. It would be hard to do for it's divided in equal shares in an open ended and expanding trust. To keep it open, I take it, is the intent and purpose of this gathering as well as to reassure Mr. Boyden that this is so. The dividends for me, as for you, keep coming in. For me, in my work, certainly Mr. Boyden's up-dating of St. Paul's Epistle to the Romans, "Be not forgetful to entertain strangers," has proved fruitful guidance as was his way of meeting men which made me realize there is nothing trivial about "meeting and greeting" the stuff not only of Protocol but of life. Earlier, in the Justice Department, working on juvenile delinquency programs, I did have to repeat over and over to myself the Boyden dictum, "There is no such thing as a bad boy." To keep that axiom in focus was my sorest trial, and yet I believe it is still apt in a profound sense.

But if a man could be so versatile, so universal in temperament and skill as to take on any job then it is meet and right that he should choose to teach. I'm sorry for the law—the case books are poorer for it. Medicine is a decade behind. The business world has suffered a grievous loss. Certainly the stock market is down. Yet, thank God, Frank Boyden chose to teach. Many are thankful besides those of us here. News of a great teacher travels far. So it was no surprise to me to be invited to attend a few months ago a luncheon for educators at the White House, at the conclusion of which our President presented our headmaster a certificate of gratitude on behalf of the government and people of this nation for his service to education. Mr. Boyden thought he had been invited to discuss the place of the private school in secondary education. So he was quite surprised, and he looked up at the President (the President *is* taller) and said, "Well, Mr. President, as Bennett Cerf once said, 'Thanks'."

That's about all any of us can say to him and to the immortal school he built and to the great woman who helped him.

In antiquity there were altars to the unknown Gods. Malraux, the French Minister of Culture, reminds us, too, that "man is a fraternity joined in a drive to find something beyond himself." The 2-minute silent look at the Pacumtuck hills which Mr. Boyden urges us all to take testifies to his faith that the search has value, and that we will not abandon it, nor the school that inspires it.

Some 17 years ago, Mr. Boyden's 50th anniversary as headmaster was celebrated on one of the upper floors of the Waldorf-Astoria. Apparently 50 years in such capacity aroused the curiosity and admiration of some. I was there and I remember the horse that was led slipping and cloppeting across the stage to be presented to him in order to pull his sulkey provided the elevator could get him down in one piece. And I remember that on his 60th anniversary, which again some people felt deserving of notice, many of us were asked to pen our thoughts about this man. And I would like to close with those which I wrote at that time.

"The game was over. He was the first on the field to congratulate the other team. In fur collared coat and rumpled hat he turned and raised his arms for silence and the song. Its notes lifted into the quick cooling sky. Then through darkening shadows the boys went back, back to the books, the hopes, the dreams that a great school is made of. Leaves scuffed up mixed with those drifting down, like old values meeting the new and finding themselves the same.

"He remained for a moment clearing his spectacles. Was it mist or memory? For here were old touchdowns, goal line stands, impossible catches, and the stifled pain of boys becoming men.

"The game was over. Who won? No matter; the victory, in any case, was his."

And so it will be in every life he has touched.

TRIBUTE TO FRANK L. BOYDEN, PRINCIPAL OF DEERFIELD ACADEMY

(Mr. CONTE asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. CONTE. Mr. Speaker, yesterday I had the sad duty of informing this body of the death of Dr. Frank L. Boyden, the famous headmaster of Deerfield Academy in my First District of Massachusetts.

As I said at that time, it is impossible to do justice to such a glittering career as Dr. Boyden's in a short time. Today's edition of the New York Times recognized the stature of this great educator and published a long article on him which I know is of great interest to the many Members of this House who knew and loved Frank Boyden.

At this time, Mr. Speaker, I submit the Times article for the RECORD:

FRANK L. BOYDEN, 92, PRINCIPAL OF DEERFIELD ACADEMY, IS DEAD

DEERFIELD, MASS., April 25.—Frank L. Boyden, who came to Deerfield Academy in 1902 as principal of a dying village institution and made it a notable preparatory school for boys, died this morning at his home here. Mr. Boyden, who retired as headmaster in 1968, was 92 years old.

DEAN OF HEADMASTERS

(By Farnsworth Fowle)

For over 60 years Deerfield Academy evolved around the quietly dominating personality of Frank Learoyd Boyden, one of the most original and eventually the best known American headmaster of his times.

The late John Gunther wrote that "he probably knows as much about boys between the ages of 14 and 18 as anybody alive."

Mr. Boyden, who held many honorary degrees, found his vocation by accident. He was born and grew up in Foxboro, Mass. On graduation from Amherst College in 1902 he needed money to study law and enter politics, the family foundry business having been wiped out by fire. He took the job in Deerfield, 10 miles from Amherst, as a chance to save and to start reading law books.

Deerfield Academy, founded in 1799, had 15 boys and girls as day pupils when Mr. Boyden took over the rickety old building that fall. The boarding department had long since lapsed.

The school could not field a full football or basketball team in his early years, and Mr. Boyden, as coach, took on the additional duties of quarterback and first baseman. Opponents didn't object; Mr. Boyden was shorter and lighter than most of his players.

In athletics, he started early a pattern of good sportsmanship and outright courtesy to opponents, during as well as after a game.

As a builder of this tradition, he received the Distinguished American Award of the National Football Foundation at its Hall of Fame dinner last December at the Waldorf-Astoria Hotel.

Mr. Boyden had an easy, unassuming way with the pupils—and with their parents. A Yankee in character and accent, he was not long in making himself at home in Deerfield, where the ancient houses, elms and

perhaps even the personalities of 17th-century New England were well preserved.

He also made friends with the newer settlers on the farms up and down the Pocumtuck Valley. By 1904 enrollment at the academy had risen to 62.

In 1905, against what he later called his better judgment, he hired a young local woman, Helen Childs, a year out of Smith College and with less teaching experience than his own. Her humor was swift and warm; his was slow and dry. They were married in 1907. Mrs. Boyden, who turned out to be a natural teacher, coaxed six decades of students through mathematics and chemistry.

Mr. Boyden abandoned the classroom as soon as he had the teachers he wanted. Over the years he enlisted drill-masters of the old school, hearty young athletes fresh from college triumphs and others with the gift of stimulating a love of learning. He left them alone, explaining:

"If they don't know more about what they're teaching than I do, they shouldn't be here."

The boarding department was revived in World War I after out-of-town parents began arranging to board their sons in the village so that they could attend the academy. But there was no switch to the style of the fashionable preparatory schools of the day.

Every boy took his turn at chores, such as waiting on tables and raking leaves. Mr. Boyden was generous with scholarship aid but tried to keep it secret, even from the recipients. Every boy was made to feel a duty as host to go up to any stranger in Deerfield and ask if he could be of help.

Then and later, Mr. Boyden was not much given to lecturing his charges. His admonition, whether to one boy or to the whole school seated before him every evening on the carpeting of the school living room, was in the nature of a swift and penetrating aside.

A favorite maxim was: "There's nothing in the world like good hard work."

Deerfield's old school building was condemned in 1928, and a new fund-raising effort ran into the Depression. But Mr. Boyden and his old-fashioned, new-fashioned institution won new supporters. In 1931 a red-brick Georgian building opened on the old site facing the village common.

In later years Mr. Boyden served many other schools and colleges as a trustee. He was chairman of the trustees of the University of Massachusetts, which is located in Amherst, during its rapid expansion in 1960–70.

A canny politician, he was able to persuade the Massachusetts Legislature in 1962 to grant the university much greater autonomy. Used to handling the reins of authority in his own institution, he became known to fellow-trustees from the eastern part of the state as "the fastest gavel in the West," as recounted in John McPhee's biography, "The Headmaster: Frank L. Boyden of Deerfield," published in 1966.

When he yielded his Deerfield post to David M. Pynchon, now headmaster, Mr. Boyden kept on giving much time and energy to a successful $20-million fund-raising drive; the school's endowment now exceeds $15-million. In failing health this spring, he nevertheless appeared briefly at the Franklin County alumni meeting here April 4 and at the Western Massachusetts Football Hall of Fame, of which he was a founder, on April 11.

Surviving are his widow; two sons, John C. of Yarmouth Port, Mass., and Prof. Theodore C. Boyden of Atlanta; a daugher, Elizabeth Boyden of Deerfield, and two grandchildren.

The funeral will be private. A public memorial service will be held at the academy on Thursday at 2 P.M.

AMNESTY

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, amnesty for those who broke the law and fled the country is an incredible proposal. Amnesty would be a severe blow to the defense of our Nation during these critical times. Amnesty would undermine all law. It would be a step toward anarchy, chaos, and a breakdown of all discipline so necessary for the survival of all our democratic institutions. Amnesty would be a reflection on the courage and fidelity of the overwhelming majority of American men and women who have faithfully served our Nation. To reward those who ran from duty would be a reflection on our men and women who wore our uniform in all of our great history. It would be a reflection on our flag and all that it stands for in the cause of human dignity and freedom throughout the world.

Mr. Speaker, with great pride I read to the House a concurrent resolution adopted by the South Carolina House and Senate "To memorialize the Congress not to enact any legislation that will grant amnesty to draft protestors who have fled the country":

Whereas, cowardice in the face of the enemy is in the eyes of patriots an act so dishonorable as to rank equally with treason, to overlook cowardice is to reward and reinforce it, to forgive it is to guarantee its recurrence; and Whereas, there are thousands of brave, loyal Americans who are now dead, missing in action, prisoners of war, or crippled physically or mentally as a result of their service and loyalty to their flag, even in some cases against their will, and there are numbers of families, loved ones and friends of these brave men and women, who should not see their sacrifice mocked by granting of amnesty to cowards. Now, Therefore, Be It Resolved by the House of Representatives, the Senate concurring: That Congress be memorialized to refuse to grant or to allow the granting of amnesty to all draft protestors who fled this country rather than to serve her. Be It Further Resolved that copies of this resolution be forwarded to each member of Congress from South Carolina.

Mr. Speaker, this concurrent resolution is signed by Hon. Solomon Blatt, speaker of the South Carolina House of Representatives, who has served as speaker or president of a parliamentary body longer than any man in the history of the world. Mr. Speaker, you will further note the resolution was introduced by Messers. Fulmer, Dunbar, Warr, Mitchell, Gary E. Byrd, Jr., Wright, Earle, Mrs. Frederick, Messrs. Knight, Rowell, and McGill.

WAR POWERS LEGISLATION

(Mrs. GREEN of Oregon asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Mrs. GREEN of Oregon. Mr. Speaker, yesterday, along with my colleague in the Oregon delegation, WENDELL WYATT, I introduced a war powers bill which is identical in all important respects to one I introduced back in October of 1969, in the 91st Congress.

The bill that we have introduced not only defines the conditions for the use of draftees in such contingencies as precipitated the Korean and Vietnamese wars, but defines anew Presidential and congressional prerogatives in such matters, avoiding as far as possible unwarranted encroachment on their mutual and heavy responsibilities.

The essentials of this bill are as follows:

A. The President is allowed, without the prior consent of the Congress to commit troops to a combat area, volunteers without limit, draftees for the first ninety days only.

B. Within 90 days, Congress by resolution (or declaration of all-out war) must endorse the original Presidential action to permit continuation of assignment of draftees to combat areas, or they must be promptly withdrawn.

C. Within 180 days of the President's initial commitment of troops to a combat area, all are to be promptly withdrawn unless the Congress has formally declared a state of war to exist.

There are important similarities as well as important differences between this bill I am introducing and the so-called war powers bill recently passed by the Senate. Both, for example, seem to have been identically motivated in their avoidance of the emotional issue of the war in Southeast Asia.

Both contain a disclaimer of applicability to that unhappy affair and look, instead, to guaranteeing in the future that we will not back into such a national tragedy again. The realities, as I see them are: that the President must have the authority and the latitude to respond swiftly to crisis situations—a Pearl Harbor of the future—which may lead to a shooting war, but it is intolerable that the Congress should indefinitely default on its grave constitutional responsibility in such matters; that some legislative mechanism needs to be provided to keep us alert to possibilities of literally backing into a full-fledged war, as we never intended to—but did—in Vietnam; finally, that while it may be proper to demand of youth to share in sacrifices made by the entire Nation, even as their forefathers did, it is intolerable to send them off to fight and die for vaguely defined causes in undeclared wars while the rest of the Nation goes on with business as usual.

It seems to me the bill I am introducing has certain advantages over S. 2956. That bill, for example, does not take into consideration the special problem of the draftee in undeclared war situations. While it is reasonable to assume that we are moving to an all-volunteer concept, the fact remains that we are still a long way from that goal. It must be recognized, meanwhile, that the crisis in confidence in the present Vietnam situation is somehow rooted in the draft.

Against the background of the Vietnamese war, it was inevitable that the draft would become the focal point for the growing alienation and disaffection of our young people who are more and more subject to crises of conscience involving life or death consequences. If the restrained, responsible majority of young people are repelled by the often-

times irresponsible conduct of the New Left, it must also, by no means be assumed that they are enchanted by the continuing alternatives held out to them by what they refer to as "the establishment."

I would hope that this Nation could avoid another morale-deadening situation like the present one which sees the desertion rate for all services running at one every 6 minutes, and the polarizing issue of amnesty for the thousands who have fled their homeland thrust to the forefront of the national conscience.

The most striking difference between the bill I have reintroduced and that recently passed by the Senate is undoubtedly the one setting time limits for mandatory congressional actions to be taken in the wake of presidential initiative in crisis intervention situations. But if we seriously mean to allow the President the prerogative of committing U.S. military forces on his own decision and without prior consent of the Congress when the situation dictates, then it does seem to me that the 30-day limit of the Senate bill is inhibiting if not self-defeating. A "show of force" consisting of quick reaction forces from U.S. Strike Command could probably be mounted in that tight time limit but not a true intervention such as we are attempting to direct attention to here. It is the difference between the sending of Marines into Lebanon and the dispatching of a joint task force into the Dominican Republic to quell an incipient Communist takeover Whether we agree or not on the rightness of the action both ventures, it can be argued, were successful—if we confine ourselves to a limited military definitions of success. The Dominican Republic intervention was far more ambitious in size, scope, planning and operation but obviously could not have been completed in a time limit of 30 days. The 30-day time limit would not have accommodated even the modest show of force executed in Lebanon back in 1958, involving 14,300 troops at its high point and which lasted almost precisely 90 days—from July 15 to October 25. Setting the initial decision point for congressional consideration and action in this bill introduced back in 1969 did not, in other words, arise by simple chance. Careful attention was given to valid historic precedents in this dangerous new age we live in.

The 30-day time limit provided in the Senate bill does not appear realistic in the light of historical precedents available for examination. While it would be sufficient for a modest show of force, such a stringent limit appears inadequate to deal with a Pearl Harbor of the future. It seems to me, too, that the Senate bill never comes firmly to grips with the problem of determining when a true state of belligerency exists, whether we are in or out of a war.

S. 2965 has made an attempt to codify all situations under which the President could launch military operations on his own initiative. I considered this, too, and rejected it on the basis that any determined Chief Executive could overcome the barriers of any language that could be devised. The 90- and 180-day decision points provide in successive steps for the orderly examination of any given situation and produce a definite congressional effect on matters of peace and war. Even if the Congress were to take no action by the end of 90 days, it would still have the effect of removing all draftees from the combat zone. At the end of 180 days, the absence of a formal declaration of war would have the effect of removing all U.S. combat strength from an actual or potential war zone.

What President could say that such a bill is either confining or inhibiting to the prerogatives of his office? At the same time, neither could it be said that the Congress was not reasserting its constitutional authority in this gravest of matters.

There is no lack of precedent for a bill such as I have proposed: an amendment to the Selective Service Act approved by the Congress September 16, 1940, succinctly stated that draftees would not be employed beyond the limits of the Western Hemisphere except in the territories and possessions of the United States, including the Philippine Islands. I submit that this legislation, passed while a war raged in Europe and slightly more than a year before Pearl Harbor, was far more restrictive than anything I am now proposing.

Finally, Mr. Speaker, let it be noted that while the bill I have reintroduced has refrained from spelling out the conditions under which a President might risk involving us in a war, it has presumed to spell out what a war is and how it differs from a mere "police action" or show of force.

The tough proposition in my bill, and I acknowledge it as such, is that 6-month countdown to a congressional vote for a declaration of war, which failing to carry simply signifies that it is the will of the people, expressed through their elected representatives, to have no war at all.

I repeat: no war at all.

Neither police action, brushfire, limited general, nuclear, or non-nuclear, nor one involving voluntary or involuntary service by members of our Armed Forces.

The bill as I view it looks in two directions, meets two demands of the Republic, and offers reassurance to those who may have differing fears about our conduct of foreign policy in the future.

The bill permits the President, if he does so wisely and judiciously, to exercise those prerogatives intended by the Founding Fathers and which are in keeping with the harsh realities of a world increasingly armed to the teeth.

At the same time, the bill provides for congressional due process under those safeguards set forth in the Constitution, whereby those who have been chosen to represent the citizenry in questions of war and peace, determine at a date certain whether the Nation is at war or not.

The bill, then, is an attempt to build within a temporal framework a bridge between what have become in this hostile age conflicting mandates of our own Constitution. We may again and again be faced with situations where the President of the United States could hedge his better judgment in foreign affairs because his concern for internal discord counsels timidity. Because of the experience of Indochina and its deep and unhealing scars, that President may, I am suggesting, "second-guess" himself on the foreign front out of concern over reaction on the home front.

To those who are concerned that the experience of our gradual descent into the blood-soaked quagmires of Southeast Asia remains subject to repetition elsewhere in violation of the letter of the law, this bill offers a mandatory procedure of checkpoints along the way, where we may stop and carefully weigh all the hazards of continuing or not continuing.

We are today in the seventh year of an agonizing war that has involved this country in hostile actions in four countries of Southeast Asia. It is a conflict which has not only destroyed the lives of uncounted thousands in the villages and cities and jungles of that far-away land, it is a conflict which has ripped asunder the fabric of American life, carrying to their deaths over 55,000 young Americans. And still the war drags on.

What has been minimized by many as a "small war in a small country in a distant land" threatens to paralyze the will and determination of one of the most advanced societies in human history. The mounting disillusionment within the American population about the objectives and the results of this war coupled with the serious erosion of U.S. programs for meeting real human needs both at home and abroad must give us a new sense of urgency. I fear for a nation that experiences such immense difficulty in reversing misguided courses of conduct. We must "get back from the shadows of war and search out the ways of peace" as John Kennedy so eloquently expressed our feelings in a memorable appeal to the conscience of this nation.

In our searching out of "the ways of peace," one objective is abundantly clear: the Congress of the United States must never again allow itself literally to stumble into full-scale war even though undeclared without exercising its Constitutional powers.

As a final consideration, it seems to me that the existence of such an American law—as provided for in the bill I have reintroduced—can vitally affect situations we can forsee only in shadowy outline, such as the fears and overreactions of other countries whom we could face in a period of hostility across potential battlefields.

There are millions and millions, today, in the Nation who are saying of Vietnam, "never again." While their vow is the same, their reasons may differ. For there are those who say "never again" will we fail to bomb hard, heavily and early, for the battlefield losses that come from that failure are a frightful price to pay for that early timidity. There are those who say "never again" will we unleash our military forces to devastate a small nation barely out of the 19th century using weapon technology that seems to reach into the 21st century. There is small solace in believing that we will recognize the Vietnam-type situation when it emerges again in our history. A more reasonable assumption is that the situation will come in different guise

and that the particulars in every respect will be different.

And while in that new and differing situation, we may not all agree on what is to be done, we can agree beforehand about the due process that will guide us under conditions where a limited few may understand fully the situation we face and the rest of us are yet learning and yet reaching judgments about the situation.

A declaration of war is the most serious consideration that ever comes before this House. There are some who would have readily voted for it in 1965; there are others who would have readily voted against it.

I do not think too many would have been found in either camp. I, myself, am on record as opposing our involvement in Vietnam. I was one of seven in the House who voted against President Johnson's request for approval of $700 million in 1965 as an endorsement of his escalation policy. I wish there had been more opposition to Vietnam in the country and in the Congress then—but that is in the past. We must make the wisest decisions we can from this point on.

With the reintroduction of this bill, my distinguished colleague and I again invite you back to that harder path from which we have all strayed.

THE LATE DR. FRANK L. BOYDEN

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REID. Mr. Speaker, I rise out of deep respect for Frank L. Boyden, headmaster of Deerfield Academy, who died yesterday. I want to say a brief word today in furtherance of some of the thoughts that SILVIO CONTE expressed yesterday in bringing this sad news to the House.

Dr. Frank Boyden was the great headmaster of America. He was our "Mr. Chips." Indeed he was much more.

He understood and loved boys to a very remarkable degree, and he inspired generations of young men.

His life was devoted to the teaching of his boys at Deerfield Academy, where he was headmaster for 66 years before his retirement in 1968 at the ripe young age of 88. He was a teacher in the truest sense, not only as a scholar but as a remarkable developer human character. He taught not only by instruction, but by example, and surely thousands of young men became better citizens for having followed the example he set.

Dr. Boyden believed in hard work. Students at Deerfield were encouraged to work on nearby farms and participate in community endeavors. Excuses were not accepted lightly, for Dr. Boyden knew that if a boy started making excuses this could become a trait carrying over throughout his life.

He had a deep and abiding belief in the role of the secondary school in developing the qualities of leadership, self-discipline, sportsmanship, a love of scholarship, and above all a beginning commitment to good citizenship.

In a personal sense he developed a rapport with every boy who went through Deerfield. He handed out the grades himself. His office was situated in an alcove in a hallway, where he was easily accessible to his students. He coached varsity football, basketball, and his special love, baseball.

Needless to say, his teams won. While he was not congenial to losing, his paramount concern was sportsmanship. One of his fondest quotations was, "It is not whether you win or lose, but how you play the game."

He was simple and direct with a twinkle in his eyes that betrayed an infectious sense of humor—wry in character but laced with genuine New England Yankee wit.

His achievements were extraordinary. In the face of frequent and substantial adversity he built a one-room schoolhouse of 15 students into one of the greatest secondary schools in America. He went to Deerfield in 1902 to earn money for law school. The legal profession never gained him, and for that the cause of education in this country may be eternally grateful.

The many trusteeships in which he served at schools, colleges, and universities are testimony to the esteem in which he was held by his colleagues in the education profession. Amherst was his alma mater, but many more institutions benefited from his great wisdom and experience, most notably perhaps the University of Massachusetts where he was chairman of the trustees.

His appreciation of history was deep, and his contributions to its preservation were considerable, both in historic Deerfield, Mass., and as a member of the Jamestown-Williamsburg-Yorktown Commission.

Those who knew Dr. Boyden will understand that mere words are inadequate to convey the immeasurable qualities of goodness which characterized his life and touched all who ever had the privilege of his company. His capacity for patience, kindness, and vision exceeded that of most men, and he could transfer a measure of these qualities to those about him.

Dr. Boyden's name has become synonymous with Deerfield, yet his influence is felt far beyond. He was a friend of Presidents, as he was a friend of all who knew him. It is unlikely that any who met him has ever forgot him.

His influence on many generations will be abiding and a constant inspiration. American education at all levels will long benefit from his creative leadership. America has lost a great schoolmaster. We will not see his like again, but his person and vision will belong not just to history but to the future.

The Nation will deeply miss him. Our profound sympathy goes to his wife, Mrs. Helen C. Boyden, to his family, and to the Deerfield community.

OVERSIZE-OVERWEIGHT VEHICLES ON INTERSTATE SYSTEM

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. SCHWENGEL) is recognized for 5 minutes.

Mr. SCHWENGEL. Mr. Speaker, on February 2, I introduced H.R. 12865, a bill to amend section 127 of title 23 of the United States Code. This bill is an attempt to curb the tremendous use of special permits as a means of allowing oversize-overweight vehicles to traverse our Interstate System on an indiscriminate basis. As I noted at that time, many States have been issuing special permits on a blanket, fleet basis, contrary to the original intent of the law. Costs, fees, renewals, and operations, also vary significantly from State to State.

Studies have shown that many heavy carriers do not pay their way effectively. In States where no charge is made for special permits—Alabama, California, Connecticut, Massachusetts, Nevada, North Carolina, Ohio, Oregon, Rhode Island, Tennessee, and Wisconsin—it is obvious that damage to the highways goes on without compensation.

The Heavy Specialized Carriers Conference recently noted opposition to my bill. The April 1972 issue of Transportation Engineer points out that the heavy carriers fear this bill because:

> (It) would include a restriction on special permits to one trip only (positively no blanket permits) and a fee on each permit based upon highway maintenance and repair costs.

Indeed, that is precisely what this bill would require. The heavy carriers, by this action, only further substantiate the information I inserted in the RECORD on February 2. Clearly, these permits are being issued on a blanket basis with no relation to highway maintenance and repair costs. The heavy carriers realize this, and they fear the loss of this advantage.

Another criticism lodged against H.R. 12865 is that it is more federalism, a divestiture of State government authority to issue special permits. This is fallacious; H.R. 12865 will only require the establishment of national standards on issuance and costs, leaving the actual issuance and pecuniary gain to the individual States. By providing national standards we will not be downgrading State regulation, but will be complying with the original intent of the law. As I have noted previously, the need for uniform national standards is clearly evident. A Comptroller General's opinion states that:

> Our review of the legislative history of Section 127 indicates that amendatory legislation may be desirable in light of the significant number of special permits annually granted by States.

It is time we recognized the existing problem. To continue to allow the original intent of the law to be abused is unwarranted, and to allow special permits to be issued indiscriminately without exacting some consistent and fair compensation for the wear and tear to our highways is unconscionable. My bill will stabilize and improve this situation. By providing national standards for permit issuance, and a well-conceived rate schedule, we will be doing the motoring public a favor and insuring the longer life of our Interstate System.

PANAMA CONSTITUTION AMENDMENT DRAFT: PLAN FOR CONTINUED PRO-RED DICTATORSHIP

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 15 minutes.

Mr. FLOOD. Mr. Speaker, the last constitutionally elected President of Panama was inaugurated with elaborate ceremonies on October 1, 1968. Ten days later, on October 11, his government was overthrown in a military coup d'état and a revolutionary regime established. The deposed officials took temporary refuge in the Canal Zone to avoid assassination and some went into exile. The United States soon recognized the new government, which is still in power. The strongmen, caudillo, in this pro-Red military dictatorship is Omar Torrijos, Commandant of the National Guard of Panama, a former member of the Communist Peoples Party of that country, and possessed of an overweening and sanguinary ambition. The puppet President of Panama is Demetrio Lakas.

The Constitution of Panama in effect at the time of the 1968 overthrow was that enacted on March 1, 1946, by the Second National Constituent Assembly of Panama. Consisting of 256 articles on 53 pages, this Constitution is complicated and lengthy as compared to that of the United States but it did provide for a republican form of government.

Under constitutional presidents, the Republic of Panama, assisted by a friendly Government of the United States, has prospered; and on the whole has been governed as well as any other Central American country. There have been constitutional presidents of Panama elected by the people who have had very good administrations, such as Belisario Porras. He served three times with outstanding ability and with a high degree of understanding and cooperation with the United States as regards the problems of the Canal Zone and Panama Canal.

Dr. Porras was immensely popular with the people of Panama, became one of the ablest statesmen in all of Latin America, and won a place of great distinction in the history of his country. He needed no military coups, censorship, or any other aids of despotism to remain in power.

During his incumbencies, Panama presented to the world the image of a country dedicated to republican principles of government: "of the people, by the people and for the people." Any comparison of Dictator Torrijos with Dr. Porras is like comparing a candle to the sun.

Dr. Porras recognized the great value of the canal to the prosperity of Panama and the necessity for the resources and strength of the United States for proper maintenance, operation, sanitation and defense of the canal and its indispensable protective frame of the Canal Zone.

The revolutionary despotism now in control of Panama is operating hand in glove with the U.S.S.R., the agents of which are already on the isthmus and in the Panama Government. It has been increasingly evident that these agents are constantly in touch with Panamanian leaders in all matters of consequence.

Among the first acts of the present revolutionary regime were suspension of the Panama Constitution and National Assembly. These were followed by studies for amending the 1946 Constitution of Panama in order to confirm and perpetuate the dictatorship. According to information from isthmian sources, the 1972 constitutional revisions were the work of Marcelino Jaen, brother-in-law of Omar Torrijos and president of the Committee for National Constitutional Reforms, assisted by its secretary general, Carlos Calzadilla. The latter is recognized as one of the most notorious and rabid Communists in isthmian history for it was he who led the movement against the 1947 Defense Base Treaty that resulted in the loss by the United States of the Rio Hato Base following World War II.

The proposed amendments are most significant. Because of their radical nature, I shall summarize some of their highlights:

First. The executive organ will consist of a magistrate known as the President of the Republic, a Chief of Government and Ministers of State; new article.

Second. The President, in effect, is made a figurehead elected for a period of 6 years by a majority vote of the Assembly of Borough Representatives on the same day that the Representatives are installed every 6 years—article 138—and he may be re-elected for another 6-year term—article 139.

Third. The Chief of Government, who will form part of the executive and preside over the Council of Ministers of State, will have total administrative and political control over the country. He will be elected for a 6-year term, may be re-elected for two more 6-year terms and, in addition, hold the position of Commandant of the National Guard—new article—which is the only police and military establishment of Panama. He will be able to appoint and dismiss ministers of state—formerly the function of the President—appoint and discharge officers of the National Guard, and send to the Assembly of Borough Representatives the list of candidates for the National Assembly.

Fourth. The National Assembly will be composed of 25 Assemblymen elected by the Assembly of Borough Representatives for a 6-year term. Its function is not legislative but to assist in carrying out the policies of the revolution.

Fifth. Other reforms in the proposed Constitution allow for expropriations of land and other property by means of judicial decisions, changing of the legend on the Panamanian coat of arms from "Pro Mundi Beneficio"—for the benefit of the world—to "Todo por la Patria"—all for the fatherland—acceptance temporary jurisdictional limitations granted by treaties, binding the President by oath of office to comply with the "ideals of the revolution" as well as with the Constitution, and providing that no actions by the President, with certain minor exceptions, will be valid unless approved by the Chief of Government—Commandant of the National Guard—and the Minister of State for the activity concerned.

Mr. Speaker, the proposed amendments for the Panama Constitution will inevitably have an impact on the administration and security of the Panama Canal. In addition to being designed to prolong the tenure of the present revolutionary regime controlling Panama, which is heavily infiltrated with Soviet agents, the amendments are obviously correlated with the announced program of the State Department for the liquidation of the Panama Canal enterprise. As to this, I ask who are the geniuses in that Department who have misled successive Presidents of the United States in fostering suicidal Isthmian Canal policies against the best interests of the United States, the Western Hemisphere, and even Panama itself.

As an evaluation of the proposed amendments will require repeated reference to the 1946 Constitution of Panama, I quote both, notwithstanding the length of the latter, as parts of my remarks and urge that the proposed amendments be carefully studied by all agencies of government and other interests concerned with Isthmian Canal policy matters.

Mr. Speaker, I include the above mentioned material:

REPUBLIC OF PANAMA—1946 CONSTITUTION AMENDMENT DRAFT

TITLE 1. (THE PANAMANIAN NATION)

Article 1 shall read as follows: The Panamanian nation is a Federal and independent country. It has a republican and representative Government system known as the Republic of Panama.

Article 2. Public power is derived from the people. The nation exercises it in accordance with this constitution and through the Executive, Legislative, Judicial and Electoral organs which act in a limited and separate manner, but in close harmony.

Article 3. The Republic of Panama is on the continental and insular territory between Colombia and Costa Rica, in accordance with boundary treaties signed by Panama with those Republics.

Item—No part of its territory shall be subject to jurisdictional limitations; the Government may, however, accept such *temporary* jurisdictional limitations granted by public treaties signed prior to these constitutional amendments.

Article 5. The territory of the Republic of Panama is divided into boroughs or basic political communities, grouped in municipalities to coordinate work within their jurisdiction.

Municipalities will have fiscal autonomy and will be united to form provinces.

The law may create counties subject to special regimes, and establish other territorial divisions out of administrative convenience or public service.

Article 6. The Nation's symbols are: The national anthem, the flag and the coat of arms adopted before 1941, with the exception that its motto will be: "All for the Fatherland".

Article 7. Spanish is the language of the Republic; but the nation will promote the vernacular language of the Indian regions. (Choco, Kuna, Carib and Guaymi.)

TITLE III (INDIVIDUAL RIGHTS AND DUTIES)

Chapter 1. Fundamental guaranties

The second paragraph of Article 21 shall read as follows:

Panamanians will be entitled to political rights by birth.

Article 39. All inhabitants of the Republic shall have the right to meet peacefully and unarmed for legal purposes; but demonstra-

tions or meetings in the open shall be subject to permission from the appropriate local authority.

The appropriate local administrative authority shall be notified of meetings or demonstrations in the open, which it may deny for reasons of social security or public order.

In the event permission is granted, the local administrative authority may take such police measures as may be necessary to prevent or suppress abuses of this right, when the manner in which it is being used causes or may cause traffic obstructions, disturbance of public order or violation of the rights of third parties.

Article 46. There may be expropriations for the sake of public welfare or social interest either by summary judgment or compensation.

Article 49. In the event of war, serious disturbances of public order or social interest of an urgent nature, requiring immediate action, the Executive may decree the expropriation or occupation of private property.

When return of the occupied object is feasible, occupation will be only for the duration of the circumstances causing it. The final paragraph of this article is eliminated. . . .

Article 53. A state of emergency or temporary suspension shall be decreed by the President of the Republic and with the concurrence of the Government Chief and Ministers of State and the approval of the National Assembly, but reluctance by the Assembly will not prevent the effectiveness of the Cabinet Decree.

The President of the Republic shall inform the Assembly of Borough Representatives about the action agreed upon, so that they may take the necessary support measures. Notification shall be made by the corresponding resolution.

Once the cause for the state of emergency or temporary suspension of individual guaranties has ceased to be, the President of the Republic, with the concurrence of the Ministers of State, and the approval of the National Assembly, will lift such emergency and the suspension. The Executive Organ may lift the state of emergency or the suspension with the negative vote of the National Assembly.

Article 65. The law. . . .

The third paragraph of this Article will read as follows: The minimum of all salaries or wages cannot be attached, except for support obligations as provided by law The workers' tools of the trade may not be attached either, nor may land of no more than 5 hectares belonging to agricultural workers and agricultural settlement farms, which will be considered as tools of the trade for such purposes.

Articles 67, 68 and 69 must be adjusted according to the new Labor Code. . . . Also, we should include the bonus (the thirteenth month) as non-distributed benefits and one of the workers' rights.

Article 78. Elementary education (which will consist of nine school years) will be compulsory. Preschool, elementary education and secondary public education in all grades and types shall be free. Free preschool and elementary education means the Government's obligation to furnish all items needed for learning, books, transportation, and when necessary food, during school hours. Free secondary education does not preclude the establishment of an enrollment fee.

Article 91 is to be replaced by a provision which will take into account the philosophy by which INCUDE[1] was created.

Article 92. The second paragraph of Paragraph (e) shall read: The National Assembly shall issue the Health Code. Chapter 6. Article 94 should be fully discussed with Indian leaders so as not to impose upon them measures to which they would not adapt.

[1] National Institute of Culture and Sports.

TITLE IV (POLITICAL RIGHTS)

Chapter 1. General provisions

Article 97. All Panamanians over 18 years of age, regardless of sex, are citizens of the Republic.

Article 98. Citizenship consists of the right to elect or be elected to public office during popular elections and of the capacity to hold official positions having power and jurisdiction, but on the basis of the second paragraph of Article 21 of this constitution.

Chapter 2. Suffrage

Article 102 * * *

Paragraph 2 of this Article is eliminated.

The remainder of the article must be adjusted to the cabinet decree amending the electoral code and typifying electoral crimes.

Article 103. Should be eliminated (concerning political parties and their constitution). This article may be replaced by the new system for election of borough representatives in a single direct election which should become part of the new constitution.

Article 104 * * *

Paragraph (a) may read thus: Uses his official standing to coerce a private individual or employee to support him or vote for him, or deny a certain candidate such support or vote.

b) * * *

Paragraph (c) may read as follows: Employs or offers to employ any person in a public position on the condition that he support or oppose a certain candidate.

The rest is the same.

Chapter 36. Electoral Organization

Title to be changed to: *Electoral Organ.*

Article 105. One of the Panamanian nation's organs will be that of the Electoral Organ which shall guarantee the freedom, honesty and efficiency of popular suffrage.

The Electoral Organ will be formed by a Supreme Electoral Tribunal, the circuit electoral tribunals constituted, and an Electoral Fiscal's Office having the exclusive authority to organize the entire electoral process and to try electoral crimes. In other words, it shall have exclusive competence in directing, supervising and inspecting all phases of the electoral process and will act as an independent agency of the Executive and Judicial organs.

The Supreme Electoral Tribunal shall have jurisdiction over the entire Republic and shall consist of three Magistrates appointed by the Executive Organ for a 12-year term. Such appointments shall be ratified by the Assembly of Borough Representatives. Each principal shall have a personal alternate who shall fill in for him during his temporary absence. In the case of absolute absences, another magistrate shall be appointed.

The remainder of the article may remain as it is with the exception of the Paragraph which will establish that it is a function of the Electoral Fiscal's Office to file legal action against those charged with electoral crimes and to prosecute offenses and crimes against the purity of suffrage; and Paragraph 9, which should be eliminated and its final paragraph adjusted to the final new provisions on electoral regulations for the selection of borough representatives.

The following paragraph may be inserted: Decisions by the Supreme Electoral Tribunal are only appealable to the same tribunal, and after they have been enforced according to the law they are definitive, irrevocable and compulsory. Appeals for inconstitutionality are excepted.

New Article: The Electoral Supreme Tribunal will set up electoral circuit courts in accordance with the needs of the country, or may ascribe such functions to existing courts of the civil or penal branches.

A chapter for the Electoral Fiscal's Office is to be established.

TITLE V. LEGISLATIVE ORGAN

Chapter 1. National Assembly

Article 106. The Legislative Organ shall consist of a technical corporation known as National Assembly, composed of 25 deputies. Efforts will be made for each province to have at least one representative and that he be most representative in matters of labor, trade and production. Each deputy shall have a personal alternate to fill in for him during his absence. If the principal and the alternate are absent, the Government Chief will submit another list of candidates to replace them.

Article 107. Should be eliminated.

Article 108. Deputies and their alternates will be selected in the following manner: The Government Chief will submit for consideration by the Assembly of Borough Representatives, fifteen days prior to its installation, a list of names (three for each deputy to be selected and three for each alternate) of which the Assembly of Borough Representatives will select 25 principals and 25 alternates; but maintaining the principle contained in Article 106. Such deputies have a 6-year term.

Article 109. The National Assembly will meet, convened by the Executive, ten days after its designation by the Assembly of Borough Representatives. If it is not convened by the Executive, they may meet on their own right five days after the date they should have been called.

Articles 110 and 111 should be eliminated because the deputies will work during the whole year, just as any other official, during their vacations the alternates will act in their places. This would avoid the calling of special meetings which only serves as political blackmail.

Article 114 should be subject to a complete review in order to adjust it to the new philosophy. Utmost care must be exercised in legislating on everything concerning parliamentary immunity and the authority of the Assembly to try their own members.

Article 118 * * *

Paragraph 3 should be eliminated. This is a function of the Executive.

Paragraph 8 should be eliminated. This pertains to the President.

Paragraph 15 should be the function of the Executive. It cannot be justified as coming within the Assembly's authority.

Paragraph 17 should be eliminated. Statistics and Census is a function of the Office of the Comptroller General of the Republic; the Electoral Census is a function of the Supreme Electoral Tribunal.

Paragraph 21 * * *

The second paragraph shall read as follows: If for any reason the Assembly fails to issue the budget, the Executive shall work with the budget in force immediately preceding the new fiscal year and shall make the necessary adjustments such as overdrafts on the budget in force. The following year a detailed report shall be made to the National Assembly and the Assembly of Borough Representatives on everything acted upon.

Paragraph 25 cannot be justified; it should be eliminated.

All other Paragraphs appear to be adequate to the legislative functions of the National Assembly.

Article 119. Following are the legal functions of the National Assembly: 1. To try cases stemming from charges or complaints filed against the Supreme Court judges, the Supreme Electoral Tribunal, and Labor Court, the Attorney General and the Assistant Attorney General, the Directors of autonomous and semi-autonomous entities, the Ministers of State, and to try them for cause, for actions done in the performance of their work, detrimental to the operating freedom of the executive power or for violating the Constitution and its laws. The law shall establish the procedures to be followed and the penalties to be applied.

(NOTE.—In the event they are guilty of a crime, the President of the Republic, Government Chief and National Assembly deputies shall be tried by the Assembly of Bor-

ough Representatives, as the highest body of popular expression.)

Article 120. The National Assembly's administrative functions are as follows:

1. Paragraph 1 should be eliminated.

2. Paragraph 2 should be eliminated. This function pertains to the Assembly of Borough Representatives.

3. The third paragraph should be eliminated as inoperative. The President may leave the country without asking for any permission, as all he has to do is notify the Assembly of Borough Representatives, because the Government Chief has full administrative and political control of the country. To leave the position either on leave or by resignation, permission would have to be granted by the Assembly of Representatives, as the organization which appointed him. Paragraph 4 may remain thus: To approve or disapprove the appointments made by the Executive for Magistrates to the Supreme Court of Justice and their alternates, of the Attorney General and Assistant Attorney General of the Nation, Directors or Managers of autonomous or semi-autonomous entities and the Comptroller and Assistant Comptroller General of the Republic. Such appointments shall not become effective until the National Assembly approves them.

Paragraph 5 is unnecessary.

Paragraph 6 should be eliminated, as it could be one of the functions of the Popular Assembly of Borough Representatives which is the highest body of the people's expression. of the National Assembly.

Supervision of the Executive's performance should pertain to the Assembly of Borough Representatives, as chosen directly by the people.

Paragraph 7. It should be understood that the vote to censure may only be made against the affected Minister and not against the Executive which is made up by the Government Chief and the corresponding Minister, because in such case it would pertain to the Assembly of Representatives to make the censures it deems appropriate. The philosophy should be maintained that the only organization directly representing the united people is the Assembly of Borough Representatives or basic political communities, while the others are conferred their authority by the people, through the Assembly of Representatives.

Article 121 * * * (prohibitions to the National Assembly).

Paragraph 4 will read as follows: To commend or censure actions by the President of the Republic and Government Chief.

Paragraph 9 may read as follows: Delegate any of its corresponding functions.

Articles 122 and 123 should be eliminated.

Chapter 2. Enactment of laws

Eliminate the former practice whereby deputies represented bills under their own names for the benefit of their friends and families. The National Assembly should be a technical organization to assist the Executive in advancing the revolution and not make political hay. There should only be one type of law and the deputies should not take the initiative to submit the bills but should leave this to the Executive or to the special committees of the National Assembly, the Supreme Electoral Tribunal and the Labor Court.

TITLE VI. THE EXECUTIVE ORGAN

Chapter w/n. General provisions

New Article: The Executive Organ consists of a Magistrate known as the President of the Republic, a Government Chief and Minister of State.

New Article: In every particular case, the Executive is made up of the Government Chief with the Minister of the pertinent field.

New Article: The Executive Organ shall have as advisory body the General Council of State, made up by Magistrates of the Supreme Court, the Supreme Electoral Tribunal, the Labor Court, the Attorney General and Assistant Attorney General, the Comptroller General of the Republic, the Executive Planning Director, the Directors and Managers of autonomous and semi-autonomous entities, National Assembly Deputies and the Rector of the Panama University.

Chapter 1. President and Vice President

Articles 136 and 137 should be eliminated.

Article 138. The President of the Republic shall be elected by majority of votes of the Assembly of Borough Representatives on the same day it is installed every six years.

The President of the Republic shall have a six-year term. Along with the President of the Republic, the Vice-President shall also have a six-year term. The Vice-President shall fill in for the President during his absolute or temporary absences beyond three months.

Article 139. A citizen elected to the Presidency of the Republic may be reelected for another six-year term. On completion of this last term he shall have to wait through two subsequent terms before he can be eligible to fill the job again.

Article 140. Eligibility requirements for President or Vice-President of the Republic:

1. Be Panamanian by birth;

2. Have reached 35 years of age;

3. Enjoy full political and civil rights;

4. Not have been convicted of crimes against the Fatherland, public freedom, the powers of the nation, or public assets; and

5. Not have undertaken nor participated in such actions as falsification of cedulas, electoral fraud, theft of ballot boxes, buying and selling of votes and other acts against freedom and suffrage purity.

Article 141. The President of the Republic shall take office the same day he is elected, before the Assembly of Borough Representatives and will take his oath of office with the following words: "I swear by God and the Fatherland to faithfully comply with the Constitution, the laws of the Republic and the ideals of the Revolution."

The citizen having no religious beliefs may refrain from invoking God's name in taking the oath.

Article 143. The President may undertake, by himself, the following duties:

Paragraph 1 is eliminated (this is a function of the Government Chief).

Paragraph 2. Coordinate the work of the entire public administration; supervise its regular operation and the maintenance of public order.

Paragraph 3 * * *

Paragraph 4 * * *

5. See to it that the National Assembly holds its regular meetings throughout the year and acts on all projects submitted by the Executive.

6. Deliver in August of every year on the first day of sessions of the Assembly of Borough Representatives, a message concerning the Administration's affairs.

7. Represent the Panamanian nation in official and protocolar functions in the country, and when appropriate, officially represent the Republic of Panama abroad.

Article 144. These are duties the President of the Republic should exercise with the cooperation of the Government Chief and the appropriate Minister, or the Cabinet Council:

1. To ratify or veto laws; to observe them and enforce their exact execution.

2. To direct foreign relations, accredit and receive diplomatic and consular representatives, as well as sign public treaties and agreements, to be submitted to the National Assembly for consideration.

Paragraph 3. Should be eliminated. The assembly will only approve or disapprove the appointments made by the Executive.

Paragraph 4. Eliminated. It should be the Government Chief's function.

Paragraphs 5, 6 and 7 should be the functions of the Government Chief, that is, of the Executive.

Paragraph 8 was replaced by Paragraph 2 in this draft.

Paragraph 9. It should be the Executive's function.

Paragraph 10 can remain as it is.

Paragraphs 11, 12 and 13 should be the functions of the Government Chief, together with the corresponding Minister.

Paragraph 14. This may remain as it is.

New Article: To decree the state of emergency or suspension of individual rights, with the Assembly's approval, as provided by Article 53 (of the amendment draft).

New Article: To decree the state of emerquirements shall apply as for the previous article.

Paragraph 15. To confer military rank in case of war; this will be done by the Government Chief under normal conditions.

Paragraph 16. To have under his command, the Nation's Public Force in case of emergency or war. Under normal conditions, the Public Force will be responsible to the Government Chief.

Paragraphs 17 and 18 should be the Executive's duties.

Paragraphs 19 and 20 should be eliminated

Article 145. No actions by the President of the Republic, with the exception of those mentioned in article 143, will have any validity or effect unless ratified by the Government Chief and the Minister of State for the corresponding activity, both of whom, by the same token, shall become responsible for them.

The orders and provisions issued by a Minister of State within his scope, stating that he does so as instructed by the President of the Republic, will be compulsory if they carry the approval of the Government Chief, and shall only be invalidated by the President himself, provided they are within the limits of the powers vested in the President and such officials as stipulated by the Constitution and the law.

Article 146. The President of the Republic may take up to six months' leave from his functions, granted by the Assembly of Borough Representatives which will convene to consider such request. In the event the Assembly of Representatives cannot convene within a period of not more than ten days, the National Assembly will consider such request for leave. If this leave is for more than three months, the Vice-President shall be called upon to take office. The President of the Republic may leave national territory on official business without taking leave, provided his absence does not extend beyond three months. He will only have to notify the Assembly of Borough Representatives.

If his departure from national territory is due to personal business, he shall have to request leave from the Assembly of Borough Representatives, who shall call upon the Vice-President to take office should the absence extend beyond three months.

Should the President leave national territory on personal business, without requesting leave, or without it being granted, he may lose his office.

The Assembly of Borough Representatives, on its own right, may try him. In the event of resignation, such shall be presented to the Assembly of Borough Representatives to be approved or declined. If, because of special circumstances it cannot convene, the National Assembly or the Supreme Court shall consider it.

Article 148 should be studied in detail to prevent malfeasance, embezzlement, misappropriation of public funds, electoral coercion and all kinds of violations formerly committed by the Presidents. A more stringent regulation is required.

Article 149. During the temporary absence

of the President of the Republic for a period of more than three months and in his absolute absence, the Vice-President shall exercise his functions; however, in the first instance he will do so with the title of Vice-President in charge of the Executive organ.

The Vice-President may attend all sessions of the Cabinet Council with speaking, but not voting, rights.

Artice 150. Whenever for any reason during a temporary absence of more than three months or the absolute absence of the citizen occupying the Presidency of the Republic, such could not be filled by the Vice-President, the Government Chief will discharge the functions of the Presidency in addition to his own, and shall have the title of Government Chief in charge of the Presidency of the Republic.

Article 151. In the event the absolute absences of the President and the Vice-President occur no less than four years before the expiration of the presidential term, the Government Chief in charge of the Presidency will call the Assembly of Borough Representatives to convene at a date not later than a month after being called, and elect new officers (President and Vice-President of the Republic).

The Government Chief in charge of the Presidency of the Republic shall call the Assembly not later than a month after the absolute absences occur.

Should less than four years remain before the expiration of the term, the Government Chief will exercise his duties until the end of such term. In this event, the Government Chief shall be subject to the provisions of Article 139 (of this draft), insofar as reelection is concerned.

In case the Government Chief refuses, under these circumstances to take definite charge of the Presidency of the Republic until the expiration of the term, the Minister of the Interior and Justice shall do so, provided he fills the eligibility requirements stipulated in this Constitution for President of the Republic.

Article 152. Except as otherwise provided in article 151, the citizen who will replace the President of the Republic in his absolute absence will have the same title, the same category and the same duties.

Article 153. The following persons shall not be eligible for President:

Paragraph 1 should be eliminated, because reelection for a new term is permitted.

Paragraph 2 may read thus: No kin, within the fourth degree of consanguinity or second degree of affinity, of a President who has held that office for a second term after being reelected by the Assembly of Borough Representatives. Relatives within the above-mentioned degrees of consanguinity and affinity shall only be eligible for President of the Republic after the expiration of two terms following the last one held by the former.

Article 154. The following persons shall not be eligible for Vice-President: (Paragraphs shall be similarly adapted, that is, to convey that reelection is permitted.)

New Chapter: *Government Chief*

New Article: There will be a Government Chief who will form part of the Executive Organ, and will preside over the Council of Ministers of State. The Government Chief, together with the corresponding Minister, will constitute the Executive.

New Article: Two days after its installation, the Assembly of Borough Representatives will choose the Government Chief, who will be installed in his position on that same day. The Government Chief will hold his office during a term of six years; however, he may be reelected for two more terms. He shall not be reelected in such position following the last term, until twelve years have elapsed.

New Article: The same eligibility requirements apply for the Government Chief and President or Vice-President, as provided in Article 140 (of this draft).

New Article: The position of Government Chief is not incompatible with that of Commander-in-Chief of the National Guard; but in the event both positions were to be held by a single person, he will only be entitled to one salary as determined by the Wage Law.

New Article: The position of Government Chief is not incompatible with that of Commander-in-Chief of the National Guard; but in the event both positions were to be held by a single person, he will only be entitled to one salary as determined by the Wage Law. (sic)

New Article: The Government Chief will have the following duties which he may undertake by himself:

1. To freely appoint and dismiss the Ministers of State;

2. To annually inform the Assembly of Borough Representatives with regard to the new policy of the country.

3. To freely appoint and dismiss the chiefs and officers of the National Guard.

In case of war, the President of the Republic may confer military rank with the approval of the Government Chief.

4. To establish the fiscal, economic, administrative and social policy to be followed by the country. The Government Chief shall appoint special committees to counsel him with regard to technical issues. These committees shall be honorary.

5. To forward to the Assembly of Borough Representatives the lists of deputy candidates.

New Article: The Government Chief shall have the following duties which he shall discharge with the cooperation of the respective Minister or the Cabinet Council:

1. To appoint, as stipulated in Title (XII) concerning the rights and duties of State officials, those persons who shall hold any national office or employment and who are not otherwise appointed by any other official or corporation.

2. To appoint the Magistrates to the Supreme Court of Justice, the Supreme Electoral Tribunal, the Labor Court, the Attorney General and the Assistant Attorney General, the Comptroller General of the Republic, the Executive Planning Director, Directors and Managers of autonomous and semi-autonomous institutions, the Rector of the University of Panama, Governors and Directors of the Public Registry, within the conditions established in this Constitution.

5. To forward to the National Assembly a revenue and expense budget, public works plan for the following fiscal year and wage law drafts, if he so deems convenient. These drafts shall be forwarded to the National Assembly at least a month and a half prior to the beginning of the new fiscal year.

6. To create or abolish positions and determine their functions, duties, terms and appropriations. This shall be carried out with counselling from the Executive Planning Bureau and the COFADE (Committee for the Strengthening of Development Administration).

7. To present, in writing, to the National Assembly and to the Assembly of Borough Representatives, the reports they may request.

8. To make administrative contracts to render services and for the execution of public works, in conformity with the provisions of this Constitution and the law, and he will have the obligation of giving an account of same to the National Assembly.

9. To grant to nationals who so request it, permission to accept positions with foreign governments, in the cases wherein such permission is necessary, under the Constitution and the Law.

11. To grant commercial and industrial patents, in accordance with the law;

12. To direct, regulate and inspect services stipulated in this Constitution.

13. To regulate laws which may so require it, for their better enforcement, without disregarding their text or spirit in any case;

14. To decree monuments to be erected by the States; and

15. To exercise other functions conferred to him by this Constitution and the law.

New Article: The actions taken by the Government Chief with the cooperation of the corresponding Ministry will not be valid if they are not ratified by the latter, who by the same token becomes responsible for it.

For administrative activities, the Government Chief shall have two executive secretaries empowered to sign in his behalf; nevertheless, they shall have to make a daily report of what they approve or sign. The policy of the Nation shall be determined exclusively by the Government Chief, counselled by the committees, as established in article (w/n) Paragraph 4 of this draft.

New Article: The Government Chief may leave national territory on official or personal business for a period of up to three months without having to request leave; however, he shall inform the President of the Republic and the Assembly of Borough Representatives about his temporary absence.

New Article: In the event of the permanent absence of the Government Chief, he will be replaced by another, as appointed by the Assembly of Borough Representatives convened by the President of the Republic, were it not meeting on that date. From the time this absolute absence occurs until the new Government Chief is appointed, he shall be replaced by the Minister of the Interior and Justice, who in turn shall be replaced in his Ministry's functions by the Vice-Minister.

New Article: In the event of resignation by the Government Chief, the Assembly of Borough Representatives, convened by the President of the Republic, will consider same to approve or decline it. If the Assembly of Borough Representatives cannot meet, this resignation will be considered by the National Assembly or the Supreme Court of Justice.

New Article: No kin within the fourth degree of consanguinity and second degree of affinity, of a Government Chief who has held said office during the last three terms prior to the new election, is eligible as Government Chief. To be eligible, such relatives of the Government Chief will have to wait twelve years after the expiration of his last term.

Chapter 2. Ministers of State

Article 155. The Ministers of State are the highest authorities in their respective fields and shall cooperate with the President of the Republic and the Government Chief in the exercise of their functions, as provided by this Constitution and the law.

Article 158. No kin of the President of the Republic or the Government Chief, within the fourth degree of consanguinity or second degree of affinity, may be appointed Minister of State. Neither shall individuals related between themselves by the above-mentioned degrees of kin be appointed Ministers within the same Cabinet.

Article 159. The Ministers of State shall have speaking rights in the Assembly of Borough Representatives, and shall answer the questions made by these corporations.

Article 160. Each Minister of State shall present to the Assembly of Borough Representatives, within the first ten days of August each year, a report or memoirs about the state of his Ministry's affairs and concerning the amendments or reforms which he deems convenient to present.

Chapter 3. Cabinet Council

The Cabinet Council is formed by the Ministers of State under the indispensable chairmanship of the Government Chief; nevertheless, in some cases the President of the Republic may preside over the Cabinet

Council. The law shall determine which these cases may be.

Article 162. The Cabinet Council will have the following functions:

1. To act as consultant body on matters brought up by the President of the Republic or the Government Chief and to be heard on whatever matters it has been ascribed by Constitutional mandate or the law.

2. This paragraph may be eliminated.

3. To decide, with the Government Chief and by majority of votes, upon the appointments of the Magistrates of the Supreme Court of Justice and their alternates, the Supreme Electoral Tribunal and its alternates, the Attorney General of the Nation and his alternates; the Assistant Attorney General and his alternates, the Comptroller General of the Republic and the Director of the Executive Planning Bureau.

4. To decide, under the collective responsibility of all its members, and that of the Government Chief, upon decrees to be issued by the President of the Republic concerning the suspension of individual rights and state of emergency . . . (sic) members and the Government Chief, supplemental or special credits, subject to the provisions of this Constitution and the laws covering special funds. The National Assembly shall be notified of these supplemental or special credits.

6. Paragraph six may remain as it is.

Paragraphs seven and eight need not be changed.

Article 163. The Secretary of the Presidency was replaced by the Ministry of the Presidency.

TITLE X PUBLIC FINANCES

Chapter 1. State assets and equities

Article 214. The necessary paper currency may circulate in the Republic.

TITLE XIII. PUBLIC FORCE

Article 249. There will only be one public force in the country, that is, the National Guard, which nevertheless may be organized in sections and specialized corps for the better discharge of their functions. For hierarchic and administrative effects, the National Guard will be responsible to the National Government Chief's Office (Government Chief).

New Article: In case of war, there will be military recruitment and the recruits will be under the orders of the officers of the National Guard.

NOTE.—There will remain pending in this constitutional amendment draft all amendments concerning the governmental decentralization system directed toward the strengthening of provinces and regions and thus creating a semi-federative Republic; nor have the amendments to the municipal regime been prepared yet; the new borough or basic community structure, and structurization and general functions of the Assembly of Borough Representatives, which constitute the new politic formula of the Panamanian State. (sic)

Everything concerning the Public finances, economy, private property, the Judicial Organ and National Culture, indispensable elements in every process of revolutionary change, must be reviewed. Panama, February 1972.

CONSTITUTION OF THE REPUBLIC OF PANAMA, 1946

We, the Deputies of the Panamanian People, met in National Constituent Assembly, invoking the protection of God, decree the following Constitution of the Republic of Panama.

TITLE I—THE PANAMANIAN STATE

Article 1. The Panamanian Nation is organized as a unitary and independent State. Its system of government is republican, democratic and representative, and its name is the Republic of Panama.

Article 2. The public power emanates only from the people. It is exercised by the State in the manner established by this Constitution, by means of the Legislative, Executive, and Judicial Organs, which act separately and within limits, but in harmonious collaboration.

Article 3. The Republic of Panama comprises the continental and insular territory included between Colombia and Costa Rica, in accordance with the boundary treaties entered into by Panama with those Republics.

The jurisdictional limitations stipulated in public treaties made previous to this Constitution are recognized.

Article 4. The Republic of Panama respects the rules of international law.

Article 5. The territory of the Republic is divided into autonomous municipalities grouped into Provinces.

The law may create districts subject to special regulations and may establish other territorial divisions for reasons of administrative convenience or of public service.

Article 6. The symbols of the Nation are: the anthem, the flag, and the coat of arms adopted prior to the year 1941.

Article 7. Spanish is the language of the Republic.

TITLE II—NATIONALITY AND ALIENAGE

Article 8. Panamanian nationality is obtained by birth, under the conditions established by this Constitution, and is acquired by naturalization.

Article 9. The following are Panamanians by birth:

a) Children of a Panamanian father or mother born in the territory of the Republic;

b) Those born in the national territory to an alien father and mother, if after reaching their majority they declare in writing before the Executive that they elect Panamanian nationality and that they positively and irrevocably renounce the nationality of their parents and they prove, furthermore, that they are spiritually and materially incorporated into the national life;

c) Those born of unknown parents within the national territory not subject to jurisdictional limitations;

d) Children of a Panamanian father or mother born outside the territory of the Republic, provided that they are domiciled in Panama and that, at the time of exercising any of the rights that this Constitution or the law grants exclusively to Panamanians by birth, they have been domiciled in the Republic for the two preceding years;

e) Those who acquired this right pursuant to the Constitution of 1904 and the amendatory act of 1928.

Article 10. The following are Panamanians by naturalization:

a) Aliens with five continuous years of residence within the territory of the Republic if, having reached twenty-one years of age, they declare their intention to be naturalized as Panamanians, expressly renounce their nationality of origin or any other nationality, and demonstrate that they have a command of the Spanish language and an elementary knowledge of Panamanian geography, history, and political organization;

b) Aliens with three continuous years of residence within the territory of the Republic who have children born there of a Panamanian father or mother, or who have a spouse of Panamanian nationality, provided they make the declaration and submit the proof to which the preceding section refers; and

c) Nationals by birth, of Spain or of any independent American Nation, provided that they fulfill the same requirements required in their State of origin for the naturalization of Panamanians.

Article 11. Those who were naturalized when this Constitution took effect shall retain their status as such for the next five years, but they shall lose it if upon the expiration of this term they have not established that they have a command of the Spanish language and an elementary knowledge of Panamanian geography, history and political organization.

Exempted from this obligation are naturalized Panamanians who, before this Constitution became effective, have occupied some official position in the Republic or who have been, in accordance with the law, candidates for office by popular election. The same exemption is established for those born in Spain or in any independent American Nation.

Article 12. It is an obligation of the State to undertake by all proper means a methodical and constant effort to incorporate intellectually, morally, and politically all groups or individuals who, although born in the territory of the Republic are nevertheless not integrated in our nationality. It shall also be an obligation of the State to provide facilities for the spiritual assimilation of those who plan to obtain Panamanian nationality by naturalization.

Article 13. Colombians who took part in the independence movement are Panamanians by virtue of the Constitution, without the necessity of naturalization papers.

Article 14. An alien who desires to obtain Panamanian nationality should make the corresponding application to the Executive, who will issue a provisional naturalization certificate valid for one year. If after this period expires, the applicant ratifies his petition and no knowledge of any act giving reason for denying it has reached the Executive, a permanent certificate will be issued.

For reasons of morality, security, health, or physical or mental incapacity, an application for a naturalization certificate can always be denied.

The law shall establish the rights that those who obtain a provisional certificate may enjoy.

An application for naturalization will be denied to those persons belonging to States or regions whose nationals may not enter the Republic in accordance with the law, for economic reasons of for reasons of social necessity.

Article 15. Panamanian nationality, once acquired, can be lost only by express or implied renunciation.

There is express renunciation when the interested person declares in writing to the Executive his or her intention to abandon Panamanian nationality.

There is implied renunciation:

(1) Whenever the status of a national of a foreign country is acquired;

(2) Whenever employment is accepted from another government without the permission of the Executive, except in the case of employment in an enterprise in which the Republic has an interest in conjunction with another nation, and

(3) Whenever a national enters the service of an enemy state.

Nationality can be recovered only by virtue of rehabilitation by the National Assembly.

Article 16. Panamanian nationals as well as aliens who are within the territory of the Republic are obliged to live subject to the Constitution and the laws and to respect and obey the authorities.

Article 17. Naturalized Panamanians shall not be obliged to take up arms against the country of their birth.

Article 18. The capacity, the recognition, and in general, the regulation of companies and other juridical persons shall be determined by Panamanian law.

TITLE III—INDIVIDUAL AND SOCIAL RIGHTS AND DUTIES

Chapter I—Fundamental guarantees

Article 19. The authorities of the Republic are established for the purpose of protecting all nationals, in their lives, honor, and their property, wherever they may be, and who are under its jurisdiction, and of ensuring

the effectiveness of individual and social rights and duties, and of observing and enforcing the Constitution and the laws.

Article 20. Private persons are responsible to the authorities only for the violation of the Constitution or the law. Public officials are responsible for the same causes, and also for exceeding their authority or for dereliction in the performance of their duties.

Article 21. All Panamanians and aliens are equal before the law.

There shall be no personal privileges or distinctions by reason of race, birth, social class, sex, religion, or political ideas, but for reasons of health, morality, public security and the national economy, the law may subordinate to special conditions or deny the exercise of specified activities to aliens in general. Likewise, the law or the authorities may, as the case may be, take measures that affect exclusively the nationals of specific countries in the event of war or in accordance with public treaties.

Political rights are reserved to nationals, except as provided in article 192 herein.

Article 22. No one may be deprived of his liberty, except by virtue of a written order of a competent authority issued in accordance with legal formalities and for reasons previously defined by law. Those executing such orders are obliged to give a copy thereof to the interested person, if he requests it.

An offender surprised in *flagrante delicto* may be apprehended by any person and must be delivered immediately to the authorities.

No one may be detained for more than twenty-four hours without being placed at the disposal of a competent authority. Members of the police who violate this precept will be punished by the immediate loss of their employment without prejudice to other penalties established by law for this purpose.

There shall be no imprisonment, detention, or arrest for debts or purely civil obligations.

Article 23. In no international treaty of extradition can the State bind itself to surrender its own nationals.

Neither shall extradition be granted of aliens who are sought for political offenses.

Article 24. Any individual detained on grounds outside the cases or without the formalities prescribed by this Constitution or the laws, shall be placed at liberty on his own request or that of any other person. For this purpose the law shall regulate the remedy of *habeas corpus* by means of summary judicial proceeding and without consideration of the penalty that is applicable.

Article 25. No one is compelled to testify in a criminal, correctional, or police proceeding against himself, or against his spouse, or against any member of his family within the fourth degree of consanguinity or the second degree of affinity.

Article 26. The domicile is inviolable. No one may enter the domicile of another without the consent of the owner, except by written order of a competent authority or to assist the victims of a crime or disaster.

Labor, social welfare, and health officials may, after prior notice, make visits or inspections of homes or working premises for the purpose of supervising the observance of social and public health laws.

Article 27. Every person may travel freely through the national territory and change residence without restrictions other than those which the traffic, fiscal, health, or immigration laws or regulations may prescribe.

Article 28. Jails are places of security and reform. Any severity which is not necessary for the aforementioned purposes is prohibited.

Article 29. Correspondence and other private documents are inviolable, and they shall not be seized or examined except by order of a competent authority and in accordance with legal formalities. In all cases secrecy shall be maintained with respect to matters extraneous to the object of the seizure or examination.

The examination of documents must always be effected in the presence of the interested person or of a member of his family, or if they are lacking, before two honorable residents of the same place.

Article 30. There is no penalty of death, expatriation, or confiscation of property.

Article 31. Only those acts shall be punished which have been declared punishable by a law antedating their perpetration and exactly applicable to the imputed act.

Article 32. No one shall be tried except by competent authority and in accordance with legal formalities, nor more than once for the same cause.

Article 33. The following may impose penalties without previous trial, and within the precise terms of the law:

1) Officials exercising authority and jurisdiction, who shall have the power to impose fines or arrest upon anyone who insults them or who is in contempt of their authority in connection with the discharge of their duties of office or by reason of their performance thereof;

2) Chiefs of police, who may impose the penalty of arrest upon their subordinates in order to subdue an insurrection or mutiny;

3) Masters of vessels, who have the power outside of port to repress an insurrection or mutiny or to maintain order on board the ship, and to detain temporarily any actual or presumed offender.

Article 34. In case of manifest violation of a Constitutional or legal provision, to the detriment of any person, the order of a superior does not relieve from liability the agent who executed it. Exception is made of individuals of the Public Forces when they are in active service, in which case the responsibility rests with the superior in rank who gave the order.

Article 35. The profession of all religions is free, as is the practice of all forms of worship, without any limitation other than respect for Christian morality and public order.

Article 36. It is recognized that the Catholic religion is that of the majority of Panamanians. It will be taught in the public schools, but learning it and attending acts of religious worship shall not be compulsory for pupils when so requested by their parents or guardians. The law shall provide what assistance should be given to this religion for missions to the native tribes and for similar purposes.

Article 37. Religious organizations have juridical capacity and they manage and administer their property within the limits prescribed by law, the same as other juridical persons.

Article 38. Every person may freely express his opinion, orally, in writing, or by any other means, without subjection to prior censorship. But legal liability will be incurred when by any of these means the reputation or honor of persons is assailed or when the social security or public order is attacked.

Article 39. All inhabitants of the Republic have the right to assemble peacefully and without arms for lawful ends. Manifestations or meetings in the open air are not subject to permission. Only a previous notice to the local administrative authorities, twenty-four hours in advance, is required when they are to take place.

The authorities may take police measures to prevent or restrain abuses in the exercise of this right, whenever the form in which it is to be exercised causes or may cause disruption to traffic, breach of peace, or violation of the rights of third parties.

Article 40. The formation of companies, associations, and foundations that are not contrary to morals or the legal order is permitted; they may obtain recognition as judicial persons.

Article 41. Every person is free to practice any profession or trade. Their exercise is subject to such regulations as the law may establish with respect to capacity, morality, safety, and public health.

No tax or assessment shall be imposed on the practice of the liberal professions, trades and arts.

Article 42. Every person shall have the right to present respectful petitions and complaints to public officials, for reasons of social or private interest, and to obtain a prompt decision.

An official to whom a petition, question, or complaint is presented must decide it within a period of thirty days.

The law shall establish the penalties that apply to violations of this provision.

Article 43. Ministers of religious faiths may not hold civil or military public posts, except those relating to social welfare or public instruction.

Article 44. Laws do not have retroactive effect, except those of public order and of social interest. In criminal matters, a law favorable to the accused always has priority and retroactivity, even though the judgment may have become final.

Article 45. Private property acquired in accordance with the law by natural or juridical persons is guaranteed and may not be disregarded or impaired by subsequent laws.

Private property implies obligations on the part of its owner by reason of the social function which it must fulfill.

Article 46. For reason of public benefit and of social interest defined by law, there may be expropriation pursuant to judicial judgment and prior compensation.

Article 47. Whenever the application of a law enacted for reasons of public benefit or social interest results in a conflict between private rights and the necessity recognized by the law itself, the private interest must yield to the public or social interest.

Article 48. No one is obliged to pay a tax or impost which has not been legally established and the collection of which is not made in the manner prescribed by the laws.

Article 49. In the event of war, serious disturbance of the public order, or urgent social interest, requiring prompt action, the Executive may decree the expropriation or seizure of private property and the compensation need not be made in advance.

If the return of the seized object is feasible, the seizure shall be only for the duration of the circumstances that gave rise to it.

The State is always responsible for all expropriations that the Executive thus carries out and for the losses and damage caused by the seizure, and shall pay the amount thereof as soon as the determining cause of the expropriation or seizure ends.

Article 50. Every author or inventor enjoys the exclusive ownership of his work or invention during the time and in the manner prescribed by law.

Article 51. Every person against whom a public official shall issue or execute a mandatory order or an injunction violating the rights and guarantees established by this Constitution shall have the right to have the order revoked upon his petition or that of any other person. The law shall determine the form of this summary proceeding for protection of the constitutional guarantees.

The remedy to which this article refers shall be within the jurisdiction of the courts of law.

Article 52. In the event of foreign war or domestic disturbance threatening the peace or public order, all or a part of the Republic may be declared to be in a state of seige, and the effects of articles 22, 24, 26, 27, 29, 38, 39,

and 45 may be temporarily suspended, wholly or in part.

Article 53. A state of seige and temporary suspension shall be decreed by the National Assembly if it is in session. If it is in recess, they will be declared by means of a decree signed by the President, his Ministers, and the members of the Permanent Legislative Committee, and in the same decree the National Assembly shall be convoked so that within a maximum period of five days it may meet and take appropriate action. Upon termination of the cause the Assembly, if it is in session, and if the Assembly is not in session, the Cabinet Council, with the approval of the Permanent Legislative Committee, shall lift the state of seige or the suspension.

Chapter II—The Family

Article 54. The State protects marriage, motherhood, and the family, and guarantees the rights of the child until his adolescence. The law shall determine matters relating to civil status.

Article 55. Marriage is the legal basis of the family; it rests on the equality of the rights of both spouses and may be dissolved in accordance with the law.

Article 56. A *de facto* union between persons legally competent to contract marriage, maintained during ten consecutive years under conditions of singleness and stability, shall have all the effects of civil marriage.

To this end, it will suffice that the interested parties jointly request the Civil Register to record the *de facto* union. Whenever this request has not been made, the marriage may be proved for the purpose of claiming the rights thereof by any interested person, in accordance with the procedures established by any interested person, in accordance with the procedures established by judicial law. But the Public Ministry in the interest of morals or of the law, or third persons who assert rights susceptible of being affected by the recording, if the statements are contrary to the reality of the facts, may object to the registration or attack it after it has been effected.

Article 57. Parental power is the combination of all rights and duties that parents have in relation to their children.

Parents are bound to support, assist, educate, and instruct their children, and the latter are bound to respect and assist their parents. The law shall regulate the exercise of the parental power in accordance with the social interest and the welfare of the children.

Article 58. Parents have the same duties with respect to their children born out of wedlock as toward their children born in wedlock. All children are equal before the law and they have the same rights of inheritance in interstate succession.

Article 59. Investigation of paternity shall be regulated by law. Any classification based on the nature of the relationship is abolished. No statement establishing differences of birth or of the civil status of parents shall be entered in registration records, or in any attestation, baptismal record, or certificate referring to the relationship.

Authority is granted to the father of a child born before the effective date of this Constitution to protect him by the provisions of this article, by means of the rectification of any record or attestation in which any classification has been established with respect to said child. For this purpose the consent of the mother is not required. If the child is of adult age he should give his consent thereto.

In acts of simulation of paternity, anyone who is legally affected by such act may oppose this measure.

The law shall establish the procedure.

Article 60. The State shall oversee the social and economic development of the family, and shall organize the family estate, determining its nature and the amount of property that must constitute it on the basis that it is inalienable and unattachable.

Article 61. The State shall provide for the rearing and education of children whose parents or guardians are economically incapable of doing so or who have no relative bound to provide this for them.

Article 62. Abandoned minors who are physically or mentally defective, misguided, or delinquent shall be subject to special legislation as to their supervision, rehabilitation, and protection.

Chapter III—Labor

Article 63. Work is a right and a duty of the individual. The State shall employ the resources at its disposal to provide employment for all who lack it and shall ensure to every worker the economic conditions for a decent existence.

Article 64. Every worker in the service of the State or in public or private enterprises or of private individuals shall be guaranteed a minimum wage or salary.

Article 65. The method of periodically regulating the minimum wage or salary, for the purpose of improving the standard of living of a worker and with attention to the peculiarities of each region and of each industrial, commercial, or agricultural activity, shall be prescribed by law.

In work by agreement or for piece work, it is obligatory that the minimum wage for a working day be assured.

The minimum of any wage or salary is unattachable except for obligations of support in the manner established by law. The working tools of workers are likewise unattainable.

Article 66. An equal wage or salary shall always be paid for equal work under identical conditions, regardless of the person who performs it, without distinction as to sex or nationality.

Article 67. The right of union organization is recognized for employers, employees, workers and professionals of all classes for the exclusive purpose of their economic and social activity.

The Executive shall have an unextended period of thirty days to accept or deny the registration of an employers' or workers' union. The law shall regulate all matters concerning the recognition by the Executive of unions of employers, employees, workers, and professionals.

The Executive may not dissolve a union except when it deviates from its exclusive purposes and a competent court has so declared by a final judgment.

Boards of directors of these associations shall be composed exclusively of Panamanians.

Article 68. The right to strike and to a lockout is recognized. The law shall regulate the exercise thereof and may subject it to special restrictions in those public services that it may designate.

Article 69. The maximum working day is eight hours, and the working week may be up to forty-eight hours. The maximum for night work shall be not more than seven hours. Overtime shall be remunerated with an extra payment.

The maximum working day can be reduced to six hours a day for those over fourteen and less than eighteen years of age. All work is forbidden for those under fourteen, and night work is forbidden for persons under sixteen years of age, except in those cases specified by law. The employment of persons under twelve years of age as domestic servants and work by minors and women in unhealthful occupations are likewise prohibited.

In addition to weekly rest, every worker shall be entitled to paid vacations.

Article 70. All stipulations that imply a waiver, diminution, modification, or relinquishment of any right recognized in favor of a worker are void, and consequently do not bind the contracting parties even though stated in a labor agreement or in any other pact. The law shall regulate all matters relating to labor contracts.

Article 71. Maternity of working women is protected. A woman who is pregnant may not be discharged for this cause. During six weeks preceding childbirth and eight weeks thereafter she is entitled to compulsory rest with remuneration the same as she was paid while working, and shall retain her employment and all rights covered by her contract.

Article 72. Immigration shall be regulated by law, taking into account the national economic system and social needs.

The contracting of laborers which tends to impair the working conditions or standards of living of domestic workers is prohibited.

Article 73. Every worker discharged without justifiable cause and without the formalities established by law is entitled to be indemnified by his employer. The law shall specify what are justifiable causes and a schedule of indemnifications, according to length of service.

Article 74. It is a duty of industrial enterprises, within the scope of their specialties, to establish school of apprentices for the purpose of promoting labor education among the children of their workers or associates. The law shall regulate this matter.

Article 75. A labor jurisdiction is established to which are submitted all controversies that originate between capital and labor. The law shall establish the rules for this jurisdiction and the entities that are to exercise it.

Article 76. Regulation of the relations between capital and labor is a matter of law, which should be on a basis of social justice so that, without injury to any of the parties a worker may be guaranteed the necessary conditions for a normal life, and capital shall have an equitable return on its investment.

Chapter IV—National Culture

Article 77. The service of national education in its intellectual, moral, civic, and physical aspects is an essential duty of the State. National education should be inspired by democratic doctrines and by ideals of national aggrandizement and human solidarity.

It is encumbent upon the State to determine the basis for education, which shall be organized in such a manner that unity, articulation, and continuity in all grades shall exist.

Every educational institution is of public and social benefit.

Article 78. Elementary education is compulsory. Public preschool, elementary, and secondary education in all its grades and kinds shall be free. Free preschool and elementary education involves for the State the obligation to furnish students with all the implements necessary for their instruction. Free secondary education is not a bar to the establishment of a matriculation fee.

Article 79. Freedom of teaching is guaranteed. The State may, however, intervene in private educational institutions to the end that the national and social purposes of culture and better intellectual, moral, civic, and physical training of pupils may be fulfilled.

Article 80. No educational establishment may refuse to accept pupils because of the nature of the union of their progenitors or guardians or because of racial, social, or political differences.

Violation of this principle by private schools will cause the loss of the official subsidy, if any; of the privilege of having their degrees and certificates recognized by the State, if previously held; and in case of contempt, the loss of the right to continue giving instruction.

Article 81. The teaching of national history and of civics shall always be in charge of native-born teachers.

In no private educational establishment shall instruction be given in a foreign lan-

guage without the permission of the Ministry of Education granted for proper reasons of public interest.

The program of elementary education in private schools shall be the same as in the public schools; but permission may be granted for teaching additional courses in any language.

It is compulsory for private schools to include in their secondary program the teaching of national history and geography and civil education.

Article 82. The State may grant scholarships or economic assistance only to students who have won in public contests or competitions or who have obtained in the studies the grades which, according to law, make them worthy of State assistance.

In case of equal merits, preference shall be given to those participants whose economic means do not permit them to pursue the studies for which they entered the contest.

Article 83. The law shall establish the necessary incentives for the publication of national didactic works and standards for their adoption as official texts.

Article 84. Expenditures required for the support of the educational service shall have priority over any others. The Organic Law for this service shall determine what percentage of the revenues must be allotted for this purpose.

Article 85. Only academic and professional degrees issued by the State or authorized by it in accordance with legal provisions are recognized.

Article 86. The official University of the Republic is autonomous. Its juridical personality, its own endowment and the right to administer it are hereby recognized. It has the power to organize its curriculum and to appoint and remove its staff in the manner established by law. It shall include in its activities the study of national problems and the diffusion of popular culture.

Article 87. To render effective the economic autonomy of the University, the State shall endow it with the necessary means for its future installation, operation, and development, as well as with the endowment mentioned in the preceding article, and the necessary means to augment it.

Article 88. Freedom of its teaching is recognized without limitations other than those which, for reasons of public order, are established in the University Charter.

Article 89. The State shall promote the establishment of special technical, industrial, professional, agricultural and animal husbandry, and commercial schools adapted to the specific needs of the Nation. The law shall establish, from elementary schools onward, professional orientation services which will permit the discovery of the aptitudes and abilities of students and guide them toward better individual and social usefulness.

Article 90. The State shall encourage popular culture by all possible means and shall maintain a system of free complementary courses for adults, dedicated to preventing and eliminating illiteracy and to increasing the practical skills of the working classes.

Article 91. The law shall create a Department of Physical Culture the object of which shall be the spread of such culture in educational institutions and in the community.

Chapter V—Public Health and Social Assistance

Article 92. It is an essential function of the State to look after public health. The individual is entitled to the protection, conservation, and recovery of his health, and has the obligation of preserving it.

Consequently, the State shall promote especially the activities hereinafter enumerated:

a) To combat contagious diseases, by means of individual treatment and improvement of the environment;

b) To protect motherhood and reduce infant mortality through medical assistance and adequate nutrition;

c) To supplement the nutrition of needy students and to provide medical attention for school children;

d) To establish, according to the needs of each region, hospitals, dental clinics, and dispensaries in which services are rendered and medicines are given to those lacking financial means; and

e) To popularize systematically the fundamentals of scientific nutrition, personal hygiene, and sanitation of the home.

The National Assembly shall enact a Sanitary Code.

Article 93. Every individual has the right to the security of his economic means of subsistence in case of disability for work or for obtaining remunerated work. Social security shall be granted and administered by autonomous entities and shall cover cases of illness, maternity, family subsidies, old age, widowhood, orphanhood, compulsory layoffs, labor accidents, and occupational diseases, and all other contingencies affecting the capacity to work and to consume. The law shall provide for the establishment of such services to the extent that social needs may require.

The State shall create institutions of social assistance and social welfare. The fundamental tasks of such institutions shall be the economic and moral rehabilitation of destitute groups and the care of the mentally deficient, the chronically ill, and disabled persons lacking economic resources.

The State shall likewise promote the construction of low-cost housing for workmen.

Chapter VI—Rural and Indian Communities

Article 94. The State shall offer special protection to rural and Indian communities for the purpose of integrating them in an effective manner into the national life with respect to their economic, political, and intellectual standards of living. The action relative to Indians and shall be effected by conserving and at the same time developing the value of their native culture.

Article 95. In order to fulfill the objectives of economic integration of these communities, the State shall methodically perform the following services:

a) To grant necessary farm lands free of charge to rural inhabitants and Indians, issuing the corresponding titles of ownership. Preference shall be given to lands near population centers and main transportation roads and junctions. When vacant public lands are lacking under these conditions, private uncultivated or idle lands shall be expropriated. Such expropriation shall be effected only when it concerns uncultivated lands exceeding one hundred acres, or if of smaller size when the tract belongs to persons who do not engage exclusively in agriculture or stock raising as a means of subsistence;

b) To reserve lands for Indian communities and to prohibit their adjudication under any form of title.

The existence of Indian reservations already established is recognized;

c) To create, by all appropriate means, agrarian credit services or technical institutions to impart to rural workers and Indians the knowledge and resources necessary to establish their own scientific systems of cultivation;

d) To take measures to ensure a stable market and equitable prices for products, and to foster the establishment of producers', consumers', and distribution cooperatives;

e) To establish means of communication and transport to unite rural and Indian communities with centers of distribution and consumption;

f) To foster and stimulate the development of agriculture, rural industry, and regional handicrafts by means of prizes and other similar incentives in the manner in which the law shall prescribe.

Article 96. In addition to the general aims of national culture, schools for rural inhabitants and Indians shall seek the following ends:

a) To create a consciousness of the duties, rights, dignity, and possibilities of the Panamanian citizen;

b) To awaken an interest in rural life by means of objective teaching of the material elements indispensable to a secure, healthful, and decent rural life;

c) To bring to rural and Indian homes the activities of educational and welfare agencies which tend to raise their moral, cultural, and social standards.

TITLE IV—POLITICAL RIGHTS

Chapter I—General provisions

Article 97. All Panamanians over twenty-one years of age are citizens of the Republic, without distinction as to sex.

Article 98. Citizenship consists of the right to vote and the right to hold elective public office and of the capacity to hold public posts with authority and jurisdiction except as provided in the special case indicated in article 192 herein.

Article 99. Citizenship is lost:

1) By the loss of Panamanian nationality in accordance with this Constitution, and

2) By penalty in accordance with the law.

Article 100. Citizenship is restored by rehabilitation by the National Assembly.

Article 101. Citienzship is suspended:

1) By judicial decision in those cases prescribed by law, and

2) By reason of a pending criminal case from the time the judge orders the defendant to stand trial, in cases where there is no right of bail.

Chapter II—Suffrage

Article 102. Suffrage is a right and a duty of all citizens. The law shall regulate it along the following lines:

1) Suffrage is free and universal. Voting is equal, direct, and secret;

2) All popular elections and those which public corporations must hold when more than two citizens are to be elected are to be held according to some system that ensures proportional representation of the parties;

3) It is an obligation of every citizen to obtain a personal identity card which will identify him when voting and for other acts indicated by law;

4) The authorities are obligated to guarantee impartially the freedom and honesty of suffrage;

5) The following are prohibited:

a) Direct or indirect official support of candidates for positions to be filled by popular election, even if the means employed for such ends are supervised;

b) Propaganda and partisan activities in public offices;

c) Collection of dues or contributions from public employees for political purposes, even under the pretext that they are voluntary;

d) Any act which impedes or hinders a citizen from personally obtaining, holding, or presenting his identity card.

Article 103. The law shall regulate the manner of organizing political parties. The formation of any party which has as its basis sex, race, or religion, or which is intended to destroy the democratic form of government is unlawful.

Article 104. Violation of the provisions contained in article 102 constitutes a crime. This is understood to include any action or neglect by a public official who, under the authority by which he acts or functions that he performs, directly or indirectly, personally or through an intermediary:

a) Uses coercion, valid because of his official position, to induce a private individual or public employee to give his support or his vote to, or to withhold either of these from, a specific party or candidate;

b) Authorizes, permits, or carries out the withholding or deduction of any part of the

salary of public employees to be used for political purposes;

c) Employs or offers to employ any person in a public position with the promise or for the purpose of supporting or defeating a specific party or candidate;

d) Impedes or hinders any person from obtaining his identity card or from retaining or presenting it.

The law shall establish the corresponding principal penalties, to be accompanied by, according to the gravity of the offense, interdiction from occupying public positions, permanently or for a period of from one to eight years.

The provisions of article 148 are excepted.

Chapter III—The Electoral Body

Article 105. For the purpose of guaranteeing the freedom, honesty, and efficiency of popular suffrage, there is established an electoral court independent of the Executive and Judicial Organs and with exclusive jurisdiction to interpret and enforce the electoral law and to direct, oversee and supervise all phases of the electoral process.

The electoral court shall have jurisdiction throughout the Republic and shall be composed of three magistrates of recognized reliability, to be elected for a term of twelve years as follows: one by the National Assembly, one by the Executive Organ, and one by the Supreme Court of Justice, all from outside those bodies. Two alternates shall be appointed in the same manner for each principal. The court shall have such subordinate employees as may be prescribed by law.

These magistrates are responsible to the Supreme Court of Justice for wrongs or offenses committed in the discharge of their functions and are subject to the provisions of articles 168, 170, 171, 172, 173, and 174 and penalties prescribed by law.

In addition to those conferred by law, the electoral court shall have the following powers to be exercised exclusively with the exception of those enumerated in sections 2, 3 and 8:

1) To regulate the electoral law in accordance with its letter and spirit, to interpret and enforce it; and to take cognizance of disputes arising through its application;

2) To prosecute and punish wrongs and offenses against the freedom and honesty of suffrage;

3) To draft proposals and amendments for the electoral law and submit them for consideration by the National Assembly;

4) To take an electoral census in collaboration with national statistics officials;

5) To organize, direct and supervise the registration of voters and their documentation and to settle disputes, complaints, and denouncements arising therefrom;

6) To initiate the processing of applications for naturalization referred to it by the Executive and to return them to the latter, with appropriate opinion, for his decision;

7) To issue instructions for the holding of popular elections and to rule on questions and complaints addressed to it on the subject;

8) To inform the courts of justice and the public ministry of offenses committed in connection with elections and which are within its jurisdiction;

9) To appoint the members of the National Canvassing Board (Junta Nacional de Escrutinio).

Decisions of the electoral court may be appealed only to the court itself, and once the provisions of law have been complied with, are final, irrevocable, and compulsory. A plea of unconstitutionality is an exception.

There is established a National Canvassing Board which shall take or review the count of votes and declare the election of officials voted on by popular election, as prescribed by law. This Board shall be appointed by the electoral court by selecting one principal and two alternates from a list submitted by each of the legally constituted political parties, designating one of the principals as chairman with the right to vote only in case of a tie. Lower electoral boards and subordinate employees are also to be provided for by law.

Legal political groups shall also have watchers as representatives on the boards, with the right to supervision and to be heard.

The law shall prescribe what requirements must be met for the formation, juridical recognition, the number of members, and valid votes necessary for the maintenance of political parties. No political party or group may be maintained if it receives less votes in an election than is required for its recognition.

The public authorities are bound to support and comply with orders and decisions issued by electoral officials, rendering them obedience, cooperation and assistance as required in carrying out their functions. Failure or neglect in complying with this obligation will result in loss of employment and disqualification from holding a public position for from one to eight years, aside from other penalties that may be imposed by law.

TITLE V—THE LEGISLATIVE ORGAN

Chapter I—The National Assembly

Article 106. The Legislative Organ is constituted by a corporate body called the National Assembly, composed of as many Deputies as there are electoral circuits, in the ratio of one for every twenty-five thousand inhabitants and one in addition for a remainder of not less than fifteen thousand.

A province with less than twenty-five thousand inhabitants is entitled to elect one Deputy.

Two alternates shall be elected for each Deputy, in the same manner and on the same day, who shall replace their principals in their order during absolute or temporary absences.

The foregoing basis of representation shall take effect in 1964 and shall be increased by law whenever the population of the country exceeds one million five hundred thousand inhabitants.

Article 107. Deputies, once elected, represent the entire Nation, are not subject to any mandate and obey only the dictates of their conscience.

Article 108. Deputies and their alternates shall be elected by direct popular vote for a term of four years.

Article 109. The National Assembly shall meet annually in its own right, without previous convocation, in the capital of the Republic, from the first day of October until the following January thirtieth, in each of the first three years of the term for which the Deputies were elected. In the fourth year it shall meet from the first of October to the thirtieth of November for the purpose of considering with priority over any other bill those for the budget of revenues and expenditures and the plan of public works.

Article 110. Every period of regular or special sessions is termed a legislative session (legislatura). The periods indicated in the preceding article are regular legislative sessions and cannot be prolonged.

Sessions devoted to the jurisdictional powers of the Assembly are termed judicial sessions, regardless of the time at which they are held and the manner in which the Assembly has been convoked for the purpose. Their meeting shall not alter the continuity or duration of a legislative session and they shall not end until the Assembly has decided the pending matter.

Article 111. The Executive may convoke the National Assembly into special session, for the time he specifies, to deal exclusively with the matters submitted to it.

To exercise judicial functions the National Assembly may meet in its own right, without previous convocation, or may be convoked by the Permanent Legislative Committee in the cases provided for in section 5 of article 123.

Article 112. To be a Deputy to the National Assembly it is necessary to be a citizen in the exercise of his rights and to be at least twenty-five years of age.

Article 113. The members of the National Assembly are not legally responsible for opinions expressed and votes cast in the discharge of their duties.

Article 114. From the date of his election until the end of the term for which he was elected, no Deputy may be accused, prosecuted, arrested, or held for a criminal or police trial without prior authorization of the Assembly or of the Permanent Legislative Committee, whenever the Chamber is in recess. Likewise, he may not be sued civilly during the time included between thirty days before and thirty days after each period of sessions.

Upon the request of a Deputy, the Assembly or the Permanent Legislative Committee, as the case may be, may temporarily or partially waive his immunity.

Article 115. Deputies may not be appointed to any remunerated public position, except that of Minister of State, Magistrate of the Supreme Court of Justice, Chief of Diplomatic Mission with the rank of Ambassador or Minister Plenipotentiary, or professor in public universities. Violation of this principle renders the appointment void.

Acceptance of the office of Magistrate entails absolute vacancy in the office of Deputy and acceptance of the office of Minister of State or Chief of Diplomatic Mission causes a temporary vacancy.

Article 116. Deputies shall receive an annual salary and shall only receive representation expenses when called into extraordinary sessions by the Executive, provided this is not for the exercise of judicial functions.

The law shall specify the amount of such allotments and salary; but their increase or decrease shall only take effect after the termination of the Assembly period in which they were voted.

Article 117. Deputies to the National Assembly may not, either by themselves or through intermediaries, make any contract with the organs of the State or with institutions or entities connected with it, or accept from anyone a power of attorney to undertake business with these organs, institutions, or enterprises while the Assembly is in session.

The following cases are excepted:

a) When dealing with a personal or professional use of public services or of normal operations of the same nature with institutions or enterprises affiliated with the State;

b) When dealing with contracts made with any of the organs or entities mentioned in this article, through bids, by companies other than corporations, of which a Deputy is a partner, provided that the participation of the Deputy therein antedates his election to office;

c) When, by means of bids or without them, contracts are made with such organs or entities by corporations in which a total of not more than twenty-five percent of the shares belong to Deputies of the National Assembly;

d) When a Deputy acts in the capacity of his profession as an attorney, outside the period of sessions or during it, but with leave of absence.

A Deputy who, pursuant to sections (a), (b), and (c) of this article, executes a contract with any of the organs of the State or with institutions or enterprises affiliated with it or who conducts business with any of these, shall lose his immunity in regard to all matters connected with such contracts or business.

Article 118. The legislative functions of the National Assembly consist in enacting the laws necessary in fulfilling the purposes and

performing the functions of the State declared in this Constitution, and especially the following:

1) To enact, put into effect, amend, or repeal the national codes;

2) To determine the number and titles of the Ministries of State and to distribute among them the business of the administration;

3) To create or abolish offices, and to determine their functions, duties, obligations, terms of office, and salaries.

4) To enact the general law on public employees' salaries, upon the proposal of the Executive;

5) To approve or reject public treaties signed by the Executive;

6) To approve or disapprove contracts or agreements signed by the Executive with any natural or juridical persons;

7) To grant authority to the Executive to make contracts, negotiate loans, alienate national property, real or personal, the value of which exceeds five thousand balboas, and to exercise other analogous functions within the limits of the Constitution;

8) To declare war and to authorize the Executive to negotiate peace;

9) To designate the place where the organs of the State are to be located;

10) To estblish or change the political division of the national territory;

11) To limit and regulate the granting of vacant lands;

12) To fix the number of the armed forces in time of peace;

13) To organize the services established by this Constitution;

14) To promote the sciences and arts; to promote agriculture, industries, and useful or beneficial enterprises worthy of furtherance and support;

15) To determine what monuments the State should erect;

16) To approve with or without changes, the public works bill submitted by the Executive for the corresponding fiscal year, pursuant to the provisions of article 144.

In discussing the bill, preference shall be given to those works already begun in the previous fiscal year;

17) To organize national statistics and enact whatever is conducive to the taking of a census of the population;

18) To grant amnesty for political offenses;

19) To organize the public credit;

20) To acknowledge the national debt and arrange for its service:

21) To appropriate expenditures of the administration on the basis of the budget submitted by the Executive, approving it with or without amendments.

If for any reason whatever the budget is not passed by the Assembly, the Executive shall refer the respective bill to the Permanent Legislative Committee, which shall approve it with or without modifications;

22) To establish taxes, duties, revenues and public monopolies necessary to carry out public services;

23) To provide for the application of national property to public uses, as well as the manner and conditions for so doing;

24) To determine the standard, weight, value, form, type, and denomination of the national currency;

25) To invest the Executive temporarily, when the latter so requests, with precise extraordinary powers which shall be exercised through decree-laws whenever necessity so demands or public convenience may recommend it.

The law by which such powers are conferred shall state specifically the subjects and purposes of the decree-laws, and whenever the latter relate to matters reserved to organic laws, they must be approved by an absolute majority of the members of the Assembly.

Every decree-law issued by the Executive in the exercise of the powers conferred on him must be submitted to the National Assembly so that it may legislate on the matter.

If the decree-law has accomplished its purpose, because of its temporary nature, the Assembly should declare whether it approves or disapproves, in order to determine the corresponding liability, if any.

For the exercise of the extraordinary powers referred to in this section, the assent of the Permanent Legislative Committee is necessary;

26) To create administrative departments with internal autonomy, interministerial agencies, and technical boards, for the purpose of ensuring the efficacy of the administrative functions, coordinating the action of the various official divisions, and technically planning and developing the labors of the public administration; and

27) Enact organic regulations for its internal regimen.

Article 119. The judicial functions of the National Assembly are the following:

1) To take cognizance of accusations or charges loaded against the President of the Republic and Magistrates of the Supreme Court and Contentious-Administrative Tribunal and to try them, if there are grounds therefor, for acts performed in the exercise of their duties to the prejudice of the free functioning of the public power or in violation of the Constitution or the laws, and

2) To take cognizance of accusations or charges lodged against Deputies to the National Assembly.

The law shall establish the procedures to be followed and the penalties to be imposed.

Article 120. The administrative functions of the National Assembly are following:

1) To examine the credentials of its own members and to decide whether or not the credentials are in the form prescribed by law;

2) To accept or decline the resignation of the President of the Republic;

3) To grant leave of absence to the President of the Republic to leave his post for a period up to six months and to leave the national territory pursuant thereto;

4) To approve or disapprove appointments made by the Executive and which by a provision of this Constitution or a law require ratification by the National Assembly;

5) To appoint the Attorney General of the Nation (Procurador General de la Nación), an Assistant Attorney General and their alternates, and the Comptroller General and Assistant Comptroller General of the Republic; and to approve or disapprove the appointments of the Magistrates of the Supreme Court of Justice and their alternates and the Magistrates of the Contentious-Administrative Tribunal and their alternates;

6) To appoint committees to investigate any matter connected with acts performed or measures proposed by the Executive and to report to the Assembly so that it can take such measures as are deemed appropriate.

In these commissions there shall necessarily be included representatives of all parties of which the Assembly is composed and they shall have the right to summon private persons as well as officials and authorities to appear and testify before them, and the right to request data and documents deemed necessary for the purposes of the investigation;

7) To pass a vote of censure against Ministers of State when they, in the opinion of the Assembly, are responsible for exocessive or illegal acts or grave errors which have been obviously prejudicial to the interest of the State. In order that a vote of censure may be taken, it must be proposed in writing six days before it is debated, by not less than half the Deputies, and approved by vote of two thirds of their number;

8) To examine and definitively settle the general account of the Treasury which the Executive submits to it at each regular session;

9) To request from the Ministers of State oral or written reports and to demand their appearance at meetings, stating the purpose therefor, when this is necessary to elucidate discussions; and

10) To rehabilitate those who have lost their nationality or citizenship.

Article 121. The National Assembly is forbidden:

1) To enact laws which are contrary to the letter or the spirit of this Constitution;

2) To acknowledge as charges against the Public Treasury indemnifications which have not previously been adjuaged by the courts, and to make appropriations for paying scholarships, pensions, retirement pay, gratuities, or expenditures which have not been decreed in accordance with existing general laws;

3) To decree bills of attainder or persecution against persons or corporate bodies;

4) To give votes of approval or censure with respect to acts of the President of the Republic;

5) To incite or compel public officials to adopt specified measures;

6) To make appointments other than those pertaining to it in accordance wit. this Constitution;

7) To demand public information on diplomatic negotiations of a confidential nature;

8) To order or authorize public works other than those decreed in the law referred to in section 16 of article 118, except in cases of emergency expressly so declared by the Assembly; and

9) To delegate any of its functions, except as provided in section 25 of article 118.

Article 122. There shall be a Permanent Legislative Committee composed of seven principal members and an alternate for each, six of whom shall be elected by the National Assembly, from among its members, at least three days prior to the close of a regular legislative session. The other member shall be the last president of the legislative session, who will preside over the Committee and who will be replaced during his absence by the First Vice-President or in default of the latter, by the Second Vice-President.

The election is to be conducted in the following manner:

a) The total number of the Deputies comprising the National Assembly shall be divided by the number of members of the Committee to be elected. The result is called the quotient of election;

b) For the election of the members of the Permanent Legislative Committee, each Deputy shall vote on a single ballot for one principally and one alternate, who shall necessarily be Deputies, and those who have obtained at least a number of votes equal to the quotient shall be declared elected; and

c) If after the representations have been allotted, there remain posts to be filled because of the quotient of election, those who have obtained the highest number of votes will be declared elected to fill them. In case of a tie, this will be decided by lot.

Article 123. The Permanent Legislative Committee shall function from the moment a regular legislative session is adjourned until the day preceding the installation of the following session, and its powers are:

1) To approve or deny the request of the Executive Organ to declare a state of siege and to suspend temporarily, and partially or totally, the effects of articles 22, 24, 26, 27, 29, 38, 39, and 45 of the Constitution;

2) To approve or disapprove proposals for decree-laws submitted by the Executive;

3) To approve the proposed budget of revenues and expenditures and plan of public works in the event these were not adopted by the Assembly;

4) To approve or disapprove, totally or partially, without changing the amount or destination of items, proposed decrees concerning supplementary and extraordinary credits sent to it by the Executive;

5) To accept or reject accusations against

Deputies and Magistrates of the Supreme Court of Justice, and in the event of acceptance, to transmit them to the National Assembly for its consideration at the next regular legislative session or to convoke it if the seriousness of the accusation warrants no delay, so that it may exercise the judicial functions within its jurisdictions;

6) To give its approval for the President of the Republic to leave the national territory and to grant him leaves of absence up to six months from his post;

7) To undertake studies of the problems and needs of the country and, in cooperation with the Ministers of State and administrative agencies, to draft bills to be submitted to the National Assembly for consideration.

The Ministers of State have the right to speak in the Committee to explain or support the opinion of the Executive Organ on matters before the Committee.

Decisions of the Committee are to be taken by a majority vote of the members present at its meetings.

Chapter II—Enactment of Laws

Article 124. Laws originate in the Assembly and are divided as follows:

a) Organic, which are those enacted in compliance with sections 1, 2, 3, 4, 10, 11, 13, 19, 21, 22, and 26 of article 118, and

b) Ordinary, which are those enacted in accordance with other sections of that article.

Article 125. Laws shall be proposed:

a) When they are organic:

1) By special committees of the Assembly;

2) By Ministers of State;

3) By the Supreme Court of Justice, if they relate to the enactment or amendment of the Civil, Commercial, Penal or Procedural Codes.

b) When they are ordinary, by any member of the Assembly, or by a Minister of State.

For their enactment, organic laws require a favorable vote, at each reading, of an absolute majority of the members of the Assembly. Ordinary laws require merely the approval of a majority of Deputies present at the corresponding session.

Article 126. No bill shall become law of the Republic unless it has been approved by the National Assembly in three readings on different days, and sanctioned by the Executive in the manner prescribed by this Constitution.

Article 127. Every bill which has not been presented by one of the special committees referred to in section (a) of article 125 must be referred by the President to a committee for study and discussion within a reasonable time.

The committee may receive advice from experts and seek information from private individuals or public or private entities affected by the subject matter under discussion. Upon expiration of the period of study, the committee shall report to the Assembly whether it is in order or not to legislate on the matter to which the bill refers, with a clear and methodical statement as to the conclusions reached. The committee shall designate from its number a rapporteur who will defend it before the Assembly in the corresponding debates.

The same procedure shall be followed in the special committees referred to in section (a) of article 125 concerning bills for organic laws.

The first reading of any bill is that which takes place in the commitee to which this article refers. If the bill is recommended by the committee, it will proceed to second reading.

A bill also may proceed to second reading when a majority of the Assembly, at the request of one of its members, revokes the opinion of the committee and gives its approval to the bill.

Article 128. When a bill has been approved it shall be sent to the Executive, and if he sanctions it he shall order it promulgated as law. If he does not sanction it, he shall return it with his objections to the Assembly.

Article 129. The Executive shall be allowed a period of six working days to return a bill with objections, if it does not contain more than fifty articles; ten days, when it consists of more than fifty and less than two hundred articles; and fifteen days, when it contains two hundred or more articles.

If the Executive does not return the bill with his objections within the periods prescribed therefor, he must sanction it and order it promulgated. But if within the said periods the Assembly shall adjourn, the Executive must publish the bill, approved or vetoed, within ten days after adjournment of the Assembly.

Article 130. A bill vetoed as a whole by the Executive shall be returned to the Assembly for third reading. If it has been vetoed only in part, it shall be returned to second reading, for the sole purpose of considering the objections made.

If, after the National Assembly has considered the objections, the bill is approved by two thirds of the Deputies composing the Assembly, the Executive must sanction it and have it promulgated without the power to offer new objections. If it does not obtain the approval of that number of Deputies, the bill is rejected.

Article 131. Whenever the Executive objects to a bill as unconstitutional, and the Assembly, by the stated majority, insists on its adoption, the former shall refer it to the Supreme Court of Justice to rule upon its constitutionality. A decision of the Court declaring the bill constitutional compels the Executive to sanction it and order its promulgation.

Article 132. If the Executive does not comply with the duty of sanctioning and having a law promulgated within the periods and under the conditions established in this Title, it shall be sanctioned and ordered promulgated by the President of the Assembly.

Article 133. Every law shall be promulgated within six working days following its sanction and shall become effective from the time of its promulgation, unless the law itself provides that it will become effective on some other date.

Article 134. Laws may be accompanied by an explanatory statement and their text shall be preceded by the following formula:

The National Assembly of Panama

DECREES:

Article 135. Bills which remain pending during a period of sessions may only be considered as new bills.

TITLE VI—THE EXECUTIVE ORGAN

Chapter I—The President and Vice-President

Article 136. The Executive Organ is constituted in a magistrate who is called the President of the Republic, with the indispensable cooperation of the Ministers of State.

Article 137. In each particular case, the President, with the Minister of the respective branch, represents the Executive Organ.

Article 138. The President of the Republic shall be elected by popular, direct suffrage and by a majority of votes for a term of four years.

Together with the President of the Republic, there shall be elected in the same manner and for an equal term, a first Vice-President and a second Vice-President, who shall replace the President in his absence, in accordance with the provisions of article 149.

Article 139. The citizen who has been elected President of the Republic may not be reelected to the same post in the two terms immediately following.

Article 140. In order to be President of the Republic or Vice-President, it is required:

1) To be a Panamanian by birth, and

2) To have reached thirty-five years of age.

Article 141. The President of the Republic shall take office before the National Assembly and shall take an oath in the following terms: "I swear before God and the country to comply faithfully with the Constitution and the Laws of the Republic."

A citizen who has no religious beliefs may dispense with the invocation to God in the oath.

Article 142. If for any reason the President of the Republic cannot take office before the National Assembly, he shall do so before the Supreme Court of Justice, and in default of the latter, before a Notary, or in the last resort, before two competent witnesses.

Article 143. The powers which may be exercised by the President of the Republic by himself are:

1) To appoint and remove freely the Ministers of State;

2) To supervise the regular functioning of the administration and the preservation of public order;

3) To supervise the collection and administration of the national revenues;

4) To supervise the proper conduct of public agencies;

5) To see that the National Assembly meets on the date appointed by the Constitution or by a decree convoking a special session; and

6) To present at the beginning of each legislative session, on the first day of its regular sessions, a message concerning the affairs of the administration.

Article 144. The powers and duties that the President of the Republic must exercise with the cooperation of the respective Minister, the Cabinet Council, or the permanent Legislative Committee, as the case may be, are:

1) To sanction and promulgate the laws, to obey them, and to see that they are properly enforced;

2) To appoint and dismiss freely the Governors of the Provinces, and the chiefs and officers of the Public Force and of the National Police Corps;

3) To inform the Assembly of vacancies occurring in positions which the latter must fill;

4) To appoint, in accordance with the provisions contained in Title XII, the persons who are to hold offices or positions, the appointment of whom does not pertain to any other official or corporate body;

5) To send to the National Assembly, within the first ten days of its regular sessions, the budget of revenues and expenditures, the plan for public works for the following fiscal year, and the bill for salaries if deemed convenient, except when the date when the President of the Republic takes office coincides with the opening of these sessions. In this case, the President of the Republic shall be required to do this within the first forty-five days of the sessions of the Assembly;

6) To submit to the National Assembly such reports as the latter may request from him;

7) To enter into administrative contracts for the performance of services and the execution of public works, in accordance with the provisions of this Constitution and the law, and with the obligation of rendering an account thereof to the National Assembly;

8) To conduct foreign relations, to accredit and receive diplomatic and consular agents, and to enter into public treaties and agreements, which are to be submitted to the consideration of the National Assembly;

9) To grant to nationals who so request, permission to accept positions with foreign governments in cases where such permission is necessary under the Constitution or the law;

10) To issue naturalization certificates in accordance with the procedure established by law;

11) To grant commercial and industrial patents, according to law;

12) To direct, regulate, and inspect the services established in this Constitution;

13) To appoint, subject to the approval of the National Assembly, the chiefs and directors of public autonomous and semi-autonomous entities, in accordance with the provisions of pertinent laws;

14) To grant pardons for political offenses, to reduce penalties, and to grant paroles to persons guilty of common offenses;

15) To confer military ranks in case of war;

16) To dispose of the Public Force of the Nation;

17) To enact regulations for laws that so require for their better enforcement, without deviating in any case from the text or spirit thereof;

18) To appoint, subject to unanimous agreement of the Cabinet Council, and subject to approval of the National Assembly, the Magistrates of the Supreme Court of Justice and their alternates, and those of the Contentious-Administrative Tribunal and their alternates;

19) To exercise the precise extraordinary powers dealt with in section 25 of article 118 of this Constitution; and

20) To exercise all other functions pertaining to him in accordance with this Constitution and the law.

Article 145. No act of the President of the Republic except those specified in article 143 will have any validity or effect unless it is countersigned by the Minister of State in the respective branch, who by this very act renders himself responsible therefor.

The orders and resolutions that a Minister of State issues within his branch stating that he does so on instructions from the President of the Republic, shall be compulsory and may be invalidated only by the President himself, provided they do not exceed the limitations on the powers pertaining to the Executive in accordance with the Constitution and the law.

Article 146. The President of the Republic may separate himself from his functions only with leave of absence which in no case shall be longer than six months and which shall be granted by the National Assembly, or during its recess by the Permanent Legislative Committee referred to in article 122.

The President of the Republic may not leave the national territory during the exercise of his office.

Violation of this rule incurs loss of office.

In case of resignation, the National Assembly shall take cognizance thereof, in order to accept or refuse it, and during a recess of the Assembly, the Supreme Court of Justice shall do so.

Article 147. The emoluments assigned by law to the President of the Republic may be changed, but a change shall not take effect until the following presidential term.

Article 148. The President of the Republic is responsible only in the following cases:

1) For exceeding his constitutional powers;

2) For acts of violence or coercion in the course of the electoral process or for impeding the meeting of the National Assembly, or for obstructing it or any other public body or authority, established by the Constitution, in the exercise of their functions; and

3) For the crime of high treason.

In the first two cases the penalty shall be removal from office and disqualification to hold public office for a period fixed by law.

In the third case ordinary law shall apply.

Article 149. During the temporary or permanent absence of the President of the Republic, his functions shall be exercised by one of the Vice-Presidents, in the order in which they were elected.

In addition, it is the duty of the First Vice-President of the Republic to attend the meetings of the Cabinet Council, with a voice but without vote.

Article 150. Whenever for any reason an absence of the President cannot be filled by the Vice-Presidents, the Presidency shall be filled by one of the Ministers of State who has the necessary requirements to be President of the Republic, and who shall be elected by them by a majority of votes.

Article 151. Whenever the permanent default of the President and Vice-Presidents occurs not less than two years prior to the expiration of the presidential term, the person in charge of the Presidency shall call elections for President and Vice-Presidents to be held within four months, so that the citizens elected President may take office within six months following the calling of elections. The pertinent decree shall be issued not later than eight days after assumption of the position by the person in charge. If less than two years remain before the expiration of the term, the person in charge shall serve until the end of the term.

Neither the citizen who has discharged the office of the Presidency within the two years immediately preceding elections nor any of his relatives within the fourth degree of consanguinity or second of affinity may be elected President or Vice-President at the said elections.

Article 152. The citizen who takes the place of the President of the Republic shall have the same title, the same rank, and shall exercise the same functions as the latter.

Article 153. The following may not be elected President:

1) A citizen who, called to exercise the Presidency due to the temporary or permanent default of the President, has held the position at any time during the two years immediately preceding the term for which the election is held, and

2) None of the relatives within the fourth degree of consanguinity or second of affinity of a President elected by popular vote who has exercised his functions in the term immediately before, or such relatives of the citizen indicated in section 1 of this article.

Article 154. The following may not be elected Vice-Presidents:

1) The President elected by popular vote who has performed his functions at any time, when the election for Vice-Presidents is for the term following his;

2) Relative within the fourth degree of consanguinity or the second of affinity of the President elected by popular vote, for the term following that in which the President has held office;

3) A citizen who, as Vice-President or as Minister of State has occupied the Presidency at any time during the two years preceding the term for which the election is held;

4) Relatives within the fourth degree of consanguinity or the second of affinity of the citizen mentioned in the preceding section, for the term immediately following that in which they occupied the Presidency; and

5) Relative within the fourth degree of consanguinity or the second of affinity of a candidate for the Presidency of the Republic.

Chapter II—Ministers of State

Article 155. The Ministers of State are the superior chiefs of their respective branches and cooperate with the President of the Republic in the performance of his functions, pursuant to this Constitution and the law.

Article 156. The distribution of business, according to its nature, among the Ministers of State, shall be done according to law.

Article 157. In order to be a Minister of State, the same requirements are necessary as to be a Deputy to the National Assembly. But if he is a citizen by adoption he must have been naturalized at least ten years prior to the time of appointment.

Article 158. No person may be appointed Minister of State who is a relative of the President of the Republic within the fourth degree of consanguinity or the second of affinity.

Likewise, persons of the aforementioned relationship may not be appointed as Ministers in the same Cabinet.

Article 159. The Ministers of State shall have a voice in the National Assembly.

Article 160. Each Minister of State shall submit to the National Assembly, within the first ten days of each regular period of sessions, a report or statement concerning the state of affairs in his Ministry and concerning such reforms as he may deem expedient to introduce.

Chapter III—Cabinet Council

Article 161. The Cabinet Council consists of a meeting of the Ministers of State under the indispensable presidency of the President of the Republic.

Article 162. The functions of the Cabinet Council are:

1) To act as an advisory body on matters submitted to it by the President of the Republic and on those matters that should be heard by virtue of the Constitution or the law;

2) During a recess of the National Assembly, to empower the President of the Republic to settle or submit to arbitration litigious matters in which the Nation has an interest. In such cases, the favorable opinion of the Attorney General of the Nation and a unanimous vote of the Council and of a majority of the permanent Legislative Committee is required;

3) To approve, with the President of the Republic and by unanimous vote, the appointment of the Magistrates of the Supreme Court of Justice and of the Contentious-Administrative Tribunal;

4) To agree upon, under the collective responsibility of all its members and those of the Permanent Legislative Committee, decrees which the President may issue concerning the suspension of guarantees or in the exercise of extraordinary powers, whenever he may be invested with them;

5) To order, under the collective responsibility of all its members and those of the Permanent Legislative Committee, supplementary or extraordinary appropriations, subject to the provisions of article 221 of this Constitution and of laws enacted in the furtherance of this principle;

6) To request from public officials and bodies such reports as may be deemed necessary or advantageous to the conduct of affairs it must consider, and to summon the former and representatives of the latter to render oral reports;

7) To issue regulations for its internal organization;

8) To exercise any other functions established by the Constitution or by law.

Article 163. The Secretary General of the Presidency shall have the rank of Minister of State and shall perform the functions of Secretary of the Cabinet Council.

TITLE VII—THE JUDICIAL ORGAN

Chapter I—The Administration of Justice

Article 164. The Judicial Organ is vested in a Supreme Court of Justice, in the lower courts, and in such other courts as the law may establish.

Article 165. The Supreme Court of Justice shall consist of nine Magistrates, appointed in accordance with the provisions of section 18 of article 144, one every two years for a term of eighteen years beginning on the first of November. Each principal shall have an alternate appointed for the same term, who shall replace him during absences, according to law. A permanent vacancy shall be filled by a new appointment for the remainder of the respective term.

The law shall divide the Court into Panels (Salas) composed of three permanent and two rotating members, among which there must be one Civil, one Penal and one Contentious-Administrative Panel; and it shall specify their powers.

The full Court shall hear cases concerning

the nonenforceability of laws and appeals based on constitutionality.

Article 166. To be a Magistrate of the Supreme Court of Justice, it is required:

(a) To be a Panamanian by birth or by naturalization with more than fifteen years of residence in the country;

(b) To have attained thirty-five years of age;

(c) To be in full enjoyment of civil rights;

(d) To be a law graduate; and

(e) To have completed a period of ten years in the practice of the profession of law or the position of Magistrate, Attorney General of the Nation, Attorney (Fiscal) of a superior court, Circuit Judge, or professor of law in a public educational institution.

The validity of credentials for Magistrate of the Supreme Court of Justice already issued when this Constitution becomes effective is recognized.

Article 167. Together with its other constitutional and legal powers, the Supreme Court of Justice shall have the following:

1) Guardianship of the integrity of the Constitution, to which end it shall decide, after a hearing with the Attorney General of the Nation or the Assistant Attorney General, on the enforceability of bills that have been vetoed by the Executive as unconstitutional by reason of form or substance and on the constitutionality of laws, decrees, orders and other acts challenged before it by any citizen on such grounds.

The Court shall also decide whether a constitutional amendment is valid whenever the Executive vetoes it because of its not having been enacted in accordance with the rules of the Constitution.

Whenever in a proceeding the official entrusted with rendering justice believes or one of the parties claims that the legal provision or regulation applicable to the case is unconstitutional, the process shall be suspended and the question submitted to the full Court.

2) The exercise of contentious-administrative jurisdiction over acts, decisions, orders or rulings executed, adopted, or issued in the exercise of their functions or in the guise of carrying them out by national, provincial, or municipal officials and authorities or those of the autonomous and semi-autonomous entities. For this purpose the Supreme Court of Justice, after a hearing with the Attorney General of the Nation or the Assistant Attorney General, may annul the acts challenged on grounds of illegality; reestablish the private right that was violated; enact new provisions to replace those that were challenged; and pre-judicially decide as to the meaning and intent or the legal value of an administrative act.

Persons affected by the act, decision, order, or regulation in question may resort to the contentious-administrative jurisdiction; and so also, on behalf of the public, may any natural or juridical person domiciled in the country, in any case in which a public official or authority has acted in violation of law.

There is no appeal on grounds of unconstitutionality against decisions of the Court or its Panels.

Decisions of the Court in the exercise of the powers conferred by this article are final, definitive, and compulsory and must be published in the Official Gazette.

Article 168. The principal Magistrates may not hold any other public position during the term for which they have been appointed, except that of professor for the teaching of law in an educational establishment of university level.

Article 169. In the tribunals and lower courts established by law, the Magistrates and Judges shall be appointed by the Supreme Court of Justice or by the tribunal or judge immediately superior in rank, according to the provisions of Title XII.

Article 170. Magistrates and Judges are independent in the exercise of their functions and are subject only to the Constitution and the law. But lower courts are compelled to abide by and comply with decisions rendered by their superiors in rank on revoking or amending, by virtue of legal proceedings, the decisions rendered by the former.

Article 171. Magistrates and Judges shall not be removed or suspended from the exercise of their functions except in those cases and by the formalities prescribed by law.

Article 172. Positions in the judiciary are incompatible with any other remunerated position, except in accordance with the provisions of article 168, with the practice of law or commerce, and with all participation in politics except voting in elections.

Article 173. The law shall establish the emoluments of Magistrates, Judges, and other judicial officials and employees, which may be changed at any time; but the change shall only become effective two years after it is decreed.

Salaries and emoluments of the Magistrates of the Supreme Court of Justice shall not be lower than those of the Ministers of State.

Article 174. Magistrates and Judges may not be detained or arrested except by virtue of a written order from a judicial authority competent to judge them.

Article 175. Trial by jury is established. The law shall determine what cases should be decided by this system.

Article 176. The administration of justice is free. The law shall guarantee the effectiveness of this principle.

Chapter II—The Public Ministry

Article 177. The Public Ministry shall be exercised by an Attorney General of the Nation, an Assistant Attorney General, by District Attorneys (Fiscales) and Municipal Attorneys (Personeros), and by any other officials designated by law. The Assistant Attorney General shall perform the functions of the Attorney General by delegation, as the law shall prescribe.

Each official of the Public Ministry shall have two alternates, who shall replace him in their order during temporary defaults and during permanent default until the vacancy is filled.

Article 178. The functions of officials of the Public Ministry are as follows:

1) To defend the interests of the Nation, a Province, or of a District, as the case may be;

2) To promote the enforcement or execution of the laws, judicial decisions, and administrative orders;

3) To supervise the official conduct of public officials and employees and to take care that all fully discharge their duties;

4) To prosecute offenses and violations of constitutional or legal provisions; and

5) To serve as legal advisers to administrative officials within their jurisdiction.

Article 179. The same qualifications are required to be Attorney General of the Nation as to be a Magistrate of the Supreme Court of Justice.

Article 180. The term of the Attorney General of the Nation and of the Assistant Attorney General shall be ten years.

Article 181. The special functions of the Attorney General of the Nation are:

1) To arraign before the Supreme Court of Justice those officials whose trials pertain to that body;

2) To see to it that all other officials of the Public Ministry faithfully discharge their duties and see that they are held responsible for wrongs or offenses committed by them;

3) To appoint and remove freely his immediately subordinate employees.

Article 182. The same provisions govern officials of the Public Ministry, as are established respecting judicial officials by articles 168, 171, 172, and 174 .

The provisions of article 173 shall in addition apply to the Attorney General of the Nation.

Article 183. The Attorney General and his alternates shall be elected by the National Assembly. The other officials of the Public Ministry shall be appointed by the official immediately superior in rank, in accordance with the provisions of Title XII.

TITLE VIII—THE PROVINCES

Article 184. In each Province there shall be a Governor freely appointed and removed by the Executive, and who shall be the agent and representative of the latter before the Municipalities within his jurisdiction.

The law shall determine the functions and duties of the Governors.

Article 185. Each Province shall include whatever number of Municipalities may be established by law.

TITLE IX—THE MUNICIPAL REGIME

Article 186. The State rests on a community of autonomous municipalities. A municipality is the political organization of the local community, established in a territory determined by the relationship of proximity (vecindad) and with the economic capacity to maintain self-government under adequate conditions.

Municipal organization shall be democratic and shall respond to the essentially administrative character of local government.

Article 187. Municipalities must cooperate with the National Government in the realization of the social welfare.

Article 188. The muncipal authorities have the duty of complying with and enforcing the Constitution and the laws of the Republic, the decrees and orders of the Executive, and the decisions of the ordinary and administrative courts of justice.

Article 189. No municipal official may be suspended or dismissed by national administrative authorities. Mayors appointed by the Executive Organ are excepted.

Article 190. It is an obligation of the municipalities to contribute to the promotion and maintenance of education and embellishment. The law shall specify what portion of the municipal revenues are to be appropriated for these purposes, to be expended in the respective district.

Article 191. The State shall supply municipal management when the latter is insufficient, in cases of epidemic, serious disturbance of the public order, or other reasons of public interest, in the manner prescribed by law.

Article 192. The territory to which the action of a municipality is extended is called a district. In each district there shall be a body to be known as a Municipal Council, composed of a number of members determined by law, who shall be elected by direct popular suffrage for a term of four years.

Aliens with four years of continuous residence in the respective district or with two years of residence if they are married to nationals, or if they have Panamanian children within the same district, may vote in the elections for Councilmen and may be elected to the Councils. In no case may the representation of aliens in these municipal bodies comprise more than one fifth of their total membership.

Article 193. By popular initiative and by a vote of the respective Councils or commissions, two or more municipalities may request their incorporation into a single unit or to be associated for reasons of mutual benefit. The law shall establish the appropriate procedure.

The municipalities of a Province, with like requirements, may unify their regime by the establishment of a common treasury and fiscal administration. In such cases there may be created an intermunicipal Council or commission whose composition shall be determined by law.

Article 194. Councilmen may be removed from office for abandoning their duties or for misconduct in the exercise thereof. The law shall establish the procedure to be followed in such cases.

Article 195. Citizens have the right of initiative and referendum in matters entrusted to the Councils.

Article 196. When so resolved by municipalities through a plebiscite, the law shall provide that they shall be governed by a system of commissions the members of which shall be specialized in those branches of economic and social activity that the law itself may specify.

Article 197. The commissioners shall be elected by a vote of the people and may be reelected.

Article 198. A commission shall exercise all the functions of the Municipal Councils and shall have the same guarantees and responsibilities established for the latter.

Article 199. In each district there shall be a mayor (alcalde), as chief of the municipal administration, and two alternates. The law shall establish whether they are to be appointed by the Executive or elected by direct popular vote.

When their election is by popular vote the following rules are to be followed:

1) The term of office shall be four years;

2) The same person may not be elected for more than two consecutive terms; and

3) Relatives within the fourth degree of consanguinity or the second of affinity of the person who has held the mayoralty during one term or part of another consecutively, may not be elected for the term immediately following.

Article 200. Mayors shall have the following functions, in addition to the duties established in article 188:

1) To cooperate with the Council in the proper functioning of the municipal administration and to present proposals, especially for the budget of revenues and expenditures;

2) To order the expenses of the local administration in accordance with the budget and accounting regulations;

3) To appoint and remove freely the municipal employees whose appointment does not pertain to another authority, subject to the provisions of Title XII, concerning administrative career; and

4) To promote the progress of the municipal community and to supervise the faithful fulfilment of their duties by municipal employees.

Article 201. The Mayor and the Councilmen shall each receive from the municipal treasury a remuneration that may be changed at any time; but neither an increase nor decrease shall be effective until after a new election. In order to increase it, it will be necessary that the municipal revenues shall also have increased during the last two years.

Article 202. Ordinances, resolutions, and other acts of a Municipal Council, of the commissions, or of Mayors, when the latter are elected by popular vote, can be suspended or annulled only by competent courts. The pertinent action may be initiated by any citizen or official who deems that the contested act is contrary to the Constitution or the law.

The law shall establish the procedure that may be instituted against the acts and resolutions of Mayors.

Article 203. The term of office of Councilmen and Mayors shall begin on the first of September. Elections to fill these offices shall be held on a date different from that for the election of Deputies and the President and Vice-Presidents of the Republic.

Article 204. In each district there shall be a treasurer, elected by the Council, for a term to be determined by law, and who will be the chief of the office or department for the collection of the municipal revenues and of payments.

The law shall provide that in those districts where the revenues reach a specified amount, an auditing office or department shall function, in charge of an official to be appointed by the office of the Comptroller General of the Republic.

Article 205. Taxes that do not originate outside the district are municipal, but the law may establish exceptions in order that specified taxes may be municipal notwithstanding the fact that they do so originate. Starting from this basis, the law shall establish, with due separation, the national and municipal revenues and expenditures.

Article 206. The State may not grant exemptions from municipal fees or taxes.

Article 207. By legal authorization by the National Assembly and a previous favorable opinion of the Comptroller General of the Republic, municipalities may contract loans to carry out material works or undertakings of an economic character or for social welfare which cannot be defrayed from the ordinary funds of the treasury. The service of such debt may not absorb more than twenty percent of the ordinary revenues of each fiscal year.

TITLE X—PUBLIC FINANCE

Chapter I—Property and Rights of the State

Article 208. The following belong to the State:

1) Property existing in the territory that under any title belonged to the Republic of Colombia;

2) The rights and actions which the Republic of Colombia possessed as owner, within or without the country, by reason of the sovereignty that it exercised over the territory of the Isthmus of Panama;

3) The property, revenues, estates, securities, rights and actions that pertained to the extinct Department of Panama;

4) Vacant and free lands;

5) The subsoil, which may be the object of concessions for the exploitation of its resources as established by law.

Mining property granted and not exploited within the time limit fixed by law shall revert to the State;

6) Salt works, mines, and deposits of all kinds may not be the object of private appropriation, but may be granted in usufruct to natural or juridical persons, in accordance with the law, all without prejudice to lawfully acquired rights;

7) Documents relating to natural history. When these belong to private persons they may be expropriated in the manner prescribed by law;

8) Indian mounds (guacas), the exploration and exploitation of which shall be regulated by law.

Article 209. The following belong to the State and are of public use, and consequently may not be the object of private appropriation:

1) The territorial sea and the waters of lakes and rivers; the shores and banks of the same and of navigable rivers; and ports and estuaries. All such property is for the free and common benefit, subject to regulations established by law;

2) Lands and waters destined for public services of any kind of communications;

3) Lands and waters destined for or that the State may set aside for public irrigation services, hydroelectric production, drainage, and water mains;

4) The air space and the submarine continental shelf corresponding to the national territory;

5) All other properties that the law defines as for public use.

In all cases in which privately owned property may be converted by law into property for public use, the owner thereof will be indemnified.

Article 210. The present owners of property included in sections (5) and (6) of article 208, with respect to which legitimately acquired property rights exist at the time this Constitution takes effect, will retain use of the property (dominium utile) for twenty years under the terms indicated by the law under which the acquisition was effected, but said property will revert to the State without indemnification. After the said twenty years the owners may retain use of the property (dominium utile) under such conditions as the laws may prescribe.

Article 211. Concessions for the exploitation of the subsoil, lands, forests, and for the utilization of waters, means of transportation, and other public service enterprises, shall be motivated by the social well-being.

Article 212. All artistic and historical wealth of the country, whoever its owners may be, constitutes the cultural treasure of the Nation and will be under the guardianship of the State, which may prohibit its destruction, transfer, or exportation, regulate its alienation, and decree such expropriations as may be deemed necessary for its protection, with due compensation to its owners.

It is the duty of the State to protect the artistic native patrimony and to preserve the folklore tradition in their diverse artistic and literary expressions by means of school activities and research agencies that employ scientific methods.

Article 213. The power of issuing currency belongs to the State, which may transfer it, with respect to fiduciary currency, to official or semiofficial banks of issue, in the manner determined by law.

Article 214. There shall be no paper money of compulsory tender in the Republic.

Article 215. The law shall create and regulate official and semiofficial banks, which shall operate as autonomous institutions supervised by the State, and shall determine the subsidiary responsibilities of the State with respect to obligations assumed by these banks.

Article 216. The law will endeavor, insofar as possible, within needs for raising public revenues and protecting domestic production, to cause all taxes to burden the taxpayer in direct proportion to his economic capacity.

Article 217. No indirect tax or increase thereof shall begin to be collected until sixty days after promulgation of the law establishing such a tax or increase.

The National Government, through the office of price regulation, or other official agency that may take its place, shall in every case take appropriate measures so that the application of the preceding article shall not result in detriment to the consumer.

Article 218. There may be established by law, for revenue purposes, official monopolies on imported articles or those not produced in the country.

Upon establishing a monopoly by virtue of which any person is deprived of the right to engage in any lawful business or industry, the State shall compensate in advance those persons or enterprises whose business has been expropriated under the terms of this article.

Article 219. No public expenditure may be made that has not been authorized in accordance with the Constitution or the law.

Likewise, no item may be transferred to an object not established in the respective budget.

Article 220. All receipts and disbursements to and from the public treasuries must be included and authorized in the respective budget of revenues and expenditures. No revenues shall be collected through taxes unless established by law and no expenses shall be paid unless included in the budget.

Article 221. Whenever the National Assembly is in recess and an expenditure for which insufficient funds or no founds have been voted becomes imperative, supplementary or extraordinary funds may be granted

to the respective Ministry. For such purposes, the Cabinet Council shall request an opinion from the Comptroller General of the Republic as to the practicability and suitability of the said appropriation and shall submit the matter to the Permanent Legislative Committee so that it may approve or disapprove it by a majority vote.

All those who intervened in the matter shall be held responsible for their action.

In each case there shall be prepared and sent to the National Assembly a report for the legalization of the appropriation which has been granted. If the Assembly disapproves of any of these, the matter shall be referred to the Supreme Court of Justice to rule on the validity of the appropriation voted and on the consequent responsibilities in the event of invalidation.

Article 222. The execution or repair of national works, the purchases that are made from State funds, or funds of its autonomous and semiautonomous entities, or of the municipalities, and the sale or lease of property belonging thereto, shall be made, except in certain cases specified by law, by public bids.

The law shall establish measures which will ensure in all bids a maximum benefit to the State and full justice in the award.

Chapter II—Comptroller General of the Republic

Article 223. There shall be an independent department of the Executive Organ known as the office of the Comptroller General of the Republic, the mission of which is to supervise, regulate, oversee, and control the movements of the public treasuries and to examine, verify, revise, and audit their accounts. The office of the Comptroller shall not exercise administrative functions not inherent in its internal organization.

The direction of the department shall be exercised by an official known as the Comptroller General of the Republic, assisted by a Deputy Comptroller General, both of whom shall be appointed by the National Assembly for a term to begin on November 1 every four years and within which term they not be suspended or removed except by the Supreme Court of Justice on grounds defined by law.

Both the Comptroller General and the Deputy Comptroller General of the Republic shall be responsible to the National Assembly.

Article 224. The functions of the office of the Comptroller General of the Republic, in addition to those specified by law pursuant to the preceding article, are the following:

a) To conduct the general accounts of the Nation, including that of the public domestic and external debt;

b) To prescribe accounting systems for all national, provincial, and municipal agencies and the manner of rendering accounts for employees who handle public funds;

c) To direct and compile the national statistics;

d) To demand from the corresponding officials reports on the fiscal management of the national, provincial, municipal, autonomous and semiautonomous public institutions;

e) To audit and close the accounts of the officials responsible for all public funds and those of the autonomous and semiautonomous entities;

f) To appoint the employees of its department, according to law;

g) To inform the Executive Organ of the financial condition of the public administration and to submit opinions on the feasibility or convenience of issuing supplementary or extraordinary appropriations;

h) To submit a report of its activities to the National Assembly within the first ten days of each regular legislative session.

TITLE XI—NATIONAL ECONOMY

Article 225. The exercise of economic activities corresponds primarily to private persons. But the State will guide, direct, regulate, replace, or create such activities, in accordance with social needs, and within the standards of the present Title, for the purpose of increasing the national wealth and ensuring its benefits to the largest possible number of inhabitants of the country.

Article 226. In order to accomplish the purposes dealt with in the preceding article, the law shall provide that the following measures be taken:

a) To creat commissions of technicians and experts to study the conditions and possibilities of commerce, agriculture, and industry and to make recommendations for developing them;

b) To promote the establishment of private enterprises that will function in accordance with the recommendations mentioned in the preceding section, by an economic participation in these enterprises by means of autonomous or semiautonomous entities, or by prizes or subsidies, only as long as this is necessary to supplement private capital and within the limits and terms that may be prescribed by law.

As long as there are no autonomous or semiautonomous entities dedicated to the specific purposes dealt with in the preceding section, the economic cooperation of the State shall be authorized in each particular case by the National Assembly, and while in recess, by the Executive with the approval of the Permanent Legislative Committee;

c) To create a Council of National Economy to advise the Legislative and Executive Organs in matters concerning the orientation and development of the national economy;

d) To establish credit institutions designed especially to provide facilities to small merchants, farmers, and industrialists; and

e) To establish theory and practice centers for teaching commerce, agriculture, arts and crafts, including among the latter the manual arts, and for the training of workmen and specialized industrial directors.

Article 227. The State will intervene in any kind of private enterprise, in accordance with regulations established by law, exclusively to enforce the observance of the ends of social justice to which Chapter III, Title III, of this Constitution refers. It will also intervene in the same manner in private public utility enterprises for the following purposes:

a) To regulate the rates for services and the prices of articles of prime necessity, through special agencies;

b) To demand due efficiency in services and adequate quality in the articles mentioned in the preceding section;

c) To coordinate services and the production of articles.

The law shall define public utility enterprises and articles of prime necessity.

Article 228. The State shall create, through autonomous or semiautonomous entities or by other suitable means, public utility enterprises which have not been established by private initiative. In the same manner, when necessary to the collective welfare, it will assume ownership by expropriation and indemnification of public utility enterprises belonging to private individuals, provided that in each case this is authorized by law.

Article 229. It is a duty of the State to promote and supervise producers' and consumers' cooperatives, and for these purposes it shall establish such enterprises as are necessary.

Article 230. Cultivation of the soil is a duty of the owner to the community and it will be regulated by law so as not to hinder or stagnate the utilization of the land.

Article 231. No foreign government or foreign official or semiofficial entity or institution may acquire title over any part of the national territory.

Article 232. No foreign natural or juridical person, or national juridical person having foreign capital wholly or in part, may acquire ownership of national or private lands situated at a distance of less than ten kilometers from the frontiers or the ownership of islands which are under the jurisdiction of the Republic. Nevertheless, vested rights existing at the time this Constitution becomes effective will be respected; but the respective rights may be expropriated at any time upon payment of the corresponding indemnity.

Article 233. There shall be no property that may not be freely alienated, or irredeemable obligations, except as provided in article 60. Nevertheless, temporary limitations on the right of alienation and conditions or terms that suspend or postpone the redemption of obligations will be valid for a maximum period of twenty years.

Article 234. Only the following may engage in retail trade:

1) Panamanians by birth;

2) Individuals who, at the time this Constitution takes effect, are naturalized and married to a Panamanian national or who have children by a Panamanian national;

3) Naturalized Panamanians, not included in the preceding case, after five years from the date of obtaining their final papers;

4) Naturalized Panamanians not covered by the preceding sections who, at the time this Constitution takes effect, are engaged in retail trade according to law, and foreigners in the same circumstances;

5) Juridical persons formed by Panamanians or by foreigners authorized to engage in it individually in accordance with this article, as well as those who, although not constituted in the manner herein provided, are legally engaged in retail trade at the time this Constitution takes effect. Foreigners not authorized to engage in retail trade may, however, participate in those companies which sell their own manufactured products.

Nationals of those States which have in the Isthmus of Panama enterprises or organizations in which Panamanians may find opportunities for work may engage in retail trade, provided said nationals legally reside in territory under the jurisdiction of the Republic.

Retail trade is defined as engaging in sales to the consumer or as to the representation or agency of producing or commercial firms, or in any other activity which the law classifies as pertaining to such trade.

Excepted from this rule are farmers and manufacturers in manual industries who sell their own products.

The law shall establish a system of supervision and sanctions to prevent those persons who pursuant to this article may not engage in retail trade from doing so through interposed persons or in any other fraudulent manner.

Article 235. Wholesale trade is defined as that which is not included in the preceding article, and it may be engaged in by any natural or juridical person. The law may however, whenever it is necessary to protect wholesale trade operated by Panamanians, restrict the exercise of such trade by foreigners. But these restrictions shall in no case affect foreigners who, at the time the pertinent provisions go into effect, are engaged legally in wholesale trade.

In the event that wholesale trade is restricted, the citizens referred to in the second clause of section 5 on the preceding article may continue to engage therein.

Article 236. Any combination, contract, or action which tends to restrict or prevent free trade and competition and which has the effect of a monopoly to the detriment of the public is prohibited in commerce and industry.

This includes the operation by a single natural or juridical person of a series or chain of commercial retail establishments in a manner that ruins or tends to eliminate

the competition of small merchants or industrialists.

Any individual may take action before the courts to contest the formation of any company or syndicate or the execution of any combination, contract, or action which tends to establish monopolistic practices. The law shall regulate this matter.

Article 237. The law shall regulate hunting, fishing, and the exploitation of forests, with special care in protecting and conserving the fauna and flora of the country.

Article 238. Only the State may operate games of chance and activities involving betting.

The law shall regulate all games of chance and betting activities, whatever the system may be.

Article 239. There may be no private monopolies.

TITLE XII—RIGHTS AND DUTIES OF SERVANTS OF THE STATE

Chapter I—Fundamental Provisions

Article 240. Public officials and employees shall be of Panamanian nationality, except as provided in this Constitution.

The appointment and removal of officials and employees is not the absolute and discretional prerogative of any of the organs of public power, except as is provided in this Constitution. The service of the State must have as its basis the competency and morality of the official and employee, and his irremovability, except for removal for cause determined by law and declared by the courts.

Chapter II—Administrative Career

Article 241. An administrative career is established in accordance with the following principles:

1) Officials are in the service of the State and not of a political party or group;

2) In the places and during hours of work proselytizing activity shall be unlawful, and as such, punishable by law;

3) The law shall determine the conditions for entrance in the administration by the method of competition based on background, credits for studies made and examinations in theory and practice, in accordance with the nature of the position involved; the duties of the officials or employees and the recourses against decisions that may affect them.

It shall likewise establish rules relative to tenure, promotion, suspension, transfer, removal, and retirement.

Priority shall be given for a position to which a competition refers, to an applicant who, in equal circumstances as to ability and integrity, proves that he is in a condition of greater economic necessity;

4) No investigation of irregularities, derelictions or offenses shall be considered completed as long as the defendant is not able to present his proof and formulate his defense.

Article 242. The following do not form a part of the administrative career:

a) Officials whose appointments are to be made in accordance with the provisions of this Constitution;

b) Subordinate officials and employees of the Presidency of the Republic;

c) The Secretaries of the Ministries and the personnel immediately attached to the personal offices of the Ministers;

d) The chiefs of diplomatic missions of the Republic;

e) The Governors of Provinces and the Mayors of Districts;

f) The Commandants of the National Police Corps;

g) The Secretary, Assistant Secretaries, and the rapporteurs of the National Assembly;

h) The Director of the National Post and Telegraph Service;

i) The Administrator General of Internal Revenue;

j) The chiefs of the autonomous and semiautonomous departments;

k) Lawyers and other technicians required for special or temporary services in the Ministries and the autonomous and semiautonomous institutions;

l) Workers in education, the public force, national or municipal works, and other analogous branches which are governed by a special organic statute.

Chapter III—The Judicial Career

Article 243. A judicial career is hereby established. The law shall regulate it according to the principles set forth for the administrative career in articles 241 and 242. The office of Magistrate of the Supreme Court of Justice, to be filled in accordance with article 165, is excepted from this provision. Officials, clerks, and process servers (porteros) in the service of magistrates and judges and who may be freely appointed and removed by them, are also excepted.

Chapter I—General Provisions

Article 244. The prohibitions with respect to Deputies as set forth in this Constitution in article 117 shall apply to officials having authority and jurisdiction throughout the Republic, with reference to the department of which they are directors or immediate chiefs. These prohibitions shall also apply to municipal officials in their respective districts.

Article 245. There shall be no office or employment in the Republic, the duties of which are not set forth in detail by law or regulations.

Article 246. No public employee may receive two or more salaries paid by the Nation, except in special cases relating to national education.

Article 247. Whenever, in extraordinary cases, a general reduction in the salaries of public employees is necessary, the provisions of articles 116, 147 and 173 of this Constitution will not be applicable.

TITLE XIII—THE PUBLIC FORCE

Article 248. All Panamanians are bound to bear arms whenever so demanded by public necessity for the defense of national independence and the territorial integrity of the Nation, with the exceptions noted in article 17.

Article 249. The law shall organize separately the military service and that of the National Police.

Article 250. The Public Force is not deliberative. It may assemble only by order of legitimate authority and may not address petitions except on matters that are related to the service, in accordance with the law.

Article 251. The Government alone may possess arms and implements of war. Previous permission is required from the Executive for their manufacture, importation, and exportation. The Legislator shall define what arms are not considered as arms of war, and shall regulate their importation, manufacture, and use.

TITLE XIV—AMENDMENTS TO THE CONSTITUTION

Article 252. This Constitution may be amended only by a legislative act enacted by the National Assembly in regular session, which must be published and transmitted by the Executive to the Assembly in the first regular sessions following new elections for Deputies, so that it may again be debated and approved by an absolute majority of its members.

The Executive may object to an amendment only when he receives it for its promulgation after the debates of the second regular Assembly.

Final provisions

Article 253. All laws contrary to this Constitution are hereby repealed.

All laws, legislative decrees, decrees, regulations, orders and other provisions in force at the time this Constitution is promulgated shall continue in effect insofar as they are not contrary to the Constitution or to laws hereinafter enacted.

Transitory provisions

Article 254. The Supreme Court of Justice shall be increased in accordance with the provisions of this Legislative Act on November 1, 1956, and shall assume the functions of the Contentious-Administrative Tribunal which is thereby terminated and whose magistrates shall become members of the Court, the first to be appointed after this amendment takes effect to serve for a term of ten years and the other two to serve until the end of their respective terms. The magistrates of the Court who are in office when this amendment takes effect shall serve until the end of their corresponding terms.

After this Legislative Act takes effect, appointments of magistrates shall be made as follows:

a) In 1956, one for ten years, one for twelve, and one for fourteen;

b) In 1958, one for fourteen years and one for sixteen;

c) In 1960, one for sixteen years and one for eighteen;

d) In 1962 and thereafter, one every two years for eighteen years.

Article 255. The electoral court shall be installed to commence its work on January 1, 1957.

Article 256. The first appointments of magistrates of the electoral court shall be made as follows: four years for the appointee of the National Assembly; eight years for the appointee of the Executive Organ; and twelve years for the appointee of the Supreme Court of Justice.

(*Note:* Transitory Articles 258 to 271 of the Constitution as enacted in 1946 have been repealed, for having served their purpose, by the Legislative Act of October 24, 1956, amending the Constitution.)

This Constitution was enacted in the Hall of Sessions of the Second National Constituent Assembly on March 1, 1946.

The amendments enacted by the two Legislative Acts of October 24, 1956, are incorporated in the text as here presented.

CAMPAIGN OF TERROR AND REPRESSION AGAINST RUSSIAN JEWS

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 15 minutes.

Mr. PODELL. Mr. Speaker, I have just received some information that alarms and appalls me. I know it will shock and sadden you and all our colleagues to hear the news a phone call with several Russian Jews yielded this morning.

The Russian Government is using the visit of our President as an excuse for a campaign of terror and repression of intensity reminiscent of Stalin's heyday.

It was not enough for the Soviet Government to imprison men, women, and children just for being Jewish. It was not enough for the Soviet Government to torture Jews on the pretext of trumped up charges. It is not enough for the Soviet Government to fire people who want to emigrate to Israel and then imprison them for not working. It is not enough for the Soviet Government to commit people who want to go to Israel to mental institutions.

It was not enough, dear colleagues, because all these techniques have had no effect. The cries of Russian Jews have just gotten louder and more frequent. The Jewish community of the Soviet Union refused to be silenced by these

techniques. The cries of Russian Jews have only gotten louder and more fervent—Let our people go.

World opinion, led by the Congress of the United States, has protested this persecution and has been successful in some small measure to help alleviate the plight of Russian Jews. The Russian Jew you spoke with this afternoon, Mr. Speaker, Boris Kochebievsky, after 3 years in a Russian concentration camp is now a free man—thanks to public pressure. That is why some Russian Jews felt that President Nixon's forthcoming trip to Moscow would focus world attention on their plight and provide the President with an opportunity to aid Russian Jews, to end the harassment of Jews by the Soviet Government.

But, unfortunately, sir, the opposite is true. The Russian Government is using the Nixon trip as a pretext to harass more Jews. It is using the President's trip to escalate the repression and persecution of Jews.

Just this morning, I received news that the nine leading young Jewish activists in Moscow were called to their local army draft boards for their physicals. Most of these men have already served in the army. They are members of reserve units that are not being called up now. Their draft boards even had to change their military papers in order to induct them. They are members of reserve units that are not being called up now.

However, these Jews are being inducted starting Monday just because they are Jews. They will be stationed out of Moscow so that they will have no opportunity to focus world attention on the tyranny and antisemitism of the Russian regime.

These men: Gavriel Shapiro, Vladimir Lerner, Victor Yechot, David Markish, Dan Raginsky, Pavel Abramovitch Mark Nashpitz, Mechiel Klatchkin, and Shmuel Gurvetz are being deprived of the limited freedom they have because our President is taking a trip to Moscow.

None of these men are criminals—they are just Jews who want to enjoy freedom.

But Moscow is afraid of such courageous people. Moscow imprisons such people in the army, lest their fabric of lies be torn asunder by these Jews who are willing to stand before the world and say: "Let our people go. Let us be free."

Mr. Speaker and colleagues, I urge you to telegram the President to protest. I beg of you to make sure that the Government of the Soviet Union knows that the U.S. Congress will not bury the cold war if it means burying Russian Jews as well.

Telegram Mr. Podgorny, Mr. Breshnev, and Mr. Kosygin and tell them that the U.S. Congress will not accept a detent if it means that Jews with the courage to stand for freedom will be dragged off to the army not to be heard of for 2 months. if ever.

Write Mr. Nixon and draw his attention to the tragic inadvertant consequences of his effort to promote world peace. Remind him that the leaders of the free world went to Munich to preserve and promote world peace. Last time the casualties were measured in the millions. This time, so far, only nine men have been dragged off to the army. But that is only so far—unless we make our views heard who knows what tomorrow will bring?

FARMERS' ECONOMIC PROSPECTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Iowa. Mr. Speaker, I submitted a request to the Library of Congress relative to the economic prospects of farmers in this country in 1972 and the future. The reply by Walter W. Wilcox, Senior Specialist in Agriculture at the Library of Congress, contains a number of interesting statistics and bases for the conclusions reached. I think the analysis presented would be of considerable value to other persons interested in this subject matter and I am therefore placing it in the CONGRESSIONAL RECORD where it will be available on a more widespread basis. It is as follows:

FARMERS' ECONOMIC PROSPECTS—A STATEMENT PREPARED FOR THE HONORABLE NEAL SMITH

(By Walter W. Wilcox)

Farmers' net income in 1972 is expected to set a new record. Yet it will be only a little higher than in 1947.

Can farmers expect to move forward to higher incomes in the years ahead or are they doomed to drop back to lower incomes as they did in the 1950's? This is the 64-dollar question in every farmer's mind as he plants his crops this spring.

What happened in the 1950's that caused farm prices and farm income to drop while other prices and workers' wages continued to rise?

Farm prices little above 1947–49. Farm prices in 1971 were only 5 percent higher than in 1947–49, as compared with an increase of 44 percent in all wholesale prices, an increase of 73 percent in the consumer price index; and an increase of 183 percent in the hourly wages paid nonagricultural workers in private employment.

Realized net farm income in 1971 totaled $15.7 billion, the same as in 1970, but was $1.1 billion lower than in 1969 and $1.4 billion less than in 1947, a record established 24 years ago.

Farm income dropped 37 percent 1947–57. In the ten years following 1947, net farm income declined 37 percent. If we look at the record, we find that there was no great increase in crop land cultivated. There was no sharp drop in the demand for food and fiber. Yet farmers net income dropped from $17.1 billion in 1947 to $12.9 billion in 1950, and reached a post-World War II low of $10.7 billion in 1957.

Are we about to see this record repeated as the war in Vietnam is wound down? Or is there a new national and world situation facing farmers?

Farm prices have increased 12 percent in the past four years in contrast to declining more than 15 percent in the 10-year period, 1947 to 1957. Are farmers now entering a new and happier period? Will farm prices at last keep pace with other prices in our economy?

Prices received for farm products declined by 15 percent in that earlier 10-year period, 1947 to 1957, at a time when prices paid by farmers, interest, taxes and wage rates increased 20 percent.

People left farms in record numbers. In the light of the continuing severe cost-price squeeze, it is not surprising that about 1,000,000 people left the farms each year. By 1957 the farm population was almost a third less than 10 years earlier.

The failure of farm prices and income to recover until now has contributed to a continuing decline in the farm population and in the number of farm workers.

We now have 9.4 million people living on farms as compared with 25.8 million 24 years ago. The number of farm workers also has declined by more than one-half, from 10.4 to 4.4 million workers.

Farm production increased regardless of low prices. When one looks for explanations for the long decline in farm prices and income after World War II, he finds them in the unparalleled productive capacity of American agriculture.

In spite of the lower prices and declining farm income, farmers continued to buy more fertilizer, more improved seeds, more pesticides and more machinery each year, and they continued to increase production per acre and per hour of labor.

In the past 24 years U.S. farm production has increased 60 percent. Crop production per acre has increased 67 percent, and output per hour of man labor used on farms is now over four times what it was in 1947.

Farm programs prevented even greater decline. Although United States personal income after taxes increased from $170 to $741 billion during the past 24 years, total population increased only 44 percent—substantially less than the increase in farm production.

It should be clear from this brief examination of the historical record that the demand for food and fiber is more closely related to the increase in population than to the increase in consumers' incomes.

Continued overabundant farm production, in spite of low prices and low-farm income, kept farm prices and farm income depressed, even though rapid increases occurred in consumer incomes.

Farm prices and farm income would have declined even further in the 1950's, except for the farm price-support loans and the accumulation of large Commodity Credit Corporation inventories of crops that could not be sold in commercial markets at the price-supported levels.

CCC loans and inventories, acquired in price-support activities, increased from $1 billion in 1946 to a record $8.2 billion in 1955. After 1959, CCC loans and inventories were gradually reduced by increased exports and more effective adjustment programs until they reached a low of $3.4 billion in 1947.

Record 1972 net farm income result of special factors. Farmers are looking forward to the best income on record this year largely because of record government payments and favorable livestock prices. Increased exports, acreage-adjustment programs, government price-support loans, and a short corn crop due to extensive corn-blight damage—all have been important in achieving an improved balance in crops and livestock in recent years.

Agricultural exports have more than doubled in the past 24 years. And, fully as important, 50 to 60 million acres of crop land have been held out of production by government price-support and adjustment programs in four of the last five years.

Farmer's production costs also will increase less in 1972 than in recent years. The inflation of 1969–71 has been slowed by the national wage and price-control program. In the past four years, prices paid by farmers for supplies increased even faster than farm prices—while farm prices increased 12 percent, prices paid by farmers for purchased items increased by 17 percent.

The expected increase of $1.5 to $2 billion in farmer's net income in 1972 over 1971 is the result of an increase of about $2 billion in livestock receipts, $1.25 billion in government payments, and a slower rate of increase

in production expenses. Government payments in 1972 are expected to account for close to 25 percent of farmers' net income, a new record.

Uncertainties ahead. A full recognition of the factors which account for the record net farm income in 1972 underscores the uncertainties which lie ahead.

Farm exports set a new record in 1971 and will maintain substantially the same level in 1972.

Farm production also set a new record in 1971 adding to carry-over stocks of wheat and feed grains. CCC price-support loans, at record levels for feed grains, are providing a floor under grain prices in 1972.

Farm program payments in 1972 of more than $4 billion, will set a new record.

Livestock prices will be at or near a new record for the year, in part as a result of fewer hogs being marketed during the low point of their three-to-four-year production cycle.

Crop production in 1972, on the basis of the March 16 planting intentions report, as in the 1950's will be excessive in relation to market outlets available, in spite of the 1972 set-aside programs.

Analysts in the Department of Agriculture and the Land-Grant Colleges tell us that population is increasing both at home and world-wide at a rate which precludes much improvement in the world's diets in the next decade.

Yet, consumers' incomes, especially in the western world and in the Soviet Union, are rising rapidly and the demand for meats and other livestock products is growing substantially faster than population increases.

United States farming is and will continue to be an expanding industry. It now employs 4.4 million workers—more than the combined employment in transportation, the steel industry and the automobile industry.

Agriculture's assets total $335 billion, equal to about three-fifths of the value of capital assets of all corporations in the United States.

One out of every five jobs in private industry are related to agriculture.

Does this great industry have a brighter future than its experience of the past two decades?

Excess productive capacity to continue. Agriculture's economic future depends on many developments. Export markets must continue to expand. Inflationary forces must be held in check. And, effective production adjustment programs must be reinstituted to avoid further build-up of surplus stocks as occurred in the 1950's.

Many people ask how much longer it will be necessary to hold 50 million acres of crop land out of production to avoid producing more than can be marketed at satisfactory prices? There is a division of opinion on this question. A few analysts believe that crop yields, which have increased about 67 percent in the past 24 years, will not continue to increase at this rate in the future. Cotton yields already have dropped back from their peak levels in 1963–65.

A majority of analysts, however, believe that technological advances will continue at recent levels. They believe that crop yields will continue to increase for an indefinite period. They expect a continued uptrend in agricultural exports, with modest outlets opening in the Soviet Union and China. But the grain-export capabilities of other countries continue to expand and increased exports will not provide an adequate outlet for the full productive capacity of United States agriculture in the near future.

Most analysts are unable to set a date when all the crop land suited to grain production in the United States can be cultivated without oversupplying markets. They conclude that to avoid a return of the low prices and low-farm incomes of the 1950's national policies which hold inflationary forces in check are needed. International trade policies that continue to expand foreign markets are needed. And, a more effective production-adjustment program than has been in effect in 1971 and 1972 is needed.

MAKING THE SUMMER CAMPS SAFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. DANIELS) is recognized for 5 minutes.

Mr. DANIELS of New Jersey. Mr. Speaker, who has not seen a gleeful youngster playing ball run out into the street after his toys unaware of the dangers of a moving car or motorcycle? A child enjoys his activities oblivious of the imminent hazards that might cause him real harm. That is why children are cared for and supervised. But what about their welfare at summer camp? Do you know what precautions are taken when you as parents, grandparents, aunts, and uncles are not there?

The sad fact is that no one does, in many cases. An advertising brochure is designed to show off a camp to its best advantage. In reality the facilities might be in poor repair, might be unsanitary, or might be laid out in a dangerous way such as a play area near a rifle range.

Each summer, many children are drowned, hundreds of accidents occur, and 250,000 youngsters require medical attention in hospitals for longer than a day and a half. There is no estimate of the number of deaths or injuries that go unrecorded because nowhere is this required.

Mr. Speaker, my colleagues must know that there is only one State in the Nation that has a comprehensive law protecting our children in camps—Michigan—the State, not coincidentally with the lowest accident and drowning rate. Congress has legislated safety and health regulations for 80 million adult workers, including camp personnel, while those least able to guard themselves are left without help.

I want to affirm my support for the Senate version of the Youth Camp Safety Act, now title 19 of the Higher Education Act currently in conference. I also want to commend my colleague from New York (Mr. PEYSER), for his unfailing support of this bipartisan effort for all American youngsters. The recent Washington Post editorial is also convinced that the Senate version is the best approach. The article follows:

MAKING THE SUMMER CAMPS SAFE

Summer comes, and with it the call of the outdoors. Among those answering it will be an estimated eight million children who will go to some 11,000 recreational camps across the nation. The parents or guardians of these young campers send them off for such pleasures as hiking, canoeing, swimming and horseback riding, trusting that the children are in trained hands and safe conditions. The trust is generally well placed; large numbers of camps are run with high regard for safety and staffing. But not all.

Testimony in the past few years before both Senate and House committees suggests that large numbers of camps are risky operations. Rep. Benjamin Rosenthal (D-N.Y.), an early advocate for camp safety legislation, has noted that 19 states have no regulations regarding camp safety, 40 states have no standards for counselors or waterfront personnel and 29 require no inspections of camp facilities. Rep. Edith Green (D-Ore.), has pointed out that there are 250,000 youngsters who are injured in camps and require medical attention in hospitals beyond a day and a half.

With much of this in mind, the House had an opportunity last November to pass strong legislation—offered by Rep. Dominick Daniels (D-N.J.)—that would have allowed federal standards to be set, standards that were broad and fair. But the House rejected the bill, approving instead a weak proposal that called for a study. Calling for a study is an old congressional tactic that is often a refined way of dodging or stalling. In this case, how much more study is needed? Countless witnesses, from the American Camping Association and the Boy Scouts to parents of children killed in needless camping accidents, have recited in testimony all the facts Congress needs to know in order to act.

Proposing the stalling tactic of the "study" was Rep. J. J. (Jake) Pickle (D-Texas). "Everyone is in favor of camp safety," he said, ". . . but we must mix in some judgment with our fervor." Mr. Pickle says he is an Eagle Scout and therefore has the kind of judgment needed. The camp operators in Texas that Mr. Pickle speaks for and who want no federal standards may indeed be offering the ultimate in safety, but what about operations elsewhere? For that matter, if a camp is safe and well run, what does it have to fear from federal standards? To its credit, the American Camping Association, which accredits only about 3,500 out of the 11,000 camps, backed the Daniels bill.

A conference committee, now meeting on the Higher Education Act, will soon discuss summer camp safety. Fortunately, the Senate passed (51–0) an amendment sponsored by Sen. Abraham Ribicoff which is far superior to the study approach of the House, so the conference committee has this to work with. Though not as strong as the defeated Daniels bill, the Ribicoff approach would provide funds for states that wished to comply with standards set by HEW. Clearly, this is needed, rather than more study. If there are already federal standards for occupational safety and coal mine safety (enforcement is another question), why not standards for summer camp safety? Mrs. Green put it another way: "We pass all kinds of legislation to protect birds or four legged animals. Why not consider the 250,000 youngsters that are injured each year?"

PUBLIC INTEREST IN FACTS ON U.S. COMPANIES IN NAMIBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, the resolution which the Episcopal Churchmen for South Africa intends to present at the annual meeting of the American Metal Climax, Inc. on May 4 has come to my attention. The resolution seeks information on the company's operations in Namibia in regard to: First, the history of its involvement; second, relations with workers; and third, relations with the illegal South African authority.

Mr. Speaker, I regard the furnishing of such information as the minimum required by American companies operating in Namibia and endorse this effort.

I wish to insert for the thoughtful con-

sideration of my colleagues a copy of the proxy statement and of the resolution.

The article follows,

PROXY STATEMENT OF EPISCOPAL CHURCHMEN FOR SOUTH AFRICA

This Proxy Statement is furnished by Episcopal Churchmen for South Africa ("ECSA") in connection with the solicitation of proxies for use at the annual meeting of shareholders of the American Metal Climax, Inc. to be held on May 4, 1972, at 2:15 p.m. at the Barbizon-Plaza Hotel, 101 West 58th Street, New York, N.Y.

Episcopal Churchmen for South Africa is a non-profit corporation organized under the laws of the State of New York. The directors of ECSA are:

William O. Johnston, president, New York City; Oscar J. Callender, Jr., vice-president, Hollis, N.Y.; May Dikeman, secretary, New York, N.Y.; Anne B. O'Brien, treasurer, White Plains, N.Y.; Ann Thacher Anderson, Tappan, N.Y.; and Elaine Wyatt, New York City

ECSA intends to designate William Johnston, president; May Dikeman, secretary; and Edgar Lockwood, chaplain, to solicit proxies. No additional compensation for their services is contemplated apart from any regular salaries they now receive (Mr. Johnston is ECSA's only salaried employee), other than reimbursement for their reasonable expenses.

The cost of solicitation will be borne by ECSA which expects to obtain contributions toward such costs from contributions by its members, shareholders and other persons interested in the proposal presented.

ECSA is the owner of three shares of common stock of American Metal Climax, Inc.

ECSA will not attempt to disseminate its Proxy Statement to each shareholder of the Corporation since to do so would be too costly. It will seek to contact selected shareholders of the Corporation, either by mail or in person, or otherwise, and when it does so it will furnish a copy of its Proxy Statement.

However, a copy of ECSA's resolution, together with a short statement in support thereof, will appear in the Proxy Statement of the Corporation and consequently ECSA will be able to communicate with all of the Corporation's shareholders and each shareholder will have the opportunity to vote on the resolution put forward by ECSA.

Shareholders may attend the meeting and vote their shares in person. Shareholders may also vote by proxy and an opportunity is presented on the Corporation's form of proxy to allow shareholders to vote on ECSA's proposal. They may vote in favor of ECSA's proposal by indicating their approval of the proposal in the appropriate box on the Corporation's Proxy and by executing and returning the proxy to the management of the Corporation.

In addition, ECSA may, in some instances, provide its own form of proxy concerning its proposed resolution which may be executed and returned to ECSA. Any person giving a proxy may revoke it at any time prior to its exercise either by giving notice of revocation to the Secretary of the Corporation or by executing and returning a subsequently dated proxy. The effect of a shareholder executing and returning ECSA's form of proxy after he has already executed and returned the Corporation's proxy will be to revoke his prior proxy solely as to ECSA's proposal and will not have any effect on the other matters on which the shareholder has already voted via the Corporation's proxy. Each share is entitled to one vote. The vote of a majority of those shares voting will be necessary to approve ECSA's resolution. The number of shares entitled to vote will be found in the Corporation's Proxy Statement. The record date for determining which security holders are entitled to vote at the annual meeting is also to be found in the Corporation's Proxy Statement. Any proxies which ECSA receives will be voted at the meeting in accordance with the directions given by the shareholder.

PURPOSE OF SOLICITATION

ECSA is furnishing this Proxy Statement in order to solicit support for a resolution which it intends to present at the Corporation's annual meeting. The resolution asks that the Board of Director's of the Corporation provide the shareholders with information regarding the Corporation's interest in the Tsumeb Corporation in Namibia (South West Africa) in which the Corporation has a 29.2% interest. The information requested pertains to the history of the Corporation's involvement with Tsumeb Corporation; relations with employees, specified by race; and relations with the government of the Republic of South Africa which controls the territory of Namibia.

Namibia is a territory lying on the South Atlantic coast of the African continent, some 318,000 square miles in extent, or about the size of California, Oregon and Washington State put together. Its population is about three-quarters of a million black Africans, a few thousand Coloured people of mixed race and some 95,000 whites, these last controlling the commerce, industry, wealth and politics of the territory.

The lawful authority in Namibia is the United Nations. But the territory is occupied by the government of the Republic of South Africa in defiance of the United Nations.

Namibia (then known as South West Africa) was part of the German Empire, having been allotted the Kaiser's government following the Berlin Conference of 1885. During World War I, South African troops—then under the British flag—defeated the German troops there. In 1920, Namibia was placed under the League of Nations Mandate system and the Mandate was conferred on the British Crown to be administered by the then Union of South Africa.

The terms of the Mandate contained the provision that "the Mandatory shall promote to the utmost the moral well-being and social progress of the inhabitants of the territory" in accordance with the League Covenant which directed "there shall be applied the principle that the well-being and development of such peoples form a sacred trust of civilization".

South Africa (which became a Republic outside the British Commonwealth in 1961) has refused to recognize the United Nations as the successor to the League of Nations and has virtually incorporated Namibia, despite persistent United Nations resolutions and advisory opinions of the International Court of Justice. South Africa has not allowed Namibians to petition before the United Nations and has refused to render annual reports on its administration of the territory, as required by the Mandate.

On July 18, 1966, the International Court of Justice, after six years of argument and by an 8 to 7 vote, dismissed a case against South Africa for its governance of Namibia. South Africa took this non-judgment as a vindication for its occupation and has extended its control over and its apartheid laws into Namibia.

On October 27, 1966, the General Assembly of the United Nations, by a vote of 114 to 2 (the United States of America concurring; South Africa and Portugal only voting 'No') terminated the Mandate for South Africa and itself assumed that trust. The U.N. set up an eleven-member body, the Council for Namibia, to administer the territory, but that Council has not been able to exercise its authority in Namibia because of South Africa's adamant stand.

In January, 1970, the Security Council of the United Nations reaffirmed the inalienable right of the people of Namibia to freedom and independence and declared the presence of South African authorities in Namibia to be illegal. The United States of America voted "Yes."

On May 20, 1970, the United States Ambassador to the United Nations stated:

"The United States will henceforth officially discourage investment by U.S. nationals in Namibia.

"Export-Import Bank credit guarantees will not be made available for trade with Namibia.

"U.S. nationals who invest in Namibia on the basis of rights acquired through the South African Government since adoption of General Assembly Resolution 2145 (October 27, 1966) will not receive U.S. Government assistance in protection of such investments against claims of a future lawful government of Namibia.

"The United States will encourage other nations to take actions similar to these."

On June 21, 1971, the International Court of Justice handed down an advisory opinion, declaring South Africa's presence and administration in the territory of Namibia to be illegal and that member states of the U.N. are obliged to recognize that illegality and "to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of, or lending support or assistance to, such presence and administration."

On October 20, 1971, the Security Council of the United Nations—the United States concurring, endorsed this opinion of the World Court.

Namibians—those in exile, whether associated with active liberation movements or not, and those within the territory—hailed the World Court decision and there began a surge of Namibian nationhood which continues to grow.

On June 30, 1971, two black Lutheran leaders, Bishop Leonard Auala and Moderator Paulus Gowaseb, on behalf of their almost 300,000 adherents, issued an Open Letter to South African Prime Minister Balthazar Johannes Vorster. They listed the grievances of the Namibian people: intimidation by racist policies; denial of free speech, movement and voting rights; forced separation by tribal groups; the contract labor system—widely practiced in the territory by industrial, commercial and farming interests of the white minority—which separates black men from their wives and families. Bishop Auala and Moderator Gowaseb also called on South Africa to work with the lawful authority—the United Nations—to bring about independence for their country.

Opposition to foreign rule surfaced again in a general strike by contract laborers on December 13, 1971, which forced the closing down of enterprises and services throughout the territory—among them the operations of Tsumeb Corporation. In all, 13,000 workers returned to Ovamboland, an area in northern Namibia which had been designated a 'Homeland' by the South African government.

South African police reinforcements and army troops (this latter a violation of the Mandate) were rushed into Ovamboland to stem the rising tide of expression by the Namibian people. Twelve workers' leaders were put on trial in Windhoek, capital of the territory, for the crime of withholding their labor and for allegedly intimidating others to do so.

On January 20, 1972, the South African Minister of Bantu Administration and Development announced that a new labor system had been introduced, by a 'treaty' between his government and black legislative councilmen of Ovamboland and neighboring Kavango. Workers and their strike leaders were not consulted. However, the day before the 'treaty' signing the South African government officials did consult with

representatives of white mining, farming and commercial interests.

The Right Reverend Colin O'Brien Winter, Anglican bishop in Namibia and a citizen of the United Kingdom, and three associates—among the very few whites in the territory openly supportive of the Namibian people—were ordered out of Namibia on March 4, 1972. Both Bishop Winter and New York City Judge William H. Booth (who attended part of the trial of the twelve workers' leaders as an observer for the International Commission of Jurists) testify to the ongoing determination of the Namibian people for independence and to the fact that rather than being content with some superficial changes to the contract labor system the black workers of Namibia are continuing their resistance to a form of serfdom which is an anachronism in the world today.

The United Nations Security Council spoke once more about Namibia on February 4. It instructed Secretary General Kurt Waldheim to contact all parties concerned to establish conditions to enable the people of Namibia to exercise their right to self-determination and independence. The Secretary General did visit Namibia and was presented with petitions by the coalescent National Convention of Namibia, representing black and brown Namibians.

The Security Council passed another resolution on February 4, 1972. This condemned the repression of workers and called upon ". . . all States whose nationals and corporations are operating in Namibia . . . to use all available means to ensure that such nationals and corporations conform in their policies of hiring Namibian workers to the basic provisions of the Universal Declaration of Human Rights".

This Declaration speaks to a vast range of freedoms: choice of employment; protection against unemployment; equal pay for equal work; just and favourable remuneration; welfare and standards of living; the right to organize trade unions; life, liberty and security of persons.

The Namibian people are struggling non-violently for their independence, after living for almost a century under foreign domination, exploitation and military control.

In our opinion it is not in accord with the declared purposes of the American nation that any person or entity of this country take part in or profit from such conditions as now obtain for the Namibian people.

RESOLUTION

Whereas, some stockholders believe from information now publicly available that United States corporations should no longer conduct business in Namibia (South West Africa), where the Republic of South Africa continues to administer that territory in defiance of the United Nations and the opinion of the International Court of Justice;

Whereas, specific information is vital for stockholders to make an informed decision about this Corporation's involvement in Namibia and South Africa;

Whereas, it is the right of a stockholder to have access to information about the Corporation's business unless it would injure the competitive position of the company.

Therefore be it resolved, that the shareholders request the Board of Directors to provide a full written report to the shareholders within four months of the date of the 1972 annual meeting on the Corporation's involvement either directly or indirectly through its subsidiaries and affiliates in Namibia and South Africa. This report shall include the following items, provided that information directly affecting the competitive position of the Corporation may be omitted and further provided that the Board need not spend funds in excess of what is reasonably necessary to compile the report:

I. HISTORY

a. A history of the Corporation's involvement in Namibia and South Africa since 1948, including: (1) the legal form of ownership of the operations conducted by the Corporation, its subsidiaries and/or affiliates; (2) annual investment of capital broken down by sources within and without Namibia and South Africa; (3) annual profits with detailed statements of supporting data; (4) numbers of employees broken down by race (Africans, Asians, Coloureds, Whites); (5) contractual relations with the South African government; (6) taxes paid to the South African government.

b. A listing and explanation of political, educational and charitable grants and gifts made since 1948 by the Corporation, its affiliates and/or subsidiaries within or for the benefit of Namibia, Namibians, South Africa or South Africans.

II. RELATIONS WITH WORKERS

a. A detailed listing of current wages and employee benefits by functional job description comparing African, Asian, Coloured and White workers. A summary and comparison of wage rates, fringe benefits and promotions since 1948 for each category of employees by racial group.

b. A description of grievance procedures and of Work Committees, if any, for African and other non-white workers and of any trade union contracts or informal understandings which restrict employment possibilities for African, Coloured or Asian employees.

c. A description, broken down by race, of technical training, general education, legal assistance, housing or other programs provided by the Corporation for workers or their families.

d. A description of any investment or plans for investment by the Corporation, its affiliates and/or subsidiaries in the "Border Areas" or Homelands proper.

e. A detailed description of the policy and practice of the Corporation, its affiliates and/or subsidiaries as to the recruitment of management and workers from outside of South Africa or Namibia for work within South Africa or Namibia.

III. RELATIONS WITH THE GOVERNMENT

A description and explanation of those South African laws which the South African government enforces or attempts or purports to enforce so as to directly affect the employment practices of the Corporation, its affiliates and/or subsidiaries and the working conditions under which African, Coloured and Asian workers labor; a statement regarding the compliance or non-compliance with these laws by the Corporation, its affiliates and/or subsidiaries; and a summary of those actions which the Corporation, its affiliates and/or subsidiaries have taken to avoid the effect of these laws or to bring about their repeal or modification.

STATEMENT

For some shareholders, the Corporation's substantial investment, through Tsumeb Corporation, in mining operations which are a major force in the economy of Namibia (South West Africa), is a matter of grave concern. This proposal is designed to provide basic data essential to an informed shareholder electorate in order to enable it to evaluate the extent of the Corporation's involvement in Apartheid in Namibia or South Africa, its effect on the lives of black and brown employees and the value in the long run of the Corporation's investment.

KNOWLEDGEABLE, EXPERIENCED, EFFECTIVE—REPORT NO. 2

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. KEE) is recognized for 15 minutes.

Mr. KEE. Mr. Speaker, during recent visits to my district I have been questioned several times as to procedures of this House. The theme throughout seemed to be the voting record percentage of the Members. We all know that there are Members who take deep pride in their 90- to 100-percent attendance record. I congratulate them—but add that because of my responsibilities and obligations to my constituents I am not among this small group. Also, my duties not only as a Member of this House, but as a permanent chairman of the Conservation and Watershed Development Subcommittee, Committee on Public Works, and an active member of the Mines and Mining Subcommittee of the Committee on Interior and Insular Affairs has resulted in my being assigned certain critical tasks by the chairman of those committees. These additional duties have required me to travel extensively throughout the continental United States, Alaska, and Antarctica. In addition, I serve on six other subcommittees—all meaningful to the people in my district. Heading subcommittees involves the traditional congressional functions of conducting on-the-spot inspections, investigations, and hearings, which necessitates hearings being held outside of Washington.

Through these hearings we learn if legislation passed by the Congress and now law is being executed in the manner intended by the Congress. We learn if the laws as written are sufficient, or should they be amended to make them more effectively productive? Too, we should know as much as we can about the various subjects over which our committees have jurisdiction.

Membership of subcommittees vary almost every time, with one exception. The chairman must always be at the location of those activities being conducted away from Washington. Thus many members on my two subcommittees may make but one or two field visits, while my official responsibilities carry me away on many occasions.

But, for one exception, I was registered as voting on all bills which I considered of vital interest to the people of West Virginia and the Fourth Congressional District. I will return to that exception in a moment.

Returning to those questions posed in my district I feel it must be made clear to my constituents of the real workings of Congress. We all know that committee hearings and sessions make up the greater bulk of congressional business. Such legislation as pertains to each committee must work its way through subcommittee hearings to hearings before the full committee. When we have reached agreement on the form and substance of the bill, we must then report it to the Congress and request the Committee on Rules to allocate both a date and the number of hours of debate on our bill. Then the bill reaches the floor where for the first time, almost all Members learn the details therein through floor debate.

This casts no reflection on any Member. How could any human being know

the contents of the thousands of bills introduced during each session of Congress? How many could hope to understand the details of the hundreds upon hundreds of bills which reach this floor finally for action? No, it is at the time of the debate that everyone learns of the issues at hand and then votes accordingly.

Without the committee form of organization both Houses would be in a constant state of chaos. We could not execute our sacred duty and trust to the people without this system.

I earlier referred to an exception on my voting record on matters of vital interest and concern to the people of West Virginia. That one exception was on November 10, 1971, when the black lung amendments, which I sponsored and fought so hard for, came before this House for action. I was unfortunately the chairman for a subcommittee investigation visit to Davenport, Iowa, at that time. I say "unfortunately" in the sense that certain people have made such an issue over this one vote. What they neglect to tell the people is that my efforts and those of my supporters were so effective that these amendments passed by a vote of 312 to 78. As we say "we had the votes" and I knew it. Every Member of the House and Senate is fully aware of the fact that I introduced the very first bill in the Congress to provide black lung benefits in April 1969. This was included as title IV of the Federal Coal Mine Health Safety Act of 1969.

Speaking on my behalf at that time was Chairman JOHN A. BLATNIK of the Committee on Public Works. His words reflect the truth of the matter, pure, and simple. At this point I would like to insert the statement made by Chairman Blatnik on November 10, 1971:

Mr. BLATNIK. Mr. Chairman, it is most unfortunate that our distinguished colleague, Jim Kee, is absent on official business, on the authority of the House Public Works Committee, and cannot vote for the black lung bill. Jim fought long and hard for this bill, which is of great consequence to the people of West Virginia, and to coal miners everywhere.

Several weeks ago, before we had any idea this legislation had been scheduled for this week, I, as chairman of the House Public Works Committee, approved a series of important out-of-town hearings on watershed development, by the Conservation and Watershed Development Subcommittee, of which Jim Kee is chairman.

Up until the very last moment, we were juggling the timing of the trip around the bill's possible scheduling. When, at last, we were advised on sound authority that the bill would be delayed until later, we went ahead with the plan for the subcommittee's trip.

After the hearing had been scheduled and announced, the black lung legislation was brought to the floor this afternoon.

But for these pressing and long-promised hearings, Jim would have been here to vote on this extremely important legislation.

I am exceptionally proud of my record. I need not apologize. I need not explain anything in that record due to a lack of attention or concern over the major issues of our time. The people of the Fourth Congressional District can rest assured on those points.

I shall run on that record, and dare any one to fault it or match it.

POLICIES AND PROCEDURES TO END THE WAR IN INDOCHINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOLIFIELD) is recognized for 10 minutes.

Mr. HOLIFIELD. Mr. Speaker, today, I have introduced House Concurrent Resolution 592, a measure which, if carried out, will put an end to the bloodshed, human suffering, and destruction which has been inflicted upon Southeast Asia for the past 25 years.

This measure seeks not only to end the involvement of the United States in the war, but also to put an end to the war itself and establish peace in the Indochina area.

Also, House Concurrent Resolution 592 offers the most rapid and humanitarian method for obtaining the release of the prisoners of war and a full accounting for missing persons.

The resolution follows the intent expressed by the Democratic Caucus in its vote of April 19, 1972, to end the war and seek the repatriation of our men held prisoner by North Vietnam and by the National Liberation Front.

House Concurrent Resolution 592 recognizes the concern of the American people about the war and its recent escalation by the invasion of South Vietnam by 14 divisions of North Vietnamese troops.

Also, the resolution recognizes the basic fact that peace in Southeast Asia, or anywhere else in the world, can be achieved only by agreement of the great powers which sponsor smaller nations, and the people of the smaller nations themselves. If we are to end the war, stop the killing, repatriate the prisoners, and establish a lasting peace, it must be on the basis of an agreement negotiated between the parties.

Most importantly, Mr. Speaker, the resolution recognizes that the U.S. Congress cannot impose an agreement upon the parties by a legislative act, nor can we gain the release of our men who are prisoners of war through legislation alone. For example, a measure which unilaterally restricts available defensive options through the denial of funds, does nothing but encourage the enemy. Such measures, without a negotiated agreement only doom the prisoners of war to additional months or years of killing.

The resolution which I have introduced establishes seven broad objectives to be achieved through negotiation; either in Paris, through the good offices of the Secretary General of the United Nations, or otherwise. These objectives are:

To end the war.

To repatriate the prisoners of war.

To settle political issues.

To guarantee the peace.

To alleviate human suffering.

To guarantee self-determination to the people of Vietnam, and

To reunite the American people.

To achieve the above objectives, which I believe the American people support, the resolution provides for a series of negotiated steps. The United States would take all available means to bring about the following:

An immediate cease fire.

Release of all prisoners of war to the custody of a neutral country to be voluntarily repatriated by the International Red Cross.

Announcement of a certain date for complete and final withdrawal of all foreign military personnel from both North and South Vietnam.

Withdrawal of all North Vietnamese military forces from South Vietnam, Cambodia, and Laos.

Concurrent withdrawal of all foreign military forces from North and South Vietnam.

A cessation of arms shipments and war materials to North and South Vietnam by the United States, the Soviet Union, and by China.

Free elections in both North and South Vietnam supervised by the United Nations to determine: Whether the two countries should be reunited; what form of government will prevail if the people vote to reunite; what form of government will prevail in each country if the countries vote to remain separate.

Supervision and enforcement of the peace in Vietnam, Laos, and Cambodia by the United Nations.

Economic aid to both North and South Vietnam by the United States and other members of the United Nations.

Mr. Speaker, I realize that some of the procedures contained in House Concurrent Resolution 592 have been proposed before. Some have been accepted, some have been rejected by one or more parties. But, I was heartened to read that the new Secretary General of the United Nations has, in a departure from past policy offered his good offices to help the parties reach an agreement. I am also pleased that the President has directed a resumption of negotiations in Paris.

I want to end the war.

I want to stop the killing of Americans by Asians, of Asians by Americans, and of Asians by Asians.

I want to see the prisoners returned to their homes.

I want a lasting peace.

And I want to help bind up the terrible wounds of the people in Indochina. As we did with enemy and friendly nations after World War II.

Without a negotiated agreement and an enforced peace in Indochina, the war will go on for years; millions more will die and increasing number of prisoners will be imprisoned for additional years, or for the remainder of their lives in festering prison cells.

If an end to the war, an end to the killing, and the repatriation of the prisoners is what we really want, House Concurrent Resolution 592 is the path to follow, and one which I believe all men of good will and compassion will support.

CONCURRENT RESOLUTION: POLICIES AND PROCEDURES TO END THE WAR IN INDO-CHINA

Whereas the continuing war in Southeast Asia is of great concern to the people of the United States.

Whereas the current military invasion of South Vietnam by the forces of North Vietnam has contributed to the escalation of the war.

Whereas a lasting peace in that region can be achieved only through agreement between the Great Powers, the Democratic Republic of (North) Vietnam, the Republic of

(South) Vietnam and the indigenous people of the latter two countries.

Whereas the United States Congress cannot by a legislative Act impose an agreement upon the parties so as to end the war, guarantee the release of the prisoners of war, settle political issues, guarantee the peace, alleviate human suffering in the region, guarantee self-determination of the people of Vietnam, and reunite the American people.

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the policy of the United States for the promotion of peace in Southeast Asia should be to immediately resume and continue negotiations to achieve the following objectives and agreements:

1. An immediate cease fire by all forces;

2. Complete and total withdrawal by the Democratic Republic of (North) Vietnam of all men and equipment from the Republic of Vietnam, Cambodia, and Laos:

3. Withdrawal of all remaining military forces of the United States, the People's Republic of China and of the Soviet Union, and all other foreign military forces, from Vietnam;

4. A cessation of the shipment of arms and war materials to the Democratic Republic of (North) Vietnam and to the Republic of (South) Vietnam;

5. Free elections in both the Democratic Republic of (North) Vietnam and the Republic of (South) Vietnam, supervised by the United Nations:

a. to determine whether the two countries should be reunited under a common government;

b. to determine the form of government for the reunited country if a reunited country is preferred by the people of both countries;

c. to determine the form of government for each country if separate and sovereign countries are preferred by the people of each country.

6. Supervision and enforcement of the peace in Vietnam; Laos, and Cambodia by the United Nations; and

7. Economic aid to the countries of Southeast Asia by the United States and other members of the United Nations. Be it further resolved;

A. that in order to facilitate negotiations toward the objectives and agreements enumerated above, it is the sense of Congress that immediately after the achievement of a cease fire, all prisoners of war then held by the Democratic Republic of (North) Vietnam, the Republic of (South) Vietnam, and by insurgent forces, be released to the custody of a neutral country under the supervision of the International Red Cross for voluntary repatriation, and that all parties to negotiations prepare and exchange lists of the missing and unrecovered dead so that the International Red Cross may make a full accounting for all missing persons.

B. Immediately after the confirmation by formal agreement of the policies and procedures set forth in this resolution between the national parties named herein and any necessary additional parties, and the completion of action taken to return all prisoners of war, as specified in Paragraph A, to a neutral country; the parties to this agreement shall announce a certain date for the complete and final withdrawal of all foreign military personnel from the Democratic Republic of (North) Vietnam and the Republic of (South) Vietnam.

FOREIGN ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. MITCHELL) is recognized for 5 minutes.

Mr. MITCHELL. Mr. Speaker, I would like to commend to the attention of my colleagues testimony of Robert Z. Alpern, Development Director of SANE, before the House Foreign Affairs Committee, re Foreign Assistance Act of 1972 on March 28, 1972.

The statement follows:

TESTIMONY OF ROBERT Z. ALPERN

I would like to thank the chairman and members of this committee for hearing a cross-section of official, organizational and citizen views on the important question of Foreign Assistance, especially South Asia Relief and Rehabilitation. I am here to bring some fresh perspective on relief and rehabilitation in Bangladesh.

On March 15, 1972 I returned from there and India after two weeks of gathering firsthand experience among the people, from government leaders (Sheikh Mujibur Rahman, Prime Minister Gandhi), local administrators, relief workers, economists, Ambassador Keating and A.I.D. representatives.

I was one of seventy Americans from thirty-seven states, who participated in the Airlift of Understanding to Bangladesh.

I arrived in Bangladesh as the final wave of 9,796,076 Bengali and Hindu refugees were coming back from Indian refugee camps. Some had spent up to nine months away from Bangladesh/East Pakistan after fleeing the savage repression and destructive actions of Gen. Yahya Khan's West Pakistan Army and police forces numbering 90,000 to 94,000 men. We have all heard much of those almost 10 million who fled to India, but little has been said of 10 to 15 million people who were refugees within Bangladesh, moving from their destroyed villages like nomadic tribes to avoid the rampaging Pakistan Army.

At least 20% of the 75 million people who make up Bangladesh were displaced, driven out of the country or roaming about within it seeking shelter and food. Hard estimates point out that at least 2 million homes were completely destroyed and several million severely damaged. Since a family unit comprises five to seven people, between 10 to 15 million persons were left homeless.

I travelled through villages in the Districts of Comilla, Chittagong and Chittagong Hill Tracts in the Eastern and Southeastern part of the country. From the destruction I saw the above figures appear to be on the low side.

The hostilities ended with India defeating Pakistan on December 17, 1971. Three months later the eighth most populous nation in the world is faced with an emergency situation of trying to find shelter, food, seed, and work for 15–25 million of its homeless refuged people before the monsoon rains come in eight weeks. This would be equivalent to the U.S. having 40–50 million people with similar needs. Hundreds of thousands of houses have to be built, food in great quantities must be on hand, seed in certain districts, is needed, and people must find work if Bangladesh is to avoid a new human disaster of the dimensions it experienced in the floods and cyclone of August and November 1970.

At the end of February, 1972 in UNROD *Information Paper No. 3—Blunt Facts on Relief and Rehabilitation in Bangladesh* Toni Hagen refers to UNROD field reports on food reserves.

"Now, towards beginning of March the situation has deteriorated rapidly: the reserves are being exhausted, both at farmer level and in government stocks; the boro crop will in large areas of the northwest be an almost total failure due to lack of fertilizer, fuel for diesel pumps, and due to destruction of many pumps. The fact that there is sufficient food in the country right now and for the next few weeks is no guarantee that considerable segments of the population may not be hungry or may not even be starving; for the wrecked transport system does not allow any substantial food movements."

The new democratic government of Sheikh Mujibur Rahman is presently trying to get the inputs it needs to protect its people from the difficult weeks and months ahead. A failure to meet this challenge could weaken his government and produce serious internal dislocations.

On March 16, 1972 the U.S. cancelled $97.8 million dollars for humanitarian relief in Bangladesh. According to State Department officials this cancellation was made "because the original purpose of the assistance, to prevent famine, has been accomplished."

There have occurred and continue to occur some serious questions as to how much of the U.S. government's committed aid has actually been delivered to Bangladesh.

A very illuminating exercise is to review U.S. Food Aid to East Bengal from November 1970 through November 1971 as shown on data sheets from A.I.D./ASIA dated 3/16/72. $240.0 million (CCC-cost) for Specific Relief Actions was committed and of this $91.3 had been delivered. Data on U.S. relief inputs from 12/1/71 to present does not seem to be available. Right now the GAO is trying to develop a detailed analysis of U.S. aid to Bangladesh so that it may be known precisely how we lived up to our commitments. According to an UNROD report dated March, 1972 no U.S. wheat, rice, or edible oil had been received so far this year. The first shipment of U.S. food grain will not arrive until May 15, 1972.

In terms of national wealth, resources, and transport facilities the U.S. relief effort for Bangladesh has to date been less than inspiring. It is hardly in keeping with our often expressed policy of providing humanitarian assistance to people in time of natural or man-made disasters. One way of looking at the dimension of U.S. relief is to consider what the Indian government has undertaken. India one of the poorest and most populous nations in the world has expended over $465,000,000.

INDIAN AID TO BANGLADESH REFUGEES[1]
MARCH 25, 1971–FEBRUARY 25, 1972

Direct Budgetary Expenditures 6 million refugees in camps (Thru December 31, 1971), $320 million.[2]

Projection from January to March, 1972, $60 million.

Repatriation of Refugees—Transportation, $4 million.

Journey allowances, $5.3 million.

Two weeks rations, $12.0 million.

Cash allowances on arrival in Bangladesh, $32–36 million.

Cost of rations provided refugees awaiting rehabilitation, $6.7 million.

Additional food grains for refugees in transit, camps and other unforeseen items, $25–40 million.

Total, $465–483 million.

It is true that India was confronted with a tide of human beings within its borders and had to act to help these millions of people.

This huge refugee program has set India's planned development back one year and has created a host of new social and economic problems for its own people.

The lessons of the past should be clear. With only two months remaining before monsoon rains turn large areas of Bangladesh into lakes thus severely limiting access to them the U.S. and other nations must mobilize their aid efforts. This eight week period is one of do or die for hundreds of thousands of people.

A set of priority needs derived from UNROD sources, discussions with Bangladesh's officials is listed below.

A. Transport

Trucks—4000–5500.
Flat bottoms—25–50.
Outboard motors (for native boats)—1000.
Bailey bridges—6000 ft.
Fork lifts—75.

[1] Source Indian Embassy.

[2] Does not reflect indirect costs of 3 million refugees residing outside camps.

STOL (Transports)—5.
Helicopters (transports)—10–20.
Petrol—1. Storage tanks.
2. Fuel.
B. Food
Food Grains—200,000 tons per month.
Edible oil—50,000 tons.
C. Housing
Corrugated Iron sheets—200,000 tons.
Timber (corner posts)—400,000 tons.
D. Cash
E. Clothing
Raw cotton—90,000 tons.
Yarn.
(Instead of sending unsuitable western style garments cotton and yarn could put factory and cottage industry people back to work making their own style clothing.)

As can be seen transportation is critical if aid is to get to where it is needed. Much of the equipment enumerated is to be found in Southeast Asia. South Vietnam is less than 2,500 miles away. Since we are reducing our ground forces and logistical support it would seem most appropriate to transfer from war use to lifesaving use quantities of the items listed instead of returning them to the U.S. or leaving them on site.

Another way to expedite relief aid would be to authorize UNROD to use cash aid for purchasing food grains in areas close to Bangladesh rather than shipping them from points around the world. Shipping time from Texas ports has, for example, been taking two months.

One striking contrast between foreign military assistance and emergency relief is that our military aid far outweighs what we are prepared to commit to help sustain life. This is also true of our 1973 Federal Budget where 60% of the budget goes to wars—past, present, and future—while 19% goes for human resources.

The lesson of U.S. military assistance to Pakistan should now be clear. By supplying arms to a clearly unrepresentative military regime we contributed to one of the worst military repressions in history.

If now we can contribute to Bangladesh's survival through these challenging months we will be keeping alive a new South Asian democracy that can give strength and hope to people everywhere and restore a measure of U.S. credibility.

ENERGY CRISIS

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, I direct your attention to an article on the front page of the Washington Post of April 13, 1972. It is written by Thomas O'Toole and carries the headline, "U.S. Energy Crisis: Light Dims at the End of the Tunnel."

The article highlights many of the problems the Nation now faces with regard to its fuels and energy situation—problems under consideration in hearings before the House Committee on Interior and Insular Affairs.

Few problems today are as important to the social, economic, and political security of this country as those along the energy continuum.

Mr. O'Toole's article accurately suggests the totality of the problem, and should be of interest to anyone concerned with these issues we are confronting:

U.S. ENERGY CRISIS: LIGHT DIMS AT END OF THE TUNNEL

(By Thomas O'Toole)

I think our energy shortage is not only endemic, it's incurable. We're going to have to live with it the rest of our lives.—John A. Carver, Jr., Member, Federal Power Commission.

Endemic and incurable are strong words, but strong as they are they only begin to describe the depth of the energy crisis in the United States.

What do you say about a nation that is sitting on 1,500 years of coal it may never be able to burn? How do you portray a country that must import one third of the oil it consumes every day?

How do you describe a land that has begun rationing natural gas to its people? Whose mightiest rivers have almost run out of dam sites? Whose entire supply of uranium could disappear in the next two decades?

The richest nation in the world has discovered it is energy poor and that this sudden poverty threatens the balance of trade, our attempts to clean up the air and water, and the efforts we've made to hold down the prices of products from gasoline to electricity.

In fact, the energy crisis in America threatens the American way of life, at least that life that means color television, frostless freezers, self-cleaning ovens and electric grills, knives, combs and toothbrushes.

"I think I can see the day when the country might have to ration electricity," said James R. Schlesinger, chairman of the Atomic Energy Commission. "I don't think it will come for several decades and maybe not until the year 2000, but I do think it will come."

The last 40 years have seen the population grow 70 per cent and energy consumption 310 per cent. Demand for energy is such that in the next 10 years the United States will need 50 new sites for oil refineries and 300 for power plants, all of them close enough to the cities to serve them but not so close as to spoil them.

"One day we might find the entire surface of the United States covered with power plants," said Roger C. Carlsmith, associate director of the Oak Ridge National Laboratory's environmental program. "That same day we might find that we have exhausted the nation's fuel supplies."

If fossil fuels are consumed at present rates. Americans will be left only with coal by the year 2,000. It might be hard to believe, but the country has already passed its oil production peak and stands on the brink of reaching its gas production peak.

"It doesn't matter that we may have found 30 billion barrels of oil and more than 20 trillion cubic feet of gas in Alaska," says S. David Freeman, onetime energy adviser to Presidents Johnson and Nixon. "Our rates of consumption are now so large that we can see the bottom of the barrel."

Last year, the United States consumed 5.6 billion barrels of oil and 22.1 trillion cubic feet of natural gas.

The country's 109 million cars used 90 billion gallons of gasoline, its 2,000 jetliners more than one billion gallons of jet fuel and its 3,400 power plants one billion barrels of oil, four billion cubic feet of gas and 300-million tons of coal.

SHORTAGE OF CHEAP FUELS

Americans now use more than six times as much per capita energy as the world average. The entire nation of 200 million people burns more energy than the 500 million of Japan, Great Britain, Germany and the Soviet Union combined.

Consumption of electrical energy has shown by far the greatest growth, a direct result of the soaring electrical living standard.

Americans used almost 1.8 trillion kilowatt hours last year, twice what was used in 1961. The Federal Power Commission estimates that by 1980 electrical usage will have doubled again, that the country'e electric companies will spend $125 billion on new plants and transmission lines to meet that demand.

By 1980, electric power expansion will cost $23 billion a year and by 1990 it will be up to $37 billion. One study of power usage in the United States concludes that during the 1980s a new one million kilowatt plant must be brought into service every 12 days to satisfy power needs.

The phenomenal growth in electrical consumption points up America's most serious energy problem: the shortage of cheap, clean fuels to make electricity.

Uranium is not yet in short supply, but only because nuclear power is still an infant industry. Coal the United States has in abundance, but not the sulfur-free coal the country's crowded cities will allow to be burned today.

OIL PRODUCTION PEAKED

Ironically, the two most wanted fuels are the scarcest—oil and natural gas. They're wanted becaues they're relatively (especially gas) clean and cheap; they're scarce because the United States is consuming more than it can produce.

Domestic oil production peaked in November of 1970, is now down almost 8 per cent from its peak to less than 11 million barrels a day. Alaska's North Slope will add two million barrels a day by 1980, but the once-rich fields of Texas and Oklahoma are dwindling so steadily that domestic oil output may never again reach 11 million barrels a day.

Gas production has not yet topped out in the United States, but it might have if last winter had been a cold one. Even so, gas heat was in such demand that distributors were rejecting new applicants and rationing old ones at the same time that gas was flowing from the wells in Louisiana and Texas at the highest rate in history.

"The analogy I like to use is that it's like a big ice cream soda," former White House adviser Dave Freeman said. "We can put a few more straws in the soda and suck it up a little faster, but all that's going to do is make it all gone that much sooner."

The flow of American gas has reached a record 65 billion cubic feet a day, a flow so high that proven U.S. reserves have fallen to their lowest level in 15 years, from a high five years ago of 289 trillion cubic feet to 247 trillion cubic feet at the end of 1971.

There have been charges that the gas industry has allowed reserves to drop to force a price increase, but the evidence is still strong that the nation has begun to run out of natural gas.

"The idea that gas is being sat on somewhere is economically absurd," FPC Commissioner John Carver told a congressional committee last month. "We have a gas shortage."

If oil and gas are so scare, then how is the United States managing to make ends meet?

The answer is that the United States today is importing record volumes of oil and gas, quantities that promise to grow so great they will have a profound and lasting effect on domestic energy strategy, on the balance of trade and on foreign policy for years to come.

Oil import policy will be the first to undergo changes, unless a domestic miracle happens and somebody makes an overnight find of 100 million barrels of American oil.

The United States now buys 27 percent of its oil from foreign suppliers, mostly Canada and Venezuela. But Canada and Venezuela face the same prospect of shortage that the United States faces. Less than 10 per cent of America's imported oil comes from the Middle East, partly because the quota system is biased against all foreign oil and partly because it's even more biased against Eastern Hemisphere oil.

But the only region of the world possessing the vast caches of oil the United States so desperately needs is the Middle East, where 80 per cent of the world's recoverable oil is located.

COMING IMPORT FLOOD

"Serious people are seriously concerned about our oil quotas, which have done little more than prop up domestic oil prices," is the way it's put by one leading energy consultant. "We're going to have to change the system."

The United States will import oil and gas worth an estimated $3 billion this year, but that's just a trickle alongside the flood that will pour into the country when (not if) the import quotas are relaxed.

By 1985, economists predict, more than half our oil and almost half our gas will come from imports. This would increase oil and gas imports by more than 10 times, to a staggering total of $34 billion.

Tankers will be hauling more than 12 million barrels of oil and more than five billion cubic feet of liquefied gas into U.S. ports every day, most of it from countries inside the Eastern Hemisphere. By 1985, America's oil and gas supply may well depend on how well we're getting on with countries like Libya, Algeria, Nigeria, Saudi Arabia and the Soviet Union.

Foreign affairs aside, the price that will have to be paid to guarantee delivery and distribution of all this oil and gas truly is boggling.

The National Petroleum Council figures that more than 360 new supertankers will be needed to shuttle Middle East oil from the Persian Gulf to the United States. The price quoted for a 250,000-ton tanker today is $137 million, which puts a price tag of $13.5 billion on a Middle East fleet.

CANADA, ALASKA PIPELINES

Not a single U.S. port can handle these giant ships, which, when laden with more than two million tons of oil each, draw as much as 80 feet of water. This means the United States must construct three new deepwater terminals, one on each coast at a total cost of $1 billion.

Most of the money the nation must spend to deal with the rising oil tide will go to new refining capacity. The Petroleum Council estimates no fewer than 50 new refineries must be built in the United States in the next 13 years, at a cost of $18 billion.

The costs of handling anticipated natural gas imports will come colse to the costs of oil imports.

Pipelines to run Canadian and Alaskan gas into the United States are priced at $4.8 billion, which is on top of $2 billion for pipelines to carry gas to be brought by ship into the United States in liquid form. It will cost the companies venturing into this business $4 billion to liquefy the gas and $1 billion to turn the liquids back into gas.

Tankers to transport the liquified gas from countries like Nigeria and Algeria will cost $6 billion. Three of those tankers are already at sea, 39 are being built or are on order and the National Petroleum Council has said that 120 liquefied natural gas tankers will be needed by 1985 if the United States is to meet its gas demands.

These expenses approach at a time when drilling for oil and gas is getting more difficult, more expensive and more unrewarding.

ENVIRONMENTAL COSTS

"Dry holes" now cost the U.S. oil industry $900 million a year. Wildcatters are down to 20,000 feet in the ground seeking oil in West Texas. Gas wells 28,000 feet deep were only this year sunk in Texas' Pecos County, while early in March a gas well was sunk 30,000 feet in Oklahoma, making it the deepest well in the world and also one of the most expensive.

"Oil and gas fields don't reproduce," says the Interior Department's M. King Hubbert, one of the world's foremost petroleum geologists. "Every time we drill one, there's one less to go."

A final and inevitable expense is the growing cost of catering to the environment.

Oil and gas companies want to drill offshore, but the dangers of spills have not only limited offshore drilling but in some cases cut it out altogether—as in the Santa Barbara channel.

They want to build deepwater terminals along the East Coast to handle the anticipated armada of supertankers, but states from Maine to Florida are studying legislation to prevent such terminals. Delaware already has passed a bill that prohibits construction of any new oil refineries inside its borders.

"We have a very schizophrenic audience along the East Coast today," according to C. L. Woods, vice-president of Mobil Oil Corp., "because what Delaware is essentially saying to the other 49 states is . . . you guys do it, but keep them away from us."

What does it all mean? Well, one thing it means is that industry will have to spend that much more time, money and effort seeking solutions to these problems. That means that prices for oil and gas and all the products that chemistry squeezes out of oil and gas will be moving upward.

"The Nixon administration has tried extra hard to keep the lid on oil prices, but I'd expect that after the elections in November there will be at least a 50-cent-a-barrel increase in oil," former White House adviser Freeman said. "I'd expect even steeper increases in natural gas and in electrical energy prices."

Domestic oil costs roughly $3.50 a barrel, with foreign oil costing $2 to $2.50 a barrel. Domestic gas is cheap at 20 to 25 cents a thousand cubic feet at the wellhead, while the liquified foreign gas that's starting to come into the United States (Algerian gas has begun to move into Boston harbor) by tanker costs $1.10 a thousand cubic feet.

A 15 per cent increase in the price of oil means at least that much of a boost for gasoline and jet fuel, which together take more than 60 per cent of the oil in every barrel.

How much would this cost the consumer? In gasoline prices alone, no less than $2 billion. Trucking rates would go up. So would bus fares, heating oils and plastic packaging for everything from food to toys. Jet fares? Fuel is a large expense in airline operations, and nobody expects the nation's airlines not to pass on some of a price boost to their passengers. A growing percentage of the oil that comes out of each barrel is what the oil industry calls residual oil, literally the oil that's left over at the bottom of the barrel after gasoline and the lighter heating oils are taken from the top.

Time was when residual oil had little use, but today this leftover oil is used by just about every major electric utility in the populous East. The reason is that it is either lower in sulfur or can be made lower in sulfur than the coal that power companies can no longer burn because of sulfur restrictions around the cities.

ELECTRIC RATES DOUBLE

New York's Consolidated Edison Co. changed over the last of its 120 power boilers two months ago to burn residual oil. Con Ed now buys 140,000 barrels of low sulphur oil every day and expects to buy more than 200,000 barrels a day by 1973.

The New York utility gets its low-sulphur oil either by having Venezuelan oil "desulfurized" for 60 cents to a dollar a barrel or by buying low-sulfur Libyan oil at almost $4 a barrel.

Whichever way Con Ed buys low-sulfur oil, it has had to pay almost double what it was paying two years ago and almost three times what it paid for coal when it could burn it.

"The outlook for electricity rates has got to be up because of situations like these," says Freeman. "I think electrical rates will double themselves in the next 10 years."

Natural gas prices are already on the rise, at least partly because gas hasn't been given close attention by the Nixon administration's price controllers.

Wellhead prices are up 30 to 40 per cent in some regions, and people in industry and even in the federal government talk openly about doubling and tripling of wellhead prices in the next few years. Even doubling would be a boost of $4.4 billion in revenues for gas producers alone.

OPTIONS A DECADE AGO

"They talk about doubling and tripling the price because they say they want to get consumers to stop using gas, so the country can conserve gas," says FPC Commissioner John Carver, who's leaving the FPC in June. "They don't think about the market chaos that would follow a doubling or a tripling in gas prices."

There are those who say that such chaos could have been avoided, who say that the United States had options ten or even five years ago that might have put off the energy crisis in America.

America's reliance on foreign oil could have been at least delayed if the nation had chosen 10 years ago to explore more aggressively for offshore oil. Or developed the Colorado oil shale fields. Or gone in with Canada on a joint venture to exploit the vast tar sands in the remote regions of Alberta province.

The United States might still be able to extract some of the estimated 500 billion barrels of oil: locked up in these deposits, but while the nation has waited to do so the costs have skyrocketed and conservationists have closed ranks against offshore exploration and extraction of the Colorado shale.

"I'd just as soon leave it alone," says Interior's King Hubbert of the Colorado shale. "If you want to imagine one hell of a mess, imagine mining that shale and discharging the acid wastes into the Colorado River. I guarantee you'd kill the river."

The country's had some of the same opportunities in natural gas, like developing a process to make synthetic gas from naphtha or a method of freeing the 300 trillion cubic feet of gas trapped in solid rock in Wyoming and Colorado.

ABUNDANCE OF COAL

A program to make "syngas" out of naphtha has begun in the United States but it's small and it's based on technology developed in West Germany.

The trouble with the gas stimulation project is that the only way to rock the gas loose is with 200 (and maybe 400) underground nuclear explosions, a solution that's less acceptable to Americans today than it was 20 years ago when Project Plowshare was begun by the Atomic Energy Commission.

Nowhere has the United States been more remiss about exploiting its energy options than in the way it has handled and planned our use of coal.

Coal is our most abundant resource, there being two trillion tons of it in American soil. The energy content of American coal alone is 90 per cent of the energy content of all fossil fuels buried in the North American land mass.

Coal is also the easiest fossil fuel to extract and to use, but despite all its advantages coal is the one energy source in the United States whose use is on the wane.

The main reason is that coal is dirty. Coal burning fouled the air with 60 per cent of the 14 million tons of sulfur dioxide discharged by U.S. smokestacks last year. Its only growth market outside of exports has been the electric power industry, but laws against sulfur discharges now threaten that market.

New York's Con Ed is a typical former user of coal. In 1970, Con Ed burned 2.6 million tons of coal, then in 1971 burned half that. So far this year, Con Ed burned 140,000 tons

of coal before shutting down its last coal-fired plant on Staten Island.

"If current trends continue," says Joseph Swidler, chairman of the Public Service Commission of New York State, "then total coal demand will be down to 370 million tons by 1980. That's 60 per cent of present demand."

Such a debacle could have been forestalled by foresight. Processes could have been developed to scrub the sulfur out of coal fumes before they reached the top of the smokestack. Better yet, a method might have been devised to turn coal into gas.

One reason these things weren't done is that the coal industry never pursued these goals. The Interior Department's Bureau of Mines and Office of Coal Research began their pursuit too late.

Both branches of Interior now have sulfur scrubbing and coal gasification programs under way, but it might be 10 years before either one is ready to be commercialized. It might not even be ready then, because Interior's budget for both programs is less than $75 million.

"This isn't enough," said one of Interior's top officials. "It's going to take $1 billion at least just to get coal gasification going in the U.S."

RACE AGAINST TIME

The story of what's happened to coal tells a lot about why there is an energy crisis in America today, but as one last footnote to it all, consider the plight of hydropower and nuclear power.

There are 52.3 million kilowatts of hydroelectric capacity in the United States, which is less than one-third the country's potential. Most of the two-thirds will never be used, largely because of conservationist opposition.

The Colorado River is already closed to future dams by congressional mandate. The one remaining dam site on the Columbia River is blocked by public opposition, as are half a dozen sites on the Snake River and Mad River in northern California.

Nuclear power is a somewhat different story, but even in its infancy is in a race against time to tap what little uranium the country has to support a viable atomic energy program.

The United States has 50,000 tons of uranium oxide (raw mineral for fissionable uranium) in stockpile, and 275,000 tons of uranium oxide in the ground as proven reserves.

There are only 20 nuclear power plants operating in the United States today. There will be 200 plants in use by 1980 and almost 400 by 1990, which means that uranium requirements for the next eight years will total 200,000 tons and then skyrocket beyond what is in the ground.

AEC ALTERNATIVES

"Things could come to a slow grinding halt unless we could get uranium overseas," says the Atomic Energy Commission's Robert Nininger. "Mathematically, we could be taken out to about 1982 but everything could stop if none of our alternatives worked."

The AEC's main alternatives are to buy Canadian uranium to flesh out America's own needs and to speed development of the fast breeder power reactor, which breeds more nuclear fuel than it burns.

Beyond that, it has two other alternatives which are nowhere as neat as the first two.

The AEC has decided to withdraw 50,000 of the 70,000 tons of raw uranium now in the national stockpile, enrich it in advance to fissionable uranium and hold it in abeyance for emergency needs.

Its other option involves a move it would never have risked five years ago. It will, if it must, remove about one year's supply of fissile uranium by taking it right out of our stockpiled atomic weapons, then processing it into power-grade uranium.

This might never be done, but if it's necessary to buy time the AEC is willing to do so. That's how far the energy crisis in America has taken us.

APRIL 22 ANTIWAR PROTEST DEMONSTRATIONS SPONSORED BY NPAC AND SUPPORTED BY PCPJ

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, last Saturday, April 22, there were antiwar protest demonstrations in New York City and Los Angeles sponsored by the National Peace Action Coalition and supported by the People's Coalition for Peace and Justice, organizations which are known to be operating under significant Communist influence. There was also a demonstration in San Francisco which was supported by the PCPJ. The events centering around the April 22 demonstration have been given wide publicity by the news media and are a matter of public record. The marches and rallies were reportedly peaceful with no extensive damage or arrests.

Very briefly, the New York City march and rally attracted an estimated 30,000 to 60,000 participants—the biggest antiwar demonstration in that city in over 2 years. Vietcong and North Vietnamese flags, symbols of brutality, ruthless repression, and iron totalitarianism, were prominently displayed. Speakers included Daniel Ellsberg, of the "Pentagon Papers" notoriety, and Marge Tambankin, president of the National Student Association, which sponsored the Hanoi-drafted "People's Peace Treaty."

In Los Angeles, some 10,000 to 12,000 demonstrators participated in a march and rally in McArthur Park where they heard Anthony Russo, codefendant with Daniel Ellsberg in the "Pentagon Papers" case, and Carol Ferracci, the antiwar singer who confronted President Nixon at a White House function, criticize U.S. involvement in Vietnam.

In San Francisco, some 25,000 to 40,000 demonstrators gathered in Kezar Stadium where a Vietcong flag flew atop the stadium's flagpole. Featured at the rally was Mme. Nguyen Thi Binh, chief North Vietnamese delegate to the Paris peace talks, who spoke over a telephone hookup demanding an end to the bombing by U.S. planes and the setting of an immediate date for the withdrawal of U.S. troops from Vietnam. Other speakers included Bobby Seale, chairman of the Black Panther Party and Oscar-winning actress Jane Fonda.

Although it may have appeared that the demonstrations were a spontaneous manifestation of popular opposition to the bombing by U.S. pilots of military targets in North Vietnam, the facts are that the New York City and Los Angeles demonstrations had been carefully planned and approved months earlier by a collection of international Communists and pro-Hanoi delegates who attended the so-called "World Assembly for Peace and Independence of Indochinese People" held in Versailles, France, February 11–13, 1972.

I made this clear last March 13 during a speech on the floor of the House. My remarks were based on research and investigation of the staff of the House Committee on Internal Security which I chair. At that time I noted that every single item of the agenda of the demonstrations planned for the United States this spring, including those held last Saturday in New York City and Los Angeles, was debated and approved—not by a group of Americans alone but by some 1,200 delegates from 84 nations, including most of the countries controlled by Communist governments. I also noted that dissension developed at the Versailles meeting between the two major American delegations, the NPAC and PCPJ. The NPAC delegates wanted to limit antiwar protest activity to a single week in mid-April to be climaxed by its massive demonstrations on April 22. The PCPJ delegates insisted on a variety of protests on a number of issues over a much longer period. The dispute was ultimately resolved when Southeast Asian Communist delegations urged the NPAC and PCPJ to settle their differences. The ultimate U.S. spring antiwar offensive reportedly was a compromise between the two American groups with NPAC achieving the right to hold its massive demonstrations on April 22 in New York City and Los Angeles and the PCPJ content to hold a series of local demonstrations during the period of May 1 to 15. I further noted from what transpired in Versailles it was obvious we are not dealing with "doves" of peace but rather "hawks" of the other side.

In conclusion, I expressed the hope that my fellow Americans would keep in mind the origin and development of the spring antiwar demonstrations planned and approved at this Versailles meeting.

The worldwide significance of the April 22 demonstrations was clearly indicated at the Versailles meeting when it was agreed that antiwar demonstrations would also be held in a number of foreign countries on April 22 as a means of providing international solidarity to the NPAC and PCPJ. In accordance with this decision, demonstrations on April 22 were scheduled in more than 70 French cities under the auspices of the French Indochina Solidarity Front, a Communist organization. A giant rally was scheduled for April 22 in Belgium and demonstrations were also scheduled for that day in England, Ireland, Lebanon, West Germany, Switzerland, Australia, Canada, New Zealand, Denmark, and Italy. In West Berlin, for example, over 10,000 participated in an antiwar demonstration on April 22 marking the largest such turnout in that city in over 2 years.

Recalling the decision made at the Versailles meeting calling for concomitant actions by groups around the world to protest U.S. policy and for mounting pressure on the governments of their nations opposing their cooperation with the United States, the worldwide protest demonstrations take on an entirely different significance when viewed in this light. It may well be projected that these forces will continue to seek to build a strong political movement spurred on by a continuous propaganda barrage seeking to alter U.S. policies and to demean

the United States in the eyes of the world.

It was particularly interesting to note that a four-member delegation from the Communist Party, USA, led by its general secretary Gus Hall was in Hanoi giving comfort and encouragement to the enemy when U.S. pilots carried out their recent bombing raids on military targets in the area of Hanoi and Haiphong. As was to be expected, the Communist Party delegation, which was silent when North Vietnamese troops invaded South Vietnam and shelled the civilian population, became most indignant at the U.S. bombing raids.

Gus Hall, well-versed in Communist propaganda tactics, believed that the bombing raids offered the Communist Party, U.S.A., an excellent opportunity to make impressive gains in this country. He immediately embarked upon an ambitious program to take advantage of this situation. Hall, in a cablegram to the "Daily World," east coast Communist newspaper, deplored the U.S. bombing raids. He indicated that he had composed the cablegram in an air raid shelter in Hanoi and instructed that his message be treated as an important historic document and placed on the front pages in special editions of both the "Daily World" and "People's World," west coast Communist newspaper. Hall also instructed that these newspapers be distributed in hundreds of thousands starting with the massive antiwar protest demonstrations in the United States on April 22d. This incident should be most illuminating to those Americans who wonder about all of the antiwar commotion which is provoking tension throughout our Nation.

It has become exceedingly difficult for me to speak out against the activities of protest groups like the NPAC and PCPJ. I have been criticized as trying to harass "peace" groups and attempting to deny freedom of assembly. The truth of the matter is that I have on many occasions stated emphatically and unequivocably that there is nothing subversive about the interest of the overwhelming majority of people who participate in and support antiwar demonstrations in this country. The majority of the people who do participate can best be described as being of high conscience, rightly concerned with social problems and completely loyal to the United States and its democratic processes. On the other hand, I have made it equally clear, just as emphatically and unequivocably that Communists and other dissidents who helped organize the NPAC and PCPJ protest demonstrations have no such interest in their country's welfare. They are acting instead out of the conviction that the Vietnam war must be brought to an end immediately on Hanoi's terms which amount to unconditional surrender of South Vietnam.

Certainly, the public and the Congress have a right to know about such activities. To reveal the nature of these forces and the persons and organizations in back of them is in no sense a threat to honest dissent.

Hearings commenced last May by the Committee on Internal Security concerning the origin, history, organization, character, objectives, and activities of the NPAC and PCPJ have shown that Communist elements consisting of identified members of the Socialist Workers Party, a Trotskyite Communist organization, and identified members of the Communist Party, U.S.A., occupy positions of prominence in the leadership of the NPAC and PCPJ.

With regard to the NPAC, testimony has disclosed that there are 11 SWP members serving on the NPAC steering committee and that the SWP has complete control of the NPAC for all intents and purposes. It was also brought out at the hearings that the only two persons authorized to sign checks for NPAC were SWP members Sydney Stapleton and Patricia Grogan. Since funds are the lifeblood of any organization it is, of course, most significant that the SWP has control of this function.

PCPJ leadership on the other hand includes several well known national functionaries of the Communist Party, U.S.A., such as Gilbert Green, Jarvis Tyner, and Mike Zagarell, all members of the party's central committee. The PCPJ leadership also includes Irving Sarnoff, former official of the Southern California Communist Party District, and Sydney Peck, a former Communist Party leader in the State of Wisconsin, who assumed a most influential role in the discussions at the Versailles meeting last February.

Are the leaders of the NPAC and PCPJ concerned about the fate of the 1,600 American prisoners of war being held by the Vietcong and North Vietnamese? Are they concerned about the shelling of the civilian population in South Vietnam by invading North Vietnamese troops? Are they concerned about open aggression, as long as the aggressor is a Communist nation? Are they concerned about the atrocities committed by the Vietcong in South Vietnamese villages? Obviously not, because they place all of the blame for the troubles in Southeast Asia squarely on the shoulders of the United States. While the NPAC and the PCPJ join in all sorts of "hate America" rhetoric, they have never been known to indulge in criticisms of Communist countries.

At this point, I would like to mention that the Communists recognize that they cannot undermine American society unless they first turn the people against the Government. To accomplish this they have launched one nationwide protest demonstration after another in an effort to influence the people against the war by distorting the issue. They are very skillful at "issue" exploitation. They would like you to believe that our Government deliberately seeks to continue the war. This is, of course, a deliberate falsehood designed to hoodwink and deceive.

The overwhelming majority of the American people would not participate in an antiwar protest demonstration sponsored by the Communist Party or the Socialist Workers Party. The Communist Party and the Socialist Workers Party realize this and for this reason they depend on groups such as the NPAC and PCPJ with high-sounding names to carry out their antiwar protest campaign.

Although the mass news media has made great strides in journalistic accomplishments in recent years, it has also demonstrated, at times, an alarming lack of responsibility. The April 22 demonstrations received the usual ample coverage in the news media but lacking was the much-needed analytical observations advising the readers of the background of the demonstration organizers and leaders. Particularly unfortunate is the fact that many protestors were totally unaware of the extent to which they were victimized and exploited by Communist elements. For example, most Americans do not consider the Socialist Workers Party anything other than Norman Thomas-type of Socialists. There is ample public information available, particularly from committee hearings, showing that the Socialist Workers Party members are Trotskyite Communists who favor the violent overthrow of our system of Government and the establishment of a Communist government based on the principles of Marxism-Leninism as interpreted by Leon Trotsky, one of the leaders of the bloody Russian Revolution.

The American public today has no way of evaluating whether the glib assertions of NPAC and PCPJ organizers are accurate and objective. NPAC and PCPJ are the type of organizations which newsmen with their insatiable hunger for news and editorial ammunition should pursue and cover so that the significant Communist leadership can be exposed for all Americans to see. I sincerely hope that there never will be a time when journalists will back away from such organizations which may well be the nucleus of a movement which could destroy our Nation.

There are those who tend to discount the activities of the NPAC and PCPJ by noting that only a small minority of our population are marching behind their banners—an undeniable fact. But I think this approach is deficient in that it promotes a kind of complacency. It overlooks the equally undeniable fact that many individuals who have not taken to the streets have expressed sympathy for their program. I would be less than candid if I did not acknowledge that there are some responsible Americans, including some of my distinguished colleagues, who have given their blessings to the programs of the NPAC and PCPJ. I have heard some of their arguments but I have been unable to see the logic of their position. But I do indeed understand the real enemies of our Nation—the Communist elements who are not motivated for peace but rather by a wish to arouse emotional hatred against the very idea of a free society.

In a public statement on April 23, Jerry Gordon, NPAC national coordinator, vowed to keep up the protest demonstrations until "American involvement in Vietnam is finished." He announced scheduled protest marches across the country for this week; a student strike on May 4, and a possible massive protest march in Washington, D.C.

We are making an extremely serious mistake if we go much further in the belief that the antiwar protest activity in

our land today is entirely spontaneous and idealistic. We are being foolish and naive if we underestimate the element of Communist involvement in these incidents of agitation. Let those who choose to continue to participate in the activities sponsored by the NPAC and PCPJ do so with no illusions. No matter what their intentions may be, the result will only be to aid the cause of the international Communist movement.

EIGHTEEN NEW WILDERNESS PROPOSALS

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, I am introducing a bill which would designate 18 areas within existing national wildlife areas, national parks, and national forests as new units of the National Wilderness Preservation System pursuant to the Wilderness Act of 1964. These areas, comprising 1.3 million acres, were enumerated by the President in his special message on the environment of February 8, 1972. Each area has been reviewed and recommended for wilderness designation by the department of the executive exercising jurisdictional administration.

Only 29 areas have been designated wilderness since the passage of the Wilderness Act in 1964. Some 26 other recommendations are presently pending. With the introduction of this bill proposing the addition of 18 new areas, the number of pending wilderness proposals will total 44.

Wilderness is fragile and is constantly threatened by man's encroachment. If we are going to save that which we have for our enjoyment and the enjoyment of future generations, we must act on these proposals with dispatch.

The text of the bill is as follows:

H.R. 14658

A bill to designate certain lands as wilderness

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

DESIGNATION OF WILDERNESS AREAS WITHIN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 1. In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), the following lands are hereby designated as wilderness:

(a) certain lands in the Bosque del Apache National Wildlife Refuge, New Mexico, which comprise about thirty-two thousand five hundred acres and which are depicted on a map entitled "Bosque del Apache Wilderness—Proposed", dated July 1971, which shall be known as the "Bosque del Apache Wilderness";

(b) certain lands in the Cape Romain National Wildlife Refuge, South Carolina, which comprise about twenty-eight thousand acres and which are depicted on a map entitled "Cape Romain Wilderness Proposal", dated January 1971, which shall be known as the "Cape Romain Wilderness";

(c) certain lands in the Moosehorn National Wildlife Refuge, Maine, which comprise about four thousand five hundred ninety-eight acres and which are depicted on a map entitled "Moosehorn Wilderness (Baring Unit)—Proposed", dated September 1971, Revised December 1971, which shall be known as the "Moosehorn Wilderness (Baring Unit)";

(d) certain lands in the Matia Island and San Juan National Wildlife Refuge, Washington, which comprise about three hundred and fifty-five acres and which are depicted on a map entitled "San Juan Islands Wilderness Proposal", dated August 1971 (Revised November 1971), which shall be known as the "San Juan Islands Wilderness". Nothing herein shall be deemed to prohibit the establishment and maintenance of Aids to Maritime Navigation by the United States Coast Guard pursuant to 14 U.S.C. 2 on those islands hereby designated as wilderness, except that such aids shall be the minimum required to facilitate safe transit of deep-draft tankers in the area affected;

(e) certain lands in the St. Marks National Wildlife Refuge, Florida, which comprise about seventeen thousand seven hundred forty-six acres and which are depicted on a map entitled "St. Marks Wilderness Proposal—Florida", dated September 1971, Revised December 1971, which shall be known as the "St. Marks Wilderness"; and

(f) certain lands in the Wolf Island National Wildlife Refuge, Georgia, which comprise about four thousand one hundred sixty-eight acres and which are depicted on a map entitled "Wolf Island Wilderness Proposal", dated March 1971, October 1971 Revised, which shall be known as the "Wolf Island Wilderness".

DESIGNATION OF WILDERNESS AREAS WITHIN THE NATIONAL PARK SYSTEM

SEC. 2. In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), the following lands are hereby designated as wilderness:

(a) certain lands in the Black Canyon of the Gunnison National Monument, which comprise about eight thousand seven hundred and eighty acres, and which are depicted on the map entitled "Black Canyon of the Gunnison National Monument, Montrose County, Colorado, Wilderness Plan", numbered 144–20016, dated May 1971, which shall be known as the "Black Canyon of the Gunnison Wilderness";

(b) certain lands in the Bryce Canyon National Park, which comprise about sixteen thousand three hundred and three acres, and which are depicted on the map entitled "Wilderness Plan, Bryce Canyon National Park, Utah", numbered NP–BC 7403–B, dated April 1971, which shall be known as the "Bryce Canyon Wilderness";

(c) certain lands in the Chiricahua National Monument, which comprise about six thousand nine hundred and twenty-five acres, and which are depicted on the map entitled "Chiricahua National Monument, Arizona, Wilderness Plan" numbered 145–20,006, dated December 1971, which shall be known as the "Chiricahua Wilderness"; and

(d) certain lands in the Colorado National Monument, which comprise about seven thousand seven hundred acres, and which are depicted on the map entitled "Wilderness Plan, Colorado National Monument", numbered 119/20,005, dated March 1971, which shall be known as the "Colorado Wilderness".

DESIGNATION OF WILDERNESS AREAS WITHIN THE NATIONAL FOREST SYSTEM

SEC. 3. In accordance with section 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132(b)), the following lands are hereby designated as wilderness:

(a) the area classified as the Agua Tibia Primitive Area, within the Cleveland National Forest, California, with the proposed additions thereto and deletions therefrom, comprising an area of approximately eleven thousand nine hundred acres, and which are generally depicted on a map entitled "Proposed Agua Tibia Wilderness", which shall be known as the "Agua Tibia Wilderness";

(b) the area classified as the Aldo Leopold Primitive Area, within the Gila National Forest, New Mexico, with the proposed additions thereto and deletions therefrom, comprising an area of approximately one hundred eighty-eight thousand ninety-five acres, and which are generally depicted on a map entitled "Proposed Aldo Leopold Wilderness", which shall be known as the "Aldo Leopold Wilderness";

(c) the area classified as the Blue Range Primitive Area, within the Apache National Forest, Arizona and New Mexico, with the proposed additions thereto and deletions therefrom, comprising an area of approximately one hundred seventy-seven thousand two hundred acres, and which are generally depicted on a map entitled "Proposed Blue Range Wilderness", which shall be known as the "Blue Range Wilderness";

(d) the area classified as the Gore Range-Eagles Nest Primitive Area, within the Arapaho and White River National Forests, Colorado, with the proposed additions thereto and deletions therefrom, comprising an area of approximately eighty-seven thousand seven hundred fifty-five acres, and which are generally depicted on a map entitled "Proposed Eagles Nest Wilderness", which shall be known as the "Eagles Nest Wilderness";

(e) the area classified as the Emigrant Basin Primitive Area, within the Stanislaus National Forest, California, with the proposed additions thereto and deletions therefrom, comprising an area of approximately one hundred five thousand eight hundred seventy-six acres, and which are generally depicted on a map entitled "Proposed Emigrant Wilderness", which shall be known as the "Emigrant Wilderness";

(f) the area classified as the Glacier Primitive Area, within the Shoshone National Forest, Wyoming, with the proposed additions thereto and deletions therefrom, comprising an area of approximately one hundred eighty-two thousand five hundred acres, and which are generally depicted on a map entitled "Proposed Glacier Wilderness", which shall be known as the "Glacier Wilderness";

(g) the area classified as the Mission Mountains Primitive Area, within the Flathead National Forest, Montana, with the proposed additions thereto and deletion therefrom, comprising an area of approximately seventy-three thousand two hundred acres, and which are generally depicted on a map entitled "Proposed Mission Mountains Wilderness", which shall be known as the "Mission Mountains Wilderness"; and

(h) the area classified as the San Juan and Upper Rio Grande Primitive Areas, within the Rio Grande and San Juan National Forests, Colorado, with the proposed addition thereto and deletions therefrom, comprising an area of approximately three hundred forty-six thousand eight hundred acres, and which are generally depicted on a map entitled "Proposed Weminuche Wilderness", which shall be known as the "Weminuche Wilderness".

SEC. 4. All Primitive Area classifications of areas here in designated wilderness are hereby abolished.

SEC. 5. As soon as practicable after this Act takes effect, a map and a legal description of each wilderness area shall be filed with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 6. Wilderness areas designated by this Act shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

TAX REFORM

(Mr. ABOUREZK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ABOUREZK. Mr. Speaker, the people want tax reform.

Our tax structure is written by and for the wealthy. The RECORD lately has been full of examples of millionaires dodging taxes completely—or paying far less than their fair share—en masse.

The same goes for corporations. In the last decade, favoritism to big business via the tax laws has effectively eroded the corporate tax base by about half.

Our tax setup is a disgrace to the American concept of equity. Unless it is fundamentally changed we are going to face an entirely justified revolt by millions of taxpaying American citizens.

Mr. Speaker, I think we have waited long enough for the administration's oft-delayed proposals. I fear that Congress is being given the artful dodge in this election year. Enough. It is time for Congress to get to work immediately on tax reform, while we still have time to legislate.

Congressman REUSS, myself and others, have sponsored an entirely worthy quick-yield tax package to close or tighten the most odious loopholes immediately.

We could use that bill this year, Mr. Speaker, to prove to the people that time is up for indefensible tax dodges for the rich.

There is no reason to wait any longer to tax capital gains on property transferred at death.

There is more than ample reason to repeal the accelerated depreciation allowance forthwith.

There is no reason to tolerate another year's abuse of the concept of a minimum tax.

There are enough loopholes to keep Congress busy for years. There are compelling reasons to rewrite the tax laws from top to bottom right now, to start all over, and to make tax law simple, clear, direct, effective, and progressive.

I do not care about having my name on a bill—and I am not wedded to the Reuss proposal at the expense of something more far reaching. What I care about is writing a Federal tax law that will close loopholes and start using some of our millionaires' excess profits to reduce property taxes, sales taxes, the income tax burden of the average taxpayer, and all the other taxes that are smothering the average citizen in this country.

Mr. Speaker, as you know, a bill somewhat more comprehensive than the Reuss proposal has been introduced into the Senate, the one authored by Senator GAYLORD NELSON and cosponsored by GEORGE MCGOVERN of my own State, among others. That bill would close more than $16 billion in loopholes. If that money were directly applied to property tax relief, we could save every farm, home, and business 44 percent of their property tax.

I know that it will take years of hard fighting before we have a tax system which is fair, equitable, progressive, and free of favoritism. But I think that now is the time we started writing tax bills to suit the average taxpayer rather than the superwealthy.

Mr. Speaker, at this point in the RECORD, I insert a May 4 article about Senator MCGOVERN's tax reform proposals, from the "New York Review of Books."

GEORGE MCGOVERN: ON TAXING AND REDISTRIBUTING INCOME

(Introduction by Wassily Leontief)

George McGovern's proposals for tax reform and redistribution of income, originally released in January and published here in slightly revised form, should be read and reread by every one of the more than one hundred million Americans who dropped in the mailbox last Saturday or Sunday, with mixed feelings of civic pride and desperation their income tax returns for 1971. McGovern's brief statement contains more hard common sense and practical wisdom than the tired platitudes and inconclusive technical disquisitions that fill the 300 pages of the President's Economic Report, which was transmitted to the Congress a few days after Senator McGovern made his program public.

The distribution of income is clearly emerging as the issue that will dominate the American political scene in the closing quarter of this century. The share that each member of our society receives in the immense and still swelling stream of goods and services produced annually by the American economy not only largely determines the level of satisfaction of his daily needs but also provides means for attaining many, if not all, of his highest aspirations. But more than this, under our political institutions the income and the amount of wealth controlled by any one group, in relation to other groups, determines decisively the power it can wield in influencing, not to say in directing, all government activities.

Twenty-five percent of the total gross national income is controlled directly by the government, and a much larger proportion indirectly. It is not surprising that by exercising a decisive influence on government policy, particularly in the economic sphere, a small group of citizens controlling a disproportionately high share of the national wealth has been capable of defending its economic and political dominance against all assaults.

In view of the close interdependence among all the parts of the modern industrial economy, the distribution of income and of wealth naturally depends, to some extent, on every one of its social and economic institutions. However, the power of the government to levy taxes, to borrow and to print money, and to use this immense purchasing power in any way it sees fit has long been recognized as one of the most effective means of bringing about a distribution of income compatible with the prevailing standards of social justice—or as an equally effective means of thwarting attempts to do so.

By the Middle Ages the Magna Charta had linked the notion of equitable taxation with the idea of social justice. The tea tax symbolized the English yoke to the rebeling Bostonians. None of the inequities of the *Ancien Régime* in France was hated more than the exemption from taxation enjoyed by the Church and the aristocratic upper class. The English orthodox economists, liberal in both senses of that term, staked their hopes for a truly free and fair society on a radical tax reform; so did the heterodox American Henry George.

But the cardinal importance of just taxation has receded in the American political conscience in the last thirty years. While government participation in the management of the national economy has mostly increased, it now consists mainly of trouble-shooting interventions rather than fundamental economic and social reform. Year after year we witness an endless sequence of rescue operations made necessary by the inability of the traditional system of private enterprise to deal effectively with all kinds of problems created by economic growth and the headlong rush of technological change. Decaying metropolitan areas, ailing transportation systems, "structural" unemployment, and a despoiled environment are only a few of the woes that the Republican administration tries to lessen—so far with little tangible success—by a flow of rules, suspended rules, and haphazard measures.

Our once equitable and effective system of taxation has fallen victim to these hapless operations. Exemptions, accelerated amortizations, deductions, and credits of all kinds—avowedly intended to protect the tender sensibilities and to encourage the timid adventurers of rugged private enterprise—have fatally weakened, if not entirely destroyed, the progressive nature of the income, inheritance, and corporation taxes. The "value added tax" now quietly engineered behind the scene, which is nothing less than a universal sales tax, would deliver a *coup de grâce* to the taxation system of which this country was once rightfully proud.

Senator McGovern proposes to restore and to strengthen the role of taxation as a stern guardian of social justice and an effective instrument of social reform.

Many of the ills that both the federal and the local governments are now trying to cure, or at least to camouflage by various emergency measures, will vanish with the elimination of their fundamental cause—a lopsided distribution of national wealth and income. Canceling all exemptions and deductions would not only restore the honesty and effectiveness of the income and the corporate profit tax. It would also do away with the immense effort now devoted both to legitimate and illegitimate tax avoidance and to tax enforcement. The recent shift from conventional to no-fault automobile insurance has demonstrated how large the savings from such streamlining can be.

McGovern's tax reform proposals should become the central issue in the electoral campaign. President Nixon has again and again disarmed the opposition by making its proposals his own. It is most unlikely that he will want to do so in this case. What he would have to sacrifice are not lofty principles but hard cash.

(By George McGovern)

Many Americans feel themselves the victims of economic discrimination at the hands of the federal tax system. Although that system is, in many respects, one of the most enlightened in the world, it is an undeniable fact that millions of ordinary, working, middle-income families pay their taxes as required by law, while many of the wealthy use a variety of devices to escape their rightful tax burden. At the same time, the man in the middle sees billions of dollars going into welfare programs that don't work. In short, many Americans pay their taxes dutifully and feel that others are exploiting the tax and welfare systems.

The most urgently needed change in our systems of taxation and public assistance is to place far greater emphasis on fairness. Each American should feel that he is getting his money's worth and that he is being treated exactly like every other American. Each American should pay his fair share and each American should receive his fair share. That is clearly not the case now.

I—TAX REFORM

The purpose of taxation

In the United States, taxes pay for those activities which we wish to have carried out by government rather than by the private

sector. The costs are supposed to be carried by income group paying its share and by those within each income group paying a similar amount. The progressive tax system asks those who are better off to bear a greater share of the load than those who have less ability to pay. In general, the progressive system is one of the most positive elements of our tax system.

Individual income taxes

Previous efforts at tax reform have failed to bring our system closer to a truly progressive one. Every effort at reform shows that the cloth of our tax codes is so worn that every patch rips another hole somewhere else. Even more importantly, efforts to promote fairness by giving everyone his own loophole are slowly dismantling the progressive federal income tax.

The actual tax system is just about half as progressive as it is supposed to be, according to the tax rates adopted by Congress. While nominal rates range from 0.1 percent at low incomes to 69.2 percent for those with incomes over $1 million per year, actual rates on average range from 0.7 percent to 34 percent.

Two taxpayers with the same annual income pay quite different taxes. A factory worker or a schoolteacher whose taxes are withheld from his wages cannot take advantage of loopholes. He may expect to pay almost $1,000 in taxes on earnings of $10,000. A wealthy person who receives $10,000 income from state and local bonds will pay no federal taxes at all. Clearly this system is unfair.

And these inequities are not theoretical. On the basis of 1969 tax returns, the last year for which figures are available, some 21,317 people earning more than $20,000 paid no federal taxes whatsoever. That includes fifty-six people with incomes in a single year of $1 million or more.

Because the effort to close one loophole at a time has been a failure and because to do so would still leave a great number of inequities until all were closed, we should shift to a really effective minimum tax. While a minimum tax was created in 1969 tax legislation, it is actually window dressing and is not effective. Recent reports indicate that some who earn over $1 million still pay no taxes.

I propose a minimum income tax so that the rich could not avoid their share of the tax burden no matter what loopholes they used. One possible formula would be a minimum income tax to apply to all those with total incomes in excess of $50,000. The entire income of any person in this range would be subject to payment of taxes at a rate of 75 percent of the current statutory rates at the rate that they would have to pay if there were no loopholes. All income regardless of source would be included. (Of course, if the computed tax exceeds the minimum tax, it would be payable.)

If this minimum income tax were now in effect it would bring in approximately $5 billion during the present fiscal year and $6 billion in fiscal 1973. That would amount to about a 7 percent increase in receipts from the individual income tax. This increase would be paid by the wealthiest 411,000 out of the 76 million federal taxpayers.

This basic tax reform would not unfairly penalize the wealthy just because they were well off. It would simply ensure that they could not dump their tax load onto the backs of already hard-pressed middle-income taxpayers.

Corporate taxes

The strength of the American economy is due mainly to the dynamic growth of the private sector led by corporations and other businesses. It is sound public policy to create the conditions for business to function effectively.

The federal tax system has been used to help the corporation. As Joseph Pechman, one of the leading tax experts in the United States, points out: "A special tax on the corporate form of doing business is considered appropriate because corporations enjoy special privileges and benefits." In order to stimulate corporate economic activity, the federal government can and does alter tax rates. That is the principal form of assistance that has recently been given.

The present corporate tax rate is 48 percent of the taxable base defined by law. Of this, 22 percent is the normal tax which applies, without the 26 percent surtax, to the first $25,000 of corporate net income. This feature is of special benefit to small businesses—some 77 percent of the taxpaying corporations. It should be maintained.

In each postwar recession, demands have arisen to stimulate the economy through corporate tax reductions. These have taken the form not of overt tax reductions but of covert rate reductions in the form of increased depreciation allowances and special devices such as the investment tax credit. Such devices transfer profits from the taxable category to the untaxable category. In the process, the corporate income tax is gradually being abolished.

Because of steady reductions in the taxable base over the past twenty years, the effective corporation income tax rate has been cut in half. There is a real question about how much farther we can go.

The time has come to end the dismantling of the corporation income tax and to reestablish a fair balance between personal and corporate income tax collections. As a result, I have opposed the new depreciation guidelines and the investment tax credit. Special loopholes, such as percentage depletion, need not be phased out, but a broad balance also needs to be established between taxable and untaxable earnings of corporations. As it is, we have tipped that balance too far in the direction of untaxable earnings.

I propose that the actual corporation income tax be returned to its 1960 level by the elimination of the special loopholes that have been opened since then. (About two-thirds of the gap between the present level and the 1960 level results from Nixon Administration cuts in the last year.)

This reform of the corporation income tax would raise approximately $9 billion in the current fiscal year and about $17 billion in fiscal 1973 (based on Administration estimates of increased corporate activity).

This proposal for increasing the corporation income tax rate does not mean reduced government assistance to business. If the entire McGovern economic program were to be applied, there would be more stimulus to business than is available from the tax privileges now in effect. This program includes an immediate $10 billion fiscal stimulus to create new jobs and use underutilized capacity, economic conversion from a war to a peace economy with the extensive use of government contracting for specific purposes, and the Minimum Income Grant, discussed below, which would greatly stimulate consumer purchases. Nothing spurs profits like a strong full employment economy, which has the highest priority in my economic program.

In short, our corporations must be healthy and growing if our economy is to prosper. But we have a wider range of tools at our disposal than perpetual reductions in the corporation income tax.

Estate and gift taxation

Most Americans subscribe to a fundamental belief of our Founding Fathers that we should be allowed to keep a fair proportion of what we earn but should not be allowed to inherit great wealth. Yet, in practice, the loopholes in our gift and inheritance taxes are much greater than those in our income taxes. Just 9 percent of all families own 50 percent of all private assets. More than a quarter of all private assets are owned by less than 1 percent of the population. Although some of these fortunes are based on earned income, most are based on inherited wealth.

Estate and gift tax rates are high. But actual rates are a tiny fraction of the theoretical rates.

Estate and gift taxation should be reformed in the same manner as the income tax. Instead of proceeding to close loopholes one by one, a whole new system needs to be constructed.

Gift and inheritance taxes should shift from a tax on the estate or giver to a lifetime cumulative tax on the recipient. This shift would make it possible to prevent tax avoidance and would be more fair, because it would regard the money received as income to the recipient, which it is.

The cumulative lifetime tax on recipients should take the following form: A base amount would be exempt from taxation—this amount is now set by the government at $60,000. Then a progressive tax would be levied, reaching an upper limit of 77 percent—the current statutory ceiling—on an estate of $500,000 or more. The base exemption should be increased when the estate includes a wholly owned proprietorship.

While it is impossible to calculate the exact amount of such revenues resulting from this proposal, a conservative estimate would indicate the doubling of present tax receipts from estate and gift taxes. That would mean additional tax revenues of $4 billion in the present fiscal year and $5 billion a fiscal 1973.

State and local taxes

While the federal tax system is generally progressive, with room for improvement, the state and local tax systems are far less progressive and do not respond as directly to changes of income of taxpayers. It is well known that there has been excessive reliance on the property tax.

The property tax revolt may be a major issue in the coming months. The federal government may have to step in to allow for a reduction of property taxes used to support education—perhaps their complete removal. As I indicated in July, 1971, in my proposals on revenue sharing, the states should be given the incentive to raise more of their revenues from progressive income taxes. In addition, the federal government should take over at least a third of the total bill for primary and secondary education. Funds should be distributed to school districts in line with an equalization formula as is outlined in my revenue sharing proposals.

It has been suggested that a value added tax, which in effect is a national sales tax, should be used either as a method of increasing federal tax revenues or as a method of reducing or eliminating the property tax or both. I disagree. In the first case, we should increase individual and corporation taxation, as indicated, rather than resort to the national sales tax. In the second case, a shift to the value added tax would represent a retreat from the far sounder revenue sharing approach. In addition, while the federal government should assume a greater share of the cost of education, certain local services are associated with the ownership of property, and there is thus a justification for some property taxation. Also, as mentioned above, the property tax can be cut by a shift to more progressive forms of taxation by the states.

In any case, the value added tax or national sales tax is against the interest of middle- and low-income people. It is a regressive tax on consumption, which cannot, of course, be reduced beyond a certain point necessary to ensure a decent life. And it represents a backdoor method of increasing individual taxes just after a reduction in taxation on individual incomes has been enacted.

Conclusion

The federal tax system is basically sound, although it has been riddled with special priviliges for the rich. We should move now to establish a fair tax system for all Americans.

The reforms of the federal tax system relating to individual and corporation income taxes and to estate and gift taxes would result in additional revenues of about $18 billion this fiscal year and $28 billion in fiscal 1973. This amounts to an additional $140 in federal income for every man, woman, and child in the United States. Depending on how these additional revenues were applied, they could bring about the reduction of elimination of the local property tax for education; be spent on other urgent national needs such as rebuilding our cities, pollution control, adequate nutrition for all; or could go a long way toward financing the Minimum Income Grant program, discussed below.

II—REDISTRIBUTION OF INCOME

The need

The present tax system contains inequities because it does not levy a correspondingly fair burden on all taxpayers. While the rich benefit from the tax system, middle-income groups and low-income groups including the poor do not receive such benefits. Those with medium incomes find they are paying their taxes but not receiving either the kind of tax breaks given to the wealthy or the kind of public assistance payments made to the poor. The poor find that, as soon as they go to work, they are subject to extremely high rates of income taxation because of their sudden sharp reduction of public aid when they earn their first dollar. The net result is mounting frustration for those in the middle and a future of poverty for those who are heavily penalized when they seek to work their way out of welfare dependence.

There are other weaknesses of the public assistance or welfare program. Many people in need are not covered; family groups are penalized; benefits are insufficient; migration from one state to another is encouraged; extensive controls are applied; and it is possible for taxayers to be worse off than those receiving public assistance.

A number of welfare proposals are now pending before the Congress. I sponsored the proposals of the National Welfare Rights Organization in an effort to ensure that benefits will take into account real needs. Naturally these proposals deal only with those on public assistance—not medium-income taxpayers. Some of them represent major improvements in the present system. But none of them offers the broad application of the Minium Income Grant described below. Even the negative income tax proposal has the defect of creating or, more properly, maintaining a two-class society—those who pay and those who receive.

The minimum income grant

I propose that every man, woman, and child receive from the federal government an annual payment. This payment would not vary in accordance with the wealth of the recipient. For those on public assistance, this income grant would replace the welfare system. It has also been suggested that the national income grant could replace certain social security benefits.

There are a number of methods by which this proposal could be implemented. Some are discussed here. These methods require full examination by the best economic talent available, and the plan chosen must have the support of the President, if it is to have any chance of adoption. For these reasons, the present proposal is not designed for immediate legislative action. Instead, it represents a pledge that, if elected, I would prepare a detailed plan and submit it to the Congress.

One proposal calls for the same payment to be made to all Americans. This is the credit income tax idea, proposed by Professor Earl Rolph, and more recently associated with the name of Professor James Tobin of Yale, immediate past president of the American Economic Association, former member of the Council of Economic Advisors, and a member of the National Economic Advisory Group of the McGovern Campaign. Using a 1966 base, Professor Tobin suggests a payment of $750 per person. At the present time, a payment of almost $1,000 per person would be required. This would amount to $4,000 for a family of four—just about the official poverty level boundary.

Another formula has been suggested by Leonard Greene, president of the Safelight Instrument Corporation of New York. Under his "Fair Share" plan, each adult would receive $900 a year and each child would receive $400. This would amount to $2,600 for a family of four.

It should be stressed that neither of these proposals relates to the size of the family unit; the payments are made on an individual basis. Thus, there would be no incentive for a family to break up in order to receive higher total benefits.

A third formula would involve payments according to the family group. Joseph Pechman of the Brookings Institution has shown that "the relative incomes that would provide roughly equivalent standards of living appear to be in the ratio of 75:100:25 for single, married, and dependent persons, respectively." The payment of the Minimum Income Grant could be made according to such a formula. In this case, adequate account would be taken of those who receive welfare and who live alone.

Financing the minimum income grant

As redistribution of income, the Minimum Income Grant would represent no additional cost to the Treasury. Funds to finance the grant would be expected to come from those above a designated break-even income and would take the form of additional taxes. If the break-even income for a family of four were set at $12,000, about 20 percent of federal taxpayers would experience a tax increase, while about 80 percent would be able to keep all or part of the grant.

It is expected that those below the poverty line would keep all of the grant, while those between the poverty line and the break-even point would keep a gradually decreasing amount as their incomes rose. The loss of grant benefits would thus be sufficiently gradual as not to discourage those on welfare from seeking a job (in fact, it would encourage them to seek work) and would provide a significant income supplement to the millions of Americans in the medium-income range. Thus, for example, a family of four with its own income of $8,000 would be able to retain an additional $2,000 of the Minimum Income Grant.

Professor Tobin's explanation of the credit income tax suggests that the grant would be tax-free but that each person would be required to pay a uniform income tax to the Federal Treasury (a 33.3 percent tax is suggested with the $750 payment). Although this might seem to be a regressive tax, the tax credit resulting from the grant would cause it to have a progressive effect. While taxes would be much higher for the wealthy, others would receive significant tax relief. Professor Tobin uses the example of a family of four with an income of less than $9,000 that would pay no taxes at all.

This credit income tax proposal would imply a redistribution of income of some $14.1 billion from those above the poverty line to those below it. The redistribution from those above the break-even income line to those below it but still above the poverty line would amount to $29 billion. These figures demonstrate that while the Minimum Income Grant would represent a total reform of the present welfare system, it would actually provide more money to medium-income taxpayers than it would be to the poor.

Leonard Greene's Fair Share would be financed by the present progressive tax system plus a 20 percent tax surcharge on all taxpayers. The Minimum Income Grant, according to Mr. Greene, would not be tax exempt. This proposal distributes the cost over a greater number of taxpayers but the burden on any one of them is lower than under the credit income tax formula.

It would not be necessary to finance all of the Minimum Income Grant by tax increases. The billions of dollars saved in welfare benefits and the cumbersome administration of the welfare system—a total since it began of $9.6 billion or $1.4 billion in fiscal 1970—could be allocated to the grant. It should be noted that this procedure would represent a major saving for states and localities which would not be required to finance the welfare system and could use the resulting funds—an estimated $5 billion—to lower property taxes. This step would represent additional income assistance to medium-income taxpayers. (To the extent that social security payments were replaced by the grant, social security funds could be used to finance the system.)

In addition, the revenues resulting from the kind of tax reform proposed earlier ($28 billion in fiscal 1973) could be applied to the grant.

Finally, the justification for the personal exemption on individual tax returns would be removed by the adoption of the Minimum Income Grant. If the personal exemption were removed, the federal government would receive $63.6 billion in additional tax revenues. These funds could also be applied to the grant.

SENIOR CITIZENS' RENT LIMITATION ACT

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, I would like to call to the attention of our colleagues my bill, H.R. 14495, the Senior Citizens' Rent Limitation Act. This bill is one of the most important of the more than two dozen senior citizens bills that I have introduced during this 92d Congress.

The Senior Citizens' Rent Limitation Act is major new legislation. Most senior citizens who monthly have to face the disaster of higher and higher rents would recognize the necessity of this legislation. Only those who do not live on fixed social security incomes scoff at this legislation as "utopian."

However, the Senior Citizens' Rent Limitation Act states the following clear truths:

"(a) Congress finds that many poor and moderate income senior citizens live in non-federally financed rental housing.

"(b) Congress finds that such senior citizens must pay, in high and ever rising rents, an unreasonable proportion of their modest and fixed incomes.

"(c) Congress finds that an insufficient number of public housing units, designed for senior citizens, can be expected to be built in the near future.

"(d) Congress, therefore, deems it neces-

sary to limit the rent of senior citizens by public funding of a part of the rental burden of senior citizens.

Nowhere do these problems cause more difficulty than in Trump Village, the Warbasse Cooperative, Carey Gardens, Haber Houses, and Joseph P. Dey Houses in my area.

The Senior Citizens Rent Limitation Act applies only to poor and moderate income senior citizens whose income is less than $6,000 per year and only for moderate rental—$200 per month—apartments. Thus it will not cost billions of dollars.

If a senior citizen qualifies, the senior citizens rent limitation program would pay him each month, an amount equal to the excess of the senior citizen's proportion of rent beyond 25 percent of the senior citizen's expected income during the month to follow each payment. The bill would make sure that social security and other senior citizen benefits are not in any way affected by the rent limitation program. It would also provide for yearly cost-of-living adjustments.

Mr. Speaker, although my Senior Citizens' Rent Limitation Act may seem too visionary for many here, a similar program has been in operation for some time now. According to the Brooke amendments to the Housing Act of 1958, all tenants of federally financed housing must not be forced to pay more than 25 percent of their incomes for rent.

This legislation would just extend that program to senior citizens for whom there is no decent public housing available. They built those houses—they should not have to pay a fortune to live in them.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HASTINGS (at the request of Mr. FREY), for today and balance of the week, on account of personal business.

Mr. JONES of Tennessee (at the request of Mr. MCFALL), for today, on account of official business.

Mr. PETTIS (at the request of Mr. GERALD R. FORD), for April 27–28, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCOLLISTER) and to revise and extend their remarks and include extraneous matter:)

Mr. SCHWENGEL, for 5 minutes, today.

Mr. KEMP, for 15 minutes, today.

Mr. HALPERN, for 5 minutes, today.

Mr. ANDERSON of Illinois, for 1 hour, tomorrow.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. FLOOD, for 15 minutes, today.

Mr. PODELL, for 15 minutes, today.

Mr. SMITH of Iowa, for 5 minutes, today.

Mr. DANIELS of New Jersey, for 5 minutes, today.

Mr. BURKE of Massachusetts, for 15 minutes, today.

Mr. DIGGS, for 5 minutes, today.

Mr. KEE, for 15 minues, today.

Mr. HOLIFIELD, for 10 minutes, today.

Mr. MITCHELL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BURKE of Massachusetts following the remarks of Mr. STEPHENS of Georgia on amendment offered by Mr. STEPHENS to H.R. 14582.

Mr. MAHON to revise and extend his remarks on H.R. 14582 and include extraneous matter and tables.

All Members (at the request of Mr. MAHON) to revise and extend their remarks on H.R. 14582.

Mr. RYAN to extend his remarks prior to vote on Yates amendment on bilingual education.

(The following Members (at the request of Mr. MCCOLLISTER) and to include extraneous matter:)

Mr. ZION.

Mr. FISH.

Mr. SCHMITZ in two instances.

Mr. THONE in two instances.

Mr. COLLINS of Texas in three instances.

Mr. HUNT.

Mr. WYMAN in two instances.

Mr. SHOUP.

Mr. HOSMER in three instances.

Mr. STEIGER of Wisconsin in two instances.

Mr. CLEVELAND.

Mr. MCCLURE.

Mr. QUILLEN.

Mr. BROYHILL of Virginia in two instances.

Mr. VEYSEY.

Mr. BOB WILSON.

Mr. ARCHER.

Mr. SPENCE.

Mr. MILLS of Maryland.

Mr. TERRY.

Mr. GUBSER.

Mr. MICHEL.

Mr. ERLENBORN.

Mr. MINSHALL.

Mr. WIGGINS.

Mr. ESCH.

Mr. YOUNG of Florida in five instances.

Mr. HALPERN in two instances.

Mr. NELSEN.

Mr. MALLARY.

Mr. ANDERSON of Illinois.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous material:)

Mr. CARNEY.

Mr. ROYBAL in 10 instances.

Mr. SIKES in five instances.

Mr. WILLIAM D. FORD in five instances.

Mr. COTTER in three instances.

Mr. ASPIN in 10 instances.

Mr. HAMILTON in two instances.

Mr. RARICK in 10 instances.

Mr. HAGAN in three instances.

Mrs. HICKS of Massachusetts in three instances.

Mr. GALIFIANAKIS.

Mr. CAREY of New York.

Mr. EDWARDS of California.

Mr. WOLFF in four instances.

Mr. CELLER.

Mr. HUNGATE in three instances.

Mr. CHARLES H. WILSON in 10 instances.

Mr. CORMAN.

Mr. TIERNAN in two instances.

Mr. MITCHELL.

Mr. KOCH in two instances.

Mr. PIKE in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2013. An act to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans; to the Committee on Veterans' Affairs.

S. 3343. An act to amend chapter 21 of title 38, United States Code, to increase the maximum amount of the grant payable for specially adapted housing for disabled veterans; to the Committee on Veterans' Affairs.

S. 3507. An act to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes; to the Committee on Merchant Marine and Fisheries.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the committee on House Administration, reported that that committee did on April 25, 1972, present to the President, for his approval, a bill of the House of the following title:

H.R. 8817. An act to further cooperative forestry programs administered by the Secretary of Agriculture and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 48 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, April 27, 1972, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1905. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in training and technical services provided to antipoverty agencies by the Office of Economic Opportunity; to the Committee on Government Operations.

1906. A letter from the Comptroller General of the United States, transmitting a report on the need to repair more air-to-air missiles in the Department of the Navy; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 14370. A bill to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenues sources, and to authorize Federal collection of State individual income taxes (Rept. No. 92–1018 (Pts. I and II)). Referred to the Committee of the Whole House on the State of the Union.

Mr. NEDZI: Committee on House Administration. Senate Joint Resolution 173. Joint resolution to provide for the appointment of A. Leon Higginbotham, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution (Report No. 92–1019). Referred to the House Calendar.

Mr. NEDZI: Committee on House Administration. Senate Joint Resolution 174. Joint resolution to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 92–1020). Referred to the House Calendar.

Mr. NEDZI: Committee on House Administration. Senate Joint Resolution 175. Joint resolution to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 92–1021). Referred to the House Calendar.

Mr. NEDZI: Committee on House Administration. Senate Concurrent Resolution 59. Concurrent resolution to authorize the loan of the Cornelia Fasset painting, "The Electoral Commission of 1877", to the National Portrait Gallery of the Smithsonian Institution (Rept. No. 92–1022). Referred to the House Calendar.

Mr. DONOHUE: Committee on the Judiciary. H.R. 12392. A bill to amend title 28, United States Code, section 1491, to authorize the Court of Claims to implement its judgments for compensation; with an amendment (Rept. No. 92–1023). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture. Senate Concurrent Resolution 75. Concurrent resolution to urge each American family to plant a vegetable garden (Rept. No. 92–1024). Referred to the House Calendar.

Mr. CELLER: Committee on the Judiciary. House Joint Resolution 375. Joint resolution granting the consent of Congress to the States of New Jersey and New York for certain amendments to the waterfront commission compact and for entering into the airport commission compact, and for other purposes; with an amendment (Rept. No. 92–1025). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ANDREWS of Alabama:

H.R. 14618. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 14619. A bill to amend the Social Security Act to prevent recipients of aid or assistance under the various Federal-State public assistance and medicaid programs from having the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

H.R. 14620. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 14621. A bill to amend chapter 15 of title 38, United States Code, 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 hospitalization and medical care; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CAREY of New York:

H.R. 14622. A bill to extend the traineeship program for professional public health personnel, and project grants for graduate training in public health under the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

By Mr. DOW:

H.R. 14623. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 with respect to the effective date of the non-Federal share of the costs of certain programs of that act, and for other purposes; to the Committee on the Judiciary.

By Mr. HALEY (for himself and Mr. ROGERS):

H.R. 14624. A bill to provide for orderly trade in fresh fruits and vegetables, and for other purposes; to the Committee on Ways and Means.

By Mrs. HICKS of Massachusetts:

H.R. 14625. A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform; to the Committee on Ways and Means.

By Mrs. HICKS of Massachusetts (for herself, Mrs. ABZUG, Mr. BEVILL, Mr. BOLAND, Mr. BRASCO, Mr. CLEVELAND, Mr. DANIELSON, Mr. EILBERG, Mr. FORSYTHE, Mr. FRENZEL, Mrs. GRASSO, Mr. HALPERN, Mr. HARRINGTON, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, and Mr. HUNGATE):

H.R. 14626. A bill to provide the Secretary of Health, Education, and Welfare with the authority to make grants to States and local communities to pay for the costs of eye examination programs to detect glaucoma for the elderly; to the Committee on Interstate and Foreign Commerce.

By Mrs. HICKS of Massachusetts (for herself, Mr. KEMP, Mr. KYROS, Mr. MATSUNAGA, Mr. MITCHELL, Mr. MAZZOLI, Mr. PEPPER, Mr. PEYSER, Mr. PODELL, Mr. RANGEL, Mr. ROE, Mr. RYAN, Mr. SCHEUER, Mr. STEELE, Mr. SYMINGTON, Mr. CHARLES H. WILSON, Mr. WINN, and Mr. WOLFF):

H.R. 14627. A bill to provide the Secretary of Health, Education, and Welfare with the authority to make grants to States and local communities to pay for the costs of eye examination programs to detect glaucoma for the elderly; to the Committee on Interstate and Foreign Commerce.

By Mr. MILLS of Arkansas:

H.R. 14628. A bill to amend the Internal Revenue Code of 1954 with respect to the tax laws applicable to Guam, and for other purposes; to the Committee on Ways and Means.

By Mr. MORSE (for himself, Mr. BOLAND, Mr. BURKE of Massachusetts, Mr. CONTE, Mr. DONOHUE, Mr. DRINAN, Mr. HARRINGTON, Mrs. HECKLER of Massachusetts, Mrs. HICKS of Massachusetts, Mr. KEITH, Mr. MACDONALD of Massachusetts, and Mr. O'NEILL):

H.R. 14629. A bill to provide for the establishment of an urban national park known as the Lowell Historic Canal District National Cultural Park in the city of Lowell, Mass., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 14630. A bill to amend the Communications Act of 1934 to provide that renewal licenses for the operation of a broadcasting station may be issued for a term of 5 years and to establish certain standards for the consideration of applications for renewal of broadcasting licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS:

H.R. 14631. A bill to amend the Appalachian Regional Development Act of 1965 to increase the mileage of the development highway system; to the Committee on Public Works.

By Mr. QUIE:

H.R. 14632. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mr. ROYBAL:

H.R. 14633. A bill to amend section 1114 of title 18 of the United States Code to extend Federal protection to certain officers and employees of the General Services Administration; to the Committee on the Judiciary.

By Mr. RUPPE:

H.R. 14634. A bill to amend section 53(a) of the Airport and Airway Development Act of 1970 so as to include snowmobiles within the $25 ceiling imposed on overtime charges for certain services in connection with the arrival in or departure from the United States of any private aircraft or private vessel; to the Committee on Interstate and Foreign Commerce.

H.R. 14635. A bill to amend the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

H.R. 14636. A bill to amend the Social Security Act to provide that future increases in social security benefits shall be disregarded in determining the need of individuals for aid or assistance in any form under the various Federal-State public assistance and medicaid programs; to the Committee on Ways and Means.

H.R. 14637. A bill to amend title II of the Social Security Act to provide that any individual age 55 or over shall be considered disabled for purposes of entitlement to disability insurance benefits and the disability freeze if he meets the more liberal definition of "disability" presently applicable only to blind individuals at that age, and to eliminate the reduction in disability insurance benefits which is presently required in the case of an individual receiving workmen's compensation benefits; to the Committee on Ways and Means.

H.R. 14638. A bill to amend title II of the Social Security Act to provide that the minimum primary benefit of any individual thereunder shall be $100 a month or (if higher) an amount equal to $10 a month for each year over 10 that such individual has worked in covered employment, to liberalize the earnings test, and to provide that widow's and widower's insurance benefits shall be payable on an actuarially reduced basis (without regard to disability) at age 55; to the Committee on Ways and Means.

By Mr. RYAN:

H.R. 14639. A bill to amend the Economic Stabilization Act of 1970 to stabilize rentals and carrying charges at levels not to exceed those prevailing on August 15, 1971; to the Committee on Banking and Currency.

By Mr. STAGGERS:

H.R. 14640. A bill to amend the act of August 4, 1950 (64 Stat. 411) to provide salary increases for members of the Police Force of the Library of Congress; to the Committee on House Administration.

By Mr. STAGGERS (for himself and Mr. SPRINGER):

H.R. 14641. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the disclosure of ingredients on the labels of all foods; to the Committee on Interstate and Foreign Commerce.

By Mr. STEIGER of Wisconsin (for himself and Mr. RAILSBACK):

H.R. 14642. A bill to establish a National Youth Council in the Executive Office of the President; to the Committee on Education and Labor.

By Mr. TALCOTT:

H.R. 14643. A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services; to the Committee on Armed Services.

By Mr. THONE (for himself, Mr. ALEXANDER, Mr. DENNIS, Mr. SEBELIUS, and Mr. SIKES):

H.R. 14644. A bill to amend the Occupational Safety and Health Act of 1970 to define the term "employee" more precisely; to the Committee on Education and Labor.

By Mr. VEYSEY (for himself, Mr. DAVIS of Wisconsin, and Mr. MATSUNAGA):

H.R. 14645. A bill to promote the use of low-pollution motor fuels by equalizing the tax treatment of liquified and compressed natural gas; to the Committee on Ways and Means.

By Mr. VIGORITO:

H.R. 14646. A bill to provide price support for milk at not less than 85 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. WHALEN:

H.R. 14647. A bill to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within 60 days after the execution thereof; to the Committee on Foreign Affairs.

By Mr. WHITEHURST:

H.R. 14648. A bill to amend the Federal law relating to the care and treatment of animals to broaden the categories of persons regulated under such law, to assure that birds in pet stores and zoos are protected, and to increase protection for animals in transit; to the Committee on Agriculture.

By Mr. BOGGS:

H.R. 14649. A bill to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes; to the Committee on Ways and Means.

By Mr. DERWINSKI:

H.R. 14650. A bill to strengthen and improve the private retirement system by establishing minimum standards for participation in and for vesting of benefits under pension and profit-sharing retirement plans, by allowing deductions to individuals for personal savings for retirement, and by increasing contribution limitations for self-employed individuals and shareholder-employees of electing small business corporations; to the Committee on Ways and Means.

By Mr. DIGGS:

H.R. 14651. A bill to require that certain cuts of beef sold at retail meat standards prescribed by the Secretary of Agriculture to limit the amount of excess fat and other valueless parts of beef carcass contained in such cuts; to the Committee on Agriculture.

By Mr. EDMONDSON (for himself, Mr. BELCHER, Mr. STEED, Mr. JARMAN, and Mr. CAMP):

H.R. 14652. A bill to amend the act of June 16, 1906 (enabling the peoples of Oklahoma, New Mexico, and Arizona to adopt constitutions and form States), to permit the long-term lease of school lands by the State of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. FISH:

H.R. 14653. A bill to provide for paper money of the United States to carry a designation in braille indicating the denomination; to the Committee on Banking and Currency.

H.R. 14654. A bill to amend the act of May 19, 1948, with respect to the use of real property for wildlife conservation purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. HOLIFIELD (for himself, Mr. PRICE of Illinois, Mr. ASPINALL, Mr. YOUNG of Texas, Mr. EDMONDSON, Mr. HOSMER, Mr. ANDERSON of Illinois, Mr. MCCULLOCH, and Mr. HANSEN of Idaho):

H.R. 14655. A bill to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. MALLARY:

H.R. 14656. A bill to amend the Land and Water Conservation Fund Act of 1965; to the Committee on Interior and Insular Affairs.

By Mr. PIKE:

H.R. 14657. A bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment, and to authorize project grants to increase the availability and effectiveness of such treatment; to the Committee on Ways and Means.

By Mr. SAYLOR:

H.R. 14658. A bill to designate certain lands as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of Iowa:

H.R. 14659. A bill to require the consideration of environmental and other factors, and the stockpiling and replacement of soil on all public works projects and highway and other projects which are federally assisted, on federally held land, and on projects which affect commerce among the States, or the general welfare and quality of life of the Nation; to the Committee on Public Works.

By Mr. SYMINGTON (for himself, Mrs. ABZUG, Mr. BRADEMAS, Mr. COTTER, Mr. DAVIS of Georgia, Mr. HAWKINS, Mr. LINK, Mr. MITCHELL, Mr. RANGEL, Mr. REID, Mr. SEBELIUS, Mr. WOLFF, and Mr. ASPIN):

H.R. 14660. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. UDALL (for himself, Mr. BADILLO, Mr. DERWINSKI, Mr. DINGELL, Mr. FASCELL, Mr. HALPERN, Mr. HASTINGS, Mr. MOORHEAD, Mr. MOSS, Mr. PODELL, Mr. PREYER of North Carolina, Mr. REES, Mr. RHODES, Mr. SCHNEEBELI, Mr. STRATTON, and Mr. CHARLES H. WILSON):

H.R. 14661. A bill to regulate State presidential primary elections; to the Committee on House Administration.

By Mr. WHITEHURST:

H.R. 14662. A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services; to the Committee on Armed Services.

H.J. Res. 1179. Joint resolution calling for a moratorium on the killing of polar bears; to the Committee on Foreign Affairs.

By Mr. HOLIFIELD:

H. Con. Res. 592. Concurrent resolution: Policies and procedures to end the war in Indochina; to the Committee on Foreign Affairs.

By Mr. FISH:

H. Con. Res. 593. Concurrent resolution expressing the sense of the Congress with respect to total nuclear disarmament; to the Committee on Foreign Affairs.

By Mr. HARRINGTON (for himself, Mr. BURTON, Mr. EILBERG, and Mr. RANGEL):

H. Con. Res. 594. Concurrent resolution to stop the bombing of North Vietnam; to the Committee on Foreign Affairs.

By Mr. HOWARD:

H. Con. Res. 595. Concurrent resolution authorizing the Joint Committee on the Library to commission a painting of the astronauts first landing on the moon on the ceiling of the Brumidi corridor in the Senate wing of the Capitol; to the Committee on House Administration.

By Mr. ANDERSON of Tennessee (for himself, Mr. BLATNIK, Mrs. ABZUG, Mr. DAVIS of Georgia, Mr. PICKLE, and Mr. DORN):

H. Res. 944. Resolution expressing the sense of the House of Representatives that the full amount appropriated for the rural electrification program for fiscal 1972 should be made available by the administration to carry out that program; to the Committee on Appropriations.

By Mr. ARCHER:

H. Res. 945. Resolution in support of the President's response to the invasion of South Vietnam; to the Committee on Foreign Affairs.

By Mr. ROYBAL (for himself, Mr. ANDERSON of California, Mr. CORMAN, Mr. DANIELSON, Mr. REES, and Mr. CHARLES H. WILSON):

H. Res. 946. Resolution urging supplemental appropriations to implement the President's message of March 17, 1972, calling for equal educational opportunities; to the Committee on Education and Labor.

By Mr. RYAN:

H. Res. 947. Resolution urging supplemental appropriations to implement the President's message of March 17, 1972, calling for equal educational opportunities; to the Committee on Education and Labor.

By Mr. THOMPSON of New Jersey:

H. Res. 948. Resolution to provide funds for expenses incurred by the Select Committee on the House Restaurant; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

379. Mr. LENT presented a memorial of the Senate and the Assembly of the State of New York to the Congress of the United States, to amend the highway trust fund for mass transportation purposes, which was referred to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. GROSS:

H.R. 14663. A bill for the relief of Clarence McCarville and Emma McCarville; to the Committee on the Judiciary.

By Mr. RUPPE:

H.R. 14664. A bill for the relief of Randy W. Cowen: to the Committee on the Judiciary.