Speaker's table and referred to the Committee on Interstate and Foreign Commerce.

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. EDWARDS of California: Committee on the Judiciary. H.R. 7375. A bill to remove the statutory ceiling on salaries payable to U.S. magistrates; with amendments (Rept. No. 92–1037). Referred to the Committee of the Whole House on the State of the Union.

Mr. MANN: Committee on the Judiciary. H.R. 12179. A bill for the relief of Swift-Train Co.; with an amendment (Rept. No. 92–1038). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 14715. A bill to enforce the constitutional right of females to terminate pregnancies that they do not wish to continue; to the Committee on the Judiciary.

By Mr. FREY:

H.R. 14716. A bill to provide for the establishment of safety standards for mobile homes in interstate commerce, and for other purposes; to the Committee on Banking and Currency.

By Mr. HANSEN of Idaho (for himself, Mr. BELL, Mr. DELLENBACK, Mr. ESCH, Mrs. HICKS of Massachusetts, Mr. MEEDS, Mr. O'HARA, Mr. QUIE, Mr. SCHEUER, Mr. STEIGER of Wisconsin, Mr. BEGICH, Mr. EILBERG, Mr. FRELINGHUYSEN, Mr. FUQUA, Mr. GARMATZ, Mr. GIBBONS, Mr. GUDE, Mr. HALPERN, Mr. HEINZ, Mr. MCCLORY, Mr. NIX, and Mr. THONE):

H.R. 14717. A bill to improve the quality of child development programs by attracting and training personnel for those programs; to the Committee on Education and Labor.

By Mr. MCMILLAN (for himself, Mr. CABELL, Mr. NELSEN, and Mr. BROYHILL of Virginia):

H.R. 14718. A bill to provide public assistance to mass transit bus companies in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. MIKVA:

H.R. 14719. A bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes; to the Committee on Ways and Means.

By Mr. MORGAN:

H.R. 14720. 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. STUBBLEFIELD (for himself, Mr. MCMILLAN, Mr. DORN, Mr. VIGORITO, Mr. JONES of North Carolina, Mr. SISK, Mr. ALEXANDER, Mr. JONES of Tennessee, Mr. BERGLAND, Mr. LINK, Mr. DENHOLM, Mr. ABOUREZK, Mr. ASPIN, Mr. BEGICH, Mr. EDMONDSON, Mr. HENDERSON, Mr. HILLIS, Mr. KASTENMEIER, Mr. MCFALL, Mr. QUILLEN, Mr. ROY and Mr. STEED):

H.R. 14721. A bill to provide price support for milk at not less than 85 percent of the parity price therefor; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HAWKINS presented a bill (H.R. 14722) for the relief of Hilarion Ngayan, Jr., which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

PROF. G. I. SANCHEZ—EDUCATOR, LEADER, HUMANITARIAN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. PICKLE. Mr. Speaker, a few days ago The University of Texas, the State of Texas, and this country lost a great education leader with the death of Prof. George Sanchez.

Even before Professor Sanchez had completed his own education, this Government was calling on him to help in its work in inter-American relations and education fields. He has served well the cause of Spanish-speaking peoples in this country and abroad. And in so doing he has served well his country and his fellow man everywhere.

His loss will be sorely felt.

I would like at this time to place in the RECORD an article from an Austin, Texas, newspaper describing the life and works of Professor Sanchez.

The article follows:

UT PROF. G. I. SANCHEZ DIES

Dr. George Isadore Sanchez y Sanchez, 65, of 2201 Scenic Dr., professor of Latin American Education at the University of Texas, died at St. David's hospital Wednesday night after an illness.

Funeral is pending at the Cook-Walden Funeral Home.

Sanchez had been a faculty member at UT since 1940. He had also taught short terms at the University of Mexico, University of Alaska, University of Southern California, University of New Mexico and others.

Sanchez was born in Albuquerque, N.M., on Oct. 4, 1906, and was educated in elementary and secondary schools in Arizona and New Mexico. He received his bachelor of arts degree from the University of New Mexico in 1930, his master of science degree in education from UT in 1931 and his doctorate from the University of California in 1934.

Dr. Sanchez taught elementary school in New Mexico from 1923–30 and was director of research for the New Mexico Department of Education, 1931–35. From 1935–37 he was a research associate for the Julius Rosenwald Fund in Chicago and the chief technical consultant and director of the National Teachers College for the Venezuelan Ministry of Education from 1937–38.

He worked as a research associate at the University of New Mexico 1938–40. He also served as Education Specialist to the Coordinator of Inter-American Affairs in Washington, D.C. from 1933–34.

In 1961 Sanchez was named to the board of directors of the newly formed Peace Corps by President John F. Kennedy and also served on Kennedy's 50-member Citizen's Committee for a New Frontier Policy in the Americas.

He has also held government appointments with the U.S. Bureau of Indian Affairs and Office of Education.

Sanchez was a government witness in the Austin School desegregation case last year, during which he called prohibiting speaking of Spanish by children in public schools "virtually criminal."

He also spoke out against segregation of black and Mexican-American students calling for a "unitary" school where all children attended without reference to ethnic background.

Sanchez was the author of numerous books, articles, monographs and bulletins. Some of his principal books were "Mexico—A Revolution in Education," 1936; "Forgotten People," 1940; "The Development of Higher Education in Mexico," 1944; "The People—A Study of the Navajos," 1948; "Arithmetic in Maya," 1961; and "The Development of Education in Venezuela," 1963.

Sanchez is survived by his wife, Dr. Luisa G. Sanchez of Austin; one daughter, Mrs. Consuelo Sprague of Austin; a son-in-law, Nelson R. Sprague of Austin; and a son, George E. Sanchez, of Albuquerque, New Mexico.

THE INDEPENDENCE OF THE FEDERAL JUDICIARY

HON. ROBERT TAFT, JR.

OF OHIO

IN THE SENATE OF THE UNITED STATES

Tuesday, May 2, 1972

Mr. TAFT. Mr. President, the Honorable Frank J. Battisti, Chief Judge of the U.S. District Court for the Northern District of Ohio, has recently written an article entitled, "The Independence of the Federal Judiciary." This article appeared in the February 1972 issue of the Boston College Industrial and Commercial Law Review.

Because of the stresses which are placed on the independence of our judicial system in turbulent times, I commend this article to my colleagues and ask unanimous consent that it be inserted at this point in the RECORD.

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

THE INDEPENDENCE OF THE FEDERAL JUDICIARY †

(Hon. Frank J. Battisti*)

It is indeed an honor to speak at the Boston College Law School. As you are probably aware, there has been some criticism directed at judges who deliver speeches and write articles on matters which may subsequently come before them in the course of litigation. The subject of my remarks is one that will likely not be part of any litigation that may come before me, and it is a subject of the highest interest to members of the bench and bar alike. I address myself today to the current congressional attempt to infringe upon the independence of what Professor Alexander Bickel calls "the least dangerous branch."

Footnotes at end of article.

As you are no doubt aware, in our unique system of government we have three independent, yet interdependent branches. Each limits and counterbalances the others so that the ship of state continues on a relatively even keel. The power of the executive and legislative branches is checked by the operation of the judicial branch; the jurisdiction of the courts is within the aegis of Congress; and the power to appoint Judges is vested in the Executive.[1]

A hallmark of our federal system is the independence of the judiciary. This independence is occasionally threatened by those who, while meaning well, would undermine the very attribute that makes the judicial system of this nation without peer. The paramount importance of the judiciary's independence was ably expressed by the late Circuit Judge John J. Parker:

There is one qualification which is the *sine qua non* of judicial success or even judicial respectability. That quality is independence. . . . The judge must not only be independent—absolutely free of all influence and control so that he can put into his judgments the honest, unfettered and unbiased judgment of his mind, but he must be so freed of business, political and financial connections and obligations that the public will recognize that he is independent. It is of supreme importance, not only that justice be done, but that litigants before the court and the public generally understand that it is being done and that the judge is beholden to no one but God and his conscience. As was well said by John Marshall in the debate on the Constitution in the Virginia Convention: "The Judicial Department comes home in its effects to every man's fireside; It passes on his property, his reputation, his life, his all. Is it not, to the last degree important, that he (the judge) should be rendered perfectly and completely independent, with nothing to influence or control him but God and his conscience? . . . I have always thought, from my earliest youth till now, that the greatest scourge an angry Heaven ever inflicted upon an ungrateful and sinning people, was an ignorant, a corrupt, or a dependent Judiciary." [2]

The founding fathers were convinced that the independence of the judiciary was of paramount importance in their new government. Their belief was embodied in the Third Article of the Constitution, which provides that judges "shall hold their office during good behavior." The framers of the Constitution sought to establish the judiciary's independence by limiting the method for removal of federal judges to a cumbersome [3] impeachment process.

Alexander Hamilton expressed their views most clearly in his contributions to the Federalist Papers. In No. 79 he wrote:

The precautions for their [judges'] responsibility are comprised in the article respecting impeachments. They are liable to be impeached for mal-conduct by the house of representatives and tried by the senate, and if convicted, may be dismissed from office and disqualified for holding any other. This is the only provision on the point, which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own constitution in respect to our own judges.

The want of a provision for removing the judges on account of inability, has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon, or would be more liable to abuse than calculated to answer any good purpose. . . . An attempt to fix the boundary between the regions of ability and inability, would much oftener give scope to personal and party attachments and enmities, than advance the interests of justice, or the public good. The result, except in the case of insanity, must for the most part be arbitrary; and insanity, without any formal or express provision, may be safely pronounced to be virtual disqualification.[4]

In Federalist No. 78, Hamilton concluded his argument for an independent judiciary by elucidating the benefits of the good behavior standard:

The standard of good behaviour for the continuance in office of the judicial magistry is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince: In a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws.

[In view of] the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its coordinate branches; [and] . . . nothing can contribute so much to its firmness and independence as permanency in office.

If then the courts of justice are to be considered as the bulwarks of a limited constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges, which must be essential to the faithful performance of so arduous a duty.

But it is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the constitution, where legislative invasions of it had been instigated by the major voice of the community.

Upon the whole there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established *good behaviour* as the tenure of their judicial offices in point of duration; and that so far from being blamable on this account, their plan would have been inexcusably defective if it had wanted this important feature of good government. The experience of Great Britain affords an illustrious comment on the excellence of the institution.[5]

I. ATTEMPTS TO ENCROACH ON JUDICIAL INDEPENDENCE

In the last forty years Congress has considered several alternative methods for the removal of federal judges. In 1936, two bills were introduced which sought to provide an additional avenue for the removal of federal judges. Both bills gave the power of removal to a special court and allowed an appeal to the Supreme Court. One bill,[6] introduced by Senator McAdoo, proposed the establishment of a court to be composed of the senior judges of the ten circuit courts of appeals and the Chief Judge of the Court of Appeals for the District of Columbia. Its jurisdiction would have extended to the trial of all federal judges, except justices of the Supreme Court, upon the issue of misbehavior. Prosecution of the matter was to be entrusted to the United States Attorney General; and upon conviction and transmission of notice thereof to the President, the judge was to be automatically removed from office. The bill also provided for an appeal to the Supreme Court.

A second bill,[7] introduced by Congressman Summers, provided a method whereby the House of Representatives could transmit a resolution directly to the Chief Justice of the United States. This bill provided that if, in the opinion of the House, there were reasonable grounds for believing that any judge of the United States, other than a judge of any of the circuit courts of appeals or the Supreme Court, was guilty of misconduct, the Chief Justice should convene the circuit court of appeals for the circuit in which the judge's judicial district was situated to try the issue of the accused judge's good behavior. The Chief Justice would have been required to designate three circuit judges, none of whom had to be from the circuit of the accused judge, to serve on such a court. Prosecution was to be entrusted to managers designated by the House, and appeal was allowed to the Supreme Court of the United States by either the prosecution or the accused. Judgment was to be limited to removal from office.

Both of these bills were the subject of much criticism. Serious doubt existed as to whether a proceeding for removal constituted a "case or controversy" falling within the judicial power [8] of the courts under Article III.[9] A further objection was predicated on the argument that the impeachment provisions of the Constitution impliedly exclude all other methods for removal.[10] In rejecting the two proposals, Congress wisely adhered to the belief of the framers of the Constitution that the impeachment procedure should be the sole means for removing judges.

A similar and equally unfortunate attempt to tamper with the independence of the judiciary occurred when President Franklin Roosevelt sought to "pack" the Supreme Court with Justices who would sustain the legislation of the New Deal.[11] In 1937, President Roosevelt delivered a message to Congress in which he proposed a legislative plan that would have increased the number of justices from nine to a possible maximum of fifteen. Thus he brought into the open a disagreement between the Court on one hand, bent on maintaining the doctrine of judicial independence, and, on the other, those individuals and groups who wished the Court to refrain from reviewing matters of legislative policy. The unsuccessful action by President Roosevelt exemplified the angry collision between dynamic and popular presidents and the federal courts, and is illustrative of the numerous presidential and congressional efforts to encroach on the federal judiciary's independence.[12]

In a recent session of Congress, former Senator Tydings, together with other liberal senators,[13] introduced S. 1506, a bill entitled The Judicial Reform Act.[14] Although both Senator Tydings and his bill were unsuccessful in gaining popular approval, the principal aim of the bill—the establishment of a Commission on Judicial Disabilities and Tenure—still enjoys strong support. Addressing a convention of the American Bar Association, Deputy Attorney General Kleindienst expressed the Nixon Administration's approval of the bill. He stated, in part:

I [regret] . . . that I did not either see or get the opportunity to speak in favor of Senator Tydings' proposal with respect to judicial removal. On behalf of the Administration and on behalf of the Attorney General, we favor this very much indeed, and judicial reform. Although we have not yet presented our position to the Congress, we will in the near future. We commend his effort and his activity and his diligence in this area, and, like you, as a result of the vote you took here this morning, we are hopeful that the Congress will enact this into legislation this year.[15]

In spite of its initial defeat, the terms of the proposed Act deserve considerable attention. It is to Title I of the Act that my comments and criticism will be directed, for it is this section that represents the most recent assault on the independence of the federal judiciary. Title I calls for the creation of a "Commission on Judicial Disabilities and Tenure" within the judicial branch.[16] This Commission would be composed of five members, each a federal judge in active service, and would include two district judges and two circuit judges to be assigned by the Chief Justice. In addition, no judge who is a member of the Judicial Conference [17] of the

Footnotes at end of article.

United States could be assigned to the Commission.

The Act would provide that, upon a complaint, either formal or informal, of *any* person, the Commission could undertake an investigation of the official conduct of an Article III judge to determine whether that judge's conduct has been consistent with the standard of good behavior. Willful misconduct and persistent failure to perform his official duties would constitute conduct inconsistent with the requirement of good behavior. After an investigation, the Commission could order a hearing concerning the conduct of the judge and, within ninety days after the adjournment of the hearing, the Commission would have to make findings of fact and a determination regarding the judge's conduct. If, upon the concurrence of four of its members, the Commission decided that the conduct of the judge was inconsistent with the good behavior requirements of Article III, it would report its findings to the Judicial Conference with the recommendation that the judge be removed from office. If the Commission found that the judge's conduct was in keeping with good behavior, the matter would be dismissed; the judge under investigation could then decide whether to make public any or all information relating to the investigation.

The Judicial Conference or one of its committees would review the record, findings and determination of the Commission. It could hear oral arguments, receive additional evidence, or require the filing of briefs. The Conference could accept, modify or reject the findings of the Commission. Should the Conference accept the recommendation of the Commission, the Conference would then stay certification of its determination to the President pending review in the Supreme Court by writ of ceriorari. If the judge did not seek review, or if he did and the findings were affirmed, the Conference would certify to the President that the judge be removed from office. The judge then would be removed and a new one appointed by the President with the advice and consent of the Senate.

In addition, the Commission would be empowered to hear any claim by a retired judge that he was not being assigned court duties which he was willing and able to undertake. Such a claim would have to be substantiated to the satisfaction of a majority of the Commission, which would then transmit an appropriate order to the authority responsible for the assignment of judicial duties to retired judges.

The proposed Act attempts to circumvent the impeachment provisions of the Constitution. Its supporters correctly contend that the impeachment process is cumbersome; indeed, they argue that it is too cumbersome. In their haste to condemn it, however, they demonstrate its essential purpose. Impeachment was *designed* to be cumbersome in order to make removal by whim an impossibility.[18] It embodies the belief that before a judge can be removed from office he must have offended the Constitution to such a degree that the great weight of the Congress is moved to convict him. The supporters of S. 1506, who testified before the Tydings Subcommittee, claim that an easier method of removal for federal judges is necessary. However, the clear result of the bill would not be to make removal of federal judges easier than is provided by the Constitution; rather, the result would be to make it easy to remove federal judges. This change would violate the spirit and letter of the Article II impeachment grounds, which were purposely intended to make difficult the removal of federal judges and other civil officers. The impeachment provisions have been fundamental in permitting judges to retain their independence from political interference, which in turn, has allowed them to accord justice without favoritism. This beneficial and necessary aspect of the federal judiciary would be substantially undermined if the bill were to become law.

The impeachment process had been and continues to be a viable means of removing federal judges and policing their conduct. While thirteen men, eight of them judges and one of them a President, have been impeached and four have been convicted by the Senate, a total of fifty-five judges were subjected to congressional inquiry up to 1962.[19] As the testimony of Joseph Borkin, a proponent of S. 1506, makes clear, the benefits of the impeachment process are realized indirectly:

[I]mpeachment is a costly, complicated, and cumbersome process, initiated rarely, and then only with the greatest of reluctance. Its only real effectiveness has been indirect. By threatening a misbehaving judge with exposure and disgrace, it has forced those judges guilty of the most flagrant abuses to resign rather than face the ordeal of impeachment.[20]

However, as an expert on judicial behavior, Mr. Borkin argued that the history of the impeachment of judges indicates the procedure's failure. This failure, he contended, is evidenced by the fact that while fifty-five judges were investigated, only eight were impeached. It should be noted that, in addition, eight were censured and seventeen resigned at some stage of the investigation, while the balance were absolved. Mr. Borkin thus concluded that the impeachment process is so cumbersome that the bar, the prosecuting officials and Congress "appear [to be] willing to permit resignation from the bench to serve as a curtain behind which judges of questionable character could hide the details of their misdeeds." [21]

It seems to me that supporters of S. 1506, such as Mr. Borkin, do not really want to see the federal judiciary improved; they want to see heads roll. It should not matter how a "judge of questionable character" leaves the bench so long as he does. The institution of the federal judiciary is better served by the resignation of a particular judge than by the successful witch-hunting of a few individuals bent on removing all those jurists who, in the opinion of a few, are not observing the requirements of good behavior.

In his testimony before the Subcommittee, Mr. Borkin explained in great detail the sagas of three federal judges [22] indicted for judicial corruption. They were sordid tales and most unfortunate. However, they missed the point. It is not surprising that a few judges have violated the canons of judicial ethics; judges after all are human, appointed by a less-than-perfect man, a President, and confirmed by less-than-perfect men and women, the United States Senate. Men may err. What is significant is the number of fine men and women who grace the federal bench and who are above reproach—men and women who are dedicated to their high position as federal judges—conservative judges, liberal judges, black judges, white judges—all, or at least the vast majority, of whom discharge their responsibilities to the utmost of their abilities. If a judge is to be placed in a position where he can be reviewed by five other judges on the complaint of "any person," many well-qualified individuals would refuse appointment.

The independence of the federal judiciary is more important to those persons than perhaps any other aspect of the position.

Many decisions of a judge may bestir bitter feelings in the litigants. If the proposed bill were passed, every judge would be made constantly aware of the possibility that an unsatisfied litigant might seek to discredit him and to have him removed by means of an investigation. This is especially true in the district courts, where the trial judge is regularly in personal contact with controversial issues, emotional settings, and, frequently, violatile personalities. Under these circumstances, a district judge *must* be able to act and decide cases and controversies free from the threat of reprisal through use of the investigative function of the Commission. For those who would deny that the power of the Commission could be used as a means of reprisal need only look to those unfortunate circumstances in Oklahoma involving Judge Chandler, a matter to which I shall later return.

It is easy to discern how the existence of such a Commission might have affected the work of a judge such as the former Chief Judge of this district, Charles E. Wyzanski. Judge Wyzanski is a man of integrity with definite, but enlightened, opinions. Yet one can imagine that in his more than thirty years on the bench he has angered some individuals who would have been happy to see him investigated, humiliated and removed. On the other hand, I think you would agree that there are many in this country who would wish that fate to befall Judge Julius Hoffman of the Northern District of Illinois. While there are those who have disagreed with Judge Wyzanski and with Judge Hoffman, it is the strength of our system that they are not to be investigated or removed for any reason other than a finding that they are guilty of the charge of "high crimes and misdemeanors" as determined by a trial in the Senate.

As a federal district judge I have the strongest feeling that Title I of the proposed bill would obstruct and effectively destroy the independence of the federal judiciary. There is, however, much disagreement on this point. Many fine judges, all circuit judges I might add, as well as esteemed members of the bar testified before the Senate Subcommittee on Improvements in Judicial Machinery to the effect that (1) the bill would strengthen the federal judiciary and (2) impeachment is not the exclusive remedy for removal.

Judge Craven of the Fouth Circuit testified before the Subcommittee that, in his view, impeachment might not be the exclusive remedy for the removal of judges since impeachment is an Article II procedure and judges are created by Article III. He did not find the standard of "willful misconduct in office"—the bill's new "definition" of misbehavior—overly vague, although he considered it less than satisfactory:

A phrase like "willful misconduct" is like other phrases such as "judicial temperament" and "obscenity." It is almost impossible to define such phrases, but we generally recognize the quality when we see it. . . .

But even if broad general terms are retained, I do not think that the federal judges need be fearful of a legislative grant of power to a committee composed of themselves enabling removal from office for willful misconduct in office or willful or persistent failure to perform official duties. It does not seem to me that the grant of such power *within* the judicial branch itself seriously infringes upon a proper tenure of office. I have never thought that independence of the judicial branch embraced hog-on-ice license for the individual judge. I do not believe that a federal judge will be inhibited or made timid in the discharge of his duties by recognition that he may not, with impunity, willfully engage in misconduct in office or persistently fail to do his job. Absolute tenure, in my opinion, is not necessary to assure judicial independence in deciding cases." [23]

With due deference to Judge Craven, to my knowledge, no reasonable man has ever argued that judges have absolute tenure. The impeachment process has kept many judges, both directly and indirectly, from completing their careers on the federal bench. It should also be remembered that judges are subject to the sanctions of the criminal law and that they, like any other citizen of the Republic, may be indicted, tried and found guilty of any criminal violation.

I cannot count the number of times nor

Footnotes at end of article.

recount the variety of claims upon which attorneys have brought suit against powerful public agencies in my courtroom. If the Commission were in existence and any disgruntled litigant could bring a judge before it, how, then, could a judge decide a case which requires the determination of a controversial social issue. Unquestionably, he would be reluctant to find against a contentious litigant if he knew that the loser could bring him before the Commission. Under the present system, the dissatisfied litigant returns to his office and prepares an appeal. If the Commission were in existence he might also call an investigative agency to request an inquiry into the judge's character and his activities on and off the bench. With the possibility of abuse so great, it is unlikely that the presence of the Commission would lead to the fair hearing of cases; rather, it would likely give dissatisfied litigants license to discredit federal judges.

With great regularity, cases come before me and every other federal judge involving vast sums of money and, often, the future of major business enterprises. Frequently, the cases involve a stockholder's derivative action or a class action in which the plaintiffs may be quite poor in comparison to the wealth and power of the defendant. The pressures on a judge in such a case can be enormous, especially where the livelihood of a city may depend on the outcome of the case. To add to the equation the possibility that the powerful corporation, should it lose, could attempt to have him removed from the bench or at least harassed by bringing him before the Commission, might well be more than any individual judge could withstand.

While it is uncertain whether S. 1506 should or could be applied to justices of the Supreme Court, we can well imagine the number of complaints that would have been made to such a commission against Mr. Chief Justice Warren and members of his Court. Imagine, also, the number of times that Mr. Justice Douglas, or the late Mr. Justice Black, might have been brought before such a commission. It is unlikely that with the ominous presence of a commission hanging over its head, the Warren Court could have handed down its landmark decisions in matters of race relations, criminal procedure and voting rights. These decisions have changed the face of the nation. It is not impermissible to speculate whether monumentally important cases such as *Marbury v. Madison*,[24] *McCulloch v. Maryland*[25] *and Dred Scott v. Sanford*[26] would have been decided differently, had the Commission on Disability and Tenure been in existence from the beginning of the Republic. It is quite possible that the power of the "third branch" might have been so weakened that, in truth, it would now be the least dangerous branch.[27]

I happen to be one who believes that there are no such things as political trials in the United States. However, I am convinced that this commission would create political federal courts, with judges fearful of deciding potentially volatile issues because of the threat of reprisal. While I do not intend to discredit or impugn the bar or the bench in any of these statements, the possibilities are alarming. I know that I personally would have great difficulty sitting in review of another judge's alleged willful misconduct in office; there may be others, however, who might relish such an opportunity. This is not to suggest that they are inferior men and women, but rather, that they are merely men and women who have likes and dislikes, hates and loves, each with his own judicial, political and personal philosophy of life and the law.

In his testimony, Judge Craven expressed his belief that S. 1506 would allow the federal judiciary to keep its own house in order.

He felt that as long as Congress described willful misconduct in office, then he, as a judge, would be on notice. He also felt that the congressional standard of "willful misconduct" could act as a stronger deterrent than the potential threat of impeachment:

Now, I think this would have a very healthy effect not just on the crooked judge but on the judge who may be arrogant on the bench, who may be discourteous to counsel and even to the jury sometimes, who is utterly indifferent . . . to time, except his own time; who will come to court at 11 instead of 9:30 if it suits him . . . who continues cases . . . for a lawyer with whom he formerly practiced but it seems quite difficult to get a continuance if you didn't practice with him. You don't really know it is favoritism, but if you suspect it, injury has been done to the judiciary; even the suspicion of it reflects upon the whole judiciary.

Then there is the judge who may be thought to be one who deliberately will delay adjudication of a particular class of cases; he doesn't like that kind of case, and it may take 9 months to get a decision out of him. It is impossible to know whether he is really guilty or not. But this sort of thing, I think, would tend to diminish if the judges felt that they were subject, at least, to inquiry, not necessarily to removal. . . .[28]

Judge Craven suggests that the inquiry might lead to the serious punishment of censure, but he assumes that this is unlikely to occur very often, since the Commission would make few investigations. He premises his conclusions on the personal belief that the Commission and members of the bench and bar would act with honor and would initiate such proceedings against a judge only under grave circumstances. I would like to believe this but, unfortunately, in order to accept such a conclusion, I would have to ignore my own experience on the bench as well as some events of recent history.

Mr. Justice Douglas, for example, whose absolutist views on First Amendment rights have often vexed conservatives, several terms ago published his controversial book, *Points of Rebellion*.[29] The outcry was significant enough to cause the House Judiciary Committee to begin yet another investigation into the public and private affairs of Justice Douglas. Although it is uncertain whether the Commission would have jurisdiction over justices of the Supreme Court, one can envision a situation in which a federal judge such as Justice Douglas would have to present his case before the Commission, after having been accused of being unfit by "any person" distressed by the judge's First Amendment views.

Another witness before the Subcommittee, Judge Maris, Senior Circuit Judge of the Third Circuit, also favored the Commission, arguing that impeachment is an inadequate mechanism to deal with those infrequent occasions when a judge is guilty of improper conduct or becomes physically or mentally disabled and refuses to retire. His only concern with the Commission was that of insuring that its proceedings be conducted with due process. With regard to the issue of the independence of the federal judiciary, Judge Maris stated:

I believe it is perhaps salutary from time to time to have somebody looking over your shoulder. I don't see how any judge need fear any such provision if he is conducting himself properly. As a matter of fact, it seems to me our history teaches that judges receive great consideration in their conduct and in their work. They are regarded highly, as a group, and perhaps too often derelictions which may well be small are overlooked by the public. I just don't fear that this would be any real threat to the independence of the judiciary.[30]

With all due respect to Judge Maris, it appears that he offers "the wishing makes it so" theory in support of S. 1506. He believes that since men are basically honorable and that judges are, with few exceptions, basically competent and honorable individuals, judges have nothing to worry about. His argument assumes a premise which ignores the activities of those who lose important or controversial lawsuits.

Judge Haynsworth of the Fourth Circuit also endorsed the Commission. He stated, in part:

I believe that the very existence of . . . the commission, which would initially handle complaints, would result in substantial protection to the fit judge who is the victim of misconceptions or frivolous complaints that may rankle widely in the absence of some readily available adjudicatory forum to assess them. I believe it would result in earlier retirements of those judges whose conduct is substantially questionable, and it would provide a much more orderly means for the involuntary removal of the rare unfit judge than the impeachment procedures now provide. I am heartily in favor of authorizing judges to remove from office the unfit judge whose willful misconduct reflects upon the entire system and the administration of justice, itself, so long as the judge in question has all of those rights to hearings and procedural due process which Title I of S. 1506 provides.[31]

Judge Haynsworth further testified that he was opposed, as were the district judges of the Fourth Circuit, to having district judges represented on such a commission. While the prospect of being reviewed by a judge or judges who may never have sat in a district court is somewhat disturbing, the prospect of being personally reviewed by a circuit judge from one's own circuit is, however, far more disconcerting. Were this latter prospect to become a reality, how regularly would a district judge disagree with the law in his circuit if he knew that his good behavior could be reviewed eventually by the same judge with whom he had disagreed?

In my review of the testimony of the witnesses before the subcommittee, I think I have fairly summarized the views of those who favor the Commission. They believe that a statutory alternative to impeachment may be devised which would enable the federal judicial system to clean its own house, and that the system, in fact, needs cleaning. The men who testified before the subcommittee are honorable and well-meaning, but they are wrong. The most unfortunate testimony was that contained in the statement of Bernard Segal, then President of the American Bar Association, who indulged in a broad indictment of the federal judicial system in his support of the proposed bill. His statement to the Subcommittee read, in part:

In one respect, we have had continuing improvement in the federal courts during the past fifteen years. In my opinion, the quality of the judges on the federal bench, their general level of competence and diligence, has never been higher. But more than ever before, this fixes a glaring spotlight on the judge who because he is incompetent or physically or mentally disabled simply does not or cannot do his job. . . . It is regrettable, but true . . . that one bad judge can undo the efforts of a hundred excellent judges. This circumstance, present always, is aggravated in these days when causes beyond the control of even the most able of judges have created such widespread cynicism by our citizens as to the efficiency of our judicial system to meet the demands which the modern world presses upon it.[32]

Mr. Segal and those who share his views rely heavily on existing state procedures similar in principle to those proposed in S. 1506 to alleviate the shortcomings of the federal judiciary. In many instances these procedures are inapposite. In some states, for example, judges are subject to review through the elective process. In others, where the state constitutions contain no impeachment provisions, the states clearly must provide

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Footnotes at end of article.

other means for removal. But putting aside these differences for a moment, it is possible that such a system could work. The question is, however, whether Congress should adopt such a program, regardless of the possible constitutional limitations, when the danger of abuse is so great. It is my belief that it should not.

In 1959 Professor Henry Hart of the Harvard Law School devoted forty pages to criticism of the opinions of certain members of the Supreme Court of the United States.[33] One of his criticisms of the opinions of the Court was, in general, that they were "threatening to undermine the professional respect of first-rate lawyers for the incumbent Justices of the Court. . . ." [34] Thurman Arnold, a former judge of the Circuit Court of Appeals, and himself a first-rate lawyer, responded eloquently to Professor Hart [35] in language that is relevant to the subject here under discussion:

"I do not know what 'first-rate lawyers' Professor Hart has in mind. But to the public, first-rate lawyers can only mean men with large corporate practices and leaders in the American Bar Association who are now attacking the Court. Therefore, regardless of what Professor Hart is saying to himself, he is saying to the public that the Court must so conduct itself as to regain the admiration of its critics in the American Bar Association and the corporate bar. Has Professor Hart forgotten that Mr. Justice Brandeis was bitterly opposed by those who were considered the first-rate lawyers of that time? Has he forgotten that in the early days of the New Deal the majority of the Court did so conduct themselves as to gain the admiration of the first-rate lawyers of that time and that they did this so steadfastly as almost to wreck the Court? Has he forgotten that the decisions bitterly attacked by 'first-rate lawyers' have often proven to be the Court's greatest decisions?"

Had I been judging the competence of the members of the Court as Mr. Hart does, I would have chosen Justice Black's eloquent dissent in *Barenblatt* and Justice Brennan's dissent in *Uphaus*, Justice Harlan's majority opinion in *Cole v. Young*, Chief Justice Warren's majority opinion in *Watkins*, and Justice Frankfurter's courageous dissenting opinion in *Rosenberg*. I would have concluded that the Justices who joined in these opinions were worthy of sharing with Holmes and Brandeis the honor of making the Court represent at least in part a great symbol of the ideal of civil liberties. . . .

At the time the *Barenblatt* and *Uphaus* opinions were written, there was a resolution pending in Congress to limit the appellate jurisdiction of the Supreme Court, which failed to pass the Senate by only one vote. The Court was under heavy attack from a prominent faction of the American Bar Association, all of whom could be classed as the "first-rate lawyers" who Mr. Hart tells us are losing confidence in the Court. I do not suggest that the majority was motivated by the pending resolution in arriving at their decision. I do suggest that had the dissent prevailed the resolution might have passed. It may well be fortunate that these great dissents did not prevail, so that they may later make a path to be traveled in the future. In any event, from these samples I would have presented a much more hopeful picture than Professor Hart does and, I suspect, a much more realistic one.[36]

I join with the late and distinguished Judge Arnold. Quite correctly, it seems to me, his reply dramatizes the potential impact that a powerful faction might have on the federal judiciary if such a resolution or S. 1506 were passed. The outcome would be precipitous. "The benefits of the integrity and moderation of the judiciary" of which Hamilton spoke in the Federalist Papers [37] might well be supplanted by the temerity and excessiveness which political power and wealth often breed. S. 1506 can only bring great harm to the courageous and independent members of the judiciary who have withstood a wide variety of pressures. In my opinion the passage of the Judicial Reform Act would be the sort of mistake from which the judiciary and the Republic could never recover.

Although I am most disturbed by the potential for abuse which lies dormant in this bill, proponents of the Judicial Reform Act must also convince its critics and, very likely, the Supreme Court, that the bill is constitutional. It is to the constitutional issue and to an examination of the exclusivity of the impeachment clause that I should now like to turn.

II. THE EXECUTIVITY OF THE IMPEACHMENT POWER

"The power of Congress to remove all civil officers by impeachment has always been regarded as an integral part of the system of checks and balances. . . . " [38] As noted previously, impeachment is the only method expressly provided in the Constitution for the removal of unfit civil officers, including federal judges. Therefore, it is my belief, and that of many others,[39] that the Constitution provides impeachment as the exclusive procedure for the removal of federal judges. This position is predicated on the language of the Constitution, the Federalist Papers and the principle of the independence of the federal judiciary.

A. Removal: The Cases and the Constitution

Three sections of the Constitution are relevant to a discussion of removal: (1) Article I, section 2 provides that the House of Representatives "shall have the sole power of impeachment"; (2) Article I, section 3 invests in the Senate "the *sole* power to try all impeachments" (emphasis added). Section 3 also requires that "no person shall be convicted without the concurrence of two-thirds of the members present." Article I further provides that "judgment in cases of impeachment shall not extend further than to removal of office"; and (3) Article II, section 4 enumerates the grounds for removal: "for conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Those who contend that a statutory alternative to impeachment would be constitutional note that the language of Articles I and II does not expressly provide that impeachment is exclusive. It is difficult for me to come to any other conclusion, however, after a careful reading of the language of the Constitution and the Federalist Papers. Despite the obvious intent of these documents, the nonexclusivists contend that the exclusivity argument is inconclusive since there are a number of cases which hold that impeachment is not the sole mode for removal of civil officers.

The first case usually cited for this proposition is *Parsons* v. *United States*.[40] Parsons was the United States Attorney for the Northern and Middle Districts of Alabama. Although Parsons term of office was to end on February 4, 1894, President Cleveland attempted to remove him from office on May 26, 1893. Upon his removal, Parsons sued to recover the salary owed to him from May 26 to December 31, 1893. The question before the Court was whether the President had the power to remove a United States Attorney when removal occurred prior to the end of a four-year appointment. Parsons claimed that the President had no power to remove him directly and that the President and the Senate had no authority to remove him indirectly by appointing his successor.

Mr. Justice Peckham, writing for the majority of the Court, analyzed the constitutional history regarding the President's power of removal. He found that, after long debates in the two Houses of the First Congress, both had voted to allow the President the power to remove the Secretary of the Department of Foreign Affairs.[41] He noted that in *In re Hennen* [42] Mr. Justice Thompson had stated:

No one denied the power of the President and the Senate, jointly, to remove, where the tenure of the office was not fixed by the Constitution; which was a full recognition of the principle that the power of removal was incident to the power of appointment. But it was very early adopted, as the practical construction of the Constitution, that this power was vested in the President alone. And such would appear to have been the legislative construction of the Constitution.[43]

Justice Peckham also reviewed a case which involved the removal of a federal judge, *United States v. Guthrie*.[44] In *Guthrie*, the President had attempted to remove Chief Justice Goodrich of the territory of Minnesota, an Article I judge.[45] Judge Goodrich petitioned for a writ of mandamus in the Circuit Court of Appeals for the District of Columbia, to be issued against the Secretary of the Treasury to compel payment of the former's judicial salary. On appeal, the Supreme Court held that it lacked the power to command the withdrawal of money from the Treasury for the payment of any individual claim and that, therefore, the mandamus should not issue. Thus the question of the President's authority to remove Judge Goodrich was not reached.[46]

However, the Attorney General's advisory opinion to the President on the issue of removal prior to the litigation in *Guthrie* had implicitly recognized limits on removal other than by impeachment. Certain officials, the opinion indicated, are not exempted from the executive power which, by the constitution, is vested in the President of the United States over all civil officers appointed by him; and whose tenures of office are not made by the constitution itself more stable than during the pleasure of the President of the United States.[47]

The Attorney General concluded that the President had the authority to remove the territorial Chief Justice from office for any cause. During oral argument in *Guthrie*, however, the Attorney General modified this conception of the President's power of removal. He argued quite persuasively that territorial judges were not Article III judges but rather, Article I judges:

Constitutional courts are such as are intended by the provisions of the third article of the Constitution. The judges of this class, by the express terms of the constitution, hold their offices during good behavior. It comprehends the judges of the Supreme Court and of the various judicial circuits and districts into which the United States are subdivided.[48]

Mr. Justice Peckham concluded in *Parsons* that the President had the power of removal, despite some question concerning construction of the tenure of office statute.[49] Therefore the President, in his discretion, was allowed to remove an officer, "although the term of office may have been limited by the words of the statute creating the office." [50]

Parsons may be construed as holding that the President may remove an officer appointed with the advice and consent of the Senate. But it seems to me that the facts of that case are simply not susceptible of such broad application. Parsons served with limited tenure and was appointed under the authority of Article II, rather than Article III. In addition, the United States Attorney General involved in *Parsons* is distinguishable from the current members of the federal judiciary. The latter, as Article III judges, serve during a period of good behavior, a standard prescribed by the Constitution, not a statute. *Parsons*, therefore, cannot be viewed as being dispositive of the case of an Article III judge.

In another removal case, *Shurtleff* v. *United States*,[51] the petitioner was a customs agent who had been removed from office

Footnotes at end of article.

solely by presidential action. As in *Parsons*, the petitioner sought to recover pay for the remaining period of his appointment. The duty of writing the Court's opinion again fell to Mr. Justice Peckham and, not surprisingly, he reaffirmed the position of the Court in *Parsons*. He stated, in part:

It cannot now be doubted that in the absence of constitutional or statutory provision the President can by virtue of his general power of appointment remove an officer, even though appointed by and with the advice and consent of the Senate. . . . To take away this power of removal in relation to an inferior office created by statute, although that statute provided for an appointment thereto by the President and confirmation by the Senate, would require very clear and explicit language. It should not be held to be taken away by mere inference or implication. Congress has regarded the office of sufficient importance to make it proper to fill it by an appointment to be made by the President and confirmed by the Senate. It has thereby classed it as appropriately coming under the direct supervision of the President and to be administered by officers appointed by him, (and confirmed by the Senate,) with reference to his constitutional responsibility to see that the laws are faithfully executed.[52]

In discerning the intent of the statute, Justice Peckham reasoned that the right of removal exists unless precluded by the presence of explicitly contrary language in the statute. The right, he suggested, exists in the right to appoint rather than in the grant itself, and "it requires plain language to take it away." [53] The Justice went on to question whether Congress had intended to limit the right to certain enumerated causes:

If so, see what a difference in the tenure of office is effected as to this office, from that existing generally in this country. The tenure of judicial officers of the United States is provided for by the Constitution, *but with that exception* no civil officer has ever held office by a life tenure since the foundation of the Government.[54]

That lone exception is the core of my position. Article III judges are creatures of the Constitution, not the Congress. They are provided with life tenure during good behavior and only the constitutionally authorized court of impeachment may remove them from office. In *Shurtleff*, Justice Peckham rather inconclusively blurred the distinction between creations of the Constitution and those of the Congress. He concluded that the impeachment requirement was never intended to prevent the removal of a customs agent for causes other than those listed in Article II, section 4 or by the President, if he so desired it. His observations on the removal of a customs agent certainly seem correct. But it is a giant leap from that premise to the conclusion that Article III judges may be removed by a commission established by the Congress operating under its Article I powers.

Another case which considered the limitations of nonimpeachment removal, *Myers v. United States*,[55] involved the removal of a postmaster four months before the expiration of his four-year term.[56] In that case, the Act establishing the position of postmaster was held to be unconstitutional because it made the President's power of removal depend upon the consent of the Senate. The Court found that the appointment of a postmaster was an exercise of the President's executive power, as provided in Article II, section 1, and although the power of appointment was limited by senatorial advice and consent, the Executive's power, the Court held, was not limited or tempered by the legislative branch in the matter of removals.

In *Myers*, Mr. Chief Justice Taft, writing for the majority, as well as Justice Brandeis, McReynolds and Holmes all in dissent, carefully reviewed the power of the President to remove executive officers. All the opinions contained dicta concerning the removal of federal judges. Despite disagreement among them on the issue in the principal case, the Justices agreed that even though Congress establishes the number of federal judges, the extent of their jurisdiction and their salary, judges are not to be treated like postmasters or United States attorneys on the issue of removal. The Chief Justice stated:

It has been sought to make an argument, refuting our conclusion as to the President's power of removal of executive officers, by reference to the statutes passed and practice prevailing from 1789 until recent years in respect of the removal of judges, whose tenure is not fixed by Article III of the Constitution, and who are not strictly United States Judges under that article. The argument is that, *as there is no express constitutional restriction as to the removal of such judges*, they come within the same class as executive officers, and that statutes and practice in respect thereof may properly be used to refute the authority of the legislative decision of 1789 and acquiescence therein.

The fact seems to be that judicial removals were not considered in the discussion in the First Congress, and that the First Congress . . . and succeeding Congresses until 1804, assimilated the judges appointed for the territories to those appointed under Article III, and provided life tenure for them, while other officers of those territories were appointed for a term of years unless sooner removed.[57]

Although *Myers* did not consider the removal of an Article III judge, Chief Justice Taft's dictum indicated that federal judges could be removed only by impeachment. Only some executive officers, he posited, could be removed by other means. To some degree, this view has been observed in legislation vesting the President with removal power. Revised Statutes 1768 [58] gave the President, in his discretion, authority to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the courts of the United States. Chief Justice Taft further noted that Congress could never take onto itself the power to remove or the right to participate in the exercise of the powers to remove inferior executive officers.[59] It seems to me logical to ask, if Congress could not so act here, how could it constitutionally enact legislation which would permit the removal of an Article III judge by any means other than impeachment? Any legislation sanctioning other means of removal would seem to infringe the constitutional principle of the separation of governmental powers.

The question of removal was again raised in a later case, *Humphrey's Executor v. United States*.[60] That case concerned the issue whether a commissioner appointed to the Federal Trade Commission for a fixed term under the Federal Trade Commission Act could be removed by the President for a reason other than inefficiency, neglect of duty, or malfeasance in office. The Court held that Commissioner Humphrey could be removed by the President but only for one of the enumerated reasons. In limiting the grounds for removal to those expressly stated in the statute, the Court distinguished the *Myers* case which had permitted the removal of the postmaster for reasons unspecified in the relevant Act.[61] The Court found the office of postmaster to be essentially unlike the position of a Federal Trade Commissioner:

A postmaster is an executive officer restricted to the performance of executive functions. He is charged with no duty at all related to either the legislative or the judicial power. The actual decision in the *Myers* case finds support in the theory that such an officer is merely one of the units in the executive department and, hence, inherently subject to the exclusive and illimitable power of removal by the Chief Executive, whose subordinate and aide he is.[62]

The petitioner in *Humphrey's Executor* was, in contrast, a member of a federal agency; the Court recognized this distinction as being crucial:

The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies. . . . Such a body cannot in any proper sense be characterized as an arm or an eye of the executive.[63]

Thus Mr. Justice Sutherland, speaking for the Court, read the *Myers* opinion as excluding from its grasp all officials "who occup[y] no place in the executive department and who exercis[e] no part of the executive power vested by the Constitution in the President." [64]

The distinction articulated by Justice Sutherland is not unlike the distinction made by Mr. Chief Justice Marshall in *Marbury v. Madison*.[65] The Chief Justice determined that a justice of the peace for the District of Columbia could not be removed at the will of the President. Such an officer was to be distinguished from one, such as the director of the Department of Foreign Affairs, appointed to aid the President in the performance of his constitutional duties.[66] Although Chief Justice Marshall might have disapproved of some of the decisions previously discussed, the Supreme Court has held that the President *does* have the power to remove executive officers at his whim and that his power to remove officials from positions established by Congress is limited to the conditions enumerated in the enabling legislation.

In the case of a federal judge, however, neither of these distinctions applies since the source of the judgeship is neither executive nor legislative. The authority to establish federal judgeships derives from Article III, and the Constitution has already established both the conditions under which a federal judge can be removed and the method by which removal is to be accomplished. In view of the constitutional provisions, the decisions in all the cases from *Marbury* through *Myers* and *Humphrey's Executor* ought not to be relied upon to reach the conclusion that the impeachment process is nonexclusive.

As I have suggested, it is a long leap from the principle laid down in *Myers* to the conclusion that Congress can provide a procedure by which one judge may try another's right to hold office. Despite the measure of distance between the premise and conclusion, such distinguished scholars as Solicitor General Griswold still subscribe to the nonexclusivity position. In his brief to the Supreme Court in *Chandler v. Judicial Council*,[67] a case I will examine in detail momentarily, the Solicitor General stated:

The power of impeachment—which applies to all federal officers, not only to federal judges—is not defined in Article III but rather embodies the sole method by which the *legislature* may *directly* remove governmental officials—to the exclusion, for example, of the English practice of passing bills of attainder. Thus, just as the impeachment clause does not prevent the President from removing excutive officers in his own discretion, even though they are also subject to removal by Congress through impeachment . . . so also there is nothing in the Constitution to suggest that Congress cannot, consistently with the separation of powers, provide procedures by which the courts could try the right of a judge to continue to hold office.[68]

The Solicitor General posits that implicit in the good behavior clause is the assumption that judges must, therefore, be subject to supervision and control by "appropriate agencies." He states quite correctly that, in hierarchical judicial system, judges of "inferior courts" are subject to the supervision and control of superior courts.

Footnotes at end of article.

The writ of mandamus may, for example, be used to exert "supervisory control." However, I still cannot accept the conclusion that impeachment is nonexclusive by starting from the premise that superior courts may regulate inferior courts by the use of mandamus, or by reviewing their decisions on appeal. The existence of the Judicial Conference of the United States and the resolutions it promulgates may also be included within this "supervisory power." But this again is not the issue of the exclusivity of the impeachment remedy nor may the two be analogized.

On the issue of impeachment itself, the Solicitor General stated in his *Chandler* brief:

There has been general agreement from the earliest times that Congress could constitutionally provide alternative procedures to impeachment, particularly judicial trials or hearings, for determining whether federal judges have abided by the requirement of good behavior.[69]

With all respect to the Solicitor General, this statement is inaccurate. Whether Congress has this power is a highly debatable issue. Unfortunately, the Supreme Court's attention in the *Chandler* case, as well as that of the Solicitor General, focused on whether the procedures at the removal tribunal were consistent with due process guarantees, rather than on the exclusivity of the impeachment remedy.

B. The Language of the Constitution

To return to the thread of the argument of the nonexclusivists, they contend that the terms of sections 2 and 3 of article I establish that the House and Senate shall both be involved in the impeachment of all civil officers and the two bodies hold exclusive power to remove federal judges. These sections provide that the House of Representatives "shall have the sole power of impeachment" and that the "Senate shall have the sole power to try all impeachments." Since impeachment is the only procedure available for the removal of federal judges, in my opinion, this language limits the procedure involved in the exclusively congressional process to impeachment and is not a grant of power to the legislature.[70]

There is some question, however, as to whether the removal process and the impeachment process are coextensive.[71] Article II section 4 provides that "all civil Officers of the United States shall . . . be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." The Constitution calls for removal *on* impeachment and conviction rather than *by* impeachment and conviction. Thus, although removal is a result of impeachment and conviction, the nonexclusivists argue that it is not limited solely to this process. As our review of the cases arising under this section indicated, the Supreme Court has refused to lump together all civil officers, including judges, for the purpose of approving removal by means other than impeachment. Removal of "executive" officers and "legislative" officers under certain conditions may be effected without impeachment proceedings; but there is no authority which indicates that removal by means other than impeachment applies to Article III judges.

The nonexclusivists also contend that the language of the Constitution creates difficulty in that there exists a gap between the conduct for which impeachment will lie and that which violates good behavior.[72] Nonexclusivists theorize that some additional removal process must have been contemplated to fill this gap. The argument is based on the traditional notions of impeachment in England, which permitted removal for even slight offenses. Those notions were considered too broad in scope by the framers of our Constitution. Thus removal was limited to legislative impeachment for serious crimes. The nonexclusivists maintain that "high crimes and misdemeanors" refer to offenses similar in magnitude to "treason" and "bribery," and that the standard of good behavior may be breached by conduct of a lesser magnitude.[73] It should be noted that good behavior had a rather well-defined meaning at common law:

[Good] behaviour means behaviour in matters concerning the office except in the case of a conviction upon an indictment for any infamous offense of such a nature as to render the person unfit to exercise the office, which amounts legally to misbehaviour though not committed in connection with the office.

Misbehaviour as to the office itself means improper exercise of the functions appertaining to the office, or non-attendance, or neglect of or refusal to perform the duties of the office.[74]

Nonexclusivists still complain that "high crimes and misdemeanors" is not comprehensive in scope because it excludes laziness which, as the English knew, was violative of good behavior.[75] The question whether laziness is something less than good behavior is purely academic. A more important question is whether the term "misdemeanor" covers unethical but not illegal conduct.[76] I believe it does. The fact that the Constitution fails to specify every possible misdemeanor does not mean that impeachment may not lie for conduct which may fall short of a crime of great magnitude, such as treason or bribery.

The nonexclusivists' argument continues that since the founding fathers were concerned primarily with the independence of the judiciary,[77] they intended a narrow definition of the grounds for impeachment in order to curb legislative interference with the operation of the judiciary.[78] Following this theory, one could find a distinction between the good behavior and the impeachment clause standards. I cannot accept this theory. It is true that the framers sought to avoid legislative intrusion into the affairs of the judiciary. Thus they intended that breaches of good behavior would refer to high crimes and misdemeanors, so that judges could be removed only by the Senate sitting as a court of impeachment. While this question is far from settled, any doubts should be resolved in favor of the constitutional provision, especially in view of the founders' belief that the legislative branch should refrain from interfering in judicial matters.

The theory that the constitutional language does not preclude the legislative creation of judicial removal machinery, the nonexclusivists claim, is supported by the doctrine of the separation of powers.[79] Each of the three branches is independent. Within this independence, it is argued, each branch has the inherent power to remove its own members, unless prevented by an express constitutional provision to the contrary. Their argument concludes that the Constitution denied the Judiciary this inherent power by vesting the impeachment power in the Congress. Apparently, the framers' intention in creating the impeachment provisions was to protect the judiciary from the political caviling that removal power often engenders.

Article I, section 5 does permit each House of Congress, by a concurrence of two-thirds, to expel its members for misbehavior. Since there is no such clause in Article III, it must be assumed that the founding fathers did not intend that the judiciary should police its own ranks. Nor is it likely that they intended to vest in Congress the power to create machinery by which the judiciary could carry out this purpose. The nonexclusivists, however, assert that the rebuttal to this argument lies in the concept of Federalism:

The Framers established a Federal form of government and carefully delineated the powers of the national and state governments. Article I, section 4 of the Constitution establishes state authority over Elections for Senators and Representatives. "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legisture thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators." Had the Framers failed to provide for congressional punishment and expulsion of its own members ,the States may have exercised such powers incident to their "election" powers. Since judges are, however, appointed by the President with the advice and consent of the Senate, there is no similar threat of State removal. The absence of a judicial removal provision in Article III then, is not conclusive of an intent that the judiciary should have no power to punish misbehaving judges.[80]

I must confess that I do not grasp this argument. To suggest that the Constitution explicitly grants to Congress, and not the judiciary, the right to discipline and to expel the latter's members in order to avoid the rigors of state election rights is a tortured reading of the Document. This is especially true when one considers the illogical conclusion the nonexclusivists draw from this reading; namely, that Congress, as a result of the threat of state removal of its members, may create additional powers of removal of judicial officers besides impeachment. Unquestionably, this argument is outside the realm of reason.

C. The Federalist Papers

When the Summers Bill[81] was introduced in the House of Representatives, a minority report was filed.[82] The report indicated that the bill was unconstitutional and recommended its rejection. The House members who joined in the minority report[83] contended that the issue of good behavior should be tried only by a court of impeachment. They determined that the remedy of impeachment is as broad as the obligation of good behavior, because the words "high crimes and misdemeanors" were not used in their criminal sense but in their social sense.

For support of their position, the minority report drew from Hamilton's observation in the Federalist Papers:

"Mr. Hamilton pointed out that a judge might be impeached for 'any conduct rendering him unfit to be a judge,' even though not involving any violation of a criminal statute. He pointed out for example that a judge might be impeached because of insanity if that rendered him unfit to perform the duties of his office. In fact, a judge was once impeached on that ground."[84]

The minority congressmen objected to the bill because the conduct and statements of the framers of the Constitution indicate that they thoroughly examined other methods for the removal of judges and discarded them all except for the procedure of impeachment. The dissenting congressmen frankly feared, and I think correctly so, that if Congress had the authority to legislate in this area, it could abuse the authority, causing great damage to the third branch of the Government. The fear of legislative abuse of the judiciary, which the minority report recognizes, has deep roots in our system of government. In number seventy-eight of the Federalist Papers, Hamilton expressed this same fear. He concluded that "all possible care is a [pre]requisite to enable [the judiciary] to defend itself against [congressional] attacks."[85]

The opinion of the signatories of the minority report has lost none of its validity in the intervening years, and it endures as wise counsel. The cases as well as the plain meaning of the Constitution indicate that impeachment is the sole means of removal of federal judges. The arguments of the nonex-

Footnotes at end of article.

clusivists, designed to contradict this conclusion, purportedly rest on the apparent motives of the framers; their reliance seems erroneously founded. As the Federalist Papers of Hamilton suggest, the framers likely intended that the impeachment provisions should be exclusive. The wisdom of the framers' belief is perhaps best demonstrated by the unfortunate saga of Judge Chandler. It is to his case that I will now address my remarks.

III. THE CASE OF JUDGE CHANDLER

Although a number of cases have discussed the removal issue [86] and much commentary has been written about the subject,[87] only one case has actually considered the issue of removal of an Article III judge by means other than impeachment. That case, *Chandler v. Judicial Council*,[88] considered the authority of the congressionally created Judicial Council to limit the powers of a federal judge.

On December 13, 1965, the Judicial Council of the Tenth Circuit, acting under the authority of 28 U.S.C. Section 332,[89] issued an order [90] finding (a) that Chief Judge Chandler of the Western District of Oklahoma was unable or unwilling to discharge his duties as a district judge and directing that he should not act in any case then or thereafter pending; (b) that until the Council's further order, no cases filed in the district were to be assigned to him; and (c) that if all the active judges could not agree upon the division of business and case assignments necessitated by the order, the Council, acting under the authority of 28 U.S.C. Section 137 [91] would make such division and assignments as it deems proper. In response, Judge Chandler filed a motion with the United States Supreme Court for leave to file a petition for a writ of mandamus or, alternatively, a writ of prohibition addressed to the Tenth Circuit Judicial Council.

During the four years prior to the order of December 13, 1965, Judge Chandler was involved as a defendant in a considerable amount of litigation. A civil suit,[92] which was later dismissed, was brought charging him with malicious prosecution, libel and slander. He was also named as a party defendant in a criminal indictment which charged him with conspiracy to cheat and defraud the state of Oklahoma.[93] In addition, he was "the subject of two applications to disqualify him in litigation in which . . . [he] had refused to disqualify himself." [94] For these reasons and because there was a long history of controversy between the Council and Judge Chandler, the Council had issued the order of December 13. Then followed some confusing months. Judge Chandler agreed not to take any new cases, but he continued to assert his judicial authority over cases pending before him. In February of 1966, the Council ordered Judge Chandler to continue to sit on the cases pending before him prior to December 28, 1965, the effective date of the December 13 order. Judge Chandler challenged all the orders of the Council relating to the assignment of cases in his district "as fixing conditions on the exercise of his constitutional powers as a judge." [95] He specifically urged that the impeachment power had been usurped by the Council. The Supreme Court, in an opinion by Chief Justice Burger, held that the administrative action of the Council was not reviewable and that even if it were, Judge Chandler had not made out a case for extraordinary relief.

The question raised before the Court was whether Congress can vest in the Judicial Council power to enforce reasonable standards concerning when and where federal court shall be held, how long a case may be delayed in decision, whether a given case is to be tried, and other routine matters. In essence, the Court was asked to determine whether Congress could enact legislation which significantly encroached upon the independence of a federal judge. Writing for the majority, the Chief Justice answered the questions affirmatively, but the majority avoided the crucial question—whether a creation of Congress, the Judicial Council, could place restrictions on a federal judge such that he was effectively removed from office. Instead, the majority found that the Court did not have the jurisdiction to entertain Judge Chandler's petition for extraordinary relief, and denied his motion for leave to file. The dissenters, however, discussed at length [96] both the issue of whether a judge could be removed from office by means other than impeachment and "the scope and constitutionality of the powers of the judicial councils under 28 U.S.C., § § 137 and 332."

Of the minority opinions, Mr. Justice Harlan disagreed on the matter of jurisdiction, as did Justices Black and Douglas. All three favored reaching the crucial issue of the independence of the judiciary, and it is their opinions which deserve our attention. Mr. Jutice Harlan, in his concurring opinion, felt that the order of February 4, 1966, did not constitute a removal from judicial office, or "anything other than an effort to move along judicial traffic in the District Court." [97] In treating the order in this way, Justice Harlan was able to avoid the delicate issue raised so vigorously by the other dissenters.

The dissents of Justices Douglas and Black were, in contrast, addressed to the necessity of preserving the independence of the federal judiciary. Mr. Justice Douglas stated:

"What the Judicial Council did when it ordered petitioner to "take no action whatsoever in any case or proceeding now or hereafter pending" in his court was to do what only the Court of Impeachment can do. If the business of the federal courts needs administrative oversight, the flow of cases can be regulated. . . . But there is no power under our Constitution for one group of federal judges to censor or discipline any federal judge and no power to declare him inefficient and strip him of his power to act as a judge.

"The mood of some federal judges is opposed to this view and they are active in attempting to make all federal judges walk in some uniform step. *What has happened to petitioner is not a rare instance; it has happened to other federal judges who have had perhaps a more libertarian approach to the Bill of Rights than their brethern.* The result is that the nonconformist has suffered greatly at the hands of his fellow judges.

"The problem is not resolved by saying that only judicial administrative matters are involved. The power to keep a particular judge from sitting on a racial case, a church-and-state case, a free-press case, a search-and-seizure case, a railroad case, an antitrust case, or a union case may have profound consequences. Judges are not fungible; they cover the constitutional spectrum; and a particular judge's emphasis may make a world of difference when it comes to rulings on evidence, the temper of the courtroom, the tolerance for a proffered defense, and the like. Lawyers recognize this when they talk about "shopping" for a judge; Senators recognize this when they are asked to give their "advice and consent" to judicial appointments; laymen recognize this when they appraise the quality and image of the judiciary in their own community.

"These are subtle, imponderable factors which other judges should not be allowed to manipulate to further their own concept of the public good. That is the crucial issue at the heart of the present controversy.[98]

* * * * *

"If they become corrupt or sit in cases in which they have a personal or family stake, they can be impeached by Congress. But I search the Constitution in vain for any power of surveillance that other federal judges have over those aberrations. Some of the idiosyncrasies may be displeasing to those who walk in more measured, conservative steps. But those idiosyncrasies can be of no possible constitutional concern to other federal judges." [99]

Mr. Justice Black's short dissent closes with these words:

"I am regrettably compelled in this case to say that the Court today, in my judgment, breaks faith with this grand constitutional principle. Judge Chandler, duly appointed, duly confirmed, and never impeached by the Congress, has been barred from doing his work by other judges. The real facts of this case cannot be obscured, nor the effect of the Judicial Council's decisions defended, by any technical, legalistic effort to show that one or the other of the Council's orders issued over the years is 'valid.' This case must be viewed for what it is—a long history of harassment of Judge Chandler by other judges who somehow feel he is 'unfit' to hold office. Their efforts have been going on for at least five years and still Judge Chandler finds no relief. What is involved here is simply a blatant effort on the part of the Council through concerted action to make Judge Chandler a 'second-class judge,' depriving him of the full power of his office and the right to share equally with all other federal judges in the privileges and responsibilities of the Federal Judiciary. I am unable to find in our Constitution or in any statute any authority whatever for judges to arrogate to themselves and to exercise such powers. Judge Chandler, like every other federal judge including the Justices of this Court, is subject to removal from office only by the constitutionally prescribed mode of impeachment.

"The wise authors of our Constitution provided for judicial independence because they were familiar with history; *they knew that judges of the past—good, patriotic judges—had occasionally lost not only their offices but also sometimes their freedom and their heads because of the actions and decrees of other judges.* They were determined that no such things should happen here. But it appears that the language they used and the protections they thought they had created are not sufficient to protect our judges from the contrived intricacies used by the judges of the Tenth Circuit and this Court to uphold what has happened to Judge Chandler in this case. I fear that unless actions taken by the Judicial Council in this case are in some way repudiated, the hope for an independent judiciary will prove to have been no more than an evanescent dream.[100]

Needless to say, I am in full agreement with the positions of the dissenters in this case. I find it distressing to think that the Chief Justice of the United States can countenance the removal of federal judges by any means other than impeachment. It also seems incredible to me that distinguished members of the Senate could continue to lend any support to a measure like S. 1506 in light of the *Chandler* situation. As the background of that case demonstrates, the potential for abuse by these congressionally created review boards is considerable.

IV. CONCLUSION

The time has come once and for all to end the harassment of federal judges. Every few years another attempt is made to impinge upon the independence of our unique judicial system. This time, however, there is some new evidence of the probable ill effects of such an impingement. Somewhat rhetorically I must ask how many more Judge Chandlers there must be before Congress recognizes that these legislative creations unconstitutionally encroach on the independence of the federal judiciary. Some members of Congress who support this kind of legislation seem intent upon creating some new tribunal for the removal of federal judges. But in assuming this position they ignore a tri-

Footnotes at end of article.

bunal which already exists—the Senate sitting as a court of impeachment. As I have noted, the arguments against sole reliance upon this Court are weak and unpersuasive.

The time has also come for all the interested parties, both judicial and congressional, to remember the limitations inherent in their offices. The Judicial Conference was created to aid in the efficient administration of the courts and not to sit as a reviewing body over the issue of the alleged misbehavior of federal judges. Similarly, the Supreme Court should be the ultimate arbiter of lawsuits, not the final authority in determining whether an inferior judge or one of its own members is unfit to sit.

I am a Chief Judge of the United States District Court. I attempt to administer within my own district, and I attempt to see that the judges in my district operate as efficiently as they can. It is not my role, however, to demand that any one judge not have a case on his docket for more than a specific length of time, or that he act more cordially towards litigants. We are judges, not policemen. If we fail in our duties, have us impeached. The Congress should neither foster nor condone conflicts within the judiciary; conflicts will inevitably arise through creation of any judicial commissions such as that proposed in S. 1506. As Senator Sam Ervin has noted on numerous occasions: "To me, the duty of a federal judge is to decide cases and controversies—not to meddle in the business of his colleagues." I agree.

FOOTNOTES

† This paper was delivered on November 18, 1971, at the Boston College Law School Forum. It is reproduced without substantial change, except for the addition of footnotes. The reader is asked to bear in mind that it was written primarily to be heard, not read.

* Chief Judge, United States District Court, Northern District of Ohio. A.B., Ohio University, 1947; LL.B. Harvard University, 1950.

[1] The power to appoint judges is, of course, subject to the advice and consent of the Senate. U.S. Const. art. II, § 2.

[2] Parker, The Judicial Office in the United States, 20 Tenn. L. Rev. 703, 705–06 (1949).

[3] The impeachment process is a cumbersome but carefully structured procedure which requires some analysis. Procedurally, the Constitution provides that a civil officer may be impeached by the House of Representatives and tried by the Senate, and, if convicted, may be removed from office and disqualified from holding any other. Congress alone possesses the power to remove all civil officers by impeachment, although many civil officials, with the exception of Article III judges, may be removed in other ways. See text at p. 440 infra. The authority for this result is implicit in various other sections of the Constitution. Id. The President has the power to remove all subordinate executive officers since the power of appointment carries with it, absent contrary authority, the power of removal. See text at p. 439 infra. Similarly, Congress may set the tenure of inferior officers and so may enforce those limits by necessary means. Id.

[4] The Federalist No. 79 at 532–33 (J. Cooke ed. 1961) (A. Hamilton).

[5] The Federalist No. 78 at 21–23, 525–27, 530. (J. Cooke ed. 1961) (A. Hamilton).

[6] S. 4527, 74th Cong., 2d Sess. (1936). For congressional discussion of the measure see 80 Cong. Rec. 5933–39 (1936).

[7] H.R. 2271, 75th Cong., 1st Sess. (1937). See congressional discussion of the measure in 81 Cong. Rec. 6157–96 (1937).

[8] "The judicial power shall extend to all cases . . . [and] controversies. . . ." U.S. Const. art. III, § 2.

[9] See Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330, 333-34 (1937).

[10] See text at pp. 449-50 infra.

[11] See generally W. Leuchtenburg, Franklin D. Roosevelt and the New Deal ch. 10 (Torchbook ed. 1963).

[12] See, e.g., the discussion of Lincoln's disregard for the Court in Ex parte Merryman, in R. Cushman, Leading Constitutional Decisions 79 (13th ed. 1966).

[13] The cosponsors were Senators Eagleton, Goodell, Hatfield, Magnuson, Mondale, Muskie, Scott, Stevens and Yarborough.

[14] S. 1506, 91st Cong., 1st Sess. (1969).

[15] Reprinted in Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st & 2d Sess. 93 (1970).

[16] The proposed version of S. 1506 is contained in Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess. 10-47 (1969) [hereinafter cited as Hearings].

[17] 28 U.S.C. § 331 (1970) provides:

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.

* * * * *

Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness, in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

[18] See discussion in note 3 supra.

[19] See Hearings, supra note 16, at 100–15.

[20] Id. at 101.

[21] Id. at 104.

[22] Id. at 105–14.

[23] Id. at 116–17.

[24] 5 U.S. (1 Cranch) 137 (1803).

[25] 17 U.S. (4 Wheat.) 316 (1819).

[26] 60 U.S. (19 How.) 393 (1856).

[27] The Federalist, No. 78 at 523 (J. Cooke ed. 1961) (A. Hamilton).

[28] Hearings, supra note 16, at 121.

[29] W. Douglas, Points of Rebellion (1969).

[30] Hearings, supra note 16, at 130.

[31] Id. at 136.

[32] Hearings Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st & 2d Sess. 121–22 (1970).

[33] Hart, Foreword: The Time Chart of the Justices, The Supreme Court, 1958 Term, 73 Harv. L. Rev. 84 (1959).

[34] Id. at 101.

[35] Arnold, Professor Hart's Theology, 73 Harv. L. Rev. 1298 (1960).

[36] Id. at 1315–16 (footnotes omitted).

[37] The Federalist No. 78 at 528 (J. Cooke ed. 1961) (A. Hamilton).

[38] Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330 (1937).

[39] Included among those distinguished jurists who share or have shared this belief are Mr. Justice Story, Lord Bryce, Alexander Hamilton and Professor Hart. See Kramer & Barron, The Constitutionality of Removal and Mandatory Retirement Procedures for the Federal Judiciary: The Meaning of "During Good Behavior," 35 Geo. Wash. L. Rev. 455, 459 (1967) [hereinafter cited as Kramer & Barron].

Several recent articles deal with the exclusivity of impeachment proceedings. Of these, two deal exclusively with this issue and rely heavily on English precedents and the beliefs of the delegates to the Constitutional Convention, as contrasted with my focus on American Court decisions, infra. These articles are Ervin, Separation of Powers: Judicial Independence, 35 Law & Contemp. Prob. 108 (1970) and Shipley, Legislative Control of Judicial Behavior, 35 Law & Contemp. Prob. 178 (1970).

[40] 167 U.S. 324 (1897).

[41] Id. at 328–30.

[42] 38 U.S. (13 Pet.) 230 (1839).

[43] 167 U.S. at 331, quoting 38 U.S. (13 Pet.) at 259.

[44] 58 U.S. (17 How.) 284 (1854).

[45] For a discussion of other than Article III judges, see H. Hart and H. Wechsler, The Federal Courts and the Federal System 340–51 (1953).

[46] 58 U.S. (17 How.) at 303.

[47] 5 Op. Att'y Gen. 288, 290 (1851).

[48] 58 U.S. (17 How.) at 289.

[49] The statute in question may be found in 167 U.S. at 343.

[50] Id.

[51] 189 U.S. 311 (1903).

[52] Id. at 314–15. The Act which had created Shurtleff's position permitted his removal for inefficiency, neglect of duty or malfeasance in office.

[53] Id. at 316.

[54] Id. (emphasis added).

[55] 272 U.S. 52 (1926).

[56] The administratrix of the postmaster's estate argued that the postmaster could not be removed without the consent of Congress.

[57] 272 U.S. at 154–55.

[58] The statute is cited in full in McAllister v. United States, 141 U.S. 174, 177 (1891).

[59] See discussion at p. 444 infra.

[60] 295 U.S. 602 (1935).

[61] The Court distinguished the case on the grounds that the narrow issue treated in *Myers* "was only that the President had power to remove a postmaster of the first class, without the advice and consent of the Senate as required by act of Congress." Id. at 626. The Court also distinguished the *Shurtleff* case as one dealing with "exceptional" circumstances. Id. at 623.

[62] Id. at 627.

[63] Id. at 628.

[64] Id.

[65] 5 U.S. (1 Cranch) 137 (1803).

[66] Id. at 162, 165–66.

[67] 398 U.S. 74 (1970).

[68] Brief for Solicitor Gen. at 33, Chandler v. Judicial Council, 398 U.S. 74 (1970).

[69] Id. at 35 (footnote omitted).

[70] Much of the following discussion relies on the arguments raised in a memorandum prepared by the staff of the Subcommittee on Improvements in Judicial Machinery. The memorandum is entitled Constitutionality of a Statutory Alternative to Impeachment. See Hearings at 221.

[71] Shartel, Federal Judges—Appointment, Supervision, and Removal—Some Possibilities

under the Constitution, 28 Mich. L. Rev. 870, 895–97 (1930) [hereinafter cited as Shartel].

[72] Id. at 899.

[73] Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess. at 223–24 (1969) [hereinafter cited as Hearings].

[74] 7 E. Halsbury, Laws of England 22–3 (1909).

[75] Hearings, supra note 73, at 222–23.

[76] See Simpson, Federal Impeachments, 64 U. Pa. L. Rev. 803, 805 (1916).

[77] See generally The Federalist, Nos. 78 & 79 (J. Cooke ed. 1961) (A. Hamilton).

[78] Dwight, Trial By Impeachment, 15 Am. L. Reg. 257, 263 (1867).

[79] Hearings, supra note 73, at 224.

[80] Id.

[81] H.R. 2271, 75th Cong., 1st Sess. (1937).

[82] Reprinted in Hearings, supra note 73, at 234.

[83] Reprensentatives Guyer, Hancock, Michener, Gwynne, Graham and Springer.

[84] Hearings, supra note 73, at 234.

[85] The Federalist, No. 78 at 523 (J. Cooke ed. 1961) (A Hamilton).

[86] See discussion at pp. 438–46 supra.

[87] See generally Shartel, supra note 71; Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330 (1937); Kramer & Barron, supra note 39; Simpson, supra note 76.

[88] 398 U.S. 74 (1970).

[89] Section 332 provides:

(a) The chief judge of each circuit shall call, at least twice in each year and at such places as he may designate, a council of the circuit, in regular active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.

(b) The council shall be known as the Judicial Council of the circuit.

(c) The chief judge shall submit to the council the quarterly reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

(d) Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all orders of the judicial council.

28 U.S.C. § 332 (1970).

[90] 398 U.S. at 77–8.

[91] Section 137 provides:

The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

The chief judge of the district court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rule and orders do not otherwise prescribe.

If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.

28 U.S.C. § 137 (1970).

[92] O'Bryan v. Chandler, 352 F.2d 987 (10th Cir. 1965), cert. denied, 384 U.S. 926 (1966).

[93] 398 U.S. at 77 n.4. The indictment was later quashed.

[94] Id. at 77. See Occidental Petroleum Corp. v. Chandler, 303 F.2d 55 (10th Cir. 1962), cert. denied, 372 U.S. 915 (1963); Texaco, Inc. v. Chandler, 354 F.2d 655 (10th Cir. 1965), cert. denied, 383 U.S. 936 (1966). In both cases writs of mandamus were issued against Judge Chandler.

[95] 398 U.S. at 82.

[96] Id. at 89–143.

[97] Id. at 119.

[98] Id. at 136–137 (emphasis added).

[99] Id. at 140–41.

[100] Id. at 142–43.

BROADCASTING REGULATIONS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BOLAND. Mr. Speaker, Julian Goodman, president of the National Broadcasting Co., has warned that Government regulations are slowly shackling the television industry. Recipient of the International Radio and Television Society's 1972 Gold Medal Award—presented each year for outstanding contributions to broadcasting—Mr. Goodman told the society at its annual dinner in New York that regulations threaten to inhibit the scope and reach of TV broadcasting.

I agree, Mr. Speaker.

No one can deny the Government's legitimate right to regulate the air waves—the property of the American people—but such regulation sometimes tends to smother creativity in broadcasting instead of encouraging it.

A distinctly American phenomenon, evolving ab ovo here in the United States, television is now the country's only authentic national medium—the source of news, entertainment, and information for millions. Viewing time in the average household has reached an astonishing 7 hours and 2 minutes daily, almost as much time as the American workday itself. We have been armchair spectators at the Olympic Games in Japan, President Nixon's trip to China, and the Apollo 16 moon mission within the past few months alone.

Yet a thicket of regulations, growing denser year by year, is ensnarling television's activities and encumbering its room for growth. Mr. Goodman cited just three of these regulations in his New York speech. One is the Communications Act's equal time provision—a provision that denies the American public the kind of revealing head-to-head confrontations between political candidates last witnessed 12 years ago during the Kennedy-Nixon debates. Another is the "fairness doctrine," created to give public service groups an opportunity to challenge the claims of cigarette advertisers, but broadened by the courts to cover virtually any product: a car ad gives rise to demands for a free ad about air pollution, a candy ad to demands for another on the dangers of tooth decay. Perhaps the most egregious regulation of all, Mr. Speaker, is the "prime time access rule." Forcing the networks to sacrifice a half hour of their prime time each evening to what is termed "local programing," the architects of this rule envisioned new diversity and new creativity on the living room screen. They were wrong. All the rule has achieved is a dwindling prime time audience—down significantly between 7:30 and 8 p.m., less significantly after that—and an almost overnight loss of $60 million for film studios and independent producers. Still worse, Mr. Speaker, the half hour reserved for local programing has been filled with little more than drivel—old TV series exhumed from their graves, reminiscent of the corpses once used to fill gaps in the wall of a medieval castle under siege.

I assume that all Members of the House have received a copy of Mr. Goodman's speech.

But in case they have not, Mr. Speaker, I put it in the RECORD at this point:

BROADCASTING IN WONDERLAND

(By Julian Goodman)

The IRTS Gold Medal is one of the great honors in broadcasting, and I am proud to have it. I recognize that receiving it means some remarks are clearly expected of me, and this poses a problem.

I would obviously like to say something that falls somewhere between the Gettysburg Address and Winston Churchill's Iron Curtain speech—but the frame of reference available to me is not quite broad enough to command that kind of attention.

As a matter of fact, it bores some people. When I asked a veteran reporter of our trade, one of my oldest friends, what I might talk about tonight, he said: "Just don't talk about all the problems facing televisions. I've heard these warnings of impending doom a long time, and they just never seem to happen."

Well, he's partly right, and I can understand how he feels. But it's hard to take his advice because a lot of those things have happened, and others seem well on their way to happening because the machinery that regulates broadcasting is lurching in that direction.

I do also understand that in presenting this award to me tonight you are overlooking any character deficiencies that might arise from my connection with that highly suspicious group known as the P.B.L.—the Powerful Broadcasting Lobby. Let me give you a brief catalogue of the accomplishments of this dread and mysterious group within the past year.

1. First, we got the FCC to deprive the public of nearly 600 hours of prime-time network programming a year—reducing the television audience by at least five per cent, and making possible such brilliant program progress as the nationwide reappearance of Mike Stokey's Pantomime Quiz.

2. We arranged a legislative coup that banned cigarette advertising on broadcasting alone, and instantly decreased our industry's revenue by $200 million a year. In all modesty, we have to recognize that we could hardly have accomplished this without the editorial support of the nation's newspapers and periodicals, which then took on $100 million of additional tobacco advertising they were not carrying the year before.

3. We managed once again to get Congress to keep the equal-time provision of Section 315 in force—ensuring that, when Pat Paulsen appears as a comedian on a program starring Mickey Mouse, we must give equivalent time to all his political opponents, including President Nixon, if they want it.

4. We have almost persuaded the Federal Trade Commission that the purpose of advertising on television is not to sell things, but to *not* sell them. And the Trade Commission is cooperating by trying to persuade the Federal Communications Commission to use its powers to implement that novel approach.

I have to confess that all of this achievement makes it hard—as Mr. Churchill urged in another speech—to be magnanimous in victory.

No Hollywood producer would accept a script so outlandish—as though it were by Franz Kafka, out of Lewis Carroll. But it is what's happening to broadcasting today, under such high-sounding slogans as fairness, access, the public interest, and truth.

The fact is that broadcasting is being nibbled away by regulations and regulators. Government processes start with one purpose and then go on forever, careening in various direc-

tions, often ending up with results directly contrary to the original purpose. Theory is in conflict with reality and reality is losing out. If broadcasting—especially television—is to go on serving the public to its full potential, the public will have to get by with a little less help from its Washington friends.

In less than a generation, television has become the only national mass medium in the country—the source of information and entertainment that is most used by most people and is most useful to them.

The mass character of television is unique and special. It is a measure of television's strength and the source of its value to the public I know it is fashionable in some places to scorn anything with mass dimensions and mass appeal. That sort of scorn often comes from those who do not really believe that this country draws its quality from its people.

They do not *want* to believe that television makes an honorable and essential contribution in entertaining millions of people, day in and day out, with what the people themselves select. They do not care that these audiences—attracted by television entertainment—also learn from television more about the world in which they live and about the events and issues of their times than they learn from any other source.

I personally find it astounding to confront the knowledge that, in the month of January, 1972, viewing in the average American household rose to an incredible seven hours and two minutes per day. And the Olympics from Japan, and the President's trip to China in February may even have increased the typical viewer's attention to television. I do not find this enormous public attachment to television so astounding when I search my own experience, and the experience of others, as I have observed it.

As this particularly historic year goes by—with the primaries leading up to the political conventions, then the campaigns, and the election of a President—attention to what we do in television should grow even more. Attention from those who like to watch television because it gives them information on which they base their own decisions . . . and attention from those who know this, and because of it, want to shape what we do and say to meet their own self-interest. Not the public interest—but their own interest.

There is no better example than the continued existence of the "equal time" requirement of the Communications Act.

In 1960, when the equal time provision was temporarily lifted. Richard Nixon and John Kennedy met in four historic encounters that were watched by 100 million people. That was 12 years ago. It has not been allowed to happen since.

Had we attempted to present the major Presidential candidates in 1968, we would have been required by law to give equal time to more than a dozen others, including: Lar Daly, dressed in an Uncle Sam suit; Louis Abolafia, who ran on a nudist platform with the assurance, "I have nothing to hide"; and Mrs. Yetta Bronstein, the candidate with the slogan, "The country needs a grandmother to run it."

But for Alice in Wonderland comparisons, the "equal time" rule has a close competitor in the FCC's prime-time access rule. Here is a clear-cut case of a regulatory action that began for one reason and ended with one that was totally opposite. It started more than ten years ago as an inquiry into advertising control of programming. It continued to shift ground so that the issue became network control of programming. By eliminating a half hour from each network's nightly schedule it was supposed to produce a diversity of program sources and bless the medium with a surge of creativity.

So far the access rule has produced little except confusion and hardship. Overnight it removed $60 million worth of network television production from the film studios and independent producers. It has reduced the number of sets turned on between 7:30 and 8:00 P.M. It has been at least partly responsible for an overall decline in audiences for the nightly network news programs.

I don't know anyone—in or out of television—who believes the prime-time access rule has succeeded in its purpose. Nor do I know anyone who has a really clear idea of what it was supposed to do in the first place, except to advance the self-interest of those who proposed it—and it hasn't even done *that*.

It is a troublesome thought that if one theory is a demonstrated failure it may be followed by others, even more restrictive, to try to patch up the failure or to prove a point. It seems to confirm the thesis Justice Brandeis expressed when he wrote: "Experience teaches us to be most on our guard to protect liberty when the goverment's purposes are beneficient." On the basis of broadcasting's experience, we could do with a little more liberty and a little less beneficience.

NBC plans shortly to petition the FCC for complete revocation of the prime time access rule. We believe that the sum total of all the experience of the public, the stations, the networks and the program producers demonstrates that the theory of the rule was unrealistic and the results have been absurd. It has caused real damage without creating any benefits. The way to correct the situation is not through further tinkering or tampering, but by recognizing a mistake and withdrawing the rule in its entirety. That's what NBC will seek, with supporting factual evidence of the rule's harmful results. And I urge all broadcasters who believe in freedom of action, and free competition, to join in the effort.

The burdens of the prime-time access rule may seem minor if the FCC's Fairness Doctrine is allowed to expand as some proponents, in and out of the Government, are now urging. It is no longer a doctrine, but a thicket of conflicting decisions that broadcasters enter at their peril.

The chain of events began when the Commission ruled that if a station editorialized on a controversial issue, it had to give opportunity for contrasting views. Years later, when Congressional legislation placed a moratorium on government regulation of cigarette advertising, the Commission used the Fairness Doctrine to require anti-smoking messages—insisting that this novel twist of extending the doctrine to advertising should apply only to cigarettes.

Predictably, that narrow point soon was extended by court decision to other products, and now the FTC urges the Commission to require counter-commercials to offset nearly all commercials. If you advertise big cars, you must put on announcements pointing out that they may contribute to pollution. If you advertise small cars, you must counter with announcements that question their safety. No matter what you advertise, there will be someone who has something negative to say about the product, and in the name of "fairness," the FTC claims, he has a right to say it to the nation, on television.

The public is supposed to be helped by hearing counter-claims and counter-counter-claims, with no end to the chain. The fact that this would destroy television's economic base—and the programming built on that base—seems to be unnoticed or disregarded, and the public itself is given no voice in the argument.

We urge that the way to deal with this weird scenario is through the people's representatives in Congress. The regulatory process has created a conflict between the specific provisions of the Communications Act that bar censorship and the provision—treated so elastically by the FCC—that requires broadcasters to operate in the public interest. Congress can resolve this conflict by making it clear that the anti-censorship provision means just what it says—that the Commission may not require broadcasters to put anything on the air or take anything off the air, subject to existing laws on profanity and obscenity.

The move to convert broadcasting from an advertising medium to a forum for debating the virtues and shortcomings of a limitless number of products and services of our economy is not only a disservice to the public, but an obstacle to economic progress.

We all see signs today that point to an upsurge of economic activity in the months ahead. I believe it will be paced by a significant rise in national advertising volume—the highest real growth in five years—especially in television. Even now, there are clear indications that an unprecedented number of new products are leaving the laboratory, ready to enter the marketplace. The nation appears to be emerging from an economic recession and ready to enter a period of growth.

Television and radio can contribute greatly to that growth in an economy based on mass production and mass distribution. To make our full contribution, we must be freer than we have been from the restrictions and shackles of those who want to reshape broadcasting, by Government action, to serve their own theories and concepts. The public is our real ally; and we can gain its support by broadcast leadership that does not quake at a threat from those in power. And all broadcasters must recognize that the things which make radio and television truly great can flourish only when we are free. Not free from responsibility or free from service to the audience. But free from that kind of governmental bondage that can be created by those who seek to impose their own social philosophies on the vast and growing audience that has a legitimate, long-term interest in a free system of broadcasting.

I trust that this time next year, when you present the fourteenth Gold Medal award, many of our problems will be behind us. I hope that common sense, fair play and realism will have taken over.

But hope alone is not enough. We will all have to work to make it happen.

RED CHINA AND THE U.S. GOLD CRISIS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. RARICK. Mr. Speaker, the uncontradicted report by the gentleman from Texas (Mr. GONZALEZ) that our Government delivered to the Communist Party of Red China $6.6 million in gold in order to firm up the final details of President Nixon's visit to Red China, has raised some speculation as to what the gold drain will be for the President's trip to Moscow.

Yesterday's wire service carried the unreported story that major New York banks are considering 6 percent financing to the Soviet Communist Party for credit purchases of U.S. machinery. While few Americans can obtain 6 percent financing, the Soviets reportedly want long-term loans at interest rates of 2 and 3 percent.

In the meantime, the price of gold on the London dealer market was $50.65. Possibly the gold increase reflects U.S. Treasury reports that it is considering the sale of U.S. gold on the free market. Whether the gold to be sold is in the vaults of New York City banks or supposedly at Fort Knox—is not certain.

I include in the RECORD the related news reports:

[From the Washington Post, Apr. 26, 1972]

CHINA REPORTEDLY GOT U.S. GOLD

SAN ANTONIO, TEX., April 25.—A newspaper quoted Rep. Henry Gonzalez (D–Tex.) as saying China demanded and received $10 million in gold for communications facilities before allowing President Nixon's visit.

"Ultmately, the cost to the United States after that gold hits the Zurich and London markets will be two to two and a half times as much as $10 million," the San Antonio Express quoted Gonzalez as telling a local television interviewer.

"My estimate is that $10 million in gold was involved, and there is no question of this having been delivered by a State Department aide," Gonzalez was quoted as saying.

"They had to be paid in full and it had to be delivered by an official of the government. They didn't want vouchers. They wanted gold," he said.

Gonzalez said that when he personally questioned the State Department about the matter "they didn't say it was not $10 million. They said a State Department aide had delivered $6.6 million."

Gonzalez was unavailable for comment, but a member of his staff said the congressman's statements were based on a Business Week article speculating that the United States may have made a gold payment to China to cover the communications costs related to the trip.

The staff member said Gonzalez had no first-hand information of his own.

The papers said a State Department staff member said he recalled that the United States paid the entire communications cost for the Nixon trip, then sold a ground station to China.

Gonzalez, the Express reported, said the payment was reported in "an insignificant form and I found out it had to do with incidental arrangements for the trip. Apparently it was to insure that costs of communication incidental to the trip would be met."

[From the Wall Street Journal, Apr. 28, 1972]

FEDERAL RESERVE REPORT—ASSETS AND LIABILITIES OF 12 WEEKLY REPORTING MEMBER BANKS IN NEW YORK CITY

[In millions of dollars]

	Apr. 26, 1972	Apr. 19, 1972	Apr. 28, 1971
ASSETS			
Total gold certificate reserves	9,475	9,475	10,475
U.S. Government securities:			
Bought outright:			
Bills	30,197	29,866	26,259
Certificates			
Notes	36,448	36,448	34,180
Bonds	3,540	3,540	3,220
Total bought outright	70,185	69,854	63,659
Held under repurchasing agreement	1,076	.....	353
Total U.S. Government securities	71,261	69,854	64,012
Total assets	97,265	95,031	88,430
LIABILITIES			
Federal Reserve notes	53,391	53,588	49,907
Total deposits	32,970	29,722	27,982
Gold reserves	9,588	9,588	.....

[From AP Wire Service]

SOVIET LOANS

NEW YORK.—The Soviet Union is considering borrowing from U.S. banks to buy machinery in the United States, banking circles said today.

The loans, if made, would mark a major change in financial policy for both the banks and the Soviet government. In the past, the Russians have sold gold as necessary, to pay for imports of grain from Canada.

"But they are learning how to use their finances," one banker from outside New York commented. "By buying machinery on borrowed money, they don't have to pay back the money until the machinery is paying off by increased production."

Bankers said that the first approaches to the Russians were made by some U.S. banks and that others, including some of the major New York ones, are now interested in the possibility. An interest rate of the U.S. prime rate plus ¾ of 1 percent has been discussed, although the Russians have objected to this level.

The U.S. prime rate is the interest charged a bank's best customers. A rate ¾ above the prime was described by one banker as "very good rate indeed." The American prime now is 5¼ percent, so on the basis of that, the Russians would be paying 6 percent. This is quite high for a Government loan.

So far as could be learned, no loan has been finally agreed upon. There was no indication of how much money might be involved, but a single bank is known to be talking about $4.5 million.

Since the money would remain in this country to be paid to machine builders, the loans would have no effect on the U.S. balance of payments at once. Later, of course, as the loan is paid, it would help this balance.

Bankers involved in the negotiations said the Russians badly need new machinery for the extractive industries—mines, quarries and oil fields. They said the loans would probably be made only for capital goods for use in the extractive industries, and that Russia would likely buy needed grain either through a U.S. Government loan or for cash.

There have already been reports that Russia would like a longterm cheap loan—an interest rate of only 2 or 3 percent—from the U.S. Government for sales of grain. This would likely be repaid by exports of natural gas or similar products from Russia to the United States over a term of 10 years or so.

[From Business Week, Feb. 19, 1972]

BRINGING THE PICTURE HOME FROM PEKING

When President Nixon arrives in Peking on Sunday night, the bamboo curtain will part and the Western world, via live television, will get its first look at China since the 1940s.

How extensive that look might be was up in the air as the TV networks dispatched news teams along with the President on his plane, The Spirit of '76. "At this time," said Jack Otter, who heads up NBC–TV sales, "we know we'll cover the arrival in Peking—but that's all. We hope to show the visits to the Forbidden City and the Great Wall, but no one knows when or where or if."

But these uncertainties did not stop NBC–TV and CBS–TV from lining up sponsors. Atlantic Richfield Co. took full sponsorship of NBC's coverage, replacing Gulf Oil Corp., which long has backed most of the network's special events coverage. ("Gulf has budgeted for some Apollo shots that are coming up," Otter notes.) American Express, Western Electric Co., and Merrill Lynch, Pierce, Fenner & Smith will back the CBS–TV reports. ABC says that several clients inquired about sponsoring its coverage but it decided to go the public-service route instead.

TOP NEWSMEN

Each network is sending its biggest guns in news. Harry Reasoner heads the ABC contingent, while Walter Cronkite and Eric Sevareid lead the CBS team, and NBC is sending the only female reporter, Barbara Walters, along with John Chancellor. In addition to the arrival and departure scenes, and some hour-long previews and special "wrapups" of the trip, each network is figuring on a half-hour nightly summary of each day's events. Live coverage during the day is subject to the Chinese willingness to release an agenda in advance and to the absence of the phrase most frustrating to TV newsmen: "technical difficulties."

It will be no small achievement to beam a TV signal out of China. But to the communications companies, which have been jockeying for weeks to provide communications for Nixon's trip, there is more at stake than technical prestige. Their hope is to get a toehold in the potentially lucrative Chinese communications market of the future.

For a while, it seemed that Western Union International had picked the plum when the Chinese selected it to set up a transportable 24-ft.-diameter earth station in Peking to provide a satellite link with the U.S. over the Pacific. But RCA Global Communications, Inc., meanwhile, had been negotiating quietly with the Chinese and announced that it had sold its 42-ft.-diameter earth station and was setting it up in Shanghai. RCA's station may not be ready to catch Nixon's arrival in Shanghai on his way to Peking, but it could be ready for his departure on Feb. 28.

Actually, RCA has only a temporary license to install its station, but the company is working hard to win final aproval. In the present climate of co-operation this seems likely.

SIGN ON THE LINE

In addition to WUI and RCA, American Telephone & Telegraph Co. and International Telephone & Telegraph Corp. have top-ranking officials in the Presidential party. Ostensibly they are there to assist with communications. But an official of one company says: "You can bet they will be selling like hell."

WUI's contract calls for providing live television, telephone, and telegraph services for the Presidential group, as well as for the 80 U.S. news personnel who will accompany Nixon. A WUI official says "the only English word in the contract is 'WUI,'" and the company admits it probably will not make any money on the deal.

Whether WUI's earth station (which is leased from its builder, Hughes Aircraft Co.) is removed after Nixon leaves is an open question. As one official puts it: "If the Chinese should ask to buy it and the President tells us to leave it, it won't come out."

The Chinese are paying for the lease on WUI's earth station and for service on the new Intelsat IV satellite over the Pacific. Communications will be routed from the Peking station, up to the satellite, and down to Comsat's earth station at Jamesburg, Calif,. near Monterey. Then they will go via land lines to New York for dissemination. The WUI station can accommodate 60 voice circuits and one color television channel simultaneously, mixing in telegraph service as needed.

PAY IN ADVANCE

The Chinese have stipulated that all bills must be paid in U.S. dollars before the President's party and the accompanying newsmen leave China. "We sent a bagman," says a government spokesman, explaining that a State Dept. official carried $6-million in cash to China to cover the anticipated costs of the trip.

Live color television is expected to cost about $1,100 for the first 10 minutes of transmission and $40 to $50 for each additional minute. This is about standard for telecasts from other Asian countries. Telephone calls will run about $13 for three minutes and teletype about 10¢ per word, also pretty standard. The users will be billed by the State Dept.

As a backup to the WUI communications link, the White House will carry a small satchel-type antenna for emergency use via military satellite. Radio communications for the President are also available through his airplane.

[From the Wall Street Journal, May 2, 1972]

SILVER AND GOLD PRICES

London bullion dealers yesterday set the spot silver price at 61.3 pence a troy ounce; three-month silver was 62.1 pence; six-months silver was 62.9 pence, and one-year

silver was 64.7 pence, all up 0.15 penny from Friday. The U.S. equivalent price for spot was $1.601, three-month $1.621, six-month $1.642 and one-year $1.689.

The London dealer market's early quote for gold was $50.20 an ounce. The final quote was $50.35, up from $49.60.

U.S. gold prices: Handy & Harman's base for pricing gold content of shipments and for making refining settlements was $50.65. Engelhard Minerals and Chemicals Corp.'s buying price for gold was $50.75 and the selling price was $50.95.

SALE OF U.S. GOLD PILE WOULD SURELY BACKFIRE

NEW YORK.—March, one of the most quiet months of international gold trading, witnessed a minor sensation towards its end when the U.S. Treasury revealed that it was considering the possibility of selling some of the nation's gold in free markets. Except for a fleeting weakness, the rather dramatic announcement had no major influence on the price of the metal, which closed practically unchanged from a month ago. The move, nevertheless, provoked substantial interest in British as well as Swiss gold trading circles—and in Russia.

The Soviet Union had not sold any large quantity of the metal since 1967. Sitting on a bigger unmortgaged stock than the U.S., they apparently were not impressed by the American statement, which they considered an awkward move without a chance of success. In the meantime, some minor downtrends of a psychological nature may temporarily lead to small reductions of the gold prices in London and Zurich.

Gold futures, in small volume, had a stable market with practically unchanged quotations. One-year gold delivery listed in London at $51.25 to $51.50 per ounce against $51.50 to $51.70 a month ago. Singapore reported April 1973 delivery of the metal at $54.40 to $54.90 per ounce against $54.65 to $55.15 per ounce four weeks ago.

Approximate gold sales

	Million
March	$395
February	415
January '72	525
December '71	560
November	510
October	480

Trading volume for the first quarter of the year rose to $1,335,000,000 some 4¼% over the $1,280,000,000 in the corresponding period of last year.

America's plan to sell gold in the free markets of Europe, a rather bold decision by politicians who lack monetary knowledge, will impress other people and governments and may—temporarily at least—create some satisfaction among the currency amateurs of Washington. But in the very short run it will, if implemented, end in some sort of debacle, just like the silly efforts to master the cost-of-living increase in the U.S.

The record of the U.S. Treasury, already a chronicle of shame and expropriation of the law-abiding citizen, will grow much worse when, for example, some of the Eurodollars held by European governments are used to buy the American metal. Unfortunately, of the $80 billion or so Eurodollars, about $40 billion are owned by gold-minded governments, and only about $9.7 billion of U.S. gold can be sold. The entire project, the brainstorm of an intellectually underprivileged politician and his even more unintelligent advisors, could do more harm to the U.S. than the already-dying dollar could endure. Should the remnants of the dollar be deprived of their metallic "mini-reserve" which would shift into the tills of European central banks, Washington's poor paper unit would float in some hostile currency "no-man's land". Psychological reactions, domestic as well as foreign, would be disastrous.

GOLD TRANQUILIZER

As the free gold price, following a short decline, would go up everywhere including the U.S., some signs of severe capital flight would develop. The present "tame" inflation of about 6%–9% a year (unofficial) would be converted into a 10%–15% increase of living costs, and all "mini-deflations", such as "Phase Two", would simply cease to exist. During such a rather chaotic period the opposite of the planned result would happen. Instead of eliminating gold from its monetary function, the "aura sacra fames"—the holy hunger for gold—would again be satisfied by an increased hoarding volume of both the central banks and the public. In all these events the so-called backbone of saving, namely government bonds, would be degraded to documents of shame, just as the Continental Dollars were earlier in American history. People would simply turn to gold, the only substance which has never been conquered or defeated by governments and which, over 6,000 years, has radiated confidence and enabled the hoarder to sleep without tranquilizers in a world of crumbling paper values.

The really funny aspect of the U.S. Treasury proposal is the inevitable increase in the popularity of the metal. Should Washington's or Fort Knox's metal stock finally wind up in the vaults of a dozen well-managed central banks, a monetary plebiscite would be won.

The conclusion of this proposed adventure of the dollar, stated even before it has really started, is rather simple. Planned as an electoral maneuver, it would, if executed, reduce American power further, ruin part of the country's industry, make Eurodollars valueless, and bring about sharp retaliations from other countries, especially from the Common Market which, according to many official statements, will base its ultimate currency on gold. It would have been much wiser if the dilettantes of the U.S. Treasury would have planned to reduce the power of the ever-increasing corruption which celebrates monetary orgies in election periods.

"Quo usque tandem America?"—is a question without answer.

THREE NEW BOOKS ON OCCUPATIONAL SAFETY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ASPIN. Mr. Speaker, occupational health and safety has not been given the attention by the Congress, press, and the public that it deserves. Each American worker must be guaranteed the right to work in an environment that will in no way endanger his health and safety. While a great deal of progress has been made in reducing some types of industrial accidents, too little attention has been paid to the environment in which employees work.

The April 15, 1972, edition of Environmental Action magazine contains the review of three new publications which discuss one of the most serious problems in occupational health—asbestos pollution. It has been proven time and again that the existence of asbestos in the air in a industrial environment results in a high instance of asbestosis. The three publications are entitled "Asbestos and Enzymes," "Mortality Experience of Amosite Asbestos Factory Workers," and "Criteria for Recommended Standard-Occupational Exposure to Asbestos." The first two publications are discussions of the problems presented by the existence of any amount of asbestos in the atmosphere in an industrial setting. The third publication by the National Institute of Occupational Safety and Health which is a division of HEW presents the recommended criteria for asbestos exposure in conformity with the Occupational Health and Safety Act.

Much more attention must be given to the problems of occupational health and safety. I recommend this article as a primer to anyone interested in learning about problems in occupational health.

The article follows:

ECO MEDIA

(By Franklin Wallick)

Asbestos and Enzymes, Paul Brodeur. Introduction by Rene Dubos. Ballantine, New York, 1972—146 pp., $1.25.

"Mortality Experience of Amosite Asbestos Factory Workers", Drs. Irving Selikoff, Cyler Hammond, and Jacob Churg. Presented at the IVth International Pneumoconiosis Conference, Bucharest, September 29, 1971—Available free from OCAW, 1126 16th Street, N.W., Washington, D.C. 20036.

"Criteria for a Recommended Standard—Occupational Exposure to Asbestos", U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, 1972.—Available free from NIOSH, 5600 Fishers Lane, Rockville, Md. 20852.

Paul Brodeur's new book, a collection of two essays and a short afterword from the New Yorker is a timely addition to any environmentalist's library. It shows how community pollution begins in the workplace, how asbestos fibers on a worker's clothes can infect a whole family, and how fibers spewing from a factory can infect an entire neighborhood. It also points out that enzymes are equally hazardous, although curtailed production—a situation which might change at any time—has lulled the public into a state of remarkable non-concern.

A novelist-turned-investigator, Brodeur is currently researching the crass shutdown of a Pittsburgh Corning asbestos plant in Tyler, Texas, and a tragic sequel to his 1968 essay should be soon appearing in the New Yorker. What makes a reading of this book particularly pertinent at this time is the present tugging and pulling by the Department of Labor to set a new workplace standard for asbestos exposure. All the pressures that involve workplace environmental hazards or safety are occurring right now. Unhappily they are not reported in the daily press even though the consequences may involve millions of people.

For starters, let us realize that nobody is sure how many people are exposed to asbestos fibers—is it 200,000 as the Labor Department claims, or is it 10 to 20 million as some experts believe? Random autopsies in New York City within the past five years have shown 95 percent to have some evidence of asbestos in body tissue. Is this enough to worry about? A growing group of experts think it is. And what is really scary is the fact that production of asbestos has multiplied greatly (annual world production was 30,000 tons in 1910 and is up to 4 million tons today) and the symptoms of cancer of lung lining (mesothelioma), cancer of stomach, colon and rectum, and asbestosis do not occur until 20 to 30 years after exposure. Thus we could be facing a monumental cancer epidemic within a decade if the findings of experts with impeccable credentials, such as Dr. Irving J. Selikoff at Mount Sinai School of Medicine in New York, are to be believed.

The unions and some of the experts say

there is no safe level for asbestos exposure and they want a zero standard. The original Department of Labor standard was 12 fibers greater than 5 microns in length per milliliter of air. This set off a stern warning from Selikoff which reverberated throughout the occupational safety and health movement. Most health hazards, including asbestos, are so insidious even well-meaning labor officials are baffled and perplexed at how to detect them or how to do something once they are identified. Asbestos fibers can be measured only by powerful electron microscopes—beyond the capacity of many laboratories, and certainly beyond the everyday reach of labor officials or workers.

Luckily, Dr. Selikoff is neither a corporate patsy nor a shrinking violet. Last summer he sent off a letter to Secretary of Labor James Hodgson, warning of worker health hazards should the 12 fiber standard for asbestos be allowed to stand. "Our research," said Selikoff," in one asbestos trade—insulation work—demonstrates that work in the past in areas with levels of 2 to 3 fibers per cc of air has resulted in a very great increase of death due to cancer and to asbestosis . . . The proposed level (12 fibers) is much higher than actually now exists. It is so high as to make totally ineffective current efforts by both industry and labor to control this unhappy occupational health hazard. . . . I urge you, then, to recall this standard, and substitute one that will help protect workingmen forced to work with this dangerous material."

The Selikoff letter got results. An emergency standard of five fibers was invoked and the machinery for the recent Labor Department hearing was set in motion. Industry wants a return to the 12-fiber standard, and the unions are demanding that zero be the ultimate standard. The final decision is yet to come.

There is no way to do continuous monitoring of asbestos pollution, so some unions like the Oil Chemical and Atomic Workers (OCAW) are calling for strict "performance standards" as the only way to maintain a safe workplace environment. "Take an enclosed asbestos cutting operation," the OCAW suggests, "with the properly engineered, calibrated and tested dust collection/ventilation system. There is no need for reliance on monitoring. If the ventilator breaks down, the worker and the foreman immediately know the job is unsafe and work stops until the situation is corrected."

The Tyler, Texas, plant was represented by OCAW and it was pressure from the union which forced the National Institute for Occupational Safety and Health (NIOSH) to release data which showed very high levels of asbestos. When the information was made public, the company closed the plant, refusing to ventilate or to adopt safer methods. Some 1500 workers during the time this plant operated were not only exposed to dangerous hazards that will shorten their lives—in clear defiance of the new job safety and health law—but many were then thrown on the street without jobs. The company has a similar plant in Pennsylvania which is still doing the same work in the same way, but with no militant union to blow the whistle.

Anthony Mazzochi, the OCAW firebrand who mercilessly dogs the goverment for facts and industry for good behavior, has accused government and industry officials of a "My Lai syndrome" for covering up life-and-death information on asbestos and other hazards. The corporate decision in Tyler to keep asbestos exposure levels secret was particularly unforgivable in Mazzocchi's view, especially since Pittsburgh Corning's director of industrial medicine is Dr. Lee Grant, an official of the American College of Preventive Medicine.

"If workers were guinea pigs," said Dr. Sidney Wolfe of the Nader Health Research Group, in his testimony before the Labor Department's asbestos hearing, "and asbestos was a food additive, the Delaney Clause of the Food and Drug Act would have mandated the elimination of this carcinogenic dust from the environment long ago. However, in 1972, 12 years after the publication of data showing the relationship between asbestos exposure and mesothelioma (cancer of the lung lining) in humans, and at a time when there are now hundreds of cases of this cancer in workers exposed to asbestos, the slaughter continues."

Most of the information we have today on asbestos dangers to health comes from the relentless and no-nonsense research of Dr. Selikoff and Dr. Cyler Hammond, the great epidemiologist of the American Cancer Society whose findings led to the Surgeon General's report on smoking. In their remarkable paper presented last summer at the Bucharest International Conference on Pneumoconiosis, Selikoff, Hammond and Dr. Jacob Churg, a pathologist at Barnett Memorial Hospital in Paterson, New Jersey, released the results of a medical detective case that rivals anything out of a Sherlock Holmes story.

The Brodeur book tells a great deal about the hunt for clues which led to more data, more questions, and the search for answers. Selikoff built up a research team and was able to track down the whereabouts of 230 men who worked in a Paterson, New Jersey, plant identical to the Tyler plant. The workers at the Paterson plant had been exposed to asbestos from 1941 to 1945, and the cause of death data were accumulated between January 1, 1960 and June 30, 1971. The results of this epidemiological study were startling. Out of 333 workers, 88 had died by 1960 and 15 could not be traced. A careful study of the remaining 230 showed they were dying of cancer at five times the expected rate, of lung cancer at 10 times the normal rate, and were dying at twice the normal rate.

The government has belatedly rushed to gather information and publish it in a document called "Criteria for a Recommended Standard—Occupational Exposure to Asbestos." It is not exactly bedside reading but the NIOSH document does bristle with facts. (The cover, incidentally, tells why NIOSH has such a tough time making its voice heard: it is four layers down in the Department of Health, Education and Welfare hierarchy, under the Public Health Service and under the Health Services and Mental Health Administration—a remote place for a government agency with research and training responsibilities for 57 million workers. Moreover, NIOSH has been allotted a 1973 research budget of only $4 million.)

The NIOSH criteria document is an interim document until the final asbestos exposure level is decided upon, and it compares favorably with the HEW community air quality criteria documents for carbon monoxide, particulate matter, sulfur dioxide, and hydrocarbons. Certainly it is an improvement over the once-over-lightly documents formerly issued by the American Conference of Governmental Industrial Hygienists which provided the only major health guidelines before the 1970 Occupational Health and Safety Act.

As Sidney Wolfe points out: "The NIOSH criteria document on asbestos clearly shows the ability of industry to reduce the 8-hour weighted exposure to below 2 fibers/cc. If one or two plants can achieve this goal, there is no technical reason why all others cannot do the same."

On one point there is sharp disagreement between the NIOSH criteria document and some of the unions. How many people are exposed? The NIOSH people say "more than 200,000 people face risks from asbestos" but the OCAW testimony says that union alone represents 175,000 asbestos exposure risks. There are some 5 million building trades workers who face some risks, and asbestos is a ubiquitous substance throughout modern industry. Clearly the asbestos exposure universe is in the millions.

One corporate hangup which makes for a revealing footnote in this controversy is the union request for a skull-and-crossbones as part of the official warning symbol for asbestos. The data certainly justifies a death warning, but American industry vehemently opposes any skull-and-crossbones warning.

The enzyme story has yet to be fought with the same zeal and the same drama as the asbestos story. Industry has stepped back from all-out use of enzymes in detergents, but a new National Academy of Sciences study tends to pooh-pooh the bad effects upon consumers. So the push may be on again soon for more enzyme production and then we will have to dust off the health studies with fresh warnings about what enzymes do to workers.

It is the familiar problem of priorities and pressure-free research. Selikoff's asbestos studies are unique: they have been free of corporate hedging. And the asbestos processors are upset. Johns-Manville, Selikoff notes, even trailed him to South Africa to listen in while he read an academic paper. The NIOSH drawing board, sadly, has plans to research only a few of the many thousand workplace health hazards. The story of asbestos and enzymes are but small samples of what we can expect when the workplace environment is thoroughly researched, studied, and protected from the ravages of unchecked technology.

HARBOR AT NINILCHIK

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BEGICH. Mr. Speaker, the present Ninilchik Small Boat Harbor in the State of Alaska is inadequate, expensive to maintain, and is in need of replacement. This is an issue of concern to the people of the Kenai Peninsula area, as they are dependent on the fishing industry, and thus need adequate boat harbor facilities.

I have recently received a copy of a resolution by the assembly of the Kenai Peninsula Borough requesting a study of the Ninilchik Small Boat Harbor facilities with a view toward construction of a new offshore harbor. I am including a copy of this resolution in the RECORD for my colleagues' attention:

A RESOLUTION REQUESTING A FEASIBILITY STUDY OF THE NINILCHIK SMALL BOAT HARBOR FACILITIES

Whereas, the Ninilchik Small Boat Harbor is dangerously overcrowded because of an increasing use of the small facility by commercial and sport fishermen and becomes a fire hazard at low tide, and

Whereas, the Ninilchik Small Boat Harbor is near the geographic center of the salmon fishing activity in Cook Inlet and is vitally important as a harbor of refuge for the fishermen of Cook Inlet, and

Whereas, the economy of the Kenai Peninsula in general, and the Ninilchik area in particular, is dependent on the fishing industry and needs expanded small boat harbor facilities, and

Whereas, the present Ninilchik Small Boat Harbor is inadequate, expensive to maintain, and should be replaced, and

Whereas, the U.S. Senate Public Works Committee adopted a resolution on July 21, 1970 requesting a feasibility study for the Ninilchik Small Boat Harbor but it has not been subsequently funded.

Now, therefore, be it resolved by the Assembly of the Kenai Peninsula Borough:

1. That the State of Alaska Division of Waters and Harbors is hereby requested to make a study of the Ninilchik Small Boat Harbor facilities to aid the request of the Ninilchik Chamber of Commerce and the Kenai Peninsula Borough in renewing their request for funding of the approved feasibility study for construction of a new offshore harbor at Ninilchik.

2. That copies of this resolution be transmitted to the Honorable Ted Stevens, U.S. Senator; the Honorable Mike Gravel, U.S. Senator; the Honorable Nick Begich, U.S. Representative; the Honorable W. I. "Bob" Palmer, Alaska State Senator; the Honorable Clem Tillion, Alaska State Representative; the Honorable Keith Specking, Alaska State Representative; George W. Easley, Commissioner, Alaska Department of Public Works; Don Statter, Director, Division of Water and Harbors.

TRIBUTE TO OLLIE CRAWFORD BY SENIOR CITIZENS

HON. BOB CASEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. CASEY of Texas. Mr. Speaker, I would like to bring attention to the fact that the Jasper, Tex., chapter of the Texas Senior Citizens Association is today paying tribute to Mr. O. R. Crawford, one of Jasper's leading citizens and a personal friend of many of us here in Congress.

As a tribute to Mr. Crawford, I would like to share with you a resolution forwarded to me by Mr. H. A. Poole, president of the Jasper Jewels Chapter of the Texas Senior Citizens Association. The resolution reads as follows:

A RESOLUTION

Whereas Mr. O. R. Crawford, Vice-President of Eastex Inc. and General Manager of Southwestern Timber Company has exerted considerable leadership for the betterment of our Community, and

Whereas through this leadership Mr. O. R. Crawford members of his staff, and his many dedicated friends have made unselfish contributions to the welfare of the citizens of Jasper, and.

Whereas through his interest in all the citizens of our community; both young and old, have had the opportunity to participate in a more meaningful and productive life, now be it therefore

Resolved that the members of this Jasper Jewels Chapter of the Texas Senior Citizens Association duly recognize with grateful appreciation the contributions made to this organization by Mr. O. R. Crawford and commend him for his outstanding example of community spirit and compassion to his fellow citizens, and be it further

Resolved that a copy of this resolution be forwarded to the Honorable Marvin P. Hancock, Mayor, the City of Jasper, the Honorable T. Gilbert Adams, County Judge, Jasper County, Honorable Preston Smith, the Governor of the State of Texas, and the Honorable R. L. Jones, President of the Texas Senior Citizens Association.

This resolution is hereby presented for vote to the General Membership of the Jasper Jewels Chapter of the Texas Senior Citizens Association in its regular monthly meeting Tuesday, May 2, 1972.

I would like to join Mr. Poole and his organization in honoring this outstanding citizen of Texas who has contributed so much to the senior citizens of his community.

ANNUAL FUNDRAISING BY NATIONAL MULTIPLE SCLEROSIS SOCIETY

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BELL. Mr. Speaker, May 14 marks the beginning of the annual fundraising drive by the National Multiple Sclerosis Society. This event will continue until June 18.

Multiple sclerosis—MS—is well termed the "crippler of young adults." This disease affects an estimated 500,000 people in our country, generally between the ages of 20 and 40. The cure has not been found, but research continues and the outlook is promising.

MS is a neurological disease of the central nervous system—the brain and spinal cord. These areas affect the major motor and sensory systems of the body. Important and vital body functions such as walking, eating, seeing, and hearing are controlled by the brain and spinal cord.

It is estimated that 2 million American family members are personally involved with the heavy economic burden that accompanies MS. In an era of medical and technological advancements, it is tragic that no cure has been found for such a crippling and frightening disease as multiple sclerosis.

Approximately 200 local chapters of the National Multiple Sclerosis Society are scattered throughout the country to administer the society's community and patient service programs. These chapters receive 60 percent of the gross funds of the society. They are dedicated to the victims of this disease and their families and often provide the groundwork for the beginning of a productive and meaningful life for the MS victim.

National headquarters receive the remaining 40 percent of the funds. These funds are channeled into the programs of research, professional education, public information, and supporting services. The society is the only national voluntary health agency in the Nation engaged in the support of research for MS. All of its programs and services are supported by voluntary contributions by the public.

It is my fervent wish that my colleagues will join me in a salute to this organization and its many chapters. We should all be appreciative of their continuing services and research so that the generations to come might not be burdened by this disease.

I would like to acknowledge the Sherman Oaks, Calif. Chapter of the National Multiple Sclerosis Society and especially thank Mrs. Ann O'Halloran, chairman, for her time and the information she has made available to me. Ann is the young mother of seven children who was stricken with MS 5 years ago and who has since been confined to a wheelchair. Her dedication and service are sources of hope for the numerous MS victims across the country.

At this time, I urge support of this annual drive. The continued success of the society depends on the contributions received. We must not disappoint the National Multiple Sclerosis Society or the many MS victims. They need and deserve our assistance and support.

DISAPPOINTING AGREEMENT BETWEEN CANADA AND THE UNITED STATES ON GREAT LAKES WATER QUALITY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. VANIK. Mr. Speaker, the President is to be commended on his recently completed state visit to Canada. His visit is a firm indication of the desire of everyone in our Nation to maintain and improve our relations with our northern neighbor.

The full text of the agreement which has been signed by the Governments of Canada and the United States concerning the water quality of the Great Lakes is now available. This agreement is a severe disappoinment to all of us in the Great Lakes States who are concerned about the preservation of the lakes.

The agreement continues the unsuccessful and outmoded pollution control policies of the past—the same policies which have failed so badly in the past—and which will fail to solve the pollution problems of the future.

Discussion of an international agreement on the Great Lakes held out the promise and potential for coordinated termination of pollution discharges into the lakes, and uniform controls over State laws concerning offshore oil and gas drilling.

A strong agreement could have helped end the pollution disaster on the Great Lakes. Instead, the agreement is a disaster.

The agreement is much weaker than either the recently passed House and Senate water pollution control bills. Since Executive agreements have the force of law, this agreement may confuse the administration of the pollution laws being passed by the Congress.

WATER ZONING

The agreement provides for a continuation of the policy of zoning water for various quality uses. As past history has shown, many Great Lake regions have been zoned for a level of water quality in which sludge worms can barely survive—yet this policy is now continued. A description of what water zoning can mean is vividly presented in a recent

Corps of Engineers report about the Cuyahoga River:

In the reach below the Southerly plant, water quality is further reduced by discharges of large quantities of industrial wastes from steel and chemical processing plants. The river is grey, septic in pools, and odorous. Water temperature in this reach is also substantially increased by the discharge of spent cooling water from industries. The water, diverted into the old Ohio Canal upstream, now returns to the river as industrial wastewater. The long detention time in the navigation pool, lack of appreciable mixing, and the discharge of large quantities of oxygen-demanding compounds into this reach, lowers DO in the pool substantially; the river water is almost totally devoid of oxygen during low flow summer months.

In a biological survey of this reach, only a few sludgeworms and midge larvae were found in occasional riffles upstream. Some aquatic life was also detected at the bottom in the extreme downstream reach where lake water extends under the river due to density stratification. The environment is also unsuitable for nitrifying bacteria, and this accounts for the build up of a large concentration of ammonia in this reach. This ammonia is carried into the lake where it eventually exerts its oxygen demand.

MERCURY AND PHOSPHORUS IN LAKE ERIE

The agreement permits the continued accumulation and deposit of phosphorus and toxic materials in the lakes. The level of mercury in Lake Erie has been rising during the past decade, yet the agreement states only that there should be a "substantial elimination of discharges into the Great Lakes System of mercury and other toxic heavy metals." Rather than banning outright these poisons in our waterways, we are being told that the amount of poison entering the Great Lakes will only be reduced. Similar permissive standards are set for pesticides, and—even more frightening—radioactive materials.

While the agreement sets a goal of lowering the level of phosphorous in the lakes, it fails to eliminate an amount of phosphorous that it required to revive the lakes—particularly Lake Erie. As an addendum to the agreement admits, the phosphorous control goal set for Lake Erie over the next 5 years still permits twice the amount of phosphorous to enter the lake as the lake can assimilate. A goal has been set—yet the goal will not save Lake Erie. Ontario has banned the use of high phosphate detergents—the agreement could have extended that ban to the American side of the lakes.

OIL ON TROUBLED WATERS

The agreement does, for the first time, provide coordinated controls on the shipping of oils and toxic materials on the lakes. This is important because of the heavy volume of oil and oil products which are daily transported on the Great Lakes.

The International Joint Commission on the Great Lakes has repeatedly warned about the grave dangers of large oil spills or oil well blowouts within the confined waters of the Great Lakes.

We have already suffered a number of major oil accidents on the Great Lakes. In a letter to my office of September 14, 1970, from the Corps of Engineers, the following record of accidents were reported:

SEPTEMBER 14, 1970.

Hon. CHARLES A. VANIK,
House of Representatives,
Washington, D.C.

DEAR MR. VANIK: This is in response to your letter of 13 August 1970 requesting information on the history of major oil spills on the Great Lakes.

A major oil spill as defined by the U.S. Coast Guard involves a quantity of 10,000 or more gallons of oil. Our records indicate such spills, as follows:

1. 2 December 1942—Barge *Cleveco* sank in Lake Erie about nine miles out of Cleveland Harbor, carrying one million gallons of oil. A considerable amount of this oil was lost at the time of the sinking. Several years later when the barge was salvaged, there was no oil aboard the vessel.

2. 13 November 1966—Tanker *Mercury*. A submerged hose was accidentally disrupted at unloading site, immediately Northerly of Harrisville Harbor, Lake Huron, Michigan. this unloading site accommodates U.S. Air Force Station, Wurtsmith, Michigan. Check valve difficulties allowed 160,000 gallons of JP 4 jet fuel to flow from a storage tank into Lake Huron. Detroit District Engineer reported the incident to the Federal Water Quality Administration and the U.S. Coast Guard.

3. 18 April 1967. Mackinaw Island College, Mackinaw Island, Michigan. No. 2 fuel oil escaped from storage tanks and entered Lake Huron. USCGC SUNDEW reported oil slick to be 4,000 yds. by 700 yds. At 1/1000 of one inch thickness spread over 70% of water surface, this would be approximately 12,000 gallons. After investigation by U.S. Coast Guard, ruptured pipe was found on the College fuel receiving dock.

4. 19 September 1967—General American Milwaukee Terminal. A leak from a storage tank through an abandoned drain allowed 800 barrels or 33,600 gallons of No. 2 fuel oil to spread into Lake Michigan.

5. 19 September 1967—Indiana Harbor, Indiana. Oil slick of unknown amount that stretched along a 75-mile area.

6. 27 May 1968—American Oil Company, Whiting, Indiana. Visible amounts of oil originating from cooling water outfall, quantity unknown but enough to cover a 1 x 4 mile area.

7. 22 April 1969. Chrysler Corporation, Trenton, Michigan wasted 117,000 gallons of Resin Soap and Oil in Monguagon Creek No. 2 which empties into Detroit River (Trenton Channel). Investigated by Michigan Water Resources and U.S. Coast Guard and Federal Water Quality Administration. Samples from Detroit River (FWQA) Monguagon Creek No. 2 (MWRC) and waste pond (MWRC) had very close resemblance to "Dresinate—95. One sample contained 37% oil. Thus, about 43,000 gallons of oil wasted into Detroit River. Detroit District referred to Department of Justice. Action by Department of Justice in progress.

Sincerely yours,

WILLIAM G. STEWART,
Colonel, Corps of Engineers.

The Commission further noted that on any one navigation day on Lake Erie alone, there were an average of 22 lake freighters, four large tankers, and seven deep sea freighters carrying an estimated 120,000 barrels of oil as either fuel or cargo.

OIL AND GAS DRILLING

Unfortunately, no direct mention is made of controls on oil and gas drilling—drilling which has the potential of creating a Santa Barbara type blowout on the confined and slow-moving waters of the Great Lakes.

The lands under the waters of the Great Lakes not under the control of the Government of Canada are under the control of the various Great Lakes States—unless a U.S. treaty with Canada is developed controlling these lands. These States—and Canada—have a variety of regulations governing oil drillings on the lakes. For example, while at the current time there is a voluntary but temporary moratorium among the States on exploration and drilling for oil and gas from land under the waters of the lakes, the various States have almost no permanent controls on these operations. Further, the Province of Ontario has permitted some 32 drillings and brought in 14 gas wells on Lake Erie. Canada has leased 3.1 million acres of bottom land for drilling purposes.

As a result of its study, the International Joint Commission recommended that oil production and the production of "wet gas," containing appreciable amounts of liquid hydrocarbons from wells in Lake Erie, be prohibited and that all wells in Lake Erie capable of oil production be adequately plugged and that all drilling in the western basin of Lake Erie be totally prohibited. These recommendations are particularly important when one considers that though the Great Lakes Basin is not an active earthquake zone, we have experienced several major earthquakes during the last 100 years. An example of the type of oil well accident which can develop is the abandoned well in Lake Erie 30 miles north of Port Clinton, which recently sprung a leak and spewed out an unknown quantity of oil creating three slicks up to 3,000 feet long.

CONTROLS ON THE PLACEMENT OF POLLUTED DREDGINGS

One of the better points in the whole agreement is the mention of the development of controls on methods of dredging and disposal of dredged materials. Dredging controls are particularly important to Lake Erie.

Of the 10.8 million cubic yards of material dredged from Great Lakes harbors each year, 63 percent comes from Lake Erie harbors and the disposal of these dredging in the open waters of the lake would account for 8 percent of the total sediments and dissolved solids reaching the lake. In 1967, 660,000 tons of dry solids were dredged from Cleveland Harbor. It is estimated that this material contained 17,600 tons of oil and grease. If this material is stirred up and dumped in the open waters of the lake, it obviously is a serious source of additional pollution.

While the Federal Government, after a great deal of urging, is now placing the dredgings from many polluted harbors in diked disposal sites, so as to avoid further pollution of the waters of the lakes, I am concerned about the adequacy of designating only 35 harbors for this program. In a letter from the Office of the Chief of Engineers of June 21, 1971, I was given a list of the harbors where dredgings were being

placed in land or diked disposal sites. That list did not include all the harbors which are considered polluted. In fact, on Lake Erie, material from nine polluted harbors is being dumped in open water; on Lake Ontario, the dredgings from two polluted harbors are being dumped in the open lake. On Lake Superior there are three such cases, and on Lake Huron, one such case. In a letter which I received from the corps on March 21, 1972, I was informed that about half of the material being dredged in the Cleveland area will be dumped in the open lake because of a lack of space in the confined disposal site.

PRIVATE EXCAVATION OF SAND NEEDED FOR PUBLIC PURPOSES

I am further concerned over the failure of the agreement to limit the removal of certain minerals from the lakes. For example, enormous amounts of sand and gravel are being dredged from the lake bottoms. At the present time, sand is being taken for commercial purposes from some 23 different locations in Lakes Michigan, Huron, and Erie. Nearly 800,000 cubic yards of sand and gravel are taken from Lake Erie each year. Some 350 million cubic yards of sand deposits have just been discovered in Lake Ontario and we may expect dredging to begin there in the future.

There are three questions at issue here.

First. Does the removal of this sand and gravel, a natural filtration system, hurt the ecology of the lakes. It seems to me that as the waters of our polluted lakes wash up on sand beaches they are to some extent filtered and purified. Sand deposits on the bottoms of the lakes may serve the same purpose as currents pass over them and as some of the water filters downward.

Second. The removal of this sand by commercial dredgers creates new gradients in the lake that may speed up the rate of erosion along the shore. Three months ago I received a letter from a homeowner in Geneva, Ohio, who said:

> For years, I have watched the beach on my lake front property receding, knowing full well that the sand dredge that works between Painesville and Ashtabula is adding to the problem. I, personally, have spent thousands of dollars erecting jetties into the lake to prevent this erosion, but it is a losing battle.

Third. Finally, the sand and gravel in the lake is a valuable natural resource which could be used by local governments or by the Corps of Engineers to help stop the massive erosion which is destroying hundreds of homes and threatening public property and roads along the lakeshores. The U.S. Army Corps of Engineers recently completed their national shoreline study. The study found that on the Great Lakes there were 214.3 miles of shoreline eroding at a critical rate. The cost of protecting these shorelines, which are usually heavily developed, is estimated at $127 million. In many of these areas, sand and gravel placed along the shore can help stop this erosion. Yet as the corps report further notes:

> Sand is a rapidly diminishing natural resource.

FEDERAL FINANCIAL AID FOR THE GREAT LAKES

Finally, in the joint communique issued from Ottawa, it is reported that the United States will commit some $3 billion during the next 5 years, mainly in new sewage treatment systems, to help clean up the lakes. One can only comment that 2 months ago the administration canceled an EPA proposal to commit $141 million in fiscal year 1973 to clean up the 12 most polluted areas on the Great Lakes. In addition, a special $3 billion commitment to the Great Lakes Basin is only slightly above what the Senate passed water pollution control bill would routinely provide. Further it is nearly $1 billion under what the House bill would routinely provide to the Great Lakes Basin.

In sum, the agreement is a terrible disappointment. It ends where it should begin. It is obvious that the Federal commitment to cleaning up the Great Lakes will have to be substantially strengthened in the years ahead.

DR. FRANK L. BOYDEN

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BOLAND. Mr. Speaker, Dr. Frank L. Boyden, headmaster of Deerfield Academy for the almost unheard of term of 66 years left a mark on American education that will endure long after his death. Dr. Boyden succumbed last week at his Deerfield home, still within a stone's throw of the school he singlehandedly built into an institution of international fame.

He took over Deerfield Academy in 1902, fresh out of Amherst College and looking for a place to study law undisturbed. Once at Deerfield, however, his interest in the law vanished. He had found a challenge that would occupy the rest of his life. Deerfield, at the turn of the century, was little more than a dying village school—its boarding department long since abandoned, its enrollment down to a handful. The school could not even field a full baseball or football team: Dr. Boyden, a small and agile man, became Deerfield's quarterback and first baseman.

Under his stewardship Deerfield Academy slowly evolved into one of the finest preparatory schools in the country—many contend the finest—yet Dr. Boyden never stood aloof from the boys who went there. Always finding time to chat with them, always goading them or lecturing them or kidding them into better work in the classroom and on the athletic field, Dr. Boyden helped thousands of boys to reach their full potential. As the late John Gunther wrote:

> He probably knows as much about boys between the ages of 14 and 18 as anybody alive.

As Deerfield's perspectives broadened, so did Dr. Boyden's. He was a trustee of many other schools, chairing the University of Massachusetts' board during that institution's remarkable spurt of growth in the 1960s.

I am sure my colleagues join me in expressing sympathy to Dr. Boyden's wife and children.

Mr. Speaker, I put in the RECORD a Springfield, Mass., Daily News editorial on Dr. Boyden and a New York Times article.

DR. BOYDEN LEAVES A RICH HERITAGE

In his 66 years as headmaster of Deerfield Academy, Dr. Frank L. Boyden had a profound influence on the shape of private school education in New England and throughout the United States.

His longevity record at Deerfield is probably without parallel in the annals of private or public education in this country. But quality of service and length of service—significant as they are—do not tell the entire story of this outstanding educator.

Dr. Boyden was, of course, a dedicated believer in the benefits of preparatory school education. He not only had to believe but to work tirelessly to transform a struggling academy with a faculty of one—himself—into a multi-million dollar facility with a national and even international reputation.

But, Deerfield's headmaster did not become a private school recluse who unilaterally proclaimed the superiority of his system and then shut his eyes to the rest of the education world.

Instead, he compiled a long and distinguished record of public service, including chairmanship of the board of trustees at University of Massachusetts and membership on the boards of other prep schools and colleges. In 1969, Dr. Boyden was cited by President Lyndon B. Johnson for "distinguished service to the nation."

Deerfield Academy, the New England community, and American education—private and public—have indeed lost a friend and champion. Dr. Boyden's death, at the age of 92, is a loss to us all. But there is the consolation that he leaves a rich educational heritage behind.

[From the New York Times, Apr. 26, 1972]

FRANK L. BOYDEN, 92, PRINCIPAL OF DEERFIELD ACADEMY, IS DEAD

(By Farnsworth Fowle, dean of headmasters)

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.

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 baseball 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 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 drillmasters 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 daughter, 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.

NATIONAL ACADEMY OF SCIENCES PREFERS POLITICS TO RESEARCH

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. RARICK. Mr. Speaker, scientific exploration has now achieved a new dimension in America.

The National Academy of Sciences voted 44 to 24 against a proposal by Nobel-winning physicist William B. Shockley to review the evidence on heredity versus environment in determining intelligence. Then the same scientific body, with only two or three reported "nays" passed an antiwar resolution.

Our learned minds in the field of scientific research appear satisfied to abdicate their responsibilities to man and humanity while officiously using their prestigious positions of responsibility to interfere in solving crises in which they have little knowledge or expertise.

Following the new scientific contributions to humanity, Professor Shockley has now been prohibited at Stanford University to teach a graduate course on the "dysgenic question: new research methodology on human behavior genetics and racial differences."

Quite interestingly enough, the refusal to authorize the course was based upon doubts as to Professor Shockley's expertise for teaching the course.

Yet we have heard no overtures from the intellectual community regarding the lack of expertise of others in the scientific field concerning military operations, international diplomacy, or foreign relations. The antiwar scientists are lauded as courageous heroes for their actions against the war, while Dr. Shockley is denounced and persecuted because he dares suggest to the scientific community the crying need for research and data compilation to combat the illusion of flat human equality which as he says is "far more threatening to the future of the United States than was the flat earth illusion to the future of Italy in Galileo's day."

Related newsclippings follow:

[From the Washington Post, Apr. 27, 1972]

ANTIWAR STAND APPROVED BY SCIENCE GROUP

(By Victor Cohn)

In an unprecedented antiwar protest, the National Academy of Sciences yesterday urged President Nixon and Congress to de-emphasize U.S. "reliance on military force."

Instead, voted the country's leading body of scientists, the nation should develop foreign policies to use its huge technological skills to advance other peoples' welfare.

Several academy members felt that the statement was a thinly veiled anti-Vietnam war resolution. Academy President Philip Handler told a news conference that he "personally" opposed the war when the build-up began and "I disagree with bombing of the North."

In other important actions this week, the group:

Voted 44 to 24 against the latest proposal by Nobel-winning physicist William B. Shockley to review the evidence on heredity versus environment in determining intelligence. It was a rebuff for his attempt to spur research to test his belief that black intelligence is lower than whites' on the average. But his past resolutions have been tabled. He called the vote "encouraging" and said he would keep trying.

Approved a sweeping reorganization of the academy's research arm, the National Research Council, to put new multi-disciplinary departments and more full-time staffs to work on the growing number of jobs being given the academy of Congress and the government. These include monitoring automakers' ability to build clean-air cars and, in a bill passed by the House judging whether new clean-water standards can be met.

Voted to give members more opportunity to review agreements with the military to do classified studies. Such studies represent only 2 per cent of the group's $35 million annual budget, but include such sensitive subjects as undersea war and learning to counter act enemy land mines.

Prof. Alexander Rich of the Massachusetts Institute of Technology introduced yesterday's antiwar resolution. It was passed with only two or three nays by the 125 members present of the 750-member organization.

Among other prominent scientists attending were Harvard Prof. George Kistiakowsky, science adviser to President Eisenhower; Emanuel R. Piore, retired chief scientist of IBM and Harrison Brown of California Institute of Technology, the group's foreign secretary.

CIVIL, MILITARY STUDIES

The self-electing but federally chartered academy includes most of the nation's leading researchers. The government relies on it heavily for both civil and military studies, and for its more than 100-year history the group has generally leaned over backward to avoid tangling with any administration.

But now, Handler said, many members "feel strongly that there are larger moral issues in the world, and the academy has a right to express its views."

What their resolution tries to say, he added, is that "reliance on military force will not solve" the world's most pressing problems, but also that the United States should deploy its brains and resources to help solve them "rather than build a Fortress America and say 'to hell with it.'"

Yesterday's move to give members a greater chance to comment on use of their brains for the military came in response to severe prodding by strongly anti-militarist members.

RESIGNS IN PROTEST

Last year University of Chicago Prof. Richard Lewontin resigned to protest any secret military studies. The group finally accepted his resignation yesterday, but deferred action on a similar act by Cornell's Bruce Wallace.

Members hoped Wallace might be satisfied with yesterday's vote: to send all members

brief unclassified descriptions of all classified programs, then give them three months to object and even send a delegation to Washington before any contract is signed.

Academy leaders fully expect to continue to accept secret projects. Vice President Kistiakowsky recently urged fellow scientists to continue to cooperate with the military, although he himself has refused to join in war projects because he opposes the Vietnam fighting.

"It's a complicated situation," he commented yesterday. "But we should not let the military become isolated, as has happened in some foreign countries."

[From the Washington Post, May 1, 1972]

STANFORD BARS COURSE ON GENETIC DIFFERENCES

STANFORD, CALIF.—Stanford University's administration has decided against allowing controversial Nobel Prize-winning physicist William F. Shockley to teach a graduate course on "dysgenics"—the negative evolution of genetic traits.

Shockley's course, "The dysgenic question: new research methodology on human behavior genetics and racial difference," had been undergoing intensive review by a faculty committee since early February. The decision was announced today by Lincoln E. Moses, dean of graduate studies.

A professor of electrical engineering, Shockley was a coinventor of the transitor in 1947. He received the Nobel Prize for his work in 1954.

"I will not authorize the course," Moses wrote in a letter to Shockley. "Your expertise for teaching this course is subject to doubts . . . (and) the level of objectivity on the proposed course is at least as troubling; the reading list is directed almost wholly to your own views; your description of the course displays it as polemical—a quality not generally objectionable in a professor's communications, but inappropriate to his classroom instruction."

Commenting on the decision, Shockley said he was seeking a forum to "combat the illusion of flat human equality, an illusion that I interpret as so central to the thinking of the graduate school administration at Stanford, as to exclude a sincere search for truth. The flat human equality illusion that thwarts objectivity is, in my opinion, far more threatening to the future of the United States than was the flat earth illusion to the future of Italy in Gallileo's day."

Shockley's classes at Stanford have been disrupted three times since January. Several students are being prosecuted through the campus judicial system for their alleged roles in the disruption, while eight persons face misdemeanor charges in Palo Alto Municipal court.

Last Wednesday, the National Academy of Sciences again vetoed Shockley's request that the group sponsor a study of his theory that heredity, not environment, is the major factor in determining human intelligence.

VETERANS ARE GOOD HOME LOAN RISKS

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SHOUP. Mr. Speaker, I want to share some good news with you and my colleagues concerning the helpfulness and effectiveness of the GI bill loan program since enactment by the Congress during World War II.

In Montana and nationally more than 50 percent of the GI loans made to our servicemen and families have been repaid. Recently Charles C. Walter, director of the Fort Harrison Veterans' Administration Center, Mont., acknowledged "veterans are good risks" as he received final payment on GI loan No. LH 24351.

The VA director pointed out that 17,910 GI loans, totaling $181,775,999 have been made in Montana since the program began. More than half have been marked "paid in full." The recent repayment was made by a Billings couple who purchased their home in 1970, remodeled it, and plan to live there indefinitely.

Nationally over 7,900,000 loans have been repaid.

Vietnam veterans and servicemen who have served at least 181 days and veterans of World War II and Korea who served more than 90 days are eligible for GI home loans. Also eligible are widows of veterans who died as result of service-connected disabilities and wives of men missing in action or held prisoner of war.

Our dedicated servicemen and veterans deserve our salute, gratitude and continued support.

Thank you, Mr. Speaker.

FUND FOR HIGHER EDUCATION (IN ISRAEL)

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. GONZALEZ. Mr. Speaker, there is a unique organization in this land dedicated to the encouragement of higher education. This group is known as the Fund for Higher Education (in Israel). You will note that the "in Israel" is in parenthesis. This has been deliberately established by the founders to indicate that the Fund has a special concern for Israel, but its activities are not restricted to the country. It recognizes that Israel is America's ally in the Middle East and merits support but has few resources from which to gain that support. The Fund for Higher Education (in Israel) also recognizes its responsibility to America. The Fund so orders its priorities that its major investments go to Israel and a lesser, but still meaningful sum goes to American institutions.

Organized toward the end of 1970, the Fund has achieved a remarkable record. Already five important buildings are in the process of construction in Israel at Hebrew University, the Weizmann Institute and the Tel Aviv and Tel Hashomer Medical Centers affiliated with Tel Aviv University. The University of Southern California is now constructing a new School of Pharmacy which will contain a $150,000 student lounge sponsored by the Fund. A major project is under consideration which would involve Harvard and the Massachusetts Institute of Technology.

The Fund for Higher Education (in Israel) has been spurred to new heights by a Texan who will be honored at a tribute dinner on June 3 in San Antonio. He is Georges A. Hanzi, a business executive, sportsman, and a man with a strong sense of civic responsibility and a philanthropist. He is a Texan with a heart for the world.

Mr. Hanzi is vice president and director of Daylin, Inc., a New York Stock Exchange company, and serves as president of its San Antonio based chain of Handy Dan Home Improvement Centers. A former Navy pilot and a yachtsman of great skills, Mr. Hanzi also makes time for fulfilling civic responsibilities at local and national levels. He was a member of President Johnson's Council on Recreation and Natural Beauty and toured the Nation to promote the Discover America program as well as San Antonio's HemisFair '68.

On June 3, Mr. Hanzi will receive the Flame of Truth award of the Fund for Higher Education (in Israel), a unique honor signifying his vital contribution to the development of the Fund.

Guilding the destinies of the fund, in addition to its officers and directors, are an outstanding board of advisers and board of trustees. The board of advisers include the Honorable Abe Fortas, former Associate Justice of the U.S. Supreme Court; Alexander Goldberg, president of Technion; Dr. Albert B. Sabin, the discoverer of Sabin oral polio vaccine and president of the Weizmann Institute; Dean William Haber of the University of Michigan; Dr. Joseph J. Schwartz, renowned Jewish leader; Dr. George S. Wise, chancellor of Tel Aviv University; Aviad Yafeh, special consultant to the Jewish Agency in Israel; and Teddy Kollek, mayor of Jerusalem. The chairman of the board of trustees is Jerry M. Sudarsky, business executive and founder of the Truman Center for the Advancement of Peace. Others on the board are Jack Benny and Theodore Bikel of the entertainment industry; Marcus Glaser, Charles Krown, Allan Lararoff, and R. N. Slater, business executives; and Maj. Gen. Chaim Herzog, former Israeli chief of military intelligence.

Officers of the fund are Amnon Barness, chairman of the board and president; Samuel D. May, vice chairman of the board; Max Candiotty, Major Kurt Rodan, Dave Finkle, Albert B. Glickman, and Boris Young, vice presidents; Leon Beck, treasurer; Alvin M. Levin, secretary; Richard J. Segal, assistant treasurer; and Robert Hersh, assistant secretary.

The directors are Messrs. Barness, Candiotty, Finkle, Glickman, May and Young, as well as Sidney Kline, S. Jerome Tamkin, Charles Watt, and Eugene L. Wyman.

J. Norman Alpert, and the Texas honoree, Georges A. Hanzi, serve as project coordinators, Gerald J. Mehlman as general counsel, and Peter Grant as public information coordinator.

These are the man of the fund. These are the men that hold that every level of education requires support from preschool through graduate level. The very strength of the Nation comes from its

end result—the output at the top—the educated elite. This is the area the fund chooses to support.

In recognition of their outstanding goals and significant achievements and their hopes for the future, Mr. President, I urge a vote of confidence to these devoted individuals for the task they have undertaken and ask you to join me in congratulations to Mr. Hanzi on his singular honor.

PAMPA JAYCEES' MODEL CONGRESS: MODEL PROGRAM IN POLITICAL EDUCATION

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. PURCELL. Mr. Speaker, it has been a little more than 1 year since we approved the 26th amendment to the Constitution which granted our young citizens between the ages of 18 and 21 the right to participate in the leadership of this country.

I supported the 18-year-old vote because I had confidence in the youth of our Nation and knew that if given the opportunity, they would make an invaluable contribution to our political system.

Mr. Speaker, I bring up this subject because I have recently viewed a most encouraging display of student maturity and enthusiastic interest in the working of the legislative process. A short time ago I was given the chance to participate in a model congress in Pampa, Tex., in which over 150 high school students from cities throughout the Texas Panhandle experienced some of the frustrations, the satisfactions, and the thrills that come from personal involvement in the mechanics of government. I am impressed because what I saw reinforces the presumption on which the Congress voted to enfranchise 14 million young people.

The model congress to which I refer was sponsored jointly by the Pampa Jaycees, the JayceeEttes, and the social studies department of Pampa High School. Members of the sponsoring organizations assisted in preparing sample bills, retyping bills which needed revision, and in preparing copies for the student committee members. Sponsors also conducted orientation programs for those students who were to hold particularly key responsibilities. As soon as a sound support structure was assembled, the sponsors discreetly limited their presence, in order to make the congress a student experience.

In my opinion, the adults who contributed generously of their time and of their experiences in politics performed an invaluable civic service and are to be commended for the tremendous success of their efforts.

Patterned after our own operating procedures, the model congress at Pampa High School was complete with bicameral legislature, a committee structure for studying bills, lobbyists, elected officials to fill leadership roles, and even a president so that measures approved by the congress could be subjected to executive veto.

After viewing what can only be described as an impressive display of political awareness on the part of the young people who participated in the model congress, I can say with conviction that the legislation we approved more than a year ago lowering the voting age was one of the wisest things this body has done in many years. The young people I talked with during the day demonstrated an informed social conscience, a sense of public responsibility, and a discriminating intelligence that deserves every bit of trust the Nation put in them.

My enthusiasm for this type of program cannot be expressed strongly enough. I only hope many more of my colleagues will share in a similar program if they have not already done so.

THE COMPLETE TEXT OF A RECENT WASHINGTON REPORT TO NINTH DISTRICT CONSTITUENTS ON THE NATION'S ECONOMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. HAMILTON. Mr. Speaker, the complete text of my recent Washington report to Ninth District constituents on the Nation's economy, follows:

WASHINGTON REPORT BY CONGRESSMAN LEE HAMILTON

I

The goal is managing the Nation's economy is to achieve a balanced economy with adequate rates of economic growth, full employment of resources—both men and material—and reasonable price stability. Any one of these goals can be achieved without difficulty. The complexity of the task is that all three of these goals must be pursued simultaneously, and they must be achieved in the context of harmonious international relations, adequate national security and economic freedom.

Steps taken to achieve one of the goals tends to make more difficult achieving another of the goals—for example, if the Nation stimulates demand by spending more to reduce unemployment, it tends to increase wages and prices. Recent years provide ample evidence of the difficulties of achieving really good economic performance. Difficult as the task may be, it can be done, as the experience of our economy from 1961 to 1965 suggests.

It is well to keep in mind these fundamental points when taking a look at the progress and the problems in the economy. The elusive goal of prosperity without inflation still has not been achieved, but the Nation's economy is gaining momentum.

The composite prediction of a large group of economic experts is that the economy is improving. In 1972, economic growth in the U.S. is likely to be in line with the consensus forecast of a $90 to $100 billion increase in the gross national product (GNP), the total goods and services produced in this country. About one-half of this growth, though, may result from price rises. Progress may also be expected in reducing unemployment at least below the average in 1971, which was about 5.9 percent of the civilian labor force. Other encouraging signs include:

The acceleration of retail sales around the country.

State and local government outlays are increasing.

The stock market is surging ahead.

Corporate profits are rising.

Industrial production is up.

Housing starts have risen to a new record annual rate of 2.7 million units, as of February.

Business investments in new plants and equipment is increasing.

Net exports from the U.S. are beginning to pick up as a result of the devaluation of the dollar.

Total employment is increasing.

It is still too early, however, to say whether the favorable signs will develop into a new economic boom, or whether a new surge will bring new inflation, with perhaps even harsher economic controls. But for the moment, at least, the outlook is guardedly optimistic, although no one is claiming that the Nation has mastered economic policy yet.

The strongest potential force for expansion, consumer spending, still remains the weakest indicator, and it depends upon the confidence people have in the economy. People seem to be encouraged about economic prospects, but that has not yet been translated into a buying surge.

Many still feel they are losing the battle against rising prices, especially because of the rapid increase in food prices, and they remain uneasy about their own well-being and that of the country's. For most, taxes and prices are too high, government expenditures too great and jobs too uncertain.

The biggest concern among the people I meet is the persistent rise in prices and the apparent inability of Phase II controls to reduce inflation. They doubt that prices can be held down with present policies, and that doubt is reflected in Washington.

II

The Nation's economy is clearly gaining momentum, but even so, there is an astonishing amount of economic discontent. Often, I hear angry outbursts about job preferences for minority groups, tax burdens, the price of meat, the need for assured pensions, mounting welfare caseloads—all of which are rooted in the economic discontent.

Uncertainty over jobs and rising prices are the chief complaints, with government spending not far behind. I respond this way to those who ask me the fair, but very tough question, "What will you do about it?":

Unemployment. The unemployment picture remains difficult, especially among the young and the minority groups. In 1971, there was the equivalent of 6.9 million Americans unemployed, and the unemployment rate averaged about 6 percent of the labor force. Ironically, even with this level of unemployment, a severe shortage of skilled workers exists.

Stimulative fiscal and monetary policies are needed, but additional steps are also necessary to restore full employment:

1. An expanded public service employment program to create jobs in areas of health care, education, public safety, pollution control, recreation, sanitation, and urban and rural maintenance;

2. Expanded manpower training programs tied to the available job opportunities, with special attention to the less skilled and less experienced workers, especially young people, female employees and minority workers;

3. Equal employment opportunities; and

4. Strengthened Federal employment services to match jobs with the unemployed.

Inflation. Inflation remains troublesome, too. It represented more than half of the Gross National Product growth in the January–March period this year, or 6.2 percent,

making unlikely the achievement of the President's goal of an inflation rate of less than 3 percent for the year.

An active price and incomes policy must be a regular and continuing aspect of our anti-inflation policy. The present wage-price control program is exceedingly complex and has not been administered well. Although the official position in Washington is that the program is working, there is deep concern under the surface. A concentration of effort on those sectors of the economy which have strong market power would improve the chances of reducing inflation.

In addition, government programs which contribute to inflation should be reformed. These programs include import quotas, regulatory policies, government procurement practices, stockpile reserves, Federal subsidies, and many other practices which restrict artificially the market supply and inflate prices. Government policy should also include vigorous enforcement of the anti-trust laws and other steps to strengthen competition.

Budget Deficits. The size of the Federal budget deficits is a matter of grave concern, regardless of how appropriate a deficit may seem in terms of stimulating the economy. To improve the Federal budget position, several steps should be taken:

1. Respond to the pressing need for tax reform by shifting the tax system away from the regressive taxes, like property taxes, to relatively progressive income taxes. We should act to eliminate the most serious tax loopholes which would permit a substantial revenue increase. Federal estate and gift taxes should be re-examined for additional revenue sources and greater equity. Even with such measures, however, there is an increasing possibility of a Federal tax increase in 1973—either in the form of a value-added tax, or increased income taxes—to moderate the large budget deficits.

2. Revise the major subsidy programs to eliminate waste and unfair or outmoded subsidies. In fiscal year 1970, $63 billion in Federal funds went into subsidy programs, and no serious efforts are yet underway to evaluate or eliminate these programs.

3. Enact a rigid expenditure ceiling to assure the American people that the Federal budgetary process is not out of control, and to force the President and the Congress to keep the overall budget in perspective.

4. Scrutinize all spending, and especially military spending, to do a better job of eliminating waste and mismanagement. For example, a recent analysis of defense costs showed that 45 weapons currently being built showed cost overruns of $35 billion.

EMERGENCY MORATORIUM

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. DELLUMS. Mr. Speaker, tomorrow, beginning at noon and for the next 36 hours a bipartisan group of congressional employees will conduct a vigil to show their concern over the continuation of war in Southeast Asia.

They will read the names of American and Vietnamese war dead continually over the 36 hours. In addition, there will be a public liturgy tomorrow at 6:30, a midnight candlelight service, a daybreak service, and a lunchtime silent vigil on Thursday.

I support and encourage this show of concern by our staff. I believe that they have the right to indicate their concern as citizens and as employees of the legislature. From its inception, these staff members have concentrated their efforts on the whole question of war and its horrors—and not on any one policy which you or I might specifically favor.

I plan to take part in the vigil—both as a Representative and as a concerned citizen. I invite you also to join me in this completely nonpartisan expression of concern.

WHY AMERICA CARES WHAT HAPPENS IN VIETNAM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. KEMP. Mr. Speaker, the newest round of debate over American involvement in Southeast Asia has, as in the past, failed to focus on the relationship of Southeast Asia to American foreign policy en toto. It seems that each new round of Vietnam debate elicits new emotionalism from those who are no longer willing or capable of seeing Southeast Asia in the context of attempts to construct a delicately-evolving structure of world peace. It is no accident that Roosevelt, Truman, Eisenhower, Kennedy, Johnson, and Nixon have all believed that the future of Southeast Asia is crucial to our own national security. Indeed, even the Kennedy administration was convinced that the resolution of the Vietnam war would effect our relations not only with China, but with the rest of the world as well.

Since that time, our relations with much of Asia have improved, most particularly and dramatically with China. The success of world peace hinges on our relations with all the nations of the world, and should not be viewed exclusive of Asia and two-thirds of the world's population. An era of negotiation will emerge only as American perservance and commitment to freedom is reaffirmed. This whole question of American guilt and deception is specious and should not be perpetuated. Morality is not selective. To suggest that America is immoral for trying to save Vietnam from Communist domination, is a twist of logic that should not be tolerated.

The following article by Prof. Walt Rostow enunciates some of the reasons why the United States cares about Vietnam and why, if we see Southeast Asia in the context of American foreign policy and the world, we will not stand for the declaration that we are immoral, guilty of deception, or, as Anthony Lewis put it, "the most destructive force in the world."

Mr. Speaker, in the debate over American foreign policy as it relates to Southeast Asia, too many people, I believe, are unwilling to recognize that what happens in that corner of the world will have global repercussions. President Kennedy said in the early 1960's that what happens in Vietnam will effect our relations, not only with China, but with the rest of the world as well. At that time, our relations for instance, were far different with China than they are now and hopefully they will improve further.

If we are to truly have an "era of negotiation instead of confrontation" something we all want, it is vital that this country not lose its perspective about dealing with other nations in this less than perfect world.

The following article by Prof. Walt Rostow points out some of the reasons why this country cares about South Vietnam and why it is unfair to label all those who have tried to keep South Vietnam from being turned over to communism as somehow immoral or guilty of deception:

VIETNAM—WAS IT WORTH IT?

(By Walt W. Rostow)

The costs to us of the struggle in Southeast Asia make sense only if you agree with the last six American Presidents that the United States will be endangered if a potentially hostile power gains control of Asia, and that control over Southeast Asia is critical to the fate of all Asia.

Southeast Asia contains nearly 300 million people—as many as Africa or Latin America. It commands the sea routes of the South Pacific and the eastern Indian Ocean. It is a buffer area separating the two giants, China and India. If any single power attempts to seize control of Southeast Asia, the other major powers must instinctively react.

America, for example, passively stood by while the Japanese took over Manchuria in 1931 and then seized the major cities of China. But in 1940–41, the Japanese moved into Indochina and toward Indonesia. President Roosevelt had every interest at that time in concentrating American attention and resources on rearming at home, and on aid to Britain and, then, to Russia. But he refused to accept passively the Japanese take-over of Southeast Asia and the balance of power in Asia, including control of the sea routes to Australia, New Zealand and India. He cut off shipments to Japan of oil and scrap metal, and he froze Japanese assets in the U.S.

Indochina was at the center of our diplomatic dialogue with Japan right down to the eve of Pearl Harbor.

For similar reasons, President Truman threw our resources behind the French in Indochina at the time of the Korean War, despite reservations about the viability of French colonialism.

The same rationale lay behind President Eisenhower's (and the Senate's) support for SEATO in 1954–55; President Kennedy's policies in Laos and South Vietnam and his flat affirmation of the domino theory on September 9, 1963; President Johnson's basic Vietnam decisions of 1965; and President Nixon's insistence that America withdraw from Vietnam in ways compatible with stable peace.

Throughout this period of at least 30 years, it has been U.S. policy to sustain the independence of Southeast Asia from potentially hostile control. But sacrifice for a policy that cannot succeed is meaningless or worse. What have the sacrifices since 1965 achieved?

Look back and consider the panorama of Asia in 1965.

South Vietnam was on the verge of defeat and take-over, as the weight of North Vietnamese regular-army units, introduced in 1964 was fully felt.

Indonesia was out of the United Nations, in confrontation with Malaysia, making common cause with Peking, and eager to complete what both Jakarta and Peking de-

scribed as a pincer movement to envelop the whole of Southeast Asia, through a "Jakarta-Phnom-Penh-Hanoi-Peking-Pyongyang Axis"—a concept enunciated on August 17, 1965, by President Sukarno himself.

Peking was proclaiming that "Thailand is next."

All of Asia knew that its future hung in the balance. Robert Menzies, then Prime Minister of Australia, said if Vietnam fell, it would be "not so very long" before Australia would be menaced. And the danger was still closer and more obvious in the other capitals—as, for example, Macapagal, in Manila, and Abdul Rahman, in Kuala Lumpur, made clear.

The domino theory was not just a theory in the first seven months of 1965: every observer of the scene knew the dominoes were about to fall unless American power was rushed into the balance.

Then, at the end of July, 1965, President Johnson moved to commit American forces.

Now, six years later, there is a different Asia.

South Vietnam has harvested the greatest rice crop in its history and is about to conduct its second presidential election under a democratic constitution. Well over 90 percent of its population live under reasonably reliable government administration.

Indonesia is independent and advancing hopefully in economic and social progress, after the successful defense of its independence in October, 1965, which, incidentally, triggered the Cultural Revolution in China.

Asian regional organizations have come into being; for example, the Asian and Pacific Council (ASPAC), the Association of South East Asian Nations (ASEAN), the Asian Development Bank. These offer great promise that in the future, Asians, working together, can increasingly shape their own destiny.

Japan, now the third industrial power in the world, is evidently prepared to use its expanding economic resources to help others in the region whose modernization began much later, but who are now moving forward with astonishing momentum: South Korea, Taiwan, Thailand, Malaysia, Singapore.

China is beginning to enjoy economic progress after a decade of external frustration and internal violence and is experimenting, at least, with the idea of normalizing its relations with Asia and the rest of the world.

Without the U.S. effort in Southeast Asia, there would now be no Ping-Pong diplomacy and no presidential visit to Peking planned.

But all this is still precarious and fragile.

As the South Vietnamese assume increasing responsibility for their own defense and try to make a constitutional system work (which very few post-colonial nations have been able to manage), they feel every day the threat of hasty, total American withdrawal and the pressure of those who would cut off all military aid to them in order to guarantee a Communist victory.

North Vietnamese troops are embedded, without a shred of legality, deep in Cambodia and Laos, threatening the Mekong towns and the Thai border. Not one weapon they carry or shell they fire was manufactured in North Vietnam. Putting aside their long-neglected tasks of economic and social development, the leaders in Hanoi continue to pour young men into the infiltration pipelines to South Vietnam in an effort to destroy the process of Vietnamization.

There is a decent hope that in the years ahead an Asia could emerge in which the North Vietnamese will go back within their own borders; the independent states will survive and increasingly work together; relations with China—and, indeed, North Vietnam—will be normalized; and the American role will continue to diminish, while remaining a relevant force in Asian and Pacific affairs.

There is also a real danger that all that has been achieved since 1965 by Asians and ourselves will be lost; that a vacuum will develop in Southeast Asia which Peking, as well as Hanoi, will feel impelled to try to fill; and that Asia will move from the promise of stability and progress to chaos or a war far worse than what we now see in Indochina.

Was it worth it? Clearly, the outcome of the common effort is still uncertain. If we mindlessly walk away from Asia, we shall make sure it was not worth it. If we patiently stay the course, the suffering of these years could be repaid with stable peace and security for ourselves and the two thirds of humanity who live in Asia.

What still remains to be done in Asia may not, if we are wise, involve the use of much American military force. Asians are now able to do vastly more to defend themselves than they were in 1965. And China, with some 50 Soviet divisions on its frontiers, may now be influenced to move in more peaceful directions than in the past.

But our resources and our treaty guarantees retain a decisive margin in the Asian balance of power. We ought to ask ourselves bluntly: What is likely to happen if we bury the past and leave Asia to its own devices?

First, the end of America's commitment in Southeast Asia would change the debate now under way in mainland China. Powerful forces there are working to move China toward the long-delayed concentration of its energies and talents on the modernization of life. American withdrawal would inevitably lead Peking to exploit its new opportunities to the South. No one can predict the precise form in which a nuclear China, with its huge ground forces, would exercise its power in the vacuum we would create. But I cannot believe that Peking would remain passive.

Second, the nations of Southeast Asia, certainly as far as Singapore—quite possibly as far as Indonesia—would lose their independence, as, for example, Lee Kuan Yew, Prime Minister of Singapore, believes; or they would be forced into a protracted military or quasi-military struggle that would force them to abandon their exceedingly promising economic, social and political development.

Third, Burma, in particular, would either fall under Communist domination or become the scene of an Indian-Chinese struggle. For Burma, not Tibet, is the point of strategic danger for the Indian subcontinent—a warning consistently made to me in private by high and responsible officials of both India and Pakistan.

Fourth, Japan and India would quickly acquire nuclear weapons, and the Nonproliferation Treaty would quite possibly die elsewhere in the world as well. The willingness of many nations to forgo the production of nuclear weapons depends on a carefully balanced calculation—a calculation that says the United States can provide greater security at less risk than going it alone with a national nuclear capability. An America that walks away from a treaty commitment after bringing into the field a half-million of its armed forces and encouraging a small ally to fight desperately for its independence, would not be regarded as a reliable ally on such a mortal issue as nuclear deterrence in Asia or anywhere else.

There are many, I know, who believe that, somehow, the United States can live safely divorced from the fate of Asia.

I do not.

Thirty years ago, an Asian power, reaching for Asian hegemony, was able to mount Pearl Harbor.

There is already one nuclear power in Asia, now moving to produce ICBM's. If we walk away from our commitments in Asia, there are liable soon to be at least three. Having come in these hard years as close as we now are to the possibility of stable peace in Asia, I think it would be disastrous to throw in our hand and leave future Americans to bear the inevitable costs of a nuclear-armed Asia.

The more than 50,000 Americans—and the more than one million Asians—who died in this struggle for a stable, peaceful Asia deserve better of us.

AN INCREASE IN SOCIAL SECURITY BENEFITS

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. HALPERN. Mr. Speaker, I hope that we in the Congress will soon be able to take final action on the provisions in H.R. 1 which would increase social security benefits for some 27.4 million Americans.

This legislation, which has passed the House and is now pending in the Senate, would increase social security benefits by 5 percent. As a result of this change, the minimum retirement benefit would be increased from $70.40 to $74 a month. The average retirement benefit would rise from an estimated $133 to $141, and the average benefit for an aged couple would increase from an estimated $222 to $234. The special benefits payable to certain people who are over 72 would increase from $48.30 for an individual and $72.50 for a couple to $50.80 for an individual and to $76.20 for a couple.

H.R. 1 would also increase benefits for about 3.4 million widows. Under the bill, widow's benefits would be increased from 82½ percent of the husband's retirement benefits to 100 percent of the retirement benefit the husband would be paid if he were alive. Benefits that begin before age 65 would be reduced according to an actuarial formula to take account of the longer period over which benefits would be paid.

Mr. Speaker, the benefits that would be increased as a result of H.R. 1 are designed to replace, at least partially, the income that is lost when a worker retires, becomes severely disabled, or dies. About 93 percent of the people now becoming 65 are eligible for monthly cash benefits; 95 percent of all children and their mothers can count on monthly survivor insurance benefits if the family breadwinner dies; and 80 out of 100 people of working age have worked long enough and recently enough so that they could get benefits should they become totally disabled during the year. In fact, 1 out of 8 persons in the country are now receiving cash benefits.

The increase in benefits contained in H.R. 1 will be of particular significance to our older Americans. As we all know, income is the major problem confronting older people. Our older citizens suffer a drop of from one-half to two-thirds of their working income when they retire.

These are the people who built the country we live in today, who saved what money they could, and maintained a reasonable standard of living during working years. Yet, all too often, these individuals retire after long years of work only to find that their relatively fixed retirement income is inadequate because of rising prices.

If these older people had sufficient incomes, they could obtain for themselves many of the services they need to solve their other problems. In many cases the isolation and unhappiness facing large numbers of our older population can be traced back to the inadequacy and insecurity of their financial resources.

The increase in social security benefits contained in H.R. 1 combined with the 26 percent increase provided by the Congress since 1969 means a great deal to the well-being and happiness of these individuals. I am hopeful that they will not have to wait much longer for these added dollars which mean so much to them in purchasing the basic necessities of life.

Because any delay in receiving increased benefits in a time of rising prices has such a serious impact on the daily lives of older people, I am also very pleased that H.R. 1 contains a provision for automatic annual increases in benefits whenever the cost of living in the previous year has risen by at least 3 percent, unless legislation increasing benefits had either been enacted or become effective in the previous year. This cost-of-living increase would be equal to the percentage rise in the cost of living.

In addition, the amount that a beneficiary can earn in a year and still be paid all of his benefits would be automatically increased each time there is a cost-of-living benefit increase. This increase would be based on the rise in average earnings covered under the social security program.

These provisions for automatic increases should prevent the lag that sometimes takes place now in improving benefits because the increases are tacked on to other more controversial proposals which Congress must deliberate. A perfect example of this problem is the present situation where the social security benefit increase is contained in the same bill as welfare reform proposals. Even though there is a general concensus that the benefit increase is needed it is held up awaiting the conclusion of lengthy discussions on how best to improve the welfare programs of the country.

In conclusion, Mr. Speaker, I urge the Congress to move quickly to provide these increased benefits to those who are awaiting them so expectantly.

COMPUTERS MAKE NO MISTAKES

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. TIERNAN. Mr. Speaker, I have now been informed by the Finance Office of the Environmental Protection Agency that they are sending a staff member tomorrow to the U.S. Water Quality Laboratory at Narragansett, R.I., in order to help straighten out the payroll mess that has resulted in payless paydays, lost vacations, and fractured morale for a number of employees at this facility.

EPA now tells me that it is all the fault of—yes—the computer. An easy target.

Quite frankly, I am not inclined to accept the computer as the culprit. The computer does only what humans want or direct it to do. The computer does not program mistakes, humans do, and for 4 months EPA employees have endured a host of frustrations due to unexplained and inexplicable bungling by some unknown and unconcerned bureaucrat.

I hope that EPA is now sufficiently informed about this problem and has the interest and the concern to solve what is an extraordinarily simple problem.

CRIME, WAR, INFLATION ARE TOP CONCERNS OF NEW YORK'S EIGHTH CONGRESSIONAL DISTRICT, ROSENTHAL POLL SHOWS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ROSENTHAL. Mr. Speaker, crime, the war in Indochina, and inflation are the major problems facing our society, according to my latest poll of residents of the Eighth Congressional District of Queens, which I represent.

More than two out of every five—42.7 percent—said they consider crime "the most serious problem facing the city of New York, and the Nation today." Second most urgent was the war—20 percent—followed by the cost of living—10 percent.

Of the more than 6,300 persons who responded to the poll: 74 percent said all firearms sales should be limited without exception so as to curb crime; 96 percent said that under the President's new economic policy, prices are still rising at an unacceptable level; 63 percent said the United States should set a definite date for withdrawal of forces from Indochina; and 70 percent said some form of amnesty should be offered to those who refused to serve in the Armed Forces because of the Indochina war.

Among the other results of the annual poll are strong support for: national health care reform; improved social security benefits and coverage, including prescription costs; stronger consumer protection legislation; increased Federal aid to education; and use of highway trust funds for mass transit projects.

A large majority said aircraft noise is a problem and that they would be willing to pay higher taxes or slightly higher prices to end air and water pollution.

The views expressed by my constituents in the poll will be extremely helpful to me dealing with these issues as they come before the Congress.

I include a list of the questions and the results of my questionnaire:

Question 1. *Crime* is clearly the most serious problem, followed by the war, inflation and welfare. This contradicts the Nixon Administration's contentions that crime and the war are back-burner issues, and that Phase II policies are working. Just the opposite is true. Last year's poll showed crime to be the top problem, followed by housing and air pollution.

Question 2. The President's economic policy gets a resounding no confidence vote from the citizens of Queens. Nearly 97% say prices are "at about the right level." Less than half of 1% think prices are actually going down as a result of Administration policy.

Question 3. Nearly 60% of the respondents voted in favor of a comprehensive national health care system. In fact, seven out of eight persons said some type of reform of the present system is needed. Only 5.33% felt "the present system is adequate." Another 8.06% were undecided. This decrease in confidence in the present system follows a pattern apparent in last year's Rosenthal poll when only 37.5% indicated they were satisfied with the medical care available.

Question 4. About two out of every three persons responding (63.27%) said they "believe that the establishment of a definite date for total withdrawal of U.S. forces from Indochina is the best chance we have for a speedy return of our POWs, an accounting of our MIA's and an end to the war."

Question 5. Some form of amnesty for those American men who chose to protest U.S. involvement in the Indochina War by refusing to serve was favored by nearly 70% of those responding. Of those in favor, two out of every three said amnesty should be "conditioned on a period of national service." Opposing amnesty were 24.28% and the remaining 5.75% were undecided.

Question 6. A 50% increase in Social Security benefits, with a $150 monthly minimum, was approved by 77.72% of those responding. Voting "no" were 13.90% and 8.37% were undecided.

Question 7. Nearly 80% said they feel "out-of-hospital prescription drugs (should) be included under Medicare coverage. The remaining 20% were almost evenly split between opposing and undecided.

Question 8. By margins of 88 to 95%, respondents said consumer laws "should be stronger" in the areas of food safety, food labeling, auto repair, TV and appliance repair, mail order abuses and product safety.

Question 9. Aircraft noise is a problem for 72% of those answering. Two out of every nine of these persons said the problem is serious. Just under 28% of those responding said aircraft noise is no bother. This is the only question on which no one was undecided.

Question 10. Two out of three persons answering the poll indicated they would be "willing to pay higher taxes or slightly higher prices to end air and water pollution."

Question 11. An overwhelming majority (92.94%) supported some form of gun control. Opposition was strongest among men (9%) and least among youth (4.41%); 5.39% of the women indicated opposition. Although presented with four alternative controls on firearms, the largest number (73.56%) supported a ban on "all firearms without exception."

Question 12. Increased federal funding was seen by nearly two out of three persons as the best way out of the financial dilemma facing public education. Only 36.12% (vs. 63.87%) felt states should pay for public education with a new system of financing.

Question 13. Four out of five favor "the use of funds collected under the Highway Trust Fund for the purpose of developing a more modern, efficient system of mass transit." Just under 14% opposed and 6.41% were undecided.

8TH CONGRESSIONAL DISTRICT QUESTIONNAIRE, APRIL 1972 (RESPONSES)

[In percent]

	All	His	Hers	Youth
I. What do you consider the most serious problem facing the city and the Nation today?				
Crime	42.7 (1)	41.2 (1)	46.8 (1)	36.1 (1)
Taxes	4.9 (7)	6.4 (5)	4.0 (7)	1.4 (9)
Jobs	6.2 (6)	5.4 (6)	6.1 (5)	9.7 (4)
Pollution	6.3 (5)	4.8 (7)	6.1 (5)	13.9 (3)
Mass transit	1.1 (9)	1 (9)	8 (9)	4.2 (6)
Schools	2.4 (8)	2.2 (8)	2.0 (8)	4.2 (6)
Welfare	6.5 (4)	7.7 (4)	6.5 (4)	2.8 (8)
Cost of living	10.0 (3)	10.2 (3)	10.5 (3)	6.9 (5)
Indochina war	20.0 (2)	21.5 (2)	17.7 (2)	20.8 (2)
II. Under the President's new economic policy, do you feel prices are:				
Still rising at an unacceptable level?	96.9	95.8	97.6	98.6
At about the right level?	2.6	3.8	1.5	1.4
Actually going down?	.5	.3	.8	0
III. Would you like to see a program of national health insurance which would:				
(a) Provide coverage for all health care through a social security-type program?	59.9	57.0	52.7	67.1
(b) Provide coverage for all health care through the present private health insurance industry?	13.3	13.6	16.7	9.6
(c) Cover only major illness or long-term hospital treatment?	13.4	16.6	14.3	6.8
(d) None of these, the present system is adequate	5.3	5.2	7.7	1.3
(e) Undecided	8.1	7.5	8.5	15.1
IV. Do you believe that the establishment of a definite date for total withdrawal of U.S. forces from Indochina is the best chance we have for a speedy return of our POW's, an accounting of our MIA's, and an end to the war?				
(a) Yes	63.3	59.9	65.2	71.4
(b) No	25.3	28.8	21.4	22.8
(c) Not sure	11.4	11.2	13.3	5.7
V. What do you believe should be the Nation's policy toward those American men who chose to protest U.S. involvement in the Indochina war by refusing to serve?				
(a) Total amnesty	23.3	20.2	23.7	35.2
(b) Amnesty conditioned on a period of national service	46.6	48.6	48.6	42.3
(c) No amnesty	24.3	29.1	21.3	14.1
(d) Not sure	5.7	4.6	6.3	8.4
VI. Do you feel social security benefits should be raised by 50 percent and the minimum to $150 a month?				
(a) Yes	77.7	77.2	78.2	77.9
(b) No	13.9	14.9	13.6	10.3
(c) Not sure	8.3	7.8	8.1	11.8
VII. Should out-of-hospital prescription drugs be included under Medicare coverage?				
(a) Yes	79.6	78.0	80.7	82.1
(b) No	10.3	12.1	9.6	5.1
(c) Not sure	10.1	9.8	9.6	12.8
VIII. Do you think present consumer protection laws should be stronger for:				
(1) Food safety:				
(a) Yes	95.0	94.2	96.1	93.8
(b) No	2.8	2.3	3.4	3.0
(c) No opinion	2.2	3.3	.42	3.0
(2) Food labeling:				
(a) Yes	93.6	92.1	95.0	95.4
(b) No	3.8	3.8	3.7	4.6
(c) No opinion	2.5	4.1	1.2	0
(3) Auto repair:				
(a) Yes	93.9	92.3	94.2	100.0
(b) No	1.8	2.4	1.6	0
(c) No opinion	4.2	5.2	4.2	0
(4) TV and appliance repair:				
(a) Yes	95.5	93.9	96.4	98.4
(b) No	1.6	2.3	1.2	0
(c) No opinion	2.9	3.7	2.4	1.5
(5) Mail order abuses:				
(a) Yes	88.5	87.7	88.6	92.3
(b) No	2.6	2.7	2.4	3.0
(c) No opinion	8.7	9.5	8.9	4.6
(6) Product safety:				
(a) Yes	95.6	94.7	96.2	96.7
(b) No	1.2	1.0	1.2	1.6
(c) No opinion	3.2	4.2	2.5	1.6
IX. Is aircraft noise a problem for you and your family?				
(a) Serious	16.0	17.2	16.0	10.9
(b) Moderate	56.0	53.6	57.8	60.3
(c) Not at all	27.9	29.2	26.1	28.7
(d) Undecided	0	0	0	0
X. Would you be willing to pay higher taxes or slightly higher prices to end air and water pollution?				
(a) Yes	66.1	66.5	63.9	71.0
(b) No	25.5	26.4	26.6	17.4
(c) Undecided	8.4	7.1	9.3	11.6
XI. Since mandatory jail sentences for use of handguns in crimes has not reduced crime, do you favor strong anticrime measures by limiting firearms sales?				
(a) Yes, all firearms without exception*	73.6	69.3	78.8	73.5
(b) Yes, but only nonsporting firearms	12.6	12.6	11.6	16.2
(c) Yes, but only nonsporting handguns	3.9	5.0	2.5	4.4
(d) Yes, but only nonsporting long guns	2.8	4.0	1.6	1.5
(e) No, I oppose all gun controls	7.1	9.0	5.4	4.4
(*) Those voting for some controls	92.9	91.0	94.6	95.6
XII. Courts in several states have recently ruled that local property taxes are an unfair system of financing public education. To correct this problem should:				
(a) Congress increase federal funds for schools?	63.8	64.2	62.2	68.4
(b) States pay for public education with a new system of financing?	36.1	35.9	37.8	31.6
XIII. Do you favor the use of funds collected under the highway trust fund for the purpose of developing a more modern, efficient system of mass transit?				
(a) Yes	79.6	77.4	80.8	84.2
(b) No	13.9	17.1	11.4	10.0
(c) Undecided	6.4	5.5	7.7	5.7

Note: Due to rounding off, totals may not be exactly 100 percent.

TRIBUTE TO ANGELO BERTELLI

HON. CHARLES W. SANDMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. SANDMAN. Mr. Speaker, it is my pleasure to rise to statute a great athlete and a great American on the eve of a well deserved testimonial dinner in his honor.

I refer to Angelo Bertelli, of Clifton, N.J. His is a name football fans, especially fans of the Fighting Irish of Notre Dame, will remember.

Angelo "Bert" Bertelli counts among his honors the famed Heisman Memorial Trophy.

And this year, he was elected to the National Football Hall of Fame.

The testimonial dinner being held Wednesday, May 3 at Mayfair Farms in West Orange, N.J., is to honor Angelo Bertelli for having achieved this great honor.

I know Angello as an outstanding businessman, a devoted family man, and as a friend. And I am happy to join his many other friends and fans in this testimonial salute.

TRAVEL GROUP CHARTERS RULING

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SHOUP. Mr. Speaker, I would like to speak out today on behalf of my constituents and all Montanans whose way of life is now threatened by a recent Civil Aeronautics Board proposed rule on travel group charters.

Let me explain. A proposed rule before the Civil Aeronautics Board quite simply will destroy the United States scheduled airline network, as we have come to know it. In its place, and this will not happen overnight, but it is a beginning, will be substituted an "on call" type of our service. That means where groups of 50 or more passengers can be formed, there will be a flight to a common destination, not before. These travel group charters will, of course, be cheaper because they will operate only when there is a full plane load.

Those of you in Congress who like myself represent the less populated communities, must make ourselves heard on this vital issue. To illustrate, at present every morning at 7:20 a.m. from Billings; 8:30 a.m. from Great Falls; 10:26 a.m. from Missoula, at 10:48 a.m. from Butte, and at 11:19 A.M. from Helena, there are flights into our Nation's Capitol. The people of my home State of Montana depend upon this regularity of air service. They order their business and their

way of life around this ease of transportation access to and from our Nation's Capitol and other important business and industrial areas of this great Nation. Now we are being told that this kind of convenience is no longer necessary—that what the public wants is to travel by cheaper, on call, group charters.

May I ask my fellow Members of this Congress who come from the less populated States and who represent the less populated districts this question: Will you and your constituents want to sacrifice regularly scheduled flights through your communities for the proposition that when you or your constituents desire to come to Washington or other points, you or they will put together or join a travel group charter? Of course, you do not want this.

Yet, this is exactly what is being proposed. Of course, the plan is very cleverly packaged. There is nothing in it that says the scheduled airlines cannot continue to serve such smaller communities as Missoula, Butte, Helena, and Bozeman, for example, and with the same frequency and convenience as in the past. However, what those of us recognize who live in and represent the smaller communities is that without the support of the traffic from the larger communities, the air service through out smaller yet no less important communities cannot be supported.

Thus, the proposed travel group charters between highly populated areas will simply erode away the scheduled airlines service to our communities. We must remember that to support the level of service we need, our scheduled airlines must be allowed at the minimum the current level of protection over their blue ribbon routes which are highly competitive in themselves. Putting new charter carriers in business over the scheduled airlines already competitive blue ribbon routes, and at the same time to expect the airlines to maintain the same high level of service to the smaller communities they serve, is an invitation to economic disaster.

Scheduled air service to and from Montana, and in fact all points in the United States, is supported by a mix of traffic. This traffic breaks down into individuals traveling on personal trips, such as a family emergency, pleasure trips, business or government. In addition, group travel on the scheduled services provides a measure of support for these flights. Further support for these flights is provided by U.S. mail and freight traffic which is an integral part of the commerce of this country. All these categories of traffic when combined permit the scheduled carriers to offer the high level of service we now enjoy.

We have built a sound scheduled air transportation system in this country. It has and is serving us well. One of its strengths is that we in the Congress have taken a keen interest in its growth and development. I call on all of you to make it plain to the Civil Aeronautics Board, the Department of Transportation and to the White House that we do not now intend to take backward steps. Quite the contrary, we intend to take forward steps to improve our scheduled airlines network.

Charter service concepts now being practiced are viable, profitable transportation methods that complement this basic scheduled service. The proposal before the Board would, in practice, allow charter airlines to compete directly with scheduled lines without the responsibility of providing facilities and schedules.

If the charter air carriers need some kind of special help, and remember it is they themselves that said all they needed was a business opportunity, and we have given that to them, then let us face that issue separately. It should be made clear to them that we will not destroy the scheduled airline network to give these charter carriers who have shown dramatic growth in recent years, further and unwarranted advantages.

The new travel group charter rule is a plan that must be put to rest before it starts. If not, it will begin to sap the very strength and sinew of our present air transportation system.

I call on my associates in both Houses to join with me and express their deep concern. I have taken such action today.

ECOLOGY ARMIES RABID RAMPANT WITH HYPOCRISY

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. STEIGER of Arizona. Mr. Speaker, on April 18 an editorial by Bill Norman appeared in the State Press. Mr. Norman, a mass communications major at Arizona State University, has made some interesting observations on ecological enthusiasts that are worth considering. I would like to include his article in the RECORD at this point.

ECOLOGY ARMIES RABID, RAMPANT WITH HYPOCRISY

(By Bill Norman)

In the past few years we have seen a nationwide ecology movement arise. College students in particular have evidenced growing concern over our deteriorating environment and have swelled the ranks of the anti-pollution army.

Polluters, from copper smelters to offshore oil rigs, from chemical factories to jet aircraft, have felt the legal and economic pressures of the pollution-fighting machine. And coupled with the environmental concern we have seen a mass exodus, on weekends, holidays and vacations, to nature in her primitive state.

In the West when school is out, students flock by the thousands to Parker on the Colorado, Rocky Point, Guaymas and Kino Bay. In the South they mass on Florida beaches, and at the festival communion of Woodstock half a million congregated in the New Jersey forest.

It is natural and good, I think, when one sees nature bespoiled about him, that he feel a desire to get away, to travel to places comparatively untouched, perhaps unseen, by other men. And his desire to be among kindred spirits in such an unspoiled place is not unnatural.

It is strange then, that those who cry the loudest to save the earth are those, who when they gather, are the dirtiest and sloppiest of the earth's creatures and those most likely to deface the land.

At one time we see them in the anti-pollution vanguard, decrying the filth in the air, the sludge that was water and the once-green things now twisted and dead.

But at a different time they personify hypocrisy.

See Woodstock when they had gone—square miles of rubbish alien to nature. A once-beautiful forest glade reduced to a repository for trash.

At Parker, the river and its banks are an expanse of garbage. The summer soldiers cannot be bothered with ecology now. Their refuse is somehow different. Perhaps it has a personal quality to them. Someone else can pick it up.

Our friends will seldom be found far from their automobiles for, despite their ostensible love for the great outdoors, they find cars acceptable gadgets. It doesn't matter that cars are the major cause of pollution. The part-time ecology buff can easily make an exception in his own case.

I cannot deny that strong and vocal public disapproval of increasing damage to our environment has been responsible for strict pollution standards.

But when I hear a man expound on the necessity for ecological balance, only to watch the same man dump his trash about him without a second thought, I question his motives, I reject his claim to honesty, and I wonder, with he and his two-faced brethren, what chance we actually have of keeping nature natural.

INCOME TAX HITS ELDERLY HARD

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BROYHILL of Virginia. Mr. Speaker, my friend and constituent, Mr. Oscar Kiessling of Falls Church, Va., wrote an article which was featured in the Washington Post on Sunday, April 16. 1972, concerning the impact of income tax on the elderly.

Mr. Kiessling's article is a result of nearly a year of research. As a Member of the House Committee on Ways and Means, I plan to present his findings to my committee colleagues when we begin consideration of a simplified income tax return, with the hope that some of the inequities especially applicable to the elderly can be eliminated.

As I believe this article would be of interest not only to my colleagues but to all who read this RECORD, I insert it at this point in the RECORD:

[From the Washington Post, Apr. 16, 1972]

INCOME TAX HITS ELDERLY HARD

(By Oscar Kiessling)

Many government and private agencies are showing concern wtih the serious problems facing the swelling ranks of the over-65 age group but little attention is being given to a field of vital importance—taxation.

While the government has allowed exemptions for the 21 million elderly persons in that group—now nearly 10 per cent of our total population—that relief has been too little and much too late because the government still collects nearly 10 per cent of all personal income taxes—about $7.5 billion—from them.

At the same time, the tax forms have been getting more complicated for the elderly, requiring, for example, computation of the retired income tax credit. The Internal Revenue Service offer to compute the tax for

those using the standard deduction does not help most of the elderly because 62 per cent of them itemize their deductions for obvious reasons. They have extraordinary medical, dental and personal care expenses and many owning homes have heavy property taxes. They would be unable to make ends meet if they took the standard deduction.

The tax return season at our house, I believe, is becoming more and more typical. My wife and I still are working and have kept in training, so to speak, although five junior Kiesslings in the tax-age bracket contribute somewhat to the strain. But Aunt Marge and Uncle Will, both over 70, add a new dimension. Aunt Marge's vision is clouded by diabetes and Uncle Will's arthritic hands no longer can hold a pencil. Like millions of nearest relatives all over the nation, we gather the necessary information and fill out their returns, too.

The U.S. Treasury reports receiving 7.2 million returns from persons over 65 but more than 4 million of them were joint returns so that they cover about 11.2 million individuals, approximately 54 per cent of the entire over-65 clientele. How many are in better or worse health than Aunt Marge and Uncle Will is uncertain, of course, but more than one-third of the over-65 age group are past 75 and 750,000 of them are in nursing homes. Old people also occupy a disproportionately large share of the 1,600,000 beds in regular hospitals.

But the filing problem is relatively minor compared to the effect of inflation. Pensions, interest and dividends constitute about 55 per cent of the income of the elderly compared with only 10 per cent for the total population. Their pensions were earned and savings accumulated well before inflation had gathered its modern momentum and long before automatic cost-of-living increases were heard of.

A person who retired in 1960 with some nest-egg savings had a loss of 24 per cent in the purchasing power of such savings by 1970. Recent acceleration of inflation assures that more rapid erosion is already in the cards. With the average life expectancy of all persons at 65 being 14.6 years (12.8 years for men, 16.3 years for women), retirees can expect a loss of 50 per cent or more in the purchasing power of their savings over the next 15 years.

Aunt Marge and Uncle Will are more fortunate than many. Although they are largely confined, they have enough income from pensions and savings to get along. And since their expenses for medical and various other services are relatively high in most years, they have little or no taxable income. Nevertheless, tax regulations require them to fill out the forms with all the items listed. The Treasury reports that one-third of the returns from the over-65 age group are nontaxable. approximately 2.4 million returns reporting no-owe.

For all the returns filed in the elderly age group, the average adjusted gross income per person (1969 figures are the latest available) was $4,476 and the average taxable income was only $2,637. Moreover, 60 per cent of the returns showed adjusted gross incomes of less than $5,000 and only 16 per cent showed incomes of $15,000 or more.

Some very rich people are included in the over-65 group but they do not figure significantly in the total returns, doubtless due to earlier arrangements made by clever tax advisors and attorneys. Reporting of oldsters in the $100,000-and-up bracket was a mere 0.3 per cent of the total.

Why isn't it time to provide a simplified, more operable one-page tax form for the over-65 age group and one with more liberal exemptions, say, a flat $10,000 per person with a flat 5 per cent tax above that amount with no deductions?

MISSISSIPPI

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. GRIFFIN. Mr. Speaker, under leave to extend my remarks, I include a splendid article which appeared in the April issue of the Mortgage Banker published by the Mortgage Bankers Association of America. It follows:

THE SOUTH HAS RISEN—MISSISSIPPI

(By James Watts)

The soft-spoken, silver-haired, Southern gentleman in the white suit is a thing of the past in Mississippi. The man typifying the Now-Mississippi is a young man with hs sleeves rolled up (in bright contrast with yesteryear's pudgy Colonel sipping on a mint julep). He's lean and he moves swiftly. He's *involved* and he's knowledgeable. He's keenly aware of today's problems, and he's resourceful in finding solutions.

It has taken years to do so, but Mississippi is today, of age. She stands on her own feet and is testimonial fact that she's representative of the Southland that has risen. She is a state in transition and her movement is on a steady course toward even greater success.

Economic progress is noteworthy in Mississippi, not only because so much of it is the result of internal motivation, but because it has been accomplished with a unique blending of the philosophies of hospitality, tradition, ecology, modern means, and financial gain.

Perhaps more than elsewhere, Mississippi simply has more to offer and it is steadily becoming more apparent. Because she was late to industrialize, her sky is not gray and her streams are not brown. They remain, today, colorful, natural, serene, and uncommonly unspoiled in comparison to most areas of the country.

Mississippi's climate is mild, permitting maximum opportunities for pleasant living and productive work. Located in the heart of the Southeast, and bordered by the majestic river from which she took her name, Mississippi has an exceptionally desirable location. She also boasts a higher rate of productivity from her workers, as well as reduced construction costs.

Her people are friendly, well-trained, and hard-working. Mississippi universities are some of the most highly acclaimed in the nation, and her 20 vocational and technical training centers—connected with the statewide system of junior colleges—now offer more than 100 occupational training programs with more than 27,000 students.

Mississippi's power supply exceeds present demands, and there is no possibility of a shortage in the foreseeable future. Looking into the future, Mississippi Power and Light Company announced as late as eight weeks ago it will construct a nuclear fueled steam-electric station that will produce 1.25 million kilowatts of additional power. The $400 million project will represent the largest single industrial development investment ever made in Mississippi. It will be located in Claiborne County on the banks of "Ole Man River." The state's supply of water is abundant, and steps have been taken to insure a more-than-adequate supply for future requirements.

Dramatically illustrating her impressive growth rate, during the last six months of 1967 Mississippi's bank debits were $1.6 billion; during the last six months of 1971 they had grown to $3.1 billion. Comparing the same months, in 1967 the state used 5.6 million kilowatt hours of electricity, while in 1971 it used 8.5 million. Telephones in service grew from 678,752 to 889,930. Sales tax collections were up from $58.6 million to $123.9 million. All other state collections were up from $100 million to $203 million. During the same period, compensation claims decreased from 35,174 to 34,141.

Mississippi is the second largest producer of cotton in the nation. She is the largest producer of beef east of the Mississippi. She is the largest producer of chickens, commercial catfish, and Appaloosa horses. Mississippi has more tree farms than any other state, the nation's largest banana terminal, and ranks in the top ten in the production of oil, natural gas, soybeans, rice, pork, and the list is endless.

WAR DEVASTATES ECONOMY

She was one of the wealthiest states in the country at the outbreak of the War Between the States. Her cotton culture had created vast fortunes; the millionaires and mansions of Natchez and other cities were internationally known. Land subject to taxes was valued at $143 million.

After four years as a battleground, the state's antebellum wealth was gone with the bitter wind of material defeat. Her economy had been wrecked. Her plantations had been destroyed and thousands of her finest people had been killed or permanently disabled. Outside aid was not offered or received. A cruel reconstruction period shackled the state with debt and turmoil. Mississippi was forced to the bottom of the nation's economic ladder.

A return to cotton planting brought little success to Mississippians. Depressed prices, increased expenses, and the boll weevil all reduced or prevented profits. Timber cutting and a one-crop agriculture did not help. Attempts at new industrial enterprises never seemed to get off the ground. She experienced a temporary upturn during the World War I years, only to suffer another set-back in the depression of the 1930s. The years 1925 to 1935 did see the start of a transformation of the state's economy, but the going was slow.

In 1936, Governor Hugh White inaugurated a program to attract outside capital and new industries into Mississippi. This program was created under what eventually came to be known as the BAWI law. These initials stood for "Balance Agriculture With Industry." Although millions of words have been written about the purpose of the program, it could not be better summed up than in the four words of the title. The BAWI program was administered from 1936 to 1940 by the Mississippi Industrial Commission, and BAWI bond issues were approved for 12 industries.

The BAWI program was not in operation between 1940 and 1944. But, in 1944, it was reinstituted and the Agricultural and Industrial Board was organized. From that year through 1971, 706 bond issues totaling more than $363 million for new and expanded industry brought new life to Mississippi.

In 1900, Mississippi had some 30,000 persons engaged in the manufacturing field. In 1920, the figure had increased to 60,000, but, by 1940, had decreased to slightly more than 50,000. The industrial surge moved the figure to 80,000 by 1950 and to 110,000 by 1960. Today, the same figure is fast approaching 200,000.

Manufacturing's contributions to Mississippi's personal income rose from less than $50 million in 1940 to more than $1 billion in 1970. In 1940, manufacturing accounted for only 11 percent of Mississippi's total personal income, ranking fourth behind farm, trade, and government earnings. By 1970, the figure was above 21 percent, reflecting not only the increased manufacturing employment in the state, but also a rapidly increasing average wage.

Mississippi is now accommodating herself. She is self-sustaining, proud of the past and present, and looking forward to a bright future. She has streamlined herself, with Mississippians handling the planning, the designing, the financing, the construction, and the staffing.

ERA OF EXPANSION

Mississippi is obviously in its greatest era of expansion in its history. International Paper, Weyerhaeuser, St. Regis, and Georgia-Pacific have all constructed new mills in the state in the past ten years. In Jackson, the state's capital, there are at present three 20-story office buildings under construction. Two of the three are mortgage banker-financed projects and both will be occupied this year.

Jackson Mall, the fourth largest enclosed mall in the Southeast, and a mortgage banker-financed project, generated sales of more than $40 million in 1971. Its mammoth roof spans 14 acres, and it comes complete with 4,002 free parking spaces. Its cost was $10.5 million. Jackson Square, a $2.5-million shopping center, was planned, financed, and constructed by Mississippians in the late 1960s. Its sales total nearly $10 million annually.

One of two standard metropolitan areas in Mississippi, Jackson and the surrounding area saw its population increase by 25 percent between 1960 and 1970. The median school years completed by residents of the area, age 25 and over, is 14.1, ranking among the nation's leaders. The capital city is equipped with a modern coliseum that accommodates more than 10,000 persons. A 46,000-capacity football stadium finds itself overflowing several times a year. An architectonically magnificent municipal auditorium was erected in the late 1960s.

Family units totaling more than 2,100 were constructed last year in this booming area. More than 75 percent of these units, as well as commercial buildings, are being financed by local mortgage bankers, who are now investing some $100 million annually.

Other leading Jackson attractions include a modern municipal zoo; the 33,000-acre Ross Barnett Reservoir, located at Jackson's doorstep; two history-laden State Capitol Buildings (the old capitol, completed in 1839, is now a highly celebrated museum); a modern Mississippi Game and Fish Commission wildlife museum to be completed next year; and seven colleges, including a medical school.

The internationally known Mississippi Gulf Coast is Mississippi's other standard metropolitan area and, although Hurricane Camille daunted its spirit in August, 1969, it is almost completely restored and will be greater than before in months to come.

The coast's tremendous growth is best represented by the increased population of the three coastal counties. Between 1960 and 1970, Hancock County almost doubled its population with a gain of more than 48 percent; centrally-located Harrison County increased its population by more than 20 percent, while Jackson County showed the third greatest increase in the state with 35 percent.

Employing more than 13,000 employees, the marine division of Litton Industries in Jackson County, the modern constructor of nuclear-powered submarines, naval, and commercial service ships, is not only the largest maufacturing concern in the state, but one of the largest shipbuilding industries in the world.

Home of the world's longest manmade beach, 27 miles, the Mississippi Gulf Coast is the state's best known resort and vacation area. More than a dozen golf courses, famous hotels and restaurants, riding trails, camping facilities, outstanding fishing, and great nightclub entertainment have long been lauded by tourists.

One of the nation's leaders in producing and processing shrimp and oysters, the Mississippi Gulf Coast is a leader in the state's economic expansion, easily recognized by the millions of dollars being invested in the construction of homes, apartment complexes, street and highway improvements, airports, motels, restaurants, and industries.

Located in the northwest corner of the state, DeSoto County led Mississippi in increased population between 1960 and 1970. This expanding area grew an unprecedented 55 percent. In the northeast corner, Tishomingo and Lee Counties increased by some 25 percent during the past decade. Corinth and Tupelo, both northeast Mississippi industrial leaders, added dozens of manufacturing plants during the period.

In Mississippi, systematic planning, new legislation, and careful execution of dramatic ideas have combined to work a basic transformation in the state's economic structure. Today, the results of these efforts are being realized. Agriculture and forestry continue as vital expanding elements of Mississippi's economy, but a more equitable balance among these factors is being achieved. More Mississippians are employed in manufacturing than in agriculture now, yet Mississippi's cash farm income is at an all-time high.

Mississippi has done considerably more than merely alter its economic structure through industrial development. It has broadened and expanded its economic base so that agricultural, industrial, and commercial activities of all types have expanded and have become more productive and more profitable.

INDUSTRY LAUDS LOCATION

In recent years, an increasing number of manufacturing and distribution enterprises have come to realize and appreciate Mississippi's advantageous geographical location. Directly in the center of the growing Southern market, Mississippi can serve the Atlanta and Dallas areas with equal ease. Directly south of Chicago and bordered by the Gulf of Mexico and the Mississippi River, the state can serve both the central United States and Latin American markets efficiently and economically. It has been said that Mississippi has all the potential of Chicago as a distribution center without the disadvantages of Chicago's climate. Inclement weather seldom, if ever, causes serious transportation delays, and Mississippi's three rivers and three Gulf ports are, of course, ice-free 12 months a year.

Mississippi is served by 14 railroads, some of which have multiple lines. A modern network of highways connect the state with major cities throughout the United States. Increasingly, large stretches of these highways are being converted to four lanes each year. There are 78 publicly-owned and operated airports located throughout the state. Seafood, a highly air-oriented type of cargo because of its refrigerated state, is being geared for air markets. Mississippi produces many varieties of foods of the process nature, which are also items for the growing air trade.

Wildlife is another important renewable resource of economic value to Mississippi. The real value of wildlife, however, is not only for subsistence or commerce, but for its esthetic appeal and the recreational benefits it affords. Mississippi's woodlands abound with game, ranging in size from the 250-pound whitetail deer to the small but wily bobwhite quail, for which Mississippi is famous. The sounds of whirring wings, snorting bucks, and splashing black bass are all prevalent and common to all areas of the state. Mississippi has 24 state game management areas totaling 1.9 million acres; seven huge reservoirs; eight major rivers; 23 state lakes; 17 state parks; and an abundant supply of challenge for the most enthusiastic outdoorsman.

On the cultural side, many larger towns in Mississippi have active theater groups, orchestras, and other local performing groups, in addition to Broadway road shows. The Mississippi Arts Festival, held each year in the spring, brings visitors from throughout the South to Jackson for a week of entertainment by such outstanding Mississippi entertainers as Leontyne Price, Van Cliburn, and Charlie Pride.

Racial problems, which attracted national attention in past decades, are subsiding and are no longer creating headlines. Jackson attorney Bill Waller led his successful gubernatorial campaign last year on the theme of representing all the people. Lines of communication have been open in many areas for the first time.

The Mississippi Dixie National Livestock Show and Rodeo is the United States' second largest in participation. The picturesque Natchez Trace Parkway, with more than 300 miles of its 450-mile total in Mississippi, is the country's fourth most popular national park. Historic Vicksburg National Military Park, the old Spanish Fort at Pascagoula dating to 1718, and the ruins of Windsor at Port Gibson are more tourist favorites.

Local custom festivals that have existed for many years have become leading factors in Mississippi's $400-million annual tourist industry. Biloxi's Mardi Gras, McComb's Azalea Festival, Canton's Flea Market, Philadelphia's Choctaw Indian Fair, Natchez' Spring Pilgrimage, Meridian's Jimmie Rodgers Day Celebration, and, of course, the Mississippi Deep Sea Fishing Rodeo, the nation's largest, draw thousands of tourists.

Mississippi has, indeed, risen, and is definitely a part of the rapidly developing Southland.

MOUNT EDGECUMBE SCHOOL IN SITKA, ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BEGICH. Mr. Speaker, for the interest of my colleagues I am inserting a resolution of the city and borough of Sitka, Alaska, which sets out the virtues of the Mount Edgecumbe School in Sitka.

The resolution follows:

RESOLUTION NO. 72-16—A RESOLUTION SUPPORTING MAINTENANCE OF THE MOUNT EDGECUMBE SCHOOL FACILITY, MOUNT EDGECUMBE, ALASKA

Whereas, Senator William J. Hensley of Kotzebue, Alaska has proposed transfer of the Mt. Edgecumbe School facility and function from Mt. Edgecumbe, Alaska to Wildewood, near Kenai, Alaska; and

Whereas, Senator Hensley has given as reasons for such transfer the alleged student difficulties of alienation, isolation, and alcoholic problems, and alleged near physical collapse of the Mt. Edgecumbe facilities; and

Whereas, such allegations are incorrect as the facilities at Mt. Edgecumbe have been undergoing renovation, repair and improvement for two years and further work of like nature has been budgeted for so as to update the facilities even more; and

Whereas, the populace of the City and Borough of Sitka have always considered the students of Mt. Edgecumbe to be an integral part of the community and welcomed them as such; and

Whereas, any vestiges of alleged physical "isolation" which may have been due to the need to use a regularly-scheduled shoreboat public transportation system for access to and from the island of Mt. Edgecumbe will soon be eliminated by completion of the John W. O'Connell Memorial Bridge, one of

the most meaningful highways expenditures of recent years in southeast Alaska; and

Whereas, Sitka has two swimming pool facilities which are available to Mt. Edgecumbe students, thereby furnishing access to one of the most needed safety aspects of life in Alaska, which is an ability to swim; and

Whereas, placement of students at Wildewood, which is some five miles from Kenai, would truly isolate the students and lead to greater danger of alienation by removing the students from the mainstream of Alaska life, activities and cultural benefits; and

Whereas, Sitka offers an educational climate of great benefit to students as it has a community college, the Sheldon Jackson College, and its own grade school and high school system from all of which there are students and teachers with whom Mt. Edgecumbe students associate in friendship and learning; and

Whereas, the Bureau of Indian Affairs has present intentions of constructing a southeast Alaska Regional High School in Sitka; and

Whereas, Sitka offers, in addition to its educational advantages, the benefits of constant exposure to visiting and touring musicians, artists and performers in other cultural fields; and

Whereas, Sitka, which has historically been known as the educational capitol of Alaska, welcomes the continued opportunity to earn such plaudits; and

Whereas, at the present time, approximately 500 Alaskan native students are sent to school outside of Alaska, to-wit: Chemawa in Oregon and Chilocco in Oklahoma; and

Whereas, concern for the welfare of Alaska's Native students can best be expressed and effected through addressing the State's resources towards providing an Alaskan educational facility for those students presently being sent out of the State, rather than in such unnecessary and unwarrantedly costly gestures as trying to move a present effective school facility from one city to another region;

Now, therefore, be it unanimously resolved by the Assembly of the City and Borough of Sitka, Alaska that it supports maintenance of the Mt. Edgecumbe School facility, the proposed Sitka Regional High School, welcomes the opportunity for this community to continue having Alaska Native students as an integral part of its society and culture, and deplores and strongly protests against efforts to move the Mt. Edgecumbe school facility and the unsubstantiated and incorrect reasons given for such efforts;

Be it further so resolved that the Mayor is instructed to send copies of this resolution to Senator Hensley, all members of the Alaskan congressional delegation, Governor William A. Egan, the President of the Senate, the Speaker of the House, Senator Meland and Representative Flynn, Sitka representatives to the State Legislature, the Chairman of the Health, Education and Welfare committees of both houses, the Area Director of the Bureau of Indian Affairs, and such other persons as the mayor and City/Borough Administrator deem appropriate.

Passed and approved by the Assembly of the City and Borough of Sitka, Alaska, this 18th day of April, 1972.

JOHN E. DAPCEVICH, *Mayor.*

TWO VIEWS OF VALUE-ADDED TAX

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ROBISON of New York. Mr. Speaker, on April 10, 1972, the Wall Street Journal included an editorial feature titled, "Two Views: What About the Value Added Tax?" The two views, expressed in companion articles for and against VAT, approach an even stalemate, and in both can be read rather more of an epitaph for the idea than a debate over a lively proposal.

It may be premature to evoke an end to the value-added tax debate. Response to the tax reform issue during recent Democratic primaries could certainly keep the VAT alternative simmering, and it would be unfortunate, indeed, if the concept were entirely dismissed before it had been given thorough consideration in appropriate public forums.

If only to bring the present revenue gathering processes into new perspective, a plausible value-added tax proposal would be well worth the time devoted to explaining, discussing, and possibly, debating on the floors of Congress.

Mr. Speaker, I insert the Wall Street Journal articles with the hope that VAT will create more discussion, not less.

The articles follow:

TWO VIEWS: WHAT ABOUT THE VALUE-ADDED TAX?

AN IDEA WORTH CONSIDERING

(By Jude Wanniski)

In December, when the Nixon administration "floated" the idea that it might soon be proposing a value-added tax, the chief aim had been to promote a national debate. Nixon aide John Ehrlichman, Treasury Secretary John Connally, and Commerce Secretary Peter Peterson—the principal VAT enthusiasts—hoped for a wide-ranging discussion among economists, politicians, businessmen and bankers.

The kind of discussion they had in mind never really materialized. Liberals spotted VAT as a thinly disguised national sales tax, a Republican trick to soak the poor, and denounced it as "regressive." Conservatives eyed it suspiciously as a Nixon scheme to pay for his grandiose social programs, particularly health and welfare reforms, and demanded that instead the federal budget be slashed. And in an election year, no politician is eager to talk about a tax hike of any kind; on Capitol Hill, nobody to speak of stepped forward, even timidly, to suggest VAT might be a good idea. For the rest of 1972, at least, VAT seems to have had it.

It will be back, though, if Richard Nixon wins a second term (this is reason enough, says MIT economist Paul Samuelson, to vote against Mr. Nixon). And realistically, only **when the President** gets behind VAT formally can the White House expect the kind of national debate the White House expected to get "for free." After all, why should the GOP rank and file stick their necks out if the President wants to remain at arm's length of the idea?

ALL ROADS LEAD TO VAT

VAT will be back because the administration sees no satisfactory alternative. In simplest terms, the government has before it an enormous problem, really a host of interlocking problems that together form an intricate work to find a solution, they can approach this mass from a dozen different directions but the answer they get is always the same: VAT. Indeed, they'll suggest that if next January Mr. Muskie, Mr. Humphrey or Mr. McGovern is in the White House, the same problem will have to be faced, different problem-solvers will be put to work, and whatever Prof. Samuelson thinks, the answer will still be the same: VAT.

The first piece of the problem is money. The states need more money. The cities need more money. The federal government needs more money. The catalog is all too familiar: health, welfare, quality education, rebuilding cities, pacifying cities, retraining manpower, etc. The most hidebound conservative could occupy the White House and be unable to contend with this juggernaut of demands. Edward Cohen, Assistant Secretary of the Treasury for Tax Policy, gives a sad little shrug: "If you tell me you want revenue, lots of revenue, just where the devil are you going to get it?" (Answer: taxes.)

The second part of the problem is capital formation. There's not enough of it. The U.S. industrial machine is being renewed and expanded at an annual rate of about 8%, down from the 1960–69 average of 13%. Even if Western Europe and Japan get bitten by the consumerism bug, they have plenty of room to slow their quarter-century emphasis on capital formation and still be running faster than the U.S. The Common Market countries have been reinvesting at between 14% and 20% a year; Japan's average since 1960 has been 27% a year.

The U.S. trade deficit last year was the first dramatic sign of this troubling state of affairs. And obviously, if the rate of capital spending abroad stays at double the U.S. rate, the problem gets worse and worse year by year. U.S. plant and equipment age in relation to that of its trading partners; only ever more frequent currency realignments and dollar devaluations could keep the U.S. competitive.

The heart of this problem, of course, is that the American people have had the luxury of being consumer-directed for 27 years, not having had industrial capacity blasted to bits during World War II. But there's not much international cushion left. As far as the White House problem-solvers can see, the only solution is to have the nation spend more of its earned income on capital goods and less on consumer goods. And the only way to force this turnabout is through tax policy.

Secretary Connally, in testimony before the Senate Finance Committee last October, made the observation that many countries "tailor their tax systems to encourage capital investment," unlike the U.S. where "our tax system is to a considerable extent biased in the opposite direction." In Europe, where VAT is the staple source of revenue, "purchases of new capital equipment are exempt from the tax," he pointed out.

Here, the two major pieces of the intricate problem facing the government can be seen clearly: If current U.S. tax policy is biased against capital formation, and more revenue must be raised to pay for social demands, an increase in taxes along current lines only serves to further discourage capital formation.

Thus, if revenue is to be raised, lots of revenue, a tax must be found that, compared to the present tax structure, encourages saving rather than spending, and encourages less spending for consumer goods and more for capital goods.

THE WORST FEDERAL TAX?

The corporate profits tax is, from the standpoint, the worst of the federal taxes. Because it taxes income from capital, it discourages the use of capital relative to labor. Writing in the Morgan Guaranty Survey, Richard Lindholm of the University of Oregon's College of Business Administration also observes that at present high rates the corporate income tax "creates a very strong inducement to minimize the legally definable tax base—that is, reported corporate profits." This, he says, discourages efficiency from internal cost control, encourages loose expense-account practices and, because profits are taxed again when passed to stockholders through dividends, there is an inducement to retain earnings. "This, of course, tends to funnel savings automatically into established, conventional use patterns rather than having the allocation determined by capital-market competition."

The personal income tax also has a heavy

bias against capital formation, not weighing against consumption at all while taxing income from investment. Those liberals who propose raising federal revenue by treating capital gains as ordinary income would only compound the problem and further slow the rate of capital formation.

The VAT enthusiasts in and out of government argue that as taxes go the VAT is near ideal in meeting the problem at hand. It is, in fact, a national sales tax, a tax on consumption. The tax is on the value added to the goods and services sold by a business in the course of its operations—the amount of value business adds being the difference between its net sales and the value of its purchases from other businesses. Although it sounds like a lot of auditing and bookkeeping, if the VAT is kept to a single rate, proponents contend a monthly or quarterly VAT return could be filed on a postcard.

Because it reaches the broad base of almost all personal consumption, with no "loopholes" or tax preferences built into the VAT, it would raise lots of money. A 3% VAT would yield $18 billion. A 7% VAT could replace an effective corporate profits tax of 42%, although nobody seems to be seriously proposing such a move.

The big political drawback is that VAT is, in pure form, regressive. There are two parts to a solution that would overcome this drawback, suggests Treasury's Mr. Cohen, Assume, he says, at a 5% VAT rate, a family of four with an income of $4,300 spends all its income on VAT-taxed items. It has contributed $215 to VAT. Give them back the $215, he says, and give every other taxpayer, no matter how high their tax bracket, a $215 tax credit. This doesn't make VAT progressive, but Mr. Cohen maintains it does minimize its regressivity to a point where it is roughly "proportional." Then, the graduated personal income-tax rates can be altered slightly to produce an overall progressive effect. He also suggests that because the money raised by VAT would be spent for progressive, social purposes, the total impact of VAT could hardly be considered regressive. This, he says, is the rationale in Europe.

The fact that VAT has spread throughout Western Europe, with rates as high as 33% in France on luxury items (including autos), is another argument the VAT proponents make for adapting it to the U.S. Under the rules of the General Agreement on Tariff and Trade, or GATT, exporters are permitted a rebate on the full amount of VAT paid on an export item. There is no realistic way to rebate corporate taxes on exports, nor do GATT rules permit such rebating. Insofar as the U.S. would put emphasis on GATT and relieve pressure on corporate taxes, VAT supposedly would assist in expanding U.S. exports.

The administration tax specialists don't put much weight on this argument though. One study by the Office of Management and Budget, although highly favorable to VAT, reasons that the expected increase in exports of U.S. consumer goods would be offset by an increase in the imports of capital goods. The short-term impact on the balance of trade would be minimal, the reasoning goes, but the greater emphasis on capital formation would in the long run only serve to strengthen the U.S. international position.

From the perspective of those who look at this problem facing the nation—the demand for increased revenue and the urgent need to expand capital formation, there are no satisfactory alternatives to VAT in some form. The alternatives must be rejected, they say: a steady erosion of the U.S. competitive position in the industrialized world, with the U.S. adjusting through a constantly depreciating dollar. Or, the solution advanced by organized labor—economic isolationism, protectionism.

The VAT proponents have some interesting arguments, worthy of a national debate. But until Mr. Nixon himself advances the idea and is prepared to defend it, it's not likely such a debate will ensue.

Mr. Wanniski is a member of the Journal's editorial-page staff.

Better Alternatives Exist

(By Lindley H. Clark, Jr.)

Early in January George P. Shultz, director of the Office of Management and Budget, confirmed that the administration was considering a "value-added tax." Since then the administration has taken so much flak on VAT that President Nixon finally said he had strong doubts that he would ever recommend it.

It's just as well. The value-added levy, a major revenue source in Europe, would indeed ease some of the problems facing the U.S. But all of those problems can be handled in other ways without the difficulties that a VAT system could create.

Although the administration hasn't been eager to say so, a value-added tax would be simply a form of national sales tax. The money would be collected from businessmen at each stage of production and distribution but, so far as competitive conditions permitted, the impact of the tax would fall on consumers.

The chief virtue of the value-added tax, its backers concede, is that it can raise a great amount of money. By one estimate a VAT rate of 4% or 5% would raise $20 billion a year. The gap between federal receipts and expenditures will be enormous this fiscal year and next, and a new tax is one approach toward bringing the figures closer together.

There are other approaches, though. A number of Democratic Congressmen argue for another effort to "reform" the existing tax structure. Although some of their ideas are the usual soak-the-rich schemes, it's true that a careful overhaul of the present tax setup could produce more revenue.

A sudden influx of $20 billion or so in additional revenue, moreover, would remove some of the pressure on Congress and the administration to police existing programs. Recent revelations of scandalous waste in the housing subsidy program do nothing to build confidence that the government is getting proper value for each dollar it spends.

Pushing an Argument

VAT backers contend that the levy would permit the federal government to channel more money to states and localities, and thus ease the squeeze on many of those lower jurisdictions. That argument has been pushed especially hard since court decisions have raised questions about the present method of financing schools largely with the local property tax.

One trouble with this approach is that 45 states and the District of Columbia, as well as a number of cities, already impose retail sales taxes. If the answer to the state-city squeeze is what amounts to a higher sales tax, why not let the states and the cities raise the tax themselves?

A state sales tax, after all, has administrative advantages over a federal levy. The collection machinery already exists, and it's far simpler than the arrangements that would have to be made for collecting VAT. The state levies are collected only from retailers, not from all the businessmen up and down the line.

There is one VAT "advantage" that the levy's proponents manage to say little or nothing about: It is largely hidden from the consumer who pays it. This would make it much easier, politically, to raise the rate. It would be a lot easier, surely, to raise the value-added rate than it would be to lift state sales tax rates enough to get the revenue that VAT backers have been talking about.

Another argument advanced for the value-added tax is that it would help to spur improvements in technology, an area where U.S. gains have been lagging behind those of a number of other nations. The reasoning is that VAT, a tax on consumption, would make it possible to lighten taxes on production—in other words, taxes on corporations.

It's true enough that the present tax setup does discourage investment. If Congress ever is so inclined, however, it can remedy this situation through changes in present taxes without adopting an entirely new system. The investment tax credit and easier tax depreciation rules were steps in this direction, and the government could, if it would, go farther still.

One of the weaker arguments for VAT is that the Common Market countries are using it. European tax systems have always differed sharply from the U.S. arrangement, and for some very good reasons. The major one, perhaps, is that several European countries long have found it hard to enforce a personal income tax and have been compelled to rely heavily on some sort of sales levies. VAT, in other words, was nothing new in Europe—just a change in existing sales levies.

European countries rebate VAT on exports and impose it on imports, and some of the levy's backers say this gives Europe a large trade advantage over the U.S. There may be some advantage, but it isn't large enough to merit a major restructuring of American taxes.

States sales taxes in the U.S. are not imposed on our exports, and they are collected on imported goods. If the U.S. decides that it wants to heighten the effect of this system it could encourage the states to try to raise their sales tax rates.

U.S. exporters naturally are subject to the corporate income tax, and this levy cannot be rebated. European countries, however, also impose sizable corporate taxes, and these are not rebated either. In fact, the argument that VAT will ease the tax burden on business loses force when Europe's corporate tax setup is considered. A new tax can ease other tax burdens, but it doesn't necessarily work that way.

Yet another argument for VAT is that it is a "neutral" tax. One meaning of this is that the levy does not discriminate between rich and poor consumers, and that's certainly true. The size of the consumer's VAT burden depends not on his income but primarily on how much he spends.

VAT's advocates recognize this problem and suggest that it can be handled by paying direct subsidies to the poor. In the administration's consideration of the levy, technicians proposed that part of the tax could be rebated to lower-income groups.

Such a plan would make the tax somewhat less regressive. The traditional U.S. way to handle the problem of regressivity, though, has been to rely heavily on individual income taxes, with their progressive rates. Although some of the subsidies and special provisions in the tax law make the income tax levy less progressive than the rate schedules appear, Congress can overcome this problem, if that's what it is, by dealing directly with the special subsidies.

Another form of "neutrality" claimed for VAT is that it is the sort of tax that would be least likely to influence business decisions. That may or may not be so. Every businessman would, so far as possible, pass the entire tax along to the final customer. If he passed it all along, VAT would indeed be a neutral levy, as far as he was concerned: He wouldn't pay it.

Yet no one can be sure exactly how well this pass-along would work: it would depend on the state of the market at the time. At some times it is more than possible that businessmen would be forced to absorb some or all of VAT, just as they now sometimes have to absorb some or all of the corporate income tax instead of merely adding it to the prices of their products.

OPPORTUNITIES FOR MANIPULATION

VAT, moreover, would be no more neutral than the government wanted it to be. In most European countries there are at least two value-added rates, as well as some special exemptions to benefit the types of transactions the governments want to encourage. In all of its complexities, VAT offers more opportunities for tax manipulation than most types of levies.

At the present moment, obviously enough, VAT would be especially worrisome since it would push up retail prices that are already high and still rising. That fact alone probably helps to explain why the administration's consideration of the tax stirred no euthusiasm whatsoever on Capitol Hill.

With extra-tight financial policies the government could sharply limit the price-lifting effect of VAT. But a fiscal-monetary crackdown now would be likely to abort the present business recovery, and the value-added revenues would have to be squeezed largely out of slim business profits.

In this election year, of course, neither the administration nor Congress is going to propose any measure to sharply increase voters' taxes. Mr. Nixon couldn't have made this one thing more clear: There "will be no increases in taxes this year."

For the future the President says that he and the Treasury have not entirely abandoned VAT but are studying other tax "reform." If he is re-elected this fall it is probable that both the administration and congressional Democrats will be promoting major tax bills early next year.

Some reforms certainly are desirable, not only in taxes but in spending. To any such fiscal overhaul, however, VAT would appear to add little of value.

Mr. Clark is an associate editor of this newspaper.

NIXON AND THE FARMER

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. FINDLEY. Mr. Speaker, Prairie Farmer, the widely respected Illinois farm magazine recently completed a survey that shows President Nixon would be an easy winner among farmers in the November elections against Senators HUMPHREY, MCGOVERN, or MUSKIE.

The survey is scheduled for publication on May 6. Prairie Farmer, edited by James C. Thomson, is read by over 90 percent of Illinois farmers.

The survey and accompanying text are as follows:

NIXON IS STILL FAVORITE OF ILLINOIS FARMERS: MUSKIE IS FAVORED DEMOCRAT; WALLACE POLLS 9 PERCENT; PRESIDENT IS GIVEN NEARLY HALF OF VOTE

(By Jim Thomson)

President Richard Nixon would have nothing to worry about if the Illinois farm vote decided the presidential election in November.

The latest (April) Prairie Farmer poll indicates that nearly half of the Illinois farmers polled are for President Nixon's reelection.

When matched with 3 of the leading Democratic candidates for the presidential nomination, here is how Illinois farmers voted: Nixon 50% versus Humphrey 13.3%; Nixon 47.3% versus Muskie 18.6%; and Nixon 49.2% versus McGovern 12.6%.

An average of 9.3% of the farmers polled preferred George Wallace.

The following question was asked of a 500-sample cross section of farmers in all sections of the state:

If Hubert Humphrey (Edmund Muskie, George McGovern) should be nominated for president by the Democrats, if Richard Nixon were nominated by the Republicans, if George Wallace were running as an Independent third-party candidate, and if the election were being held today, how would you vote?

Here are the results:

	Men	Women	All
Nixon	51.4	48.5	50.0
Humphrey	12.9	13.7	13.3
Wallace	12.4	7.5	10.0
Undecided	23.3	30.3	26.7
Nixon	48.2	46.5	47.3
Muskie	17.7	19.5	18.6
Wallace	11.6	6.2	9.0
Undecided	22.5	27.8	25.1
Nixon	50.2	48.1	49.2
McGovern	13.3	12.1	12.6
Wallace	11.6	5.8	8.8
Undecided	24.9	34.0	29.4

If you split the undecided vote 3 ways between Nixon, the leading Democrats, and George Wallace you get these results: (1) Nixon 58.9%, Humphrey 22.2%, Wallace 18.9%; (2) Nixon 55.7%, Muskie 27.0%, Wallace 17.3%; (3) Nixon 59%, McGovern 22.4%, and Wallace 18.6%.

It is interesting to note that though Humphrey and McGovern are generally hostile to Farm Bureau on national farm policy, Illinois Farm Bureau members didn't seem to vote much differently than non-Farm Bureau members. Muskie is hardly a champion of Farm Bureau, yet Farm Bureau members gave him as much support as non-Farm Bureau members.

Here is how Illinois Farm Bureau and non-Farm Bureau members voted:

	Farm Bureau	Non-Farm Bureau
Nixon	51.9	48.0
Humphrey	12.3	12.0
Wallace	12.3	13.3
Undecided	23.5	26.7
Nixon	49.7	44.4
Muskie	16.8	16.7
Wallace	11.2	13.9
Undecided	22.3	25.0
Nixon	51.4	48.0
McGovern	11.7	16.0
Wallace	11.2	13.3
Undecided	25.7	22.7

A solid 82% of the Illinois farmers who consider themselves strong Republicans said they would vote for Nixon.

On the other hand from 30% to 40% of the strong Democrats were undecided. Those who had made up their mind gave 37% to Humphrey, 45.2% to Muskie, and 29% to McGovern.

Of the 3 Democratic candidates, young farmers give Muskie 15.2%, their best vote. Their lowest support went to Humphrey, 7.6%. They show a little more enthusiasm for McGovern, 12%.

College-trained farmers show the greatest enthusiasm for Nixon and the least for George Wallace.

Here is how Illinois farmers voted according to the extent of their education.

	Grade school	High school	Some college
Nixon	47.4	48.0	58.2
Humphrey	10.4	14.9	12.2
Wallace	12.9	10.9	4.1
Undecided	29.3	26.2	25.2
Nixon	43.1	45.8	56.1
Muskie	18.1	18.9	18.4
Wallace	8.6	10.9	4.1
Undecided	30.2	24.4	21.4
Nixon	48.3	46.5	57.2
McGovern	8.6	14.9	11.2
Wallace	11.2	9.1	5.1
Undecided	31.9	29.5	26.5

EDGAR M. "POP" BUELL

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SCHMITZ. Mr. Speaker, on February 18 of this year I entered into the CONGRESSIONAL RECORD a story relating in part to a very brave people, the Meo tribesmen of Northern Laos, led by a fearless pro-American Laotian patriot, Maj. Gen. Vang Pao. Just recently, one of the valiant Americans mentioned in that article returned from that area of the Southeast Asia war, Edgar M. "Pop" Buell. For 12 long years Pop Buell, despite two heart attacks, stayed in Laos to help the anti-Communist people he came to regard as his own—the Meos. The Philadelphia Sunday Bulletin for April 9, 1972, reported the story of this little known, but much loved Hoosier farmer. In this age of the American cynic, of the "better Red than dead" yellow syndrome, men like Edgar "Pop" Buell stand out as voices crying in the wilderness. I for one, would like to render the thanks of what should be a grateful Nation to Pop Buell for all he has done for Vang Pao and his valiant Meos, as an American patriot. The story from the Philadelphia Sunday Bulletin follows:

LAOTIANS BID TEARFUL FAREWELL TO INDIANA FARMER "POP" BUELL

(By Arnold Abrams)

VIENTIANE, LAOS.—Among the more recent victims of the endless war in this mountain kingdom is a middle-aged farmer from Metz, Indiana.

His name is Edgar M. Buell, but here he was known as "Pop" Buell.

Pop left Laos last month, probably for good, because 12 years' of war and worry take a toll. He went weary and discouraged, but with the lasting gratitude of people he tried to help.

LOVED TRIBESMEN

They were hill tribesmen, mostly Meos, a war-shattered people who will be the conflict's biggest losers, no matter who wins. He loved them and they responded.

They called him "Tan Pop": Tan being Lao for "mister," Pop being a Meo deific meaning "sent from above." Always dropping from the sky, courtesy of Air America, to bring food and medicine and blankets, Edgar Buell was "Mr. Sent From Above."

The title was misleading, though, for Pop Buell is very human: a short, homely man of earthy speech, some irascibility and great appreciation of good liquor. Nobody mistook him for a deity, but he showed more concern for downtrodden people than most mortals.

"I love the Meos," Pop said. "They've got guts. Never mind the color of their skin or the cut of their clothes. They're just like folks in Indiana or Ohio or the hills of Kentucky—they'll fight for what they believe in."

LOSING BATTLE

The Meos believe in living atop mountains and maintaining a rugged, independent way of life. They have been fighting for these things more than a decade against the North Vietnamese. It has been a losing battle.

Pop came here in 1960 as a $65-per-month field worker for International Voluntary Services, a Peace Corps prototype.

Then 47, he was a recent widower with grown children, a profitable 250-acre farm, and need for a new meaning in his life.

"I didn't know Laos from Lapland," he recalled, "but they told me there were people

here who needed help, and that maybe I could teach them some farming tricks."

SUPPLIES AIRLIFTED

Assigned to a tiny village near the Plain of Jars in northeast Laos, he established a school system and taught preventive medicine as well as agriculture.

By 1962, as warfare engulfed the strategically located plain, Pop aided the embattled Meos by organizing airlifts of supplies.

Pop befriended at that time a young, ambitious army major named Vang Pao. The two were an unlikely duo—one a farmer from the Middle West, the other a Meo from the mountains of Laos—but a deep bond developed.

Vang Pao soon caught other Americans' attention and subsequently became a key commander, leading the Meos' CIA-supported guerilla army. Buell, meanwhile, shifted to the U.S. Agency for International Affairs, where he coordinated refugee relief efforts.

Pop often could be found at Vang Pao's side as a personal friend, adviser and provider of needed goods for the hard-pressed tribesmen.

NOT ON CIA ROSTER

Buell often worked with clandestine U.S. agents assigned to Meo fighting units, but said he never was employed by the Central Intelligency Agency.

"We had the same things in mind," he explained, "but different ways of doing them."

Vang Pao was headquartered at Long Cheng, a military stronghold and northern nerve center of the CIA; Pop's place was Sam Thong, six miles north, where he ran a hospital and refugee center. Both sites have been overrun by the North Vietnamese.

Anguish ate away at Pop in recent years as he watched the Meos being killed off or pushed ever closer to the edge of their mountains.

TWO HEART ATTACKS

He suffered two heart attacks. He also grew increasingly bitter, with much gross anger directed at American critics of U.S. policies in Laos.

"Some of the folks back home seem to think North Vietnamese are a kind of religious order, doing good deeds here," he said. "Well, I have pictures of the work they do—pictures of Meo mothers with their breasts cut off, and babies who were feeding at those breasts lying dead with their head bashed in."

"Tan Pop," a tearful Gen. Vang Pao told Buell the day he departed, "my people will never forget you."

PLEADS FOR AN END TO INDOCHINA CONFLICT

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, May 1, 1972

Mr. HELSTOSKI. Mr. Speaker, since the President of the United States reescalated the air war in Indochina, many citizens have written to me in dismay and despair, demanding an immediate end to this outrageous conflict. This morning I received a most striking and eloquent plea for an end to the insanity from Marianne Harms of North Arlington, N.J. In letters to me and to the President, Marianne Harms graphically describes the crisis of conscience afflicting millions of our citizens as they witness their Nation, under the leadership of Mr. Nixon, raining death and destruction on the helpless civilian population of Indochina. Marianne Harms' letters are eloquent testimony to the fact that, although conscience and compassion may be unknown in the White House and Pentagon, they are very much present among the American people.

Under unanimous consent, I include the text of the two letters at this point in the RECORD:

NORTH ARLINGTON, N.J.,
April 28, 1972.

Congressman HENRY HELSTOSKI,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HELSTOSKI: Enclosed you will find a copy of a letter I have just mailed to President Nixon. It is one of the many letters I have sent to his attention in my life of twenty-two years, all of which have been answered with smiling little cards thanking me for my understanding. I no longer have the patience nor the understanding I once had for any leader of this country. I am one of the countless thousands of youth who have thrown up their hands in apathy, voicing only occasionally my disgust at the horrid situations existing in this country, which are being continually ignored while all energy and money is spent on the murder of the innocent in Viet Nam.

I am not quite sure exactly why I have even contacted you, I suppose there is still some hope inside me. I have a feeling you sympathize with me and are willing to listen, that you are as much against war and repression as I am. Therefore I urge you to constantly remind your colleagues that you are losing the youth of America, not because of drugs or communism, but because we have shouted too long and have not been heard, because some of us fear speaking out because too many of us already are on file in Hoover's office. Some of us call for revolution, others have sought lives away from the system ignoring as much as we can, yet we all live with one thought in common, the freedom to live as each human designs as best.

I ask you to fight against the continuation of the war. Your voice may be small but we will notice, I assure you. If we all work together to preserve life, we can begin to work for the betterment of the life we now hold claim to. I thank you for your attention and wish you peace.

Sincerely,

MARIANNE E. HARMS.

NORTH ARLINGTON, N.J.,
April 28, 1972.

RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am appalled at the recent bombing of North Viet Nam. The slaughter of innocent women and children brings tears to my eyes as well as shame for being part of a country which would commit such atrocities, for being part, part of a country which I love so dearly yet fails to listen to the voice of its people.

I ask you, Mr. President, where is your conscience? Has the power of public office so affected you that you have lost all sight of your moral responsibility towards human life? Have your principles been so warped by the concessions you had to make for support on your road to political victory? Have you forgotten that false pride blinds the human spirit, that your honor is worthless when surrounded by death?

You, Mr. Nixon, may be the President but you are first and foremost a human being. Life is as important to you as it is to a Vietnamese woman, as it is to a Viet Cong soldier. Your responsibility, however, is to be an example to the peoples of this world. It is your job to teach others respect for human life. You have failed, you have maimed and destroyed innocent lives. Now it is your moral and ethical responsibility to reconsider, to cease waging a senseless war against people who bear you no threat.

I plead with you Mr. President to hear the cries of human life being torn to pieces, to hear the shouts of the people of America, so that I as well as countless others may raise our heads with joy at being citizens of the United States and point to you as a man sensitive to life and a just leader of his people.

Sincerely,

MARIANNE E. HARMS.

NEW OFFENSIVE IN THE WAR ON HEROIN

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. HALPERN. Mr. Speaker, back in January, the President signed an Executive order creating the Office of Drug Abuse Law Enforcement in the Justice Department. As chief of the new agency he appointed Myles Ambrose, the very able former Commissioner of Customs and a native New Yorker. The purpose of ODALE, as it is being called, is to drive heroin off the streets in the major urban areas of this country where it is a problem.

ODALE is not meant to supersede the Bureau of Narcotics and Dangerous Drugs, the Justice Department agency with primary jurisdiction over the regulation of narcotics and dangerous drugs. It is intended, rather, to supplement the Bureau on a presumably temporary, though indefinite, basis. It will bring to bear on the heroin sales syndicate many aspects of Federal, State, and local law—not merely the law governing narcotics. The approach will be very similar to that of the Justice Department's organized crime strike forces, which have had much success.

Thirty-three cities have been selected as targets of the drive supervised by ODALE. Although the number and composition of the heroin strike forces will vary from city to city, essentially they will be composed of Federal, State, and local law enforcement officials working under the guidance of a senior Justice Department attorney. The law enforcement officials will include both attorneys and investigators. A typical force might be one whose Federal components are the U.S. attorney heading it, four or five other lawyers, 10 agents from the Bureau of Customs and one liaison agent from the Internal Revenue Service. The forces will work with special grand juries, impaneled under the Organized Crime Control Act of 1970, which will hear evidence and prepare indictments.

In my own city of New York, unhappily the major center of addiction in the Nation, plans have been laid for an especially intensive effort. New York is the site of one of nine regional ODALE offices which are being established throughout the country. The region covers the area embracing New York State, northern New Jersey and New England. The regional director, appoint-

ed last month, is Andrew J. Maloney, formerly assistant U.S. attorney for the southern district of New York. Mr. Maloney has had experience with the kind of effort being made by ODALE, having served as head of the drugs and racketeering unit of the New York southern district while in his previous position.

The New York regional office was officially opened on March 20. As a demonstration of the administration's special concern over the drug problem, President Nixon flew to New York to be present for the opening. While there he met with Governor Rockefeller and a number of law enforcement officials, judges and narcotic addict rehabilitation specialists. On that occasion the President called for total war on drug addiction and referred to this problem as the Nation's domestic "public enemy No. 1."

One of the most significant things about the New York operation is the arrangements which have been made with New York City authorities. The city has recently established a special 37-man prosecution unit which is intended to handle all felony narcotics cases throughout the five boroughs. These cases are being handled in eight newly created narcotics courts. Last June the New York legislature enacted special legislation removing the legal barriers created by jurisdictional and county lines to establish these courts. The New York ODALE office is working closely with the city prosecutor unit and has provided space for it in the ODALE office itself.

The kind of close, day-to-day relationship of the Federal and city authorities which is being effected in New York should permit an exchange of information on a daily basis and result in the development of cooperative policies and sucessful operations. Mr. Ambrose has observed that the New York City project may serve as a model for similar efforts in other metropolitan areas across the Nation.

I wish to go on record as applauding these developments. As a representative from the great but troubled city of New York, I am considerably heartened—as are my constituents, I feel certain—by these determined and innovative moves. If the ODALE campaign can make real inroads into the ghastly business of heroin trafficking, it will indeed give new life—and new hope—to the Nation's embattled cities.

ONCE AGAIN THE FRENCH CONNECTION

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BRASCO. Mr. Speaker, not long ago I offered some remarks in the House regarding heroin traffic between this country and southern France. More specifically, I voiced a belief that high officials in the French Government know much about the heroin traffic, and simultaneously are protecting many important individuals involved in it. Such activities may even go so far as to involve actual participation by certain French officials.

My remarks raised significant official protests here and abroad. Other public figures, in the Congress and out, had voiced feelings similar to mine, resting their commentary on easily available facts based on a flood of news stories.

Our State Department, such as it is, pushed such accusations aside. This, of course, was anything but unexpected, because this agency usually puts purely American interests last.

Our Ambassador to France, such as he is, let it be known through spokesmen that such accusations were unfounded, unjust, unproven and deleterious to American-French relations.

Many papers in France, aroused to passion by such accusations, vehemently denied that any such possibility or actual activities ever transpired.

Mr. Speaker, I repeat my accusations. I repeat them in spades. America is being flooded with heroin. Our cities are turning into jungles. Our young people are being assailed by a veritable inundation of this poison.

Heroin starts in Turkey in the form of opium. From there it is routed to the southern French port of Marseilles by international cartels of gangsters making lush livings off this traffic. In and around Marseilles are found a series of laboratories where raw, smelly, and bulky Turkish opium is transformed into heroin.

There are many such laboratories in that area. French authorities either know of their location or identities of those who operate and control them. The cumulative evidence is incontrovertible.

In the wake of the massive outcry of recent months, a few bones have been thrown to the public and media in the form of several large heroin seizures. One such involved a Louis Marcel Boucan, whose shrimp trawler was stopped and eventually found to be carrying 937 pounds of pure heroin, largest such seizure ever made.

Yet newspaper stories stated that both American and French agents claimed Boucan's drug smuggling activities were known for years. He lived luxuriously on the French Riviera. His vessel made a series of constant trips to southern French ports, including, of course, Marseilles. In a few short weeks, he and several others were seized redhanded by narcotics police. When the "heat" got too great, a few small fry were thrown to the wolves to ease growing pressure. Of course, a few people still ask nasty questions, such as why French police knew of Boucan's activities for years and only very recently decided to actually approach him.

Takashi Oka, in a recent Christian Science Monitor article, carries the following paragraph in his story.

> From Turkey the route (for opium-heroin smuggling) leads by land or sea to southern France and its great port of Marseilles. Here the morphine base is refined into pure heroin, and then shipped to its final destination, the United States, by all the ingenious traditional and modern ways that criminal minds can devise.

Again, from Oka's same story:

> These clandestine laboratories, often described, seldom found, are believed to operate at irregular intervals in villas along the Cote d'Azur or in Marseilles itself.

For every such quote from a story mentioned here, there are a dozen more, each in different, respected newspapers, written by first-class investigative reporters. A steady stream of such reports can be found. Every story on drugs contains at least some casual factual mention that Marseilles is the entrepot for both conversion and shipment, and that authorities are at least aware of this.

Here in the United States, we are the end recipients of all consequences of the heroin traffic. A generation of American youth is being hideously perverted and mentally mangled because of it. We are increasingly desperate for some action. That is why I and others have spoken out.

Last August, we received additional assistance and confirmation when Mr. John Cusack, then representative of the American Bureau of Narcotics and Dangerous Drugs, supplied a specific accusation.

He was quoted in an interview as saying there were "big wheels" protecting narcotics trade and laboratories in France. Cusack has since been recalled, a tribute to the power of the French Government and our State Department's willingness to help them use pressure in the right places at home to get rid of an honest man. The U.S. Ambassador to France, notable for his wealth and sobriety, backed them up 100 percent. This is the same Ambassador, let it be noted, who took great umbrage at my attack on this heinous traffic recently.

To be sure, there are devoted, honest French narcotics officials valiantly doing their best to stave off some of this flood of heroin, knowing that their own nation is increasingly vulnerable to its inroads. Yet it seems that at the very top, there is not much commitment.

In fact, just under their own noses, it seems there is some commitment within French officialdom to profit from the agony of America's youth and cities. Some might even say that agencies or individuals in the French Government are actively involved in smuggling heroin into the United States. Shocking? Truly. Yet I believe it.

Here is one example.

In my original remarks, I indicated a steady stream of seizures were being made by our own customs people. Also that almost every one of these seizures involved French nationals and/or a vehicle or product loaded with heroin shipped originally from Marseilles or another southern French port. From one such event emanates a fascinating tale, as damning as it is revealing.

A former French secret agent has testified that his own nation's secret service at times resorted to drug trafficking in order to obtain money for a variety of reasons. This also included smuggling heroin into the United States.

Roger X. de Louette, a convicted drug conspirator and smuggler, gave such testimony at proceedings here emanating from his capture in connection with

an attempt to smuggle $12 million of heroin into America. This testimony was fortuitously released by a Federal judge when he sentenced him to a prison term.

De Louette tried to claim a VW camper bus at Port Elizabeth. It had been shipped from Le Havre, and upon inspection was found to contain heroin under the floorboards. De Louette claimed a former superior in the French secret service recruited and brought him into this operation.

All in all, there is a 368-page transcript of his remarks. It is required reading for every American who has lost a child to the drug traffic. Every person in our Nation outraged, fearful and concerned for their own children should go over it piecemeal.

At this point in my remarks, it is well worth including a story from the Washington Post of a few days ago, cataloging a summary of the event and transcript. It seems the French consulate staff in New York City was alerted to the possible need of protecting De Louette if he were caught, evidence that this network involves both sides of the Atlantic in official French Government circles. Also, that when he was caught and talked, a massive coverup resulted in France, including a whitewash investigation of the superior he implicated and disappearance of a key report bearing out his accusations. I include that story by Morton Mintz of the Post at this point in my remarks:

"FRENCH CONNECTION" PLOT THICKENS

(By Morton Mintz)

NEWARK, N.J., April 18.—A three-day interrogation of the French counter-espionage agent who smuggled $12 million worth of heroin into the United States a year ago reveals that a key report implicating his superior disappeared in Paris after the agent's arrest here.

A transcript of the questioning also disclosed that the agent's mistress and a son were harassed by French authorities and that a member of the French consulate staff in New York City, identified for the first time, was to be his contact if trouble unrelated to the smuggling should develop.

The 368-page transcript may revive a furore in France over claims by French police and judicial authorities that they have not covered up for certain officials of the French counterpart of the CIA.

The questioning was conducted here last month, mainly by investigating magistrate Gabriel Roussel of Paris. It provides rare glimpses into the agency, SDECE (Service de Documentation Exyerieure et de Contre-Espionage).

The record of the interrogation was made public Monday by Donald A. Robinson, counsel for the agent, Roger X. L. DeLouette of Paris, when DeLouette, 48, received a minimum five-year sentence.

Judge Frederick B. Lacey, who imposed the sentence, and U.S. Attorney Herbert J. Stern, who objected to the introduction of the transcript, joined in praising DeLouette for the cooperation he provided federal investigators after his arrest on April 5, 1971.

On that day he went to Port Elizabeth, N.J., to pick up a Volkswagen camper he had shipped from France. Customs inspector Lynn Pelletier, 21, making a routine spotcheck of the interior of the VW, noticed sunlight coming through a hole in a front installation panel—the result, apparently, of a screw having shaken out in transit. Curious, she reached behind the panel—and pulled out a package of heroin.

Under a French-American agreement on narcotics trafficking, DeLouette was questioned the day after his arrest by a French policeman then assigned to the consulate, Daniel Hartwig, who took notes, and by U.S. customs agent Paul Boulard, who made a tape recording.

In a statement, DeLouette named the man he called the mastermind of the smuggling scheme as an SDECE department head known to him as "Col. Paul Fournier," who since has been identified as Paul Ferrer.

At one point, when the customs agent went to another room, Hartwig took DeLouette aside "to tell me that I should never have said this to the Americans," the agent said.

The transcript disclosed that Hartwig phoned someone in Paris, which led to an immediate visit to Ferrer by Michel Nocquet, chief commissioner of the Police Judicare in Paris. No written report on the conversation has been filed with Judge Roussel, French police, after closing a three-day investigation, pronounced Ferrer innocent.

DeLouette learned of the visit to Ferrer from John Cusack, then director for Western Europe of the Bureau of Narcotics and Dangerous Drugs. Cusack later created an angry controversy by accusing French authorities—who denied it—of not making bona-fide efforts to dismantle heroin laboratories in the Marseilles area.

"I was absolutely astonished," DeLouette said, explaining that he had expected his charge against Ferrer to be pursued in "a discreet investigation."

"Once they went to see him that was it. I never thought he would know that I had talked."

Also in the questioning a year ago, DeLouette identified Donald McNabb, a middle-level official at the French Consulate in New York, as the man Ferrer had told him to contact in event of unforeseen difficulties unrelated to the heroin smuggling, for which DeLoutte was to receive $50,000.

McNabb was "a representative of the SDECE," DeLouette charged.

Soon after DeLouette named McNabb, Hartwig and the top narcotics official of the Police Judiciare, Claude Chaminadas, called on McNabb to show him photos of DeLouette.

Stern, in a confrontation with Roussel during the interrogation last month, protested that Hartwig made a report on the question of DeLouette that got to French police, but, somehow, according to Roussel, did not reach him. Stern also recalled to Roussel a statement by the magistrate that Hartwig had claimed that DeLouette had never mentioned McNabb.

Last April, DeLouette said, Hartwig "gave me his word" that if he supplied the address of his mistress, Marie-Jose Robert, then 22 and pregnant, "nothing would be done against her."

But, DeLouette said, she subsequently was indicted for possession of $17,000 in counterfeit U.S. currency, which he said was in her apartment but of which she was "totally unaware." She was jailed for three months and was "liberated" only two days before giving birth. Recently, Roussel lifted her passport, temporarily preventing her from coming to see DeLouette.

In his statement to Hartwig, DeLouette told of being requested by Ferrer to meet a certain SDECE employee who then gave him an envelope containing the $17,000. DeLouette, following instructions, went to an Italian town on the French border, Modane, to deliver it to a contact.

But Ferrer cancelled the meeting, suggesting instead that DeLouette take the counterfeit currency to Algeria. The agent declined, not wishing to risk a severe penalty. He said the money was in a bureau drawer in the apartment when he left for the United States.

Last October, DeLouette said, one of the six children by his marriage, a son, arrived in the university compound in Bordeaux to look for a room. And, at Roussel's request, police interrogated the student for 7½ hours and searched his room "in order to seize his letters," DeLouette said.

On March 11—a day after the interrogation ended—Stern sent Roussel a tape of the recording made by the customs agent, Boulard, a year ago. No action against Ferrer is known to have resulted.

A grand jury indicted Ferrer, as well as DeLouette, last Nov. 15. Not until after that was there any public knowledge of the behind-the-scenes legal wrangle between French authorities and Stern and his top assistant, Jonathan L. Goldstein.

Mr. Speaker, what it all distills down to is this: A massive traffic in heroin is in fact being conducted. Much of it may be eventually coming in from Latin America or through the Caribbean. Nevertheless, opium comes from traditional opium cultivation areas in the Middle East. Cartels of French-Corsican gangsters see to it that this opium reaches southern France. In and around the Marseilles area it is transformed into what we know as heroin. French authorities on high levels know of all this, condone and protect it and in some spectacular cases participate in this degraded traffic. Whether for personal profit or just hate of America this is done, I do not pretend to know.

The orchestrated official outcry against anyone who dares lift this particular rock is based on an official policy of not offending the French. In France, anti-Americanism, personal motives of other kinds and quasi-official policy encourages ventures of this sort by the French Secret Service. It also seems as if the French foregn service is at least peripherally aware of what is transpiring.

Here at home, so-called French good will or other pressures overbalance obvious horrors of the heroin problem to our own citizens. The State Department, such as it is, will do nothing to aid in our war against the traffic. In fact, its resources and spokesmen, including our ambassador in France, such as he is, are ever ready to soothe ruffled Gallic feathers at the expense of American well-being.

In this most recent series of cases, because of the outcry and attendant publicity, a few seizures were made abroad within a few weeks of one another. One conversion laboratory in Marseilles was even raided and broken up. Of course, all they picked up were two stooges. As usual, higher-ups remain unaffected, and presumably have already gotten a replacement operation under way. Meanwhile, what is happening here at home? Go out into our streets at night and see for yourself. Take a look at our robbery, shoplifting and prostitution statistics. Talk to the local police. Visit one of our shabby prisons or jails.

It is conservatively estimated that America now contains more than half a million heroin addicts, and the number grows constantly. No community or State is immune anymore. Heroin is everywhere. In every neighborhood. In every school, including some of our grammar schools.

This traffic could be crippled tomorrow. Jack Anderson has just informed us of a secret CIA report confirming evidence of the French connection. That connection now leads into all our lives.

Mr. Speaker, all my accusations stand as before. Only reiterated with all the vehemence I can muster. What, then, is the U.S. Government going to do about it?

ROGERS PRAISES TRAINING OF POLICE FOR DEALING WITH RETARDED

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ROGERS. Mr. Speaker, despite the many educational programs throughout the country dealing with the problems of the mentally retarded, there still remains many misconceptions. I am pleased to announce that the State of Florida has taken steps to eliminate many of these misconceptions by introducing an educational program for police.

On September 1, 1971, Florida became the world's first governmental body to make mandatory the training in the recognition and handling of the retarded for basic police education.

For 12 years the 2-hour course has been given, developed, and refined at the West Palm Beach Police Academy, serving 39 municipalities of the county, by Dolores Norley, with the enthusiastic cooperation of West Palm Beach Police Chief William Barnes and his training staff.

In 1970, Mrs. Norley, then president of the Florida Association for Retarded Children, and chairman of the Council of State Presidents of Associations for Retarded Children, presented to the Florida Police Standards Board the rationale for the inclusion of such training in mandatory regulations for all Florida police officers. The board requested, received, reviewed, and finally adopted the curriculum used at the Palm Beach Police Academy as a part of their 280-hour minimum training requirement.

This subject has been traditionally a part of the mental health area umbrella training. This has led to natural confusion, reinforcing the erroneous thinking that retarded people are per se violent, erratic, and to be approached with caution. The delineation of the subjects has finally given the opportunity to point out that mental illness and mental retardation are separate and distinct conditions, the first falling within the medical rationale, the second a problem subject to the fields of education and psychology—not psychiatry.

Thirty-five other States, England, Canada, and Switzerland have requested direction in the implementation of such a program in their areas.

World-wide there is a normalization movement bringing inappropriately institutionalized retarded people back into the communities, where they are living in small homelike normal environments, working in either competitive or sheltered employment, and realizing their full potential. In the stream of society, using generic community services of medicine, recreation, training, education, and so forth, their handicap is finally handled in perspective, and with the least cost to the taxpayers because in actual fact, with a minimum of training and with proper placement, most of the retarded now institutionalized can, and are, becoming taxpayers themselves.

With these increased numbers of retarded people in the communities, often with visible yet handleable speech or ambulation handicaps, there has been heightened interest in the assurance of understanding and the protection from exploitation, including the prevention of the loss of due process.

Misunderstanding in the past has been the cause of innumerable arrests and improper bookings. True law breaking is not under question. The police procedure there is well defined and followed. Prevention is more the thrust. No specialized or exceptional treatment is being asked for—simply the avoidance of making a person go through steps of the legal process where not necessary. This can be accomplished by the education of the police so that they understand, as indeed they want to, the variations in acceptable behavior and the options they have in referral and personal aid.

The President's Committee on Mental Retardation interfaced with FARC and the International Association of Chiefs of Police by cooperating in the development of a training key as a final tool for the police schools.

PERSPECTIVE NEEDED BY DOVES AND HAWKS

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. CHAMBERLAIN. Mr. Speaker, all too much of the highly publicized criticism of U.S. policy in Vietnam during the past few weeks has failed to give a balanced appraisal of the new conditions that distinguish it from previous crises. In an editorial appearing on April 24, 1972, the Owosso, Mich., Argus Press, has underscored some very important facts that must be kept in mind by all if the current state of the war in Vietnam is to be viewed in proper perspective, and I commend it to the attention of my colleagues:

PERSPECTIVE NEEDED BY DOVES AND HAWKS

In a letter to the New York Times, eight members of the U.S. House of Representatives deplore the escalation of the war in Vietnam. A central paragraph puts the blame squarely where the congressmen believe it belongs:

"The President of the United States has called off the regular meetings of the negotiators at the Paris peace talks. And only this week the United States launched a massive air attack of both South and North Vietnam. In short, there are no signs of any moral leadership on the part of the administration to end the killings and the destruction of countries now.

In the 254 words of the letter, not a word alludes to the massive invasion of South Vietnam by North Vietnamese troops, nor to the killings of South Vietnamese civilians and destruction of their villages by North Vietnamese tanks, mortars and howitzers.

In a hearing before the Senate Foreign Relations Committee, Secretary of State William P. Rogers was asked if the stepped-up fighting was not proof that the administration's policy of Vietnamization had failed. None of the senators suggested that North Vietnam's invasion, to which it has committed more than 90 per cent of its regular forces, might mean just the opposite—that Vietnamization is working.

But a funny thing has been happening on the way to the embarkation ports in Vietnam. That it is ignored by those who, for some reason, hope for the discrediting of Vietnamization, is one thing. That the nation's representatives in Congress seem to be totally unaware of it is quite another.

The fact is that not only has the war been increasingly "Vietnamized," meaning that South Vietnam has taken over more and more of the burden of ground fighting, but the war has also become increasingly "North Vietnamized."

In the Tet offensive of 1968, which was such a telling psychological blow to the American public and to the Johnson administration, nearly every village and city throughout the length and breadth of South Vietnam was subjected to attacks by Viet Cong guerrillas, who seemingly sprang out of the earth—despite the fact that U.S. forces were at a peak of more than half a million men.

At that time, the argument that the conflict was a civil war against a repressive regime in Saigon which we were immorally supporting had more than a little credibility. Little remarked in the United States, South Vietnam since then has made significant strides in land reform and in truly pacifying the countryside.

Today, when U.S. troop strength has dwindled to well under 100,000 and no units are engaged in active combat, the current fighting is almost entirely a North Vietnamese operation—a textbook operation involving frontal assaults by armored columns across the Demilitarized Zone, artillery support, logistical lines of supply and all the rest, an operation made possible by weapons and material from the peace-loving Soviet Union.

At the Senate hearing, Sen. J. William Fulbright could ask the secretary of state, in sincere anguish at the continued killing and destruction: Why have you (the administration) placed us in the position where we have a Hobson's choice between either surrender or escalation?

Yet when President Nixon undertook to begin the withdrawal of American troops, with the full support of Congress and the vast majority of Americans, each reduction in our strength increased the possibility that we would be faced with one or the other eventually. North Vietnam was repeatedly warned what our reaction would be.

The real question that should be asked is, why has North Vietnam chosen to attempt an all-out military conquest of South Vietnam, and to humiliate the United States in the bargain, at a time when U.S. withdrawal was so near to being accomplished?

And why aren't more Americans asking that question?

WE DO CARE

HON. WILLIAM E. MINSHALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. MINSHALL. Mr. Speaker, it is with the greatest pride that I salute the We Do Care Committee of Fairview Park,

Ohio, which, over the last few years of the tragic war in Vietnam has done such a noble job of keeping in touch with U.S. servicemen through newsletters, cards, and packages.

Mrs. Harriet Beekman, the We Do Care chairman, has sent me a heartwarming letter and copies of the many messages her committee has received from the grateful recipients of the committee's endeavors.

Regardless of one's view of the tragic conflict in Southeast Asia, there can certainly be no disagreeing with the magnificent work We Do Care has done and continues to do to help our servicemen.

Mrs. Beekman's letter and the words of thanks from some of the servicemen follow:

Hon. WILLIAM MINSHALL,
Ohio State Congressman,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN MINSHALL: Thank you very much for helping Richard Turos. This was certainly a very sad case. We also realize how much you are doing for our Servicemen. It is my personal opinion that it is unbelieveable that any people back here can protest the action taken to save our beloved Americans in Vietnam. To leave them at the mercy of the communists is deplorable. I know that our President and members of Congress who put the safety of our young heroes first are putting their careers on the line. God bless them!

Everytime our young men have won a victory in Vietnam, some of the politicians and people have taken it away from them back here. I will not forget that some of the self-glory seeking politicians today are yelling because we are bombing supplies in order to try and save these brave, loyal Americans from being killed—or worse—captured.

We expanded our program last April 1971. We are helping as many Servicemen in the war area as possible. We have received letters from Servicemen all over the United States. I have enclosed a few for you to read.

To date we have mailed over 8,000 packages to the war area, each one large enough to be shared with many buddies. We have mailed over 40,000 newsletters and cards. All this is possible because we have people in this area who love their country and care for her young heroes. We will continue to mail this love and moral support just as long as we are needed.

God bless our country and help her to remain free. You and I know she is the greatest country in the world! I just wish we could get the "un-American thinking people" to help instead of destroying her.

Thank you again for your help.

Sincerely,

HARRIET BEEKMAN,
We Do Care Chairman.

WE DO CARE: Thank you very much for the real great "Care" package. It really makes me feel good to know that people will donate their time, money and effort to support, or should I say build up our morale, as GI's. I hope that all the people involved have a blessed Christmas and the most happiest New Year ever. Thanks again.

JACK J. HARE, Jr.

DEAR WE DO CARE: Thank you very much for your thoughtfulness. You don't know how much better you will make these holidays for me. I just can't get over what you people are doing for us. It really makes a guy feel good to know his fellow citizens care so much.

My buddies also want to thank you for your kindness. You people deserve an awful lot of credit.

Thanks again.

GARY SCHULD,
(Along with the guys from barracks 9075 at Hurlburt Field.)

The package arrived today and was in good condition except for the normal handling by the U.S. Postal Service.

Seeing as how I am due for discharge from active duty on February 8, 1972 this will be the last package I will receive. I wish to thank everyone on the We Do Care committee and especially Mrs. Beekman for everything that they have done over the past 4 years.

Taking on a task, such as you have can be quite a chore and headache at times. There is no amount of words that can express my gratitude and warm feelings for all of you. The news letter and boxes you all put together have kept me in contact with what has been happening back home, and just knowing that someone, somewhere cared about us guys made things seem a little better than they are.

All my deepest thanks,

TOM STAMATIS.

Enclosed is an Insignia of my outfit here on Okinawa.

Thank you for the package. The fellows and I really enjoyed it.

Thanks again.

MILE FIELD.

HI: Thank you very much for the package. I got packages last week like some people get letters but now it's all gone. Please do not send anything else to me. I am standing down and moving somewhere else. I will probably work only 2 or 3 weeks in one spot now until I leave—109 days.

Merry Christmas.

BOB LUTSCH.

DEAR WE DO CARE: My family and I appreciate the many useful and decorative items received in the box, and also the sincere wishes for a happy holiday. I think the fellows overseas and especially in S.E.A. would enjoy the box even more than those of us fortunate enough to be in the States.

I have accepted an early out and will be leaving the Air Force on February 29 next year. My job will be with Ford Motor Company (my previous employer), but I do not yet know in what city we will be relocating.

Thanks again for your continuing efforts, which show that you truly do care.

Sincerely,

Capt. BOB NULL.

DEAR FRIENDS IN FAIRVIEW: Would like to take just a moment to tell you all how very much I appreciated receiving not only your package but also the message of thoughtfulness and concern that came with it. Many of the items you sent can be exasperatingly hard to obtain over here, and were very welcome, but ever so much more so was the feeling that one's community had concerned themselves with those of us scattered so far from Fairview during the holiday season.

Sincerely,

BILL GRUBER.

DEAR WE DO CARE: I really don't deserve a wonderful package like this near as much as the guys overseas. Here I sit enjoying a decent life in an apartment with my wife while many Fairviewites compete with danger in Nam or somewhere else maybe. Even so, I spent a year there and at least I know how much your committee is appreciated.

Since I have only 36 days left in the AF I guess this will be the last package to me and it pleases me immensely to know that someone else will take my place in the joy of receiving these gifts. Thank you all so much for supporting me through my hitch.

TIM NOBBE.

Merry Christmas and Happy New Year! It's late but I still wanted to wish you all one.

Thank you all for the goody box! It was well received!!

I bet you all have snow now. I'd love to see it. All it does here is rain and blow during the winter months.

It was something here with Nixon here for three days. I drove for some of the secret service men. Not much sleep during his stay but it was very interesting.

So until late.

JIM.

Just a small note to say thank you ever so much for the box of goodies you sent me. It is very kind of you.

Thank you again.

DONALD GANT.

DEAR PEOPLE OF FAIRVIEW: First off I would like to say that it hit me for quite a shock, to think all those people sending me a gift. I can't think of anything that might have been left out except all your nice faces.

Though I decided to turn over the box to the base chaplin. I have only 2 weeks to go over here and there are a lot of guys here and in Nam that could use it.

All I can say is that with people like you back home standing behind us over here, it makes you proud to be an American.

Love,

GARY A. WESNITZER.

(P.S.—Keep up the great work.)

Thank you very much—my friends thank you also.

LARRY PREBIS.

Thank you for your kindness—Merry Christmas.

GARY.

Thanks ever so much for the package of goodies. It is a good feeling to know that thoughtful people are still existent in the world. While I know that I'm as far away as others, it makes the thought no less great. May I wish all involved the happiest of holidays and nothing but good fortune for the coming year.

Thank you.

MARK G. MCKINSTRY.

DEAR WE DO CARE: Thank you very much for the package. I appreciate it! And my buddies do too!

We Do Care is a fine committee showing concern for the serviceman and really is giving the community some quality. Just wanted to take this opportunity to thank you—not just for materialistic things but for the love too.

Happy Holidays,

LEE NOSS.

I intend to resign my commission some time after the first of the year and will be returning to Cleveland at that time. I would like to express my sincere thanks for the consideration that was shown to me in the past five years especially for the year I spent in Vietnam.

ROBERT J. ROFFEY.

DEAR WE DO CARE: Thank you for the package. I have currently 79 days to go!! Short. Thanks again ladies for the package.

Yours truly,

THOMAS A. GARTNER.

DEAR WE DO CARE: Thanks very much for the package. My family and I enjoyed it very much. My children enjoyed the cookies because they came from home. My wife and I like to read the news you send.

I also wish to thank the "We Do Care" for the packages they sent me while I was stationed in Vietnam.

We appreciated the package very much but since I'm lucky to have my family with me this tour I thought maybe you would rather send the packages to boys who aren't as "lucky". Thanks again for caring.

Yours truly,

SSG ALLEN MOORE and FAMILY.

DEAR FRIENDS: My sincere "thanks" for your package. I appreciate the goods inside and can certainly use them. Even more than the package, however, I appreciate your vote of confidence in what we are attempting to do in Southeast Asia. It is very hard to be separated from wife and family for such a length of time, but knowing that many people support our actions helps us feel that our endeavors are worthwhile. My sincere thanks again.

LARRY O. OLIVER.

DEAR PEOPLE: I really appreciate your package—Keep up the good work. We men in this Hell hole would like to thank you fine patriots.

Thanks whole lots,

BOBBY PIAZZA.

DEAR WE DO CARE: Good work. I got the package just in time for my birthday. Will be 19 tomorrow 16 Sept. 71. Thanks a lot.

BOB PHILLIPS.

MRS. B: I've re-enlisted for a return assignment to the Philippines, and this is where I'll stay until 1974 or longer with my Filipino wife and son. Your thoughts were very much appreciated during the year I just spent in Korea, being alone and in an isolated area. Any I receive here, however, make a great present for little Charlie. Thanks and God Bless You! Say hi to Ernie for me.

Sincerely,

Sgt. HELLRIEGEL.

Thank you very much for the package. At times it can get pretty lonely out here and it is great to get a package from home.

Thanks again.

WAYNARD NELSON.

Thanks very much for your thoughtfulness in sending the Christmas box of gifts. I was amazed at the amount of items that were in the box. Everything came in perfect condition—even the cookies. I'm sure a lot of work was involved and it was truly appreciated.

Thank you again.

KARL J. ARENDT.

(P.S. Box received in good condition.)

Thanks again for remembering another serviceman at Christmas. I truly appreciate your fine work, and you have no idea the tremendous moral support you give me.

As the war slows for the army, the Air Force has been getting busier! I flew more combat missions last month than ever before. I hope people realize that the war is still going on and will continue for quite some time yet.

Thanks,

LARRY.

DEAR PEOPLE OF MY HOMETOWN: I am sorry I had to be so formal in the heading. I would truly like to thank you all. It was fantastic to see that someone would take so much time to prepare a package.

Your timing was perfect. We had just come in from out in the boonies. I had a couple of friends around when we opened the package. I think they were really jealous that they weren't from the same city!

We were able to use everything in the package except for the shoe brush. I don't think anybody in the infantry has used one since we've been here.

I truly appreciated your package and will never forget what Fairview Park did for us.

Thanks again.

STEVE.

Thank you very much for the package. I have received two others from you but failed to return your letters. Your gifts are greatly appreciated and rest assured the food will be enjoyed by many people.

Sincerely,

KENT ASHER.

I wish to express my sincere thanks to all those who helped in preparing the wonderful package received yesterday. All items were in perfect condition and will certainly be utilized. It will be my pleasure to place the items under the Christmas Tree, except the cookies—sorry—temptation was too great, as items from Santa Claus delivered by "We Do Care" of Fairview. It's great to know that someone takes the time and effort to express positive and sincere measures to let us know that all our time and effort is not being expended in vain. I've been around the world, in good areas and bad, with and without family, had my go in combat, as occupation and let me assure you that the packages and the "Newsletter" remind me constantly that although the newspapers and magazines exploit sensationalism at times to sell papers, it's only the minority back home that are left wing radicals trying to paint a black picture of us in the military as all being sadist at Mei Lai, dope addicts, drop outs from society etc.

Again my many thanks to all those involved in "We Do Care" and rest assured "We Do Care" also.

Merry Christmas and a Happy New Year to all.

JOHN PROVAN.

The package was addressed to B. C. Hoogensen. He gave it to some lonely servicemen and they greatly appreciated it. It made their Christmas a much merrier occasion.

Thank you very much.

Merry Christmas to you all too. I have found many happy recipients of the Christmas box and we all thank you.

Thanks.

STEVE.

DEAR WE DO CARE: Thank you very much for your package. It has helped to make it seem like Christmas even though I'm away from home. It's a good feeling to know someone else other than my parents and my girlfriend care about me. Once again THANK YOU for all you have done for me.

As of 10 January 1972 I will be stationed at Myrtle Beach, S.C. When I get a complete address I will let you know.

Sincerely,

RICHARD GARDIN.

DEAR FOLKS AT WE DO CARE: Just a short note to let you fine people know just what a great job you do. The far reaching effect that you, and people like you, bring at this time of year to people who cannot be home for the holidays is what the true spirit of Christmas is all about. If, for no other reason than there are folks like you thinking of people "who for the present," are having a rough time of it, makes this "hell" some must go through, worthwhile. You may not receive any financial reward, but the feeling of belonging that you have given so very many people will always place you fine folks on the top of my list of truly fine people.

Hope you all have a wonderful holiday,

Sgt. JOHN SIMON AND FAMILY.

Thank you very much for your package! By the items that you sent I realize that a lot of time and effort went into it. The items are all very useful. Thank you!

Thank you all so very, very much. It was greatly appreciated. Merry Christmas to you all.

Thank you.

G. J. GRAHAM.

Sure want to thank you for the Care-Power and to wish all of you a Merry Christmas and a Happy New Year.

GOTT MIT UNS.

Thank you very much for the Christmas package and the books you have been sending.

It's also good to know we have the love, respect and the moral support from our people back home.

Thank all of you very much.

Sincerely,

ALLEN D. MOORE.

We'd like to thank you very much for this Christmas package and all of the other packages you have sent. It really is nice to know that you Do Care. Keep up the good work and spirit lifters, especially for all of our fighting men who are so very far away from their home, family and friends. They really give up a lot to serve *our* country. "We Do Care" shows that their energies are really appreciated on the "Home Front."

Thank you again.

Mr. and Mrs. HENRY J. FEICHTMEIER.

Thank you for our Christmas box. We look forward to it every year. The children were particularly pleased with the Christmas tree ornaments which will become part of our collection which we use from year to year.

My husband thought the clothes brush was great—he thinks you're the only people in the world with an "in" with a good brush maker. The one you sent two years ago, I think, was about worn out so the new one is appreciated.

For myself, I enjoyed the copies of "West Life." Glad to hear as a former Fairviewite that the handsome young Mayor did it again and Dr. Barr still rules with an iron hand.

Things haven't changed much have they?

Do extend all our thanks—from six of us—the WDC people.

You do much to make Christmas away from home a little nicer.

JOHANNA HUMANEK MADER.

I sure appreciate the gifts. They made me feel better. You people are doing a good job. Me myself, I also like to help out other people by bringing happiness to them.

Have a merry Christmas and a happy new year.

DARRELL KELLY.

Merry Christmas Ladies: The box was greatly appreciated, not only by me, but by the rest of my shipmates. I opened it—well the guys opened it at breakfast this morning. That's when we get mail.

It really put everybody in Christmas spirit. We even put the Christmas tree up that afternoon.

I wish to thank you *ALL* for your cooperation in making Christmas at home, felt—away from home.

Have a happy.

J. B. WALTERS.

(P.S. The brownies were fantastic as well as the chocolate chips.)

DEAR WE DO CARE COMMITTEE: Thank you for the Christmas package.

Sincerely,

DANIEL WAGENKNECHT.

WE DO CARE, DEAR FRIENDS: Thanks for the bundle of books which was received in the mail today. I am well aware of the work that you are doing to support our servicemen from the Fairview Park area as they serve around the world.

Since your service is of special value to those who must serve without their families and in strange parts of the world, I will see that the books are passed on to someone here at Fort Leavenworth who can use them.

Again, thanks for your thoughts.

Sincerely,

ROBERT E. TOZIER.

WE DO CARE, TO EVERYONE CONCERNED: I want to take this opportunity to express my heartfelt thanks for your kind thoughtfulness during this holiday season.

It sure is great to know that someone at home is behind you. At times it is very difficult just existing from day to day in the armed forces, and gestures like yours are sure appreciated.

Fairview Park stands alone and at the top of the list of great communities as far as I am concerned. The "We Do Care" program is a very wonderful organization and a real crutch to the serviceman.

Thanks again.

ROBERT E. NICHOLS.

Thank you very much for the Christmas package. It really helped cheer up some of the people in the Mars station. I will be returning home in about two weeks so don't send me any more packages. I would like to thank you very much for the packages. They have made the tour over here more bearable.

Thanks.

TOM GEORGE,
ROGER W. WALDEN,
PHIL W. SAMUELSON,
JOEL P. STRANSBERG,
JED ROCKWELL,
LARRY W. NORMAN.

I received the last box in excellent condition. I want you to know that the men where I work appreciated it as much as I do; however, I feel I should advise you that I'll be leaving Vietnam and the service in January. Thank you very much for all of your consideration.

Sincerely,

LEWIS B. ALLEN.

Just a little note to say thanks again for everything. You people can really bring a lot of happiness into a guy's heart when he is away during the holiday season. I would like to wish you all a very blessed Christmas and a healthy New Year.

JERRY CAJKA.

(P.S. I was promoted to SP5 on 10 Nov.)

DEAR WE DO CARE: I had mixed feelings of guilt and happiness when I received this year's package. The guilt comes from my friends jealousy. The happiness comes from knowing my home town is still the best home town in the nation. I've eliminated some of the guilt by sharing my 320 sticks of Dentyne gum. Keep up the good work We Do Care.

Merry Christmas,

JIM DONNELLY.

Thank you very much for the box. We enjoyed everything in the box and shared some of the items with the guys up here at Camp David. I hope you don't mind.

We had a very nice Christmas here. I had to work Christmas Eve, but was off for Chistmas Day. I'm sorry about being late with the Christmas card but things around here have been anything but normal.

I have very much enjoyed the news letters which you print up. I'm sorry I haven't let you know sooner. Please keep up the good work and say hello to everyone for me.

Thank you to the Greatest Bunch of People in the world!

TONY COPPOLA.

DEAR WE DO CARE: Thank you so very much for the Christmas box. I passed out most of the gfits to the kids in the shop who had nothing for Christmas. I've been in now for almost 9 years and I like to take some of the younger boys under my wing in this the "New Navy". I only wish that other towns cared as much for their boys in the service.

Thank you again.

DONALD R. KEILS.

I received some of the cookies and items in a box that was sent to Pfc Steve Suhayda and I was very glad to get them. You are very considerate and I appreciated getting a few of the goodies enclosed in his package. I am also from Ohio like Steve.

Steve and I are both infantry and we spend most of our time in the field with the 101st. I thank you again.

Pfc. JOHN MACKALL.

DEAR FRIENDS: Thank you very much for sending these packages to me while I was stationed in Vietnam. They were a morale booster. It's nice to know everyone isn't anti military in the U.S.

I am reassigned now in England and don't have the need for your packages here in civilization again.

Again—thanks very much for sending them for the past year.

Sincerely,

Capt. JOY CARROLL.

Again I would like to thank all the people of the We Do Care Committee of Fairview Park. The reason I say *again* is because at this time last year I was in Vietnam and I decided to return for a second tour. So this is the second Christmas package I have received from you people. It really helps one's morale, knowing that there are people who do care, even though the individual may be thousands of miles away from home.

Thank you very much, and I hope that all of you too, have a merry Christmas and the best for a New Year!

Sincerely yours,

ROBERT J. COLEMAN.

COOPERATIVA METRO AIDS BODEGA OWNERS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BADILLO. Mr. Speaker, the Puerto Rican community in this country is very proud of our tradition of taking the initiative to achieve our goals and of helping each other in advancing ourselves and entering into the mainstream of American life. This self-motivation and self-reliance underscores many areas in which the Boricua is working to achieve fair and just treatment for himself and our people.

One of the primary examples of this fine tradition is the owner-operator of the many bodegas in Spanish-speaking sections of New York City and other areas with sizable Puerto Rican, Chicano, Cuban, and other Spanish-speaking populations. Marketing foods and other items unique to our people—black beans, rice, plantain, et cetera—the bodeguero hispano is an important and vital element in our community. Through his long hours and tireless efforts he symbolizes the dedication of our people to helping each other to achieve progress.

An especially exciting and important development has occurred with the formation of the Metro Spanish Food Merchants' Cooperative—Cooperativa Metro—in the Bronx. Established and promoted through the dedication and energy of Mr. John Torres, Cooperativa Metro serves as an ombudsman and aids the bodega owners in a variety of ways, such as protecting them from unfavorable business practices, furnishing technical assistance and so on. However, this outstanding organization furnishes help and guidance beyond the day-to-day operations of the member bodegas and plans are underway to provide important economic and unemployment assistance to the Puerto Rican community in New York.

This morning's New York Times carried a well-written and perceptive article on Johnny Torres' work and the fine job being performed by the cooperative. He and his organization offer great hope for our people and I am indeed proud of this vital self-help effort. I am pleased to bring this article to our colleagues' attention and insert it herewith for inclusion in the RECORD:

BODEGA OWNERS GAIN STRENGTH IN CO-OP HERE

(By Deirdre Carmody)

Spanish-speaking owners of small grocery stores who work an average of 108 hours a week to sell a few thousand dollars worth of goods, have been given stature and political clout through a food cooperative formed by an imaginative and energetic Puerto Rican businessman here.

At the same time, the city's Economic Development Administration is devising a plan to link manufacturers of consumer and industrial products in Puerto Rico to distribution centers here, based on the thought that outlets such as the food cooperatives provide a ready market for Puerto Rican products. The city has also offered several sites to Puerto Rican manufacturers to set up industries here and provide needed employment for Puerto Ricans in New York.

The Metro Spanish Merchants Foods Co-Op in the Bronx Terminal market is the brain child of John Torres, a 42-year-old Puerto Rican with a degree in interior design from New York University.

BROTHER CHANGES MIND

In 1960 Mr. Torres's brother came to him and proposed that they go into business together. He suggested that they buy a grocery store, even though neither knew anything about the food business.

With great reluctance, John Torres agreed to the proposal. After searching about, he bought a small grocery store on Concord Avenue in the Bronx for $9,000. That evening, his brother came to see him and said that he had changed his mind and decided he did not want to go into the grocery business.

"I said to him, 'You know, I've taken two years of judo and I've never used it.'" John Torres recalled the other day. "I said, 'I'm going to close my eyes and count to five and if you're still in the room when I open them, you have my word of honor I'm going to practice my judo.'"

ASSOCIATION FORMED

To his surprise the store prospered, but as he came into contact with other Puerto Rican bodega owners, he was astounded to find how little they knew about the most basic procedures of running a store. He decided the mer-

chants needed to be organized, so he set out to conduct a survey and find out a few things.

"But the problem was how to conduct a survey without money," Mr. Torres said. "So I said to myself, who is the closest man to the grocer?" The salesman. So I made friends with salesmen and then I invited 18 of them to a cocktail party and gave them copies of a 32-question survey I had thought up. I told them I wanted the surveys returned within three months."

Soon he had 1,500 replies from small grocery-store owners. These told him that the average Spanish-speaking grocer was 45 years old, had five children, had been here for 25 to 30 years, had no education beyond third grade, worked 108 hours a week in his store and his wife worked 70 hours, stocked about 2,500 items and had sales of $2,000 a week.

Later he found out that most of these merchants had come from the sugar fields of Puerto Rico to earn enough money to enable them to return to their homeland to set up a business there.

In 1963 he organized eight Puerto Rican merchants in the Bronx and started the Metropolitan Spanish Merchants Association. Today, there are 1,000 members throughout the city—80 percent of whom are Puerto Rican. They include dry cleaners, restaurant and liquor-store owners, beauty-parlor operators and owners of bars and luncheonettes, as well as grocers. All pay $20 a year dues.

Mr. Torres helps them with problems, guides them through the city's labyrinth of red tape and, like a clubhouse politician, picks up the telephone when necessary to remind a legislator how much he had helped him while he was campaigning and how much the passage of a certain piece of legislation would mean now, or to put a bit of pressure on a civil servant who is indulging in legal harassment of a bodega owner.

"We saw that the big fish always winds up eating the little fish," he says. "But through Metro we are not little fish any more. Although we don't abuse our strength, we don't hesitate to show it, too."

Heliberto Santiago, for instance, came to Mr. Torres the other day with a problem. Mr. Santiago, whose father owns a grocery store on Macombs Road in the Bronx, had recently told his ice-cream deliverer that he would no longer buy from him because his ice cream was always melted. But the deliverer refused to remove his ice-cream freezer from Mr. Santiago's store and no other ice-cream company would deliver while that freezer was still here. Mr. Santiago's store is between two schools and ice cream is a major part of his business.

"That guy knows he has Mr. Santiago by the neck," Mr. Torres said. "I'll write him a letter and give him five days to get the freezer out of there. He is known for this kind of action with Puerto Rican businessmen, but he knows that we have three lawyers and he won't fool with us."

In 1967 Mr. Torres formed the Metro Spanish Merchants Food Co-Op, which now has 109 grocers as members. They must each buy a minimum of $550, on which they earn interest of up to 8 per cent. Last year they earned 2 per cent of their annual purchases. The co-op's total sales were $3-million.

One man earned 118 per cent of his original capital investment last year. The interest on his $550 earned him $44. He purchased $30,197.14 worth of groceries, on which he earned $604, for a total annual profit of $648.

In 1968, Mr. Torres gave up his own store (and two others he had bought after his initial success) to devote full time to the co-op. He now often works seven days a week, beginning at 6:30 A.M. and continuing until late at night. His salary is $13,000—his wife makes $9,000 as his assistant—and he points out quickly that the normal salary for directors of food cooperatives is a per cent of the profits. This would have amounted to $30,000 last year, a sum Mr. Torres feels would be too dear for the co-op at this time.

ONE MEMBER EXPELLED

The other requirements for joining the co-op are simple. The grocer must be a member of the Spanish Merchants Association and he must be "of good moral character," something that Mr. Torres checks out carefully. One member was expelled from the co-op when he punched an inspector in the nose, announcing that he was free from reprisal because he belonged to the co-op.

Mr. Torres is now planning to select nine promising young men with limited educations but with an aptitude for the food business. He will pay some of his best grocers to instruct these young men and he himself will closely supervise their training. They will be paid to work in the co-op for three months as part of the training program.

Mr. Torres hopes to raise funds for the program from advertising proceeds from Vocero Metro, a newsletter that goes to bodega owners.

Then, to test what they have learned, they will be sent out into member stores that need reorganization. This will test them and, hopefully, help out the stores.

If they pass this test, Mr. Torres will guarantee a loan for them from the Small Business Administration and set them up in their own stores. These stores, where prices will be uniform, will form a new chain, Metro Convenience Stores.

One of Mr. Torres's most enthusiastic supporters is Ken Patton, Economic Development Administrator. Mr. Patton calls Puerto Rico "the second most important economy to us" and has been working on establishing "Operation Bridgehead," which would link the Puerto Rican economy to the needs of Puerto Rican consumers in New York.

Plans are already under way to select a site for a packaging plant for a Puerto Rican panty-hose manufacturer and for a bicycle assembly plant.

THE 200TH ANNIVERSARY OF DON PEDRO FAGES' EXPLORATION OF CONTRA COSTA COUNTY IS COMMEMORATED AT DANVILLE, CALIF.

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. MILLER of California. Mr. Speaker, I always have believed that people who are proud of their history are good citizens—proud of their country, proud of their ancestry, and beneficial builders of their own locality.

It was my privilege recently to attend the dedication of an historical plaque in Danville, Calif., commemorating the 200th anniversary of the pioneer exploration by Don Pedro Fages of what is now Contra Costa County. Contra Costa means "opposite coast." It is located east of Alameda County and San Francisco Bay, and south of the Bay's upstream estuaries known as San Pablo Bay, Carquinez Strait, and Suisun Bay.

The dedication was sponsored by the San Ramon Valley Historical Society. I want to commend the officers of this society, present and past, who had the vision to plan this anniversary celebration and the enthusiasm to stage-manage a most interesting day at Danville on April 1, 1972.

The current officers, elected in March, are Roy S. Bloss, president; Howard Fereira, vice president; Virgie Jones, secretary; George C. Wood, treasurer; and as directors, Mabel Kuss, finance; Louise Crouch, landmarks; Beverly Sutton, librarian; Al Kaplan, membership; Valerie Gould, hospitality; and Eleanor Nilsen, publicity, who had sponsored the first meeting of the society in July 1970.

Charter officers who retired this March included Dr. Wilson E. Close, vice president; Grant Burton, landmarks; Ellen Leloy, librarian; and Bertha Linhares, hospitality. The site for the bronze plaque was donated by Herman J. Sandkuhle, Jr., owner of the Sunset Nursery in Danville.

It should be recalled that severe geographic isolation characterized the western coast of America before the Spanish colonization. Communication between it and the rest of the world was almost nonexistent. The land barrier to the east—high mountains, waterless deserts, and vast plains—was so difficult to traverse that there was almost no contact between the western and the eastern seaboard. The nature of the West was a mystery. Explorers wondered: Was there a water route connecting the two oceans? Did the desirable Northwest Passage actually exist?

It was speculation of this sort that motivated the early navigators and explorers, including Captain Pedro Fages who was stationed at Monterey, the Spanish capital of Alta California, where Father Junipero Serra had founded the Mission San Carlos Borromeo in 1770. Captain Fages was one of the first to venture inland. He and his party—including Father Juan Crespi and six soldiers—crossed the Santa Cruz mountains[1] into the Santa Clara Valley, went up the eastern shore of San Francisco Bay, along the Berkeley hills, and followed the shoreline of the seemingly endless estuary past San Pablo Bay and the Carquinez Strait to the delta of the San Joaquin River. They encountered elk, bears which they killed for food, and friendly natives whom they called "heathens" because these people had never heard of Jesus Christ.

Forced by the formidable estuary to turn back south, they then went up Walnut Creek and into the San Ramon Valley. The Fages-Crespi diary of the journey became the first written record of the eastern parts of Contra Costa and Alameda counties. After camping in the vicinity of what are now the towns of Alamo, Danville, and San Ramon, the party travelled into the Livermore Valley, then westerly across Mission Pass back into the Santa Clara Valley, and in due course to Monterey.

This historic adventure was vividly reenacted at the 200th anniversary observance at Danville on April 1. Roy Bloss, president of the San Ramon Valley Historical Society, served as master of ceremonies. Dr. Close played the part of Pedro Fages. Father Godfrey McSweeney portrayed Father Crespi. Members of the Danville Junior Horsemen's

[1] The geographic names were adopted some years later.

Association represented Fages' soldiers and scouts. Entertainment was provided by Maruja Varges as a Spanish dancer, accompanied on the guitar by Herb Robson, both of the Danville Music and Dance Center. Mabel Kuss performed the unveiling of the plaque. Edmund A. Linscheid, chairman of the Contra Costa County Board of Supervisors, read a resolution proclaiming April 1 as Fages Day. Dr. K. Fillmore Gray, pastor of the San Ramon Valley United Methodist Church, gave the invocation. Greeting all of the invited guests and performing scores of incidental tasks was the indefatigable Historical Society secretary, Mrs. Alfred (Virgie) Jones.

Others in attendance included Andrew H. Young, commissioner on the Contra Costa County Planning Board; Robert Cook, president of the San Ramon Valley Chamber of Commerce; Justice A. Frank Bray, president of the Contra Costa County Historical Society; Janet Newton, regional vice president of the Conference of California Historical Societies; Louis Stein, newly elected president of the Alameda County Historical Society; Mrs. John D. Cronin, president of the Amador-Livermore Historical Society; and my field secretary in the Eighth Congressional District, Ken Larson.

Among the people who were unable to attend, but sent regrets by letter, telegram or phone, were the Honorable JEROME R. WALDIE of Antioch, Contra Costa County, Representative of the 14th Congressional District; State Senator John A. Nejedly of Walnut Creek, Assemblyman James W. Dent of Concord, Rev. William H. Abeloe, Father David Temple, Dr. Warren Linville of San Ramon, Mrs. Dorris Watts and Mrs. Viola Morley, who is an officer of the Conference of California Historical Societies.

It was, indeed, an historical day.

SALMONELLA POISONING

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. HALPERN. Mr. Speaker, Friday, in Wheaton, Md., a catastrophe was narrowly averted when four elderly patients of a well-known nursing home were rushed to the hospital with salmonella poisoning.

This dramatizes, more than ever, the need for Congress to act to prevent the spread of this dreadful disease.

Salmonella poisoning can come from many sources. Though the source of Friday's near tragedy is still unknown, it is common knowledge that pet turtles are carriers of salmonella poisoning.

The Center for Disease Control in Atlanta, Ga., the Department of Health, Education, and Welfare as well as medical experts in private practice firmly believe, however, that the spread of salmonella can be controlled.

Last December, I introduced the Salmonella Prevention Act with the intention of preventing the shipment of diseased turtles which could result in the contamination of small children. Clearly, salmonella poisoning whether transmitted through food or pet turtles must come under strong legislative law control if we are to eliminate this disease.

Mr. Speaker, this most recent outbreak of salmonella poisoning in Maryland indicates that the Congress must act swiftly and sternly. The first step in remedying this problem would be the enactment of H.R. 12303, the Salmonella Prevention Act which would protect our children from the spread of this disease by pet turtles. Our efforts today can prevent future outbreaks of the disease in the United States.

At this time I would like to insert into the CONGRESSIONAL RECORD, Friday's news articles from the Washington Post which tells of the near tragedy in Maryland:

SALMONELLA HITS PATIENTS IN WHEATON

Four patients of a Wheaton nursing home have been stricken with salmonella poisoning, a potentially fatal infection that often is transmitted by food, Montgomery County health department officials said yesterday.

None of the patients, who range in age from 75 to 91, is seriously ill, but all have been hospitalized to assure the infection does not spread to other patients, officials said.

Two other patients have been hospitalized with symptoms of the infection and tests earlier this week revealed six other patients may have the infection, although results of the tests will not be final for a few days, according to health officials.

The 89-bed nursing home is Manor Care Wheaton, at 11901 Georgia Ave. It is part of a chain operated by Manor Care Nursing Homes, which also operates nursing homes in Adelphi and Hyattsville.

Dr. Steven Lipson of the Montgomery County health department said yesterday investigations by state and local officials had found the nursing home's operation to be sanitary and revealed no link between the infection and the preparation of food in the home.

Lipson said investigators believe the source of the infection may be "a commercially prepared food product containing dry eggs and milk" that has been used at the home. The nursing home has stopped using the product, as well as all other foods that commonly transmit the infection, he said.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. BEGICH. Mr. Speaker, I recently have received copies of two joint resolutions passed by the councils of the city of Anchorage and the city of Fairbanks concerning electric utilities. In an age when we hear so much about power shortages and energy crises, it is heartening to see responsible groups taking an active interest in working to alleviate these problems. This is the case with the city councils of Anchorage and Fairbanks, Alaska. I would like to include in the RECORD for today copies of these two resolutions requesting first, the formation of an Alaskan Electric Reliability Council; and second, the establishment of a State association of electric utilities. If instituted, these two organizations will contribute significantly to a reduction of common problems confronting the electric power utilities in Alaska.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION

No. A/F 5-72

A resolution supporting the formation of an Alaskan Electric Reliability Council

Whereas, the Chief, Bureau of Power, Federal Power Commission, has proposed to the Administrator of the Alaska Power Administration and several of the larger Alaskan power utilities the establishment of a Regional Reliability Council in Alaska, and

Whereas, it appears that the formation of such a council will be beneficial to the electric power utilities in Alaska,

Now, therefore, be it resolved, by the Councils of the City of Anchorage and the City of Fairbanks, in joint session: That the Administrator of the Alaska Power Administration and Alaskan power utilities be encouraged to form an Alaskan Electric Reliability Council, and

Be it further resolved, that the electric utilities of the Cities of Anchorage and Fairbanks be authorized to become members of an Alaskan Electric Reliability Council.

Copies of this resolution shall be distributed to the Governor of Alaska, the Federal Power Commission, the Administrator of the Alaska Power Administration, and each electric power utility in the State of Alaska.

Passed and approved, this 17th day of March, 1972, in Anchorage, Alaska.

Attest:

GEORGE M. SULLIVAN,
Mayor, City of Anchorage.
BEATRICE PRICE,
City Clerk, City of Anchorage.

Attest:

JULIAN C. RICE,
Mayor, City of Fairbanks.
EVELYN M. RUSNELL,
City Clerk, City of Fairbanks.

ANCHORAGE-FAIRBANKS JOINT RESOLUTION

No. A/F 6-72

A resolution urging the establishment of a State Association of Electric Utilities

Whereas, there are a number of common problems confronting the electric power utilities in Alaska, and

Whereas, the organization of an association of electric utilities would contribute to the resolution of these problems, and

Whereas, the formation of such an association would lead to greater possibilities of agreements among Alaskan electric utilities,

Now, therefore, be it resolved, by the Councils of the City of Anchorage and the City of Fairbanks, in joint session: That the electric utilities of the Cities of Anchorage and Fairbanks take the initiative in the formation of a State Association of Electric Utilities, and

Be it further resolved, that the said electric utilities of Anchorage and Fairbanks call a meeting for this purpose during 1972.

Copies of this resolution shall be distributed to the Governor of Alaska, the Federal Power Commission, the Administrator of the Alaska Power Administration, and each electric power utility in the State of Alaska.

Passed and approved, this 17th day of March, 1972, in Anchorage, Alaska.

Attest:

GEORGE M. SULLIVAN,
Mayor, City of Anchorage.
BEATRICE PRICE,
City Clerk, City of Anchorage.

Attest:

JULIAN C. RICE,
Mayor, City of Fairbanks.
EVELYN M. RUSNELL,
City Clerk, City of Fairbanks.

TELEPHONE PRIVACY—XXI

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. ASPIN. Mr. Speaker, I am presently circulating a "Dear Colleague" letter on the telephone privacy bill (H.R. 13267), which has already been cosponsored by 28 Members.

This bill would give individuals the right to indicate to the telephone company if they do not wish to be commercially solicited over the telephone. Commercial firms wanting to solicit business over the phone would then be required to obtain from the phone company a list of customers who opted for the commercial prohibition. The FCC would also be given the option of requiring the phone company, instead of supplying a list, to put an asterisk by the names of those individuals in the phone book who have chosen to invoke the commercial solicitation ban.

Those not covered by the legislation would be charities and other nonprofit groups, political candidates and organizations, and opinion polltakers. Also not covered would be debt collection agencies or any other individual or companies with whom the individual has an existing contract or debt.

As I noted in a statement on March 9, I have received an enormous amount of correspondence on this legislation from all over the country. Today, I am placing a 19th sampling of these letters into the RECORD, since they describe far more vividly than I possibly could the need for this legislation.

These letters follow—the names have been omitted:

SILVER SPRING, MD.,
April 24, 1972.

Representative LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE ASPIN: We were a little late hearing of your bill re: unsolicited phone calls, but we're with you 100%.

Some kind of legislation concerning this nuisance is long over-due.

It wouldn't be too bad to receive just one call from each land developer (although we'd rather not), but we received no less (and I believe more) than ten calls each from Ocean Pines and Aquia Harbor even though after each call we were assured that our name would be removed from the list. Few have been persistant as these but new land development agencies seem to be popping up like mushrooms and there's hardly a day without at least one call.

It's not right that we and the phone company should be put to the expense and inconvenience of an unlisted number just to escape this scourge.

Your bill is certainly a step in the right direction: however imagine it would mean still some inconvience to telephone subscribers and considerable expense to the phone company. Any expense involved should certainly be the responsibility of the land development companies. If the phone company has to bear the expense it will eventually be passed on to the subscriber.

Good luck.

Sincerely yours,

——— ———.

PLAINFIELD, CONN.

DEAR SIR: Good luck on your bill allowing "no solicitors" sign on telephones.

I consider such solicitation an invasion of my privacy and resent it intensely.

Therefore my husband and I were happy to read of your impending bill.

Sincerely yours,

——— ———.

SAGINAW, MICH.,
April 24, 1972.

Hon. LES ASPIN,
U.S. House of Representatives.

DEAR CONGRESSMAN ASPIN: Your bill to protect private homes from unwanted telephone solicitation is a most welcome proposal. It is long overdue as a deterrent to marketers who resort to this weak, irritating merchandising strategy.

I wish you success in getting the bill voted into law.

——— ———.

HOUSTON, TEX.,
April 26, 1972.

Congressman LES ASPIN,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: Congratulations from down in Texas! Someone has finally thought of the unsolicited telephone calls that come at the baby's nap-time, when the housewife is involved in a dozen jobs, or just the unnecessary disturbance added to the tension of the day.

Please try to be sure light-bulb sales calls are on the banned list.

Thank you for introducing H.R. 13267 for telephone privacy; good luck and I have written my Representatives for support of your bill and I plan to write to Rep. Harley O. Staggers.

Sincerely,

——— ———.

THE COMMITTEEMAN AND THE COMMITTEEWOMAN

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. KEMP. Mr. Speaker, it is becoming increasingly clear that this election year is going to focus on the forgotten American who finds his taxes skyrocketing without a comparable increase in services; that American who continually hears of the agonized plight of his Nation and wonders what he can do about it; that American who finds himself lost in a sea of abundance but still faces the daily struggle to make ends meet. This year's political debate will center on the direction this country is taking, and all America will be watching to see if the future is to be filled with promise or clouded with despair.

It will be an emotion-laden election year; one in which a great number of Americans are going to be deeply involved in the process. Whether it is the newly enfranchised young voter or the seasoned committeeman, each of us has a stake in the outcome and each of us has a responsibility to try to effect it.

Not enough Americans take that responsibility seriously and fewer still make the sacrifice that constructive political action demands. There does exist, though, a group of Americans whose commitment is total, whose sacrifice cannot be measured, and whose successes can be seen both at the local school board as well as in the halls of Congress. I am speaking of the district committeeman—the forgotten man in the American election process. It is his participation in and dedication to politics that is the cornerstone on which useful and effective political involvement is based. It is the committeemen who help determine election victories. Every successful campaign begins and ends with the committeeman.

And yet he is even more than a partisan who registers voters and gets out the vote on election day. He is the go-between for Government and politics—he serves his district day after day and year after year. His presence is the only constant, direct contact the voter has with his Government.

Today, more than ever before, we need to seek and encourage the active participation of the voter. That is why I bring to your attention the outstanding efforts of the committeeman in this country. Thirty-eight million people above voting age were unregistered and could not vote in 1968. In 1972, 25 million more people, between the ages of 18 and 24, will be able to vote if they are registered. The opportunity and the responsibility of the committeeman has never been greater. A truly representative democracy must encourage and usher the support of its citizenry. It is the representative closest to the people, who knows each family, recognizes each face, and shares each concern—it is the committeeman who makes the whole thing go.

At this, the eve of a great and decisive election in our Nation's history, we should not forget the men and women whose role in this great experiment in Government is too often overlooked. All those who hold deep convictions about the nature of and need for participatory democracy cannot fail to recognize the committeeman's magnificent efforts, and his noble, self-bestowed responsibilities. In short, we cannot afford to be ungrateful.

COMMUNIST AGGRESSION CONTINUES

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. RARICK. Mr. Speaker, the armed military invasion of South Vietnam continues. According to the latest reports, over 200,000 South Vietnamese civilians are again Communist hostages, Quangtri has fallen, and the ancient city of Hue awaits attack from the north. But the streets of Washington, D.C., are vacant of marching feet—no protests against aggression are heard. No demonstrators have been reported at the Soviet Embassy in Washington demanding a cessation of

their aggressive hostilities against the people of South Vietnam.

In New York City the United Nations continues its "peace-as-usual" activities without any protest, convening of the Security Council, or the sending of fact-finding committees to identify the aggressor nation and demand cessation of hostilities under the threat of sanctions.

Nor should such action be expected of the U.N. in its "search for peace" which has long been interpreted in Communist vernacular to mean the destruction of all non-Communist peoples and government. Both Red China and the Soviet Union, through their top party spokesmen have announced complete backing and support of the military invasion of South Vietnam. Under the present administration's new international policy of superpowers, two of the superpowers support this military aggression and our country is not only outvoted but lacks the moral courage to raise the question of aggression in the U.N.

For what purpose and for what benefit does the U.N. exist when it refuses to recognize open aggression against the people of South Vietnam?

The U.N. is a sham without any role as a peacemaking, peacekeeping organization of free people.

That is why some months back I introduced discharge petition No. 10 to discharge H.R. 2632 to revoke and rescind U.S. participation in that organization which calls itself the United Nations.

I include a copy of the bill H.R. 2632 to follow and again urge my colleagues to sign discharge petition No. 10 at the Clerk's desk:

H.R. 2632

A bill to rescind and revoke membership of the United States in the United Nations and the specialized agencies thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the effective date of this Act the ratification by the Senate of the United States on July 28, 1945, of the United Nations Charter, making the United States a member of the United Nations, be, and said ratification hereby is, rescinded, revoked, and held for naught; and all Acts and parts of Acts designed and intended to perfect and carry out such membership of the United States in the United Nations are hereby repealed.

SEC. 2. That from and after the effective date of this Act all Acts and parts of Acts designed and intended to make the United States a member of the specialized agencies of the United Nations, or any of them, are hereby repealed; and all executive agreements, international undertakings and understandings, however characterized and named, designed, and intended to make the United States a member of the specialized agencies of the United Nations are hereby rescinded, revoked, and held for naught.

SEC. 3. That from and after the effective date of this Act any and all appropriations for defraying the cost of the membership of the United States in the United Nations or in specialized agencies thereof are hereby rescinded and revoked; and any unexpended and unencumbered balances of any such appropriations shall be covered into the general fund of the Treasury of the United States.

SEC. 4. That the International Organizations Immunities Act of December 29, 1945 (59 Stat. 669; title 22, secs. 288 to 288f U.S.C.), be and it is repealed; and any and all Executive orders extending or granting immunities, benefits, and privileges under said Act of December 20, 1945, are hereby rescinded, revoked, and held for naught.

SEC. 5. This Act may be cited as the "International Organizations Rescission Act of 1969".

TWO AMERICANS DIED THIS WEEK

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SCHMITZ. Mr. Speaker, two Americans died this week, John Edgar Hoover and Louis Francis Budenz. They were of the same generation, but their lives took different paths. J. Edgar Hoover built the Federal Bureau of Investigation and made it an effective tool against crime and Communist subversion. Through Hoover's leadership, the letters FBI came to mean: Fidelity—Bravery—Integrity.

Louis Budenz was a Communist. He served as a national committee member of the Communist Party and as the editor of the party's newspaper, the Daily Worker. In 1946, he broke with communism and rejoined the Catholic Church, the church of his fathers.

Both of these men made important contributions to our country's knowledge of the Communist enemy. The FBI, under J. Edgar Hoover, penetrated and destroyed both Nazi and Soviet spy rings. The Communist Party, U.S.A., formerly a major recruiting ground for Soviet spies, was severely hampered for many years in its anti-American work by the infiltration of FBI undercover agents.

When Louis Budenz broke with communism, he provided the American people with a detailed description of the leadership of Moscow's apparatus in the United States. He lectured, wrote, and testified in both court proceedings and congressional hearings about the experiences he had had in the upper echelon of the Communist Party. Both men were smeared by the leftist press for daring to expose the full truth about our Communist enemy.

The Washington Post stated April 29, 1972:

Mr. Budenz' charges were vigorously denied by everyone he ever accused, and they never led to a single criminal conviction.

On this, as on many other occasions, the viciousness of the Washington Post story was equalled only by its inaccuracy. Mr. Budenz was a major witness in the 1949 Smith Act trial of the Communist leadership where 11 of them were convicted and served jail sentences for conspiracy to advocate the overthrow of the Government by force and violence. Gerhart Eisler avoided criminal conviction only by sneaking out of the United States aboard a Polish ship. Mr. Budenz had identified him before the House Committee on Un-American Activities as the Soviet supervisor of the American Communist Party.

Louis Budenz devoted the last 26 years of his life to fighting communism. J. Edgar Hoover devoted the last 54 years of his life to fighting communism.

Rest in peace, J. Edgar Hoover and Louis Budenz. May we be worthy of continuing the fight that these two men so valiantly fought.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

SENATE—*Wednesday, May 3, 1972*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

Almighty God, in whom we live and move and have our being, we give Thee thanks and praise for all Thy servants who have been the chosen instruments of Thy purposes and the lights of the world in their generations. Especially do we thank Thee this day for Thy servant, J. Edgar Hoover, for his lifelong trust in Thee, his steadfast devotion to the Nation, his elevated patriotism, his fidelity in a position of high trust, his commitment to justice and peace in the Nation. We thank Thee for his faith in Thee as the giver of the moral law, the guide to human conduct, and the ultimate judge of all men.

We thank Thee too for all the many graces and virtues of his life—his kindness and generosity, his strong sense of duty, his reverence for life, and his warmhearted friendship.

May a new spirit arise in us that we may be strong as he was strong, brave as he was brave, loyal as he was loyal, serve as he served, love the Nation as he loved it, worship Thee as he worshiped Thee.

In Thy holy name we pray. Amen.