By Mr. ROONEY of Pennsylvania:

H.R. 14834. 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. ROSTENKOWSKI:

H.R. 14835. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself, Mrs. ABZUG, Mr. BADILLO, Mr. CONYERS, Mr. HARRINGTON, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mr. KOCH, Mr. MITCHELL, Mr. MOORHEAD, and Mr. REES):

H.R. 14836. A bill to limit the term of office of the Director of the Federal Bureau of Investigation and to provide for Presidential appointment and Senate confirmation of the Director; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 14837. A bill to amend the Foreign Assistance Act of 1961 to expand American exports by utilizing U.S.-owned foreign currencies to pay import duties on such goods, and for other purposes; to the Committee on Foreign Affairs.

By Mr. J. WILLIAM STANTON:

H.R. 14838. A bill to deauthorize the Lake Erie-Ohio River Canal; to the Committee on Public Works.

By Mr. STRATTON (for himself, Mr. BEVILL, Mr. BIAGGI, Mr. BRADEMAS, Mr. CLEVELAND, Mr. DERWINSKI, Mr. DULSKI, Mr. FORSYTHE, Mrs. GREEN of Oregon, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. HOGAN, Mr. KYROS, Mr. MACDONALD of Massachusetts, Mr. MCFALL, Mr. MOORHEAD, Mr. RODINO, Mr. ROY, Mr. STAGGERS, Mrs. SULLIVAN, and Mr. YATRON):

H.R. 14839. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. ULLMAN (for himself, Mr. WYATT, Mrs. GREEN of Oregon, and Mr. DELLENBACK):

H.R. 14840. A bill providing for Federal purchase of the remaining Klamath Indian Forest; to the Committee on Interior and Insular Affairs.

By Mr. VEYSEY (for himself, Mr. DENHOLM, and Mr. BOB WILSON):

H.R. 14841. A bill to promote the use of low-pollution motor fuels by equalizing the tax treatment of liquefied and compressed natural gas; to the Committee on Ways and Means.

By Mr. WINN:

H.R. 14842. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. YATRON:

H.R. 14843. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence; to the Committee on Ways and Means.

By Mr. ZWACH:

H.R. 14844. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the St. Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mrs. ANDREWS of Alabama:

H.J. Res. 1190. Joint resolution proposing an amendment to the Constitution of the United States relative to neighborhood schools; to the Committee on the Judiciary.

By Mr. EILBERG:

H.J. Res. 1191. Joint resolution to suspend temporarily the authority of the Interstate Commerce Commission to permit the abandonment of a line of railroad or the operation thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER:

H.J. Res. 1192. Joint resolution to terminate U.S. military involvement in Indochina; to the Committee on Foreign Affairs.

By Mr. LONG of Maryland (for himself, Mr. GARMATZ, and Mr. SARBANES):

H. Con. Res. 603. Concurrent resolution expressing the sense of Congress with respect to peace in the Middle East; to the Committee on Foreign Affairs.

By Mr. HORTON:

H. Res. 967. Resolution urging supplemental appropriations to implement the President's message of March 17, 1972, calling for equal educational opportunities; to the Committee on Education and Labor.

MEMORIALS

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

385. By the SPEAKER: Memorial of the Legislature of the State of Tennessee, relative to American military preparedness; to the Committee on Armed Services.

386. Also, memorial of the Legislature of the State of Hawaii, relative to the planning and construction of water resource facilities at Kokee, Kauai; to the Committee on Interior and Insular Affairs.

387. Also, memorial of the Legislature of the State of Tennessee, requesting the Congress to call a convention to propose an amendment to the Constitution of the United States to guarantee the rights of students to attend the school nearest their home; to the Committee on the Judiciary.

388. Also, memorial of the Legislature of the State of West Virginia, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

389. Also, memorial of the House of Representatives of the State of Hawaii, relative to foreign oil import quota program; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BROYHILL of Virginia:

H.R. 14845. A bill to grant a Federal charter to the National Association of Auto Racing Fan Clubs; to the Committee on the District of Columbia.

By Mr. ECKHARDT:

H.R. 14846. A bill for the relief of Lai Huen Chow (also known as Hannah Chow); to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

225. By the SPEAKER: Petition of the Board of County Commissioners, Dade County, Fla., relative to enactment of a Federal antirecession and full employment law; to the Committee on Banking and Currency.

226. Also, petition of Henry Stoner, York, Pa., relative to the Federal Election Campaign Act of 1971; to the Committee on House Administration.

227. Also, petition of the mayor and council, Tucson, Ariz., relative to making Federal highway trust funds available for mass transportation purposes; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

ARKANSAS, LAND OF OPPORTUNITY

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ALEXANDER. Mr. Speaker, less than 25 years ago 57 percent of Arkansas' gross cash receipts came from the production of one crop—cotton. It was grown in the State's hillier areas as well as in the more suitable rich fertile flatlands of the Mississippi Delta. Now, although Arkansas still ranks third among the States in cotton production, three other crops—soybeans, poultry, and cattle—have taken firm root in the Arkansas farmlands and moved cotton down to fourth place in the State's agricultural production statistics. And, the State produced enough of its fifth-place crop to rank second only to Texas in rice earnings.

Today I am including in the RECORD an article which illustrates how Arkansas farmers have effectively put to use the "Land of Opportunity."

[From Crop Production, Mar. 16, 1972]

ARKANSAS, LAND OF OPPORTUNITY

"We have two miracle crops here in Arkansas. One's a bean. The other's a bird," remarked Roy D. Bass, statistician in charge for SRS in Little Rock, in an interview recently.

"Soybeans and broilers do deserve special mention because they are the fastest expanding farm products in the Land of Opportunity.

"Take 1970 (the last year for which complete livestock data are available) as an example. That year soybeans and broilers each earned about a fifth of Arkansas farmers' gross income. Back in 1950, broilers earned somewhat over 8 percent and soybeans less than 5 percent," noted Bass.

"Soybeans got going about 25 years ago," added Bass. "In 1949 about 300,000 acres were harvested. Then we picked up steam, harvesting about 1.2 million acres by 1955 and 2.4 million by 1960. Last year farmers harvested an estimated 4.3 million acres."

The 1971 soybean crop is estimated at 91.7 million bushels, making Arkansas the No. 5 soybean producer in the Nation. The value of last year's crop totaled $275 million—about 45 percent more than the State's next most valuable crop, cotton.

"Cotton is no longer what it once was down here," said Bass. "In 1949, when cotton was still grown in many of the State's hilly areas, it earned 57 percent of gross cash receipts. By 1970 cotton brought in 12 percent, excluding government payments. Production is now pretty much confined to flatlands along the Mississippi, where mechanization is practical."

Arkansas now ranks as the Nation's No. 3

cotton State. It produced over 1 million bales of cotton in 1970 and over 1.2 million in 1971—cotton lint values, respectively, $117 and $161 million.

After cotton, rice ranks fifth in earnings to Arkansas farmers. Last year the State was edged out of the No. 1 production spot by Texas. Still, the 21.8 million hundredweight produced was worth almost $118 million.

Arkansas' crop farming lies mostly in the eastern part of the State, near the Mississippi River. Much additional land has been cleared or drained in this area. In fact, Arkansas is one of the few States to register a gain in farmland since the start of the 1960's.

The central and western counties are mostly hilly or mountainous. Farming there is mostly related to livestock and poultry enterprises.

"Poultry means growth in this State," said Bass. "Just look at our record on broilers, eggs, turkeys."

Arkansas emerged as the Nation's No. 1 broiler producer in 1970 and weekly chick placement reports indicate that lead was maintained for 1971.

Production figures illustrate the broiler growth most dramatically. In 1950 the State turned out somewhat less than 50 million birds. Production totaled almost 453 million birds in 1970. In fact, during 1970 Arkansas turned out 9 percent more broilers than the year before.

Farm income from the broiler business also expanded dramatically over the past 20 years. It rose from 1950's almost $37 million and 1960's $91 million to 1970's $200-plus million. Broiler production now holds the second spot for gross farm income in Arkansas.

Eggs have shared the growth spotlight. In 1950 Arkansas' chickens laid 726 million eggs, worth almost $20 million. In 1970 production stood at almost 3.5 billion eggs, worth over $101 million in cash receipts. The State ranked No. 4 nationally in egg production in 1970, compared with No. 23 in 1950.

In 1970, Arkansas farmers sold 7.4 million turkeys, compared with 493,000 in 1950. They earned farmers almost $34 million in 1970, compared with $2.7 million two decades earlier. Over that period, Arkansas rose from No. 28 to No. 6 turkey State.

Cattle and calves earned over $161 million in 1970, exceeded only by soybeans and broilers. Relatively few cattle are finished out for slaughter within the State; most find their way to out-of-State feedlots.

ARTHUR E. SUMMERFIELD

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Monday, May 8, 1972

Mr. GRIFFIN. Mr. President, on April 29, Mrs. Griffin and I were among those who attended the funeral of former Postmaster General Arthur E. Summerfield.

The Reverend Dr. David E. Molyneaux, pastor of Flint's First United Presbyterian Church, delivered a most appropriate and moving message. I ask that the text of his message be printed in the RECORD.

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

ARTHUR E. SUMMERFIELD

(By Dr. David E. Molyneaux)

In the passing of Arthur E. Summerfield, Flint has lost a loved friend, a neighbor, and unfailing advocate—and our nation has lost a positive and forthright Elder Statesman. But we are here today to give thanks to God for the friendships and associations that drew us into the company of this "man for all seasons". Recognizing the love, respect and reverence present here in such abundance, Mr. Summerfield's family has asked that every person present today be an "Honorary Pallbearer" for his services. I am sure we all thank you—Miriam, Arthur and Gertrude—for this honor you have done us.

Some years ago, in an accidental meeting on a plane coming to Flint, Mr. Summerfield handed me a card he was carrying in his pocket. It was a copy of Rudyard Kipling's famous poem "If". The lines haunt me with their applicability with reference to him:

If you can keep your head when all about you
  Are losing theirs and blaming it on you;
If you can dream—and not make dreams
    your master;
  If you can think—and not make thoughts
    your aim,
If you can force your heart and nerve and
    sinew
  To serve your turn long after they are
    gone,
And so hold on when there is nothing in you
  Except the Will which says to them: "Hold
    on!
If you can talk with crowds and keep your
    virtue,
  Or walk with Kings—nor lose the common
    touch,
If you can fill the unforgiving minute
  With sixty seconds' worth of distance run,
Yours is the Earth and everything that's in
    it,
  And—which is more—you'll be a Man my
    son!

Today the smoke of old political battles has blown away; the fury of ideological struggles has subsided; and Arthur Summerfield looms up before us in the heroic stature of an elemental man. Political leaders, statesmen, prominent people in the business, professional and industrial worlds have paid tribute to his genius and leadership—but the common people claimed him as a friend and a supporting pillar.

Last evening a man whom I did not know called me to share with me his impressions of Mr. Summerfield. This man and a group of his co-religionists, dress in period costumes and sing carols at the Christmas season to raise money for certain worthy projects. I recalled with deep appreciation the times that they knocked on the Summerfield door and were greated warmly by Mr. Summerfield himself. Calling Miriam to his side, the two of them stood in the doorway with their arms entwined—not grudgingly giving a few minutes, but joyously sharing in the thrilling tradition of the season with these earnest singers. "I shall always remember Mr. Summerfield", said my caller, "standing in that doorway, a picture of love and friendship—his arm around his wife and his attention directed to us."

What was the basis of the life of this man who, paradoxically, was a mixture of simplicity and complexity?

(1) First of all, Arthur Summerfield was a man acquainted with struggle. He struggled to educate himself for life after leaving formal schooling at the eighth grade . . . to make a living for himself and his bride in a depression time that forced him to sell his own home . . . to organize a sound automobile agency in the fearful years that followed 1929 . . . to bring order and progressiveness to the political structure in his home state . . . to assist in the election of a President in whom he had confidence and to whom he could pledge support . . . to tackle the tough and thankless job of running the incredibly involved post office department . . . to carry on as a wise and helpful counselor in the face of physical illness.

A few weeks before the 1964 Republican national convention he told a gathering of Berrien County Republicans: "After these many years of experience and intimate knowledge of our national problems and policies, and working with the greatest leaders of our time, I cannot withdraw from this responsibility. No man in this position has a right to do so."

At no time in his life could he draw back from a struggle. He believed that the purpose back of the divine gift of talents was to propel a person into the struggles for human betterment. He would not divorce himself from the fight to save himself personal cost or discomfort.

(2) Then, Arthur Summerfield was a man with a sensitive conscience. What a choice legend is that which recounts the impulse that put him into politics. In 1940 the candidate, Wendell Willkie came to Flint and was met by a small and somewhat hostile audience. Mr. Summerfield was appalled by the sight of a candidate for the country's highest office being booed and pelted. Like Abraham Lincoln viewing a slave market, Arthur's anger carried him into politics and into the places of great responsibility.

But this quality was always present with him. He was disturbed by the conditions existing in the North End of Flint, and he bent his efforts to correcting them. He was horrified by the sub-standard housing he found in the city, and he moved mountains to secure funds for re-development. He was baffled by the unbusinesslike methods he found in the department he headed in Washington, but he set to work to bring order and progress there. A disturbed conscience was the first step toward constructive action for him.

(3) Arthur Summerfield was a man with rare talents of communication. Passionate in his convictions, he carrried others along with him. He awakened people to their political responsibilities in Michigan as never before. On occasion when he happened to be on a plane together, Mr. Summerfield began a discussion of some political concern in which he was vitally interested. He poured out his reasoning and his earnest convictions with all the zest that he would have employed speaking to a national convention or a conference of leading statesmen instead of an insignificant preacher—and I was already convinced in his direction. But here was a man who believed his beliefs with a passionate intensity and stood by his convictions without equivocation.

He filled the role of "king-maker" in persuading Mr. Eisenhower to accept the call to public service and in marshalling the electorate behind him. His benign influence with the current administration in Washington has been the result of the friendships he created in former years.

Believing that the integrity of its leaders was the strength of the American system, he promoted the decencies of mind and soul with firmness and vigor. By his personal life and by the words he spoke, he helped to create an atmosphere of honesty and reliability wherever he went.

(4) Arthur Summerfield was both the creator and the product of his local community. That he influenced many of the developments that have made Flint a progressive and forward-moving city is well-known. In St. Paul's Cathedral in London is an inscription to the memory of Sir Christopher Wren: "If you seek a monument for this man, look around you". That is, the churches and other buildings of magnificent architectural beauty in London are the work of his hands and thus his monument. In the same sense, Flint says, "Our city is a monument to Mr. Summerfield".

But Flint molded him while he was molding it. Here he came at the age of 9 to make his lifelong home . . . . here he met and married Miriam Graim . . . . here he reared his fine family and grandchildren . . . . here he built a great and thriving business . . . .

here he took his first steps into the political world . . . . from here he set forth for Washington . . . . here he returned for the sunset years . . . . and here he rests in hallowed sleep—

His task well done
His race well run
His reward well earned

He served his friends and neighbors well—never diminishing his zeal for improving his world, never losing the tie that bound him to his fellowman.

Josiah Gilbert Holland might well have been speaking of him when he wrote:

God, give us Men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking.

BRINGING OIL OUT OF ALASKA

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ASPIN. Mr. Speaker, recently the New York Times, the Washington Post, and the Christian Science Monitor in editorials all strongly criticized the Interior Department for failing to hold public hearings on the final environmental impact statement on the proposed trans-Alaska pipeline. In addition, each of these three distinguished newspapers strongly pointed out both the economic and environmental advantages of building an oil pipeline parallel to a natural gas pipeline expected to be built from Alaska's North Slope to the Midwest.

Also, 12 Republican Senators from the Midwest and East, led by Senator ROBERT GRIFFIN of Michigan, have strongly endorsed a Canadian pipeline alternative.

Today, I would like to include in the RECORD an editorial that appeared in the April 30 issue of the Boston Sunday Globe called "Bringing Oil Out of Alaska." Those of my colleagues interested in the Alaska pipeline issue will, I believe, find this editorial informative. It follows:

BRINGING OIL OUT OF ALASKA

A decision on the Alaskan Pipeline could come as early as May 4, at which time the Secretary of the Interior could grant a construction permit without any further hearings, despite the fact that a new environmental impact statement issued on March 20 in six solid volumes describes the possibility of earthquakes on the 800-mile route as "almost a certainty" and states that it is "unlikely" that no oil spills would occur.

Secretary Morton has argued that adequate testimony was taken in hearings following release of a draft impact statement last year. But the Wilderness Society points out that "so little information was then available that scientists and engineers wishing to evaluate the project could do little more than point to the glaring omissions of the government's draft statement."

That is no longer true. Even the Sierra Club, which calls for a five-year moratorium on pipeline construction, praises the Department of the Interior and the seven corporate members of the Alyeska Company for their efforts to detail potential hazards of the proposed pipeline. But the wealth of new information and in particular a new emphasis on an alternate route through Canada, make it imperative that careful study be given before rushing ahead with construction in the alleged national interest of ending this country's dependence on oil from the Middle East.

Although a temporary restraining order obtained by three conservation groups in a Washington District Court will almost certainly be appealed to the U.S. Supreme Court, there is increasingly less talk of halting all exploitation of oil from Alaska's North Slope. But, almost from the beginning, there has been discussion of a trans-Canada route to carry natural gas from the North Slope, southeast along the Mackenzie River, to Edmonton where it could be carried on through the expansion of existing systems to Chicago and Seattle.

The new impact statement, of which only seven copies have been made available at no cost, appears to accept a trans-Canada route for natural gas which cannot easily be transshipped from pipe to ship and back to pipe again, and suggests that "less environmental costs would result from a single transport corridor than from two separate corridors," with a separate pipeline for oil running from the North Slope to Valdez on Alaska's south coast.

The Canadians, alarmed at the possibility of oil spills from U.S. tankers off the coast of British Columbia if the trans-Alaska pipeline goes through, predict that the required studies for a Canadian route could be completed by the end of the year with possible approval for a pipeline to Edmonton by the end of next year.

The oil companies have resisted the trans-Canada route because it would be double the length of the pipeline and could result in a two- to three-year delay in bringing oil out of the North Slope. But the Canadian route would have the clear advantages of avoiding the dangers of crossing Alaska's high earthquake belt, of not having to transship oil at Valdez to bring it by tanker down an inland waterway, and, perhaps most importantly, it would deliver North Slope oil to Chicago where it would be available to those areas that need it the most—the midwestern United States and the East Coast megalopolis.

The proposed north-south route across Alaska would cut America's largest remaining wilderness in half with the danger of tearing up the tundra, melting the permafrost, polluting the rivers and disrupting the habitat of the birds and beasts who roam these open lands. It would also deliver oil to the West Coast which already has a surplus and, in fact, the impact statement admits that, if the trans-Alaska route is approved, some of the North Slope oil would be sold to Japan while import quotas keep oil high elsewhere in the United States.

Representative Les Aspin of Wisconsin, who has led the battle for hearings on the new impact statement, argues that any oil crisis caused by waiting for a trans-Canada pipeline could be prevented by lowering U.S. import quotas and buying extra oil from Canada. The Canadians, who foresee the added advantage of being able to link future oil discoveries in the Canadian north into a Mackenzie River system, discussed this favorably with President Nixon on the President's recent visit to Ottawa.

As for the issue of national security, the impact statement points out that the North Slope's two million barrels of oil a day would represent only 9 percent of this country's needs for the year 1980. And Secretary C. B. Rogers Morton has been quoted as saying "no matter what we do by the mid-'80s, the United States will be dependent on foreign sources for one-third of our oil."

All things considered, Mr. Morton would be well advised to resist oil company pressure and allow a delay for hearings on the new issues raised by his own staff in the six-volume impact statement.

CONSUMERS SUFFER FROM PHASE II CONTROLS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. MOORHEAD. Mr. Speaker, evidence is beginning to mount that controls under phase II of the Presidents' new economic policy are not working.

Inflation persists and high prices gut the take-home pay of the wage earner.

The housewives of America have been telling us right along that they have been spending more money for products which supposedly are under control.

Sylvia Porter in a recent column supplies the figures that support the contention that phase II and the President's economic policy have been less than effective.

I include that article in the RECORD at this point.

CONTROLS OF PHASE II ARE NO GREAT SUCCESS

(By Sylvia Porter)

Within a few days, Phase 2 will reach the six-month milestone. What has been the record of this extraordinary experiment with price controls during a period of undeclared war?

Just fair, at best.

In fact, using President Nixon's own yardstick for success—slowing in the annual rate of rise in the price level to the 2½ percent range—it has been a dismal flop.

It has not been a dismal flop, though—and now that Phase 2 is turning into a stricter Phase 3, it will become a much more apparent success.

We are watching Phase 3 unfold right now—with its stiffer policing, heavy and widely publicized clampdown on violators, threats of real punishment for flagrant abuses, tighter controls on the giants and in the most troublesome areas.

If you include the freeze of Phase 1 (August-November 1971) with the price-wage controls of Phase 2 (since November), the record comes out much brighter. The August-March rise in consumer prices was at an annual rate of only 2.8 per cent and, if update through May 14, the annual rate of rise well might be down to Nixon's 2.5 percent target. The cost of automobiles in the Phases 1–2 period through March was actually down 2.3 percent.

But this is not an honest way of judging Phase 2.

The freeze the President announced last Aug. 15 was obviously a temporary thing. You couldn't live under such rigidity and you wouldn't want to.

The only honest way to judge the success of Phase 2 is to compare its inflation rates with those which were battering the U.S. economy in the months leading to the freeze.

Here are the figures for the six months prior to August, and for the Phase 2 months through March, put together for this column by the Bureau of Labor Statistics. The current rates probably will show a perceptible improvement when the May figures become

available in late June. These statistics however, will give the essential clues.

[In percent]

Item	Precontrols	Phase 2
All items	+4.1	+3.7
Food	+5.4	+7.4
Nonfood commodities	+3.7	+2.1
Housing	+4.1	+3.6
Rent	+3.9	+2.9
Property taxes	+8.2	+16.9
Services	+4.5	+3.7
Medical care	+7.3	+3.1
Public transportation	+7.6	+2.8
Private transportation	+2.4	—.5
Clothes and upkeep	+2.4	+1.7

The percentages that leap out are the 7.4 percent upsurge in food prices and the 16.9 percent spiral in property taxes—both much, much worse in Phase 2 than in the precontrol period.

Both of these are among the categories exempt from Phase 2 controls—a point which cannot be overemphasized. Close to 20c of every $1 goes for goods and services which are not under controls, a fat loophole indeed.

Among other categories also exempt from controls: damaged and used products, such as used cars; insurance premiums on new life insurance policies other than credit life insurance; tailoring of clothes; custom products and services including leather goods, wigs and toupees, fur apparel, jewelry; rents on farms, offices and industrial property; interest rates; fees and service charges by state and local governments.

In the food category, there are no controls on fresh fruits, vegetables, shell eggs, fresh potatoes, all seafood products, live animals and poultry. Meat prices are controlled only after a animal is slaughtered. Moreover, "pass through" rules permit meat processors and wholesalers to pass along whatever price increases and markups have been passed to them—all along the way to you and me.

NIXON'S FORMER ENERGY ADVISER FAVORS CANADA OIL PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ASPIN. Mr. Speaker, it has become increasingly apparent lately that the almost unanimous consensus of those not employed by the Government or the oil industry who have studied the Alaska pipeline question in some depth is that a Canadian oil pipeline alternative is far superior to the proposed trans-Alaska line both environmentally and economically.

S. David Freeman, the former head of the Energy Policy Staff of the President's office of Science and Technology, "came out squarely for the Canadian pipeline route in a letter to Interior Secretary Rogers C. B. Morton," according to an article in the Washington Evening Star last Friday, May 5. Thus, the former energy adviser to President Nixon joins with the New York Times, the Washington Post, the Christian Science Monitor, the Detroit Free Press, and the Boston Globe in advocating further consideration of a trans-Canadian route before any decision is reached on the trans-Alaska line.

The Washington Star article follows:

EXPERT FAVORS CANADA ROUTE FOR OIL

(By Roberta Hornig)

A former government energy expert says that transporting North Slope oil through Canada rather than across Alaska "is not only environmentally superior and economically more attractive but . . . would materially strengthen our national security."

S. David Freeman, who headed the energy policy staff of the President's Office of Science and Technology until he resigned last September, came out squarely for the Canadian pipeline route in a letter to Interior Secretary Rogers C. B. Morton this week, and urged the cabinet officer to do the same.

While at the White House, Freeman had worked on Nixon's energy message to Congress last July. He had been originally appointed by President Johnson.

Morton is currently contemplating whether to grant a permit opening the way for a controversial trans-Alaska pipeline to carry oil from the state's rich oil fields in the Arctic north to the ice-free port of Valdez in the southern part of the state.

The oil then would be shipped to the continental United States in tankers.

In his letter, Freeman pointed to recent oil finds by Canada in its Arctic north—discoveries that are believed to equal the Alaskan reserves.

"It is . . . of prime importance to our national security that we encourage the exploration and development of the rich petroleum resources in Canada, as well as those in the United States, and thus lessen our reliance on less secure imports from the Middle East," Freeman said.

He added that building a pipeline "land bridge" from Alaska down the MacKenzie River Valley "would be the strongest possible measure to further exploration and development of secure North American petroleum."

ECONOMIC ANALYSIS

Freeman's letter is in the nature of comments on the Interior Department's environmental impact statement and its accompanying economic analysis of the proposed trans-Alaska pipeline.

The impact statement agreed with environmentalists' arguments that the proposed Alaska route would pass through intense earthquake belts and that oil spills would be inevitable during tanker transport to the U.S. West Coast.

The accompanying economic analysis, however, brought up the question of "national security" and seemed to favor the Alaskan pipeline over any alternative route.

"FALSE NOTION"

Downgrading the argument that the Alaska route is necessary for "national security" proposes, Freeman said that that route would fail to provide the incentive and means for developing the Canadian oil and bringing it to U.S. markets.

"It would only tap the Alaskan oil and direct it toward the West Coast market, which is not large enough to consume all of it," he said.

Further, he added, "the most vulnerable areas to short energy supplies are the East and the Midwest, which would better be served through a Canada routing."

"The notion that we can't afford to wait for the completion of the Canadian energy corridor is . . . a false notion that is detrimental to obtaining a secure source of energy for the United States in the 1980's," Freeman argued.

Earlier this week, 12 members of the Senate asked Morton to endorse a Canadian routing.

AUSTRALIAN GENERAL VOICES CONCERN

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SPENCE. Mr. Speaker, a recent editorial by Dumitru Danielopol in the Joliet, Ill., Herald-News warrants the attention of every Member of Congress. The editorial recounts an article by Brig. Gen. Francis Serong who commanded Australian units fighting in Vietnam, in which he calls the prospects facing Australia today as grim as the situation following the British and American pull-out from the Pacific early in the Second World War which left this country virtually defenseless.

Serong wisely points out that while the focus of attention has been on the Vietnam War, people have tended to overlook, the fact that both China and Russia are racing to win Indonesia, which controls the vital oil supply line from the Middle East to Japan and is a key to the destiny of the 23 Asian countries between Iran and Japan which contain more than half of the world's total population.

Serong sees as essential to Australia's future and, indeed the future of the Free World, a strong Japan, ready, willing and able to protect her own interests in the broadest sense. But he sees Japan as an uncommitted and very vulnerable nation, despite the fact that its defense budget has been edging upward in the face of well-organized leftist and anti-military opposition and despite the fact that 50 percent of the population now favors obtaining nuclear arms.

I have long shared General Serong's concern about the way in which Russia and China are moving in to take over key defensive points in the Asian perimeter as we withdraw and leave vacuums to be filled. I know that prominent and highly regarded officers in our own military, including Admiral McCain, Commander-in-Chief of the Pacific fleet, share that concern.

It is greatly to be hoped that those who guide our own foreign policy will not fail to see the struggle that is going on beneath the surface and that seems to be so obscured by the Vietnam conflict, which, in reality, is a part of the overall Soviet plan to dominate Asia.

It is equally to be hoped that the Western oriented Liberal Democratic Party, which has brought Japan to its present heights as the second strongest industrial power in the world, will continue to govern there. The elevation of Prime Minister Fukuda to the leadership of the Japanese Government when Premier Sato retires will provide the greatest possible assurance that Japan will continue to fill in an honorable and effective way the key role she now plays in the Pacific: a role which will grow increasingly significant as the future unfolds.

Mr. Speaker, I insert Mr. Danielopol's editorial in the RECORD at the conclusion of my remarks.

[From the Joliet, Ill., Herald-News, April, 14 1972]

AUSSIE GENERAL VOICES CONCERN

(By Dumitru Danielopol)

WASHINGTON.—Australia is beginning to feel "The raw nakedness of 1942 all over again," says Brig. Gen. Francis Serong, the man who commanded Australian units fighting in Vietnam.

After Pearl Harbor and the massive defeats suffered in the Pacific 30 years ago by the British and American forces, Australia was practically defenseless.

Serong fears the situation is beginning to look just as grim as the British and Americans' retreat from their Pacific outposts. He outlined his views in an article published in London by the Free Central European News Agency.

"Behind us there is nothing—The South Pacific and Antarctica," the Brigadier says. "We have nowhere to go."

He looks on Russian moves in India and the Indian Ocean with misgivings. And he finds no comfort in the creeping spread of Red Chinese influence, particularly in Black Africa.

While the focus has been on the Vietnam War people have almost forgotten that between Iran and Japan there are 23 Asian countries with a population of 1.8 billion, more than half that of the whole world. Sixteen of these countries have been involved in armed conflict at one time or another in recent years. And most of these conflicts have been inspired and sustained by Peking.

Japan, which is rapidly developing into the second strongest industrial power in the world, is a major concern in Serong's equation. He sees Japan as uncommitted and a very vulnerable nation, depending on oil from the Middle East.

"Her supply lines run through Indonesia," he writes. "Both China and Russia know this and they are racing to win Indonesia. Whoever controls Indonesia controls Japan, and who controls Japan controls the world."

Americans and Europeans, he claims, refuse to realize that. "That is what the ploy in the Indian Ocean and the war in Vietnam are all about."

Tokyo apparently is becoming aware of the precarious position. Despite opposition from well-organized leftist and antimilitary groups the Japanese defense budget is edging upward. A recent poll showed that 50 per cent of the people are in favor of obtaining nuclear arms. Significantly Japan hasn't ratified the nuclear non-proliferation treaty. Its scientists already are building nuclear submarines and short-range ballistic missiles.

Although some Asian countries are nervous about any rebuilding of Japanese militarism, Gen. Serong says it doesn't bother Australians despite their brush with disaster in 1942.

"If only Japan—were ready," the Brigadier writes. "A strong Japan—ready, willing and able to protect its own interests in the broadest sense—would provide the sort of strategic setting with which Canberra can be comfortable."

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 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?

"MISTAKEN IDENTITY" FOR THE ANTI-AMERICANS

HON. JOHN P. SAYLOR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SAYLOR. Mr. Speaker, in the current issue of the "Pennsylvania VFW News," we find an editorial that goes to the heart of the current wave of "antism" which floats over the country with the help of the news media and certain public officials.

The sane, the sensible, the sincere people, both in and out of Government, who are trying to bring the war in South Vietnam to an honorable end, have been, and are being, vilified again in the name of "free speech." The editorial I refer to specifically and concisely answers a question of definition which has been on the minds of many, to wit: "just who are the antiwar protestors?"

The editorial writer makes the point much better than I could so I should allow the piece to stand "as is" but I cannot help but repeat the conclusion in which I totally agree. "These phonies, these hypocrites, are not antiwar. They're anti-American. They're anti-democracy. And most horrifyingly, they are antihumanity."

The full text of the editorial follows:

MISTAKEN IDENTITY

We wonder how the "anti-war" folks got their name?

Consider this, if you will: The "anti-wars", so far as we know, have never protested war. They've marched through this country protesting our presence in the Far East. They've roamed the streets protesting the use of American airpower in Vietnam. They've blocked traffic while protesting Washington's support of the Saigon government.

These "anti-war" individuals have blown up banks and school buildings and, God help us, the Capitol Building, protesting this nation's attempt to aid the poor South Vietnamese in their fight for freedom from Communist rule.

The anti-wars have ridiculed our government—the best in the world, despite the shortcomings—while they protest the draft and military training and, for all we can see, Mom's apple pie.

The anti-wars have protested, all right, but why call them anti-wars?

They did not protest the 12 Red divisions which invaded South Vietnam last month. This is the most massive action of its kind since the 1939 invasion of Poland by Nazi Germany. Instead they protest our reaction to this new aggression. They protest the B-52 raids on enemy supply dumps, where the rocket or rifle slug with your brother's or your son's name on it could be stored.

They did not protest the cruel tortures suffered by the people of Hue at the hands of the Communists during the Tet offensive. Instead they protested our use of tear gas to drive Viet Cong snipers from their underground hideouts. Perhaps the anti-wars would rather see some young Marine from Clearfield or Leola or Duncansville go in after the "bad guys" with a pistol.

They have never protested the inhumane treatment of American war prisoners. They have not protested Soviet and Red Chinese supplies funneled into Hanoi. Instead anti-wars protest our support of a gentle people who have endured 20 years of war.

These phonies, these hyprocrites, are not anti-war. They're anti-American. They're anti-democracy. And most horrifyingly, they are anti-humanity.

FORTY PERCENT OF FOOD PLANTS CHECKED BY FDA ARE DIRTY

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SYMINGTON. Mr. Speaker, when this century was young, Sinclair Lewis wrote "The Jungle," a book detailing and berating filth in food and meatpacking plants. Sadly, the "jungle" still exists according to studies done by private regional groups and the Food and Drug Administration in cooperation with the General Accounting Office. Forty percent of the food plants checked were found to be unsanitary. It is estimated that over 1,000 firms have serious sanitary problems. To remedy this deplorable situation, I joined the chairman of our Public Health and Environment Subcommittee and most of our colleagues on the subcommittee in cosponsoring H.R. 14498, the Food Processing Registration and Inspection Act of 1972.

This bill amends the Federal Food, Drug, and Cosmetic Act to require food processing firms to register with HEW and FDA and provide the Federal Government with a list of the various kinds of foods manufactured, processed, or shipped in interstate commerce. It is felt this registration system will greatly facilitate food inspection programs. Finally, this legislation is intended to protect the public from unfit and adulterated food.

I would call to the attention of my colleagues an excellent account of the FDA–GAO food inspection study. This appeared in the St. Louis Post-Dispatch of April 19, 1972. At this point I insert the article in the RECORD:

FORTY PERCENT OF FOOD PLANTS CHECKED BY FDA ARE DIRTY

WASHINGTON, April 19.—Forty per cent of food processing plants inspected by the Food and Drug Administration are operating under insanitary conditions, the Government Accounting Office said yesterday.

FDA Commissioner Charles C. Edwards, testifying at a House appropriations subcommittee hearing at which the findings were disclosed, said there "is nothing in the report that we (the FDA) were not aware of ourselves."

The General Accounting Office, which conducted the study, asked FDA inspectors to check 97 food processing plants picked at random from among 4500 firms in 21 states for possible violations of the Food, Drug and Cosmetic Act.

The GAO said that 39 plants, or 40 per cent, "were operating under unsanitary conditions and of the 39, there were 23 that were operating under serious insanitary conditions having the potential for causing or having caused product contamination."

"On the basis of the sample we estimate that 40 per cent of the 4500 plants are operating under insanitary conditions, including 1000 with serious unsanitary conditions," the GAO said.

"FDA officials advised GAO that conditions at the plants located in the 21 states would, in their opinion, be representative of conditions at plants nationwide," the report said.

"We cannot cope with the totality of the problem," Edwards told Representative Jamie L. Whitten (Dem.), Miss., the subcommittee chairman, who disclosed the report.

The GAO, which refused to identify the 97 plants inspected or the 21 states in which they were situated, said that it had found "rodent excreta and urine, cockroach and other insect infestation and nonedible materials in, on or around raw materials, finished products and processing equipment."

In a separate report yesterday the GAO called for a crackdown on criminal diversion of drugs from legal markets.

The agency, the investigative arm of Congress, said the Bureau of Narcotics should do more about the drug problem.

It quoted the narcotics bureau as saying that 90 per cent of the dangerous drugs now on the illicit market were diverted from licensed sources such as manufacturers, distributors, doctors and pharmacists.

Although the bureau receives tips from drug manufacturers about unusually large or suspicious orders for dangerous drugs, it does not maintain enough records to follow up leads systematically, the GAO said.

In the course of its investigation, the GAO said, it reviewed the activities of state law enforcement agencies in California, New Jersey and New York and found they lacked sufficient personnel to monitor retailers effectively and force corrective action.

The GAO urged the drug industry to improve standards of self-regulation.

SUPPORT FOR UKRAINIAN INTELLECTUALS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EILBERG. Mr. Speaker, in many parts of the world minority peoples are being persecuted by the governments which rule them.

In many instances this is government without the consent of the governed.

One of the peoples in this terrible situation is the Ukrainians who live under the domination of the Government of the Soviet Union.

On Saturday, May 6, 1972, I spoke at the Demonstration in Defense of Ukrainian Intellectuals, which was held in my city, Philadelphia. The demonstration was organized to show support for the Ukrainian intellectuals who have been imprisoned because they advocated independence for their people.

At this time I enter into the RECORD the resolution approved by 1,600 Ukrainian Americans, which is their statement of support for these brave men, and my remarks at the demonstration:

RESOLUTION

We, Americans of Ukrainian descent, participants in the demonstration held in defense of persecuted intellectuals in Ukraine, at J. F. Kennedy Plaza, in Philadelphia on May 6, 1972, accept unanimously the following resolution:

1. Whereas in mid-January 1972, the International News Agencies, the World Press and Ukrainian Information Sources reported a new wave of arrests by the Soviet Russian regime of well known and noted writers, literary critics, journalists, professors and scientists in Ukraine and

2. Whereas among those arrested were: Vyacheslav Chornovil, Ivan Svitlychny, Ivan Dzyuba, Evhen Sverstiuk and many others, whose works were published in the free world, and

3. Whereas many Ukrainian intellectuals presently serve severe and unjust sentences in Russian prisons and camps, outside of Ukraine, and

4. Whereas all the arrests are a flagrant violation of the Universal Declaration of Human Rights, which was adopted by the U.N. General Assembly in 1948, and which was also signed by the Soviet Union and the Ukrainian SSR as members of the U.N., and

5. Whereas, all these arrests are also a flagrant violation of the rights guaranteed to the Soviet citizens by the constitution of the Soviet Union and the Ukrainian SSR.

Therefore:

We, Americans of Ukrainian descent appeal to the free world to defend those who defend freedom. We appeal to the conscience of our fellow American citizens, who always were sympathetic to all freedom fighters.

We appeal to all American journalists, radio and television correspondents, editors, writers and scientists, who are the true champions of human rights for all, to turn the public opinion against the Russian Communist oppressors.

We appeal to the U.S. Government officials, to the U.S. Congressmen and Senators and to all American leaders to act in accordance with the great American tradition of freedom of speech, press and petition and in the spirit of such great American statesmen as G. Washington, Thomas Jefferson and Abraham Lincoln to influence the U.S. Government to demand from the United Nations:

1. Immediate intervention in the defense of arbitrarily detained Ukrainian intellectuals.

2. Assurance of an open trial of the arrested, in accordance with articles 10 and 11 of the Universal Declaration of Human Rights.

3. Consignment of the representatives of the International Court of Justice to the trial as observers.

4. Appointment of a special commission to investigate the repeated violations of human rights and basic freedoms in Ukraine, a member state of the United Nations.

And finally, we appeal to the President of the U.S.A. Richard M. Nixon, to consider these matters during his trip to Moscow and to request:

1. The end of unjust and illegal arrests.

2. Immediate release of all political prisoners presently held in Russian concentration camps and prisons.

3. The honoring by the Soviet Union of the guarantees of Civil Liberties, incorporated in its constitution and those it pledged itself to with the United Nations Universal Declaration of Human Rights.

SPEECH OF HON. JOSHUA EILBERG

The suppression of human rights and freedoms has always been of great concern to all of us who believe in freedom, justice, and human dignity.

Recently, we have become more and more aware of the present injustices suffered by the Ukraine and its people.

Soviet domination has been a tragic and stark reality for over half a century. The oppressed population of the Ukraine has virtually been imprisoned in its homeland, separated from the free world by the iron curtain.

Yet the hope for freedom is ever present.

Forced russification, discrimination, arbitrary arrests and deportations, and secret trials have all been an every day occurrence.

However, writers and intellectuals reflecting Ukrainian ethnic individualism, pride and nationalism are continually resisting cultural and political repression by speaking out in support of human rights and national consciousness.

When I was in Russia in 1969 I visited the Ukraine. Even though our party was very carefully guided and separated from the common people it was very easy to see the signs of repression and economic depression.

The streets were almost empty except for army and other Government vehicles.

Even though we were not generally permitted to speak to persons on the street it was obvious that most people were afraid to speak to strangers.

On the drive from Kiev to the town of Uman, where my wife was born, we saw almost nothing but army trucks on the road and the farms and buildings appeared as though they had not been changed or improved in any way since the 18th century.

It was obvious that the Ukraine is under tight and repressive control.

In recent years, especially since 1965, the Kremlin has stepped up the persecution of Ukrainian intellectual leaders.

Many teachers, scientists, writers, actors, musicians, and literary critics have been harassed and then placed under arrest. Some have been confined in psychiatric institutions in an effort to discredit and silence them.

The list of prominent Ukrainian intellectuals who are known to have been sentenced to lengthy imprisonment and forced labor is almost endless and grows longer by the month. Their crime is that of speaking out for the right to preserve their nation and their people.

During the 1960's literary critic Ivan Dzyuba and journalist Vyacheslav Chornovil both wrote revealing books protesting the Soviet regime's policy of Russification in the Ukraine—through neglect and distortion of Ukrainian culture and history, and the arrests and trials of the many dissidents who opposed these policies.

Chornovil, who smuggled out his accounts of the secret trials, was himself sentenced to hard labor for (quote) anti-Soviet actions and slander (unquote) and was eventually released in 1969.

Valentyn Moroz, a young Ukrainian historian, sentenced to hard labor in 1966, then released, was once again put on trial in November 1970.

In his writings Moroz denounced the forced Russification of the Ukraine and the open violation of common justice in the Soviet Union generally.

His appeal for the preservation of the Ukrainian traditions and institutions and the rights of oppressed nations everywhere, has universal appeal.

These acts of repression continue today.

Most recently, January 1972, the Ukrainian KBG carried out a massive wave of arrests and house searches involving prominent Ukrainian intellectuals and civil rights advocates. Among those arrested in Lveev was Vyacheslav Chornovil. On the following day the action spread to Kiev where a prominent literary critic, Ivan Svitlychny was arrested.

It is significant to note that all the arrested intellectuals have been in the forefront of the Ukrainian nationalist movement and that arrests and searches have concentrated again and again on the same individuals.

Thus, today people in the Ukraine and in the Soviet Union are being harassed and arrested only because they have the courage to voice their support of freedom and human rights and demand justice in their homeland.

Although the Soviet Union maintains that it adheres to the spirit of the Universal Dec-

laration of Human Rights, it has nonetheless continued to respond to the Ukrainian challenge by expanding police repression and its utilization of prison camps.

Let us hope that these actions will soon be eliminated.

We have seen that the Soviet intelligentsia in general has become more and more aware of the need for human rights and freedoms within the Soviet Union and shares, with many of the ethnic nationalities, their demands for cultural preservation and human justice.

Today I join with you in your efforts to aid the achievement of justice, freedom, and full civil liberties for the Ukrainian people as well as for all oppressed people throughout the world.

Let us hope that our voice of protest and concern will be heard by Kremlin leaders.

Let us pray that in the not too distant future your brethren in your Ukrainian homeland will no longer suffer the present injustices and that your homeland will once again enjoy its cultural heritage in freedom.

But, there is more that we can do than hope and pray.

The President is going to Russia in the next few weeks. I have written to him asking that he voice our concern for the situation in the Ukraine and that he use all of the power of his office to influence the Russian leaders to change their policy.

But, mine is only one letter and I urge you to write to him and to make your feelings known because unless the Russian leaders know the world is watching and is demanding change they will do nothing.

Thank you.

ROBERT F. LARKIN, JR., WINS STATEWIDE ORATORICAL CONTEST

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, I want you to know that I rise as a very proud Congressman today. I know I am not saying anything too earthshaking when I say that a Congressman is only, in some respects, as good as the staff he has behind him. I have always felt particularly fortunate in those I have had assisting me here in Washington and back in my congressional district. Today I am particularly proud of a young man who has been an intern in my office for the past 9 months by the name of Robert Larkin, Jr. While Robert and his immediate family live just outside of Washington, D.C., I have known his good family for many years back in Boston. Therefore, it came as particularly good news for me to learn that on Friday a week ago, young Robert won the statewide oratorical contest of the Virginia High School League. I do not intend to hide my pride and like to think that his experience in my office over the past year contributed at least in some small way to this success.

As if this good news was not enough for any one young man in 1 week, young Robert was chosen by his peers to be president of the McLean High School student government. Robert is also a student adviser to the high school principal. He was president of his sophomore class. Before joining my staff he served as a former House page, having been appointed by the former Speaker, the much loved John W. McCormack.

I think it is only fitting for men such as you and I, occupying the positions we do, to give encouragement and proper recognition to good work when we meet it. The papers are always filled with the tales of woe and pain young adults experience on the road to full adulthood. I know this kind of news just does not get front-page billing. It is a pity, it should. Therefore, it is all the more important that men such as myself give such achievement the recognition it so obviously deserves. Consequently, I am very pleased today to include at this point in the RECORD of the proceedings of this body the speech delivered on the occasion of the oratorical contest by Robert Larkin, Jr., in Charlottesville April 28, 1972. It only remains for me to wish young Robert, and I am sure my good friends in this House join me in doing so, all the very best wishes for a bright and glorious future.

The speech follows:

SPEECH OF ROBERT F. LARKIN, JR., VIRGINIA HIGH SCHOOL LEAGUE ORATORICAL CONTEST

For every generation there comes a time when it has an opportunity to manifest its spirit of patriotism. For most Americans this is a cherished moment. Once and for all a man can make a visible exhibition of his loyalty to his government. For over three generations the way to do this has been to bear arms, be it the Revolutionary War nearly two centuries ago, or a war in Indochina today. The call to defend democracy it seems, has always been a call to battle.

The question arises then, is to go to battle *the* way to exhibit your belief in democracy? There are those that would say yes, that is what it means to "be an American."

And there within that answer lies the foundation for the somewhat twisted concept we have today of what patriotism "should be in America."

And so what is patriotism? Is it to honor the flag? And if so, if it is unpatriotic to degredate the flag, which stands for all the ideas of America, is it not more unpatriotic to degredate America itself?; to pollute, exploit and murder the landscape; to allow people to starve, yet pay our farmers *not* to grow food; to spend nearly fifty cents of every tax dollar on the military budget, while our care programs for the elderly are economically drained!!!

It is patriotism to believe in the Government, not to question it? How could any of us say this? Would any of us be so foolish or naive as to say that the men in government are infallible?! If we go along with this concept are we not paving the way for unscrupulous or cowardly leaders to *use* patriotism as a fig leaf to cover their own wrongdoings?

I say that to enroll in that school of thought is not to be a friend of democracy, but its foe. For *that* type of patriotism which works to stifle dissent instead of encouraging it, can only work to cripple a democracy and finally paralyze it to the point of tyranny.

And so, is this really patriotism at all?, any of it? Well, the old kind, perhaps, but evolving in America is a new kind of patriotism; the real patriotism. A patriotism that says, not my country right or wrong, but rather, to quote Carl Schurz, "Our country . . . when right to be kept right, when wrong to be put right."

People are beginning to ask, if America can develop the most sophisticated weaponry system ever known to man, why can't she clean the rats out of her cities? If the United States Government can so easily engage America in a war in a foreign land, why is it that the American people have to nearly bring that Government to it's knees before disengagement can even begin? If the United States Government can subsidize inefficiency and mismanagement in private industry, why can't she assure that the child in the city will have a nutritionally balanced meal at breakfast? They are beginning to ask, and they are demanding that the Government have some good answers.

It is no longer a case of the Government ambling along in one direction not knowing if the people will ever catch up. It is now a case of the people *demanding* a *part* in choosing that direction, in this case a new direction.

There's a spirit of change in the air, the time has come for a rearranging of our national priorities. Concern is with, not the style and the status of America, but with the pulse, the needs of her citizens.

For those we have kept back, says this new patriotism, it is our business to help them catch up; for those walls of fear, hate and prejudice that have been built, let us tear them down. Let us focus not so much on world status and gross national product as on a strong, moral, new kind of leadership not where the Government leads the people, but where the people *direct* their Government.

The old patriotism, easily manipulated by any elite in control of a government, had potentially little relationship to the real feelings of that country's masses, but ours is a new patriotism! A patriotism demanding rather a close cooperation and a thinking deliberation of the issues from each individual citizen.

And that is what patriotism *should be in America!*

RUMORS HINT MORE DELAYS FOR TRANS-ALASKA PERMIT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ASPIN. Mr. Speaker, I have generally found the Oil Daily to be a fairly accurate source of information concerning anticipated administrative action relating to oil and energy policies.

I would like to include an interesting article in the RECORD today, entitled "Rumors Hint More Delays for Trans-Alaska Permit," which appeared in the Thursday, May 4, issue of the Oil Daily. It gives hope to those of us who believe that far more study should be given to the issue before any decision is reached on the proposed trans-Alaska, or an alternative Canadian route.

That article follows:

RUMORS HINT MORE DELAYS FOR TRANS-ALASKA PERMIT

WASHINGTON.—There were rumblings here Wednesday that the stage is being set for another delay on a permit sought by Alyeska Pipeline Co. for the trans-Alaska pipeline from the North Slope to the southern coast of Alaska—which has already been held up for nearly three years.

There were reports, which could not be confirmed immediately, that both the Environmental Protection Agency and the Council on Environmental Quality are secretly advising President Nixon to put a further hold on the line.

These reports followed on the heels of a

polite, but firm, request to Interior Secretary Morton from twelve Republican Senators that the administration withhold a decision so more time can be given to studying an alternative oil-gas pipeline corridor from the North Slope through Alaska and Canada down into the Mid-West area of the U.S.

The twelve GOP solons, led by Senate assistant minority leader, Robert Griffin, R-Mich, wrote to Morton that a "trans-Canada route would hold economic, environmental and national security advantages over the Alaska pipeline proposal" and they asserted that "the Candian government has expressed strong interest in such a joint venture with the U.S."

Their letter to Morton cited Interior Department's own impact statement on the project which had said that a trans-Canada route would be "an equally efficient alternative" from an economic standpoint.

The Senators also argued that a combined oil-gas pipeline corridor through Canada would cause "the least disruption to the natural environment, as your (impact) report acknowledges."

"In view of the public-stated willingness of the Canadian government to cooperate in the construction of a trans-Canada pipeline," they asserted, "and the ultimate advantages . . . which would accrue to both countries, we believe this alternative should be given more serious consideration than appears to have been the case thus far."

The Republicans signing the letter to Morton were Sens Griffin; Percy, Ill; Buckley, NY; Stafford, Vt; Cotton, NH; Aiken, Vt; Brooke, Mass; Javits, NY; Case, NJ; Roth, Del; Boggs, Del; and Brock, Tenn.

Officials at the Interior Department Wednesday said that Secretary Morton would make no announcement this week on the line permit. The 45-day waiting period promised by Morton after issuance of the department's final environmental impact statement on the line was up May 4.

"There may be an announcement next week," said one Interior official, "but even that is not certain at this point."

Morton has already told a number of House members and Senators, mostly democrats, who appealed for a delay until the Canadian route could be worked out as an alternative, that he plans no further hearings on the issue. Morton had pointed out that extensive hearings were held a year ago and the public has had a full opportunity to comment on the final statement.

However, the growing demands among Republicans, particularly in the Senate, that the administration hold up introduces a new element.

The "bi-partisan" appeals for close study of a Canadian route and cooperation between the two governments to make this possible quickly, appeared to some observers to be a "set-up" that would provide the basis for President Nixon to order a further delay, pending negotiations with the Canadian government.

Whether this speculation is correct should be proved or disproved within the next week. If Morton maintains his silence through next week, the odds against an early permit for the line would appear to be increasing significantly.

J. EDGAR HOOVER

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. FLOOD. Mr. Speaker, J. Edgar Hoover was above all a concerned and dedicated Armerican. He spent most of his life in the service of this Nation as the chief cop in the crime fighting agency which battled prohibition gangsters, Communist sympathizers, extremists of every type and modern day drug pushers in which his cause was to make America safer for all Americans.

I first came to know J. Edgar Hoover as a freshman Congressman when I was appointed to the Subcommittee on Appropriations for the Department of Justice. From then on, I was consistently impressed with his dedication and determination to lead the fight for a greater United States.

This country has lost one of its outstanding public servants of the 20th century. His service will be recorded in our history along with those of our distinguished Presidents, our great war heroes, and our statesmen.

GATEWAY NATIONAL PARK—A PROGRESS REPORT

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BRASCO. Mr. Speaker, everywhere across the Nation, Americans are coming to the belated, sobering realization and conclusion that we are running out of room, that the quality of national life is deteriorating and that we must set aside such first class outdoor resources as we can before it is too late.

We have been on a user's binge insofar as our outdoor recreation places are concerned. Today, however, we are face to face with our limitations. Nature has presented man with a bill of particulars and told him that time and resources have practically run out.

For the first time in our history, space in national parks for visitors is at a premium. Waiting lists for admission are common.

It is utterly vital that we insure that the few remaining natural enclaves are preserved and enhanced for the use of all our people and for generations to come. Nowhere is this situation more pronounced than near our major metropolitan areas. New York City, is of course, foremost in my mind. Our need for more recreation areas is critical. Only a few more such places remain intact within relatively easy reaching distance of large numbers of our people. Action is vital if we are to preserve them for our people. Nowhere is the need for positive action more imperative than in the New York City area.

This places Gateway National Park and Recreation Area in proper perspective.

Existing estimates show that about 20 million Americans reside within 2 hours driving distance of Gateway. As a result, once brought into being, Gateway is expected to accommodate more visitors than are now being served by our six existing national seashores.

In tandem with creation of this new park, we must pay attention to the fact that much of the new York area's population will find it very difficult to reach for recreation use. Public transportation is inadequate. This situation must be rectified if Gateway is to serve its intended purpose.

Under the proposal that has already passed the Senate, the Sandy Hook area of New Jersey, and the Great Kills, Jamaica Bay, and Floyd Bennett Field segments would be combined to compose the total park area. Much of the Breezy Point area, excluding the Breezy Point Coop, would also be included.

A major successful struggle has been waged to prevent inclusion of the 2,500-odd private homes belonging to the Coop. I did not believe then and do not believe now, that Gateway can or should include the Coop portion. These private homes constitute viable neighborhoods, and my protests finally secured agreement on all sides that the Coop would be exempted.

Inclusion of Floyd Bennett Field was an important addition to the proposed recreation area. By including this sizeable plot, we avert a major disruption of the area, which would have been caused by building a massive housing project there. It was proposed to create such a project, housing some 180,000 citizens. Congestion in the Flatbush Avenue area is already too severe for most of the residents to exist with in comfort. Had the State of New York succeeded in placing such a project on Floyd Bennett Field, which would have contained the equivalent of the population of Hartford, Conn., congestion would have become intolerable. Inclusion of the area in Gateway provides a perfect solution.

With these two problems solved, one difficulty remains—Broad Channel, a viable neighborhood which the State seeks to include in Gateway. This is an alternative which in my opinion is not viable.

Broad Channel homeowners lease their land from the city of New York. This has been the case for years. The city maintains there is a problem with sewers, requiring extensive improvements. By virtue of these problems, according to the city, the homes should instead be taken from their owners and included in the proposed Gateway Park. A more regressive and sterile policy can hardly be envisioned. Why must city authorities persist in ruining existing, viable neighborhoods with one or another grandiose plan which emerges full blown from the drawing boards without taking existing realities into consideration? Housing is critical in New York today. The Broad Channel area has viable homes and businesses. The alternative which the city can and should pursue is to make sewer improvements itself, saving the neighborhoods intact. Surely, Broad Channel taxpayers deserve such consideration.

Should we be successful in solving this difficulty, there remains the question of adequate appropriations for actually securing the Gateway real estate, once final legislative approval is granted. I am certain we shall in the end be successful in this endeavor.

We should also note that Gateway would provide an economic shot in the arm for New York City.

We would be preserving one of the last enclaves in the Northeast where the na-

tural environment is still relatively intact.

Much of the entire area would emerge as a far more sightly and enjoyable environment as a result of creation of such a park and recreation area. Also, it is hoped that the quality of Jamaica Bay will be considerably improved under the Water Pollution Control Act amendments, now being considered in a House-Senate Conference.

The quality of life in America deteriorates before our eyes. More and more Americans reside on less and less of our total land area. Daily life is becoming more difficult as time goes on. City dwellers today confront daily difficulties not even conceived of a generation or two ago.

The need for such recreational enclaves and access to them for these masses of Americans is immediate and growing. People cannot survive cooped up in major metropolitan areas without some outlet of the kind afforded by the type of park envisioned by this project.

It is easily within the power of the Government to put this endeavor into gear, bringing Gateway into being. Such a facility would serve as a vital, overdue outlet for the millions of people who presently are afforded minimal recreational opportunities.

My area of New York is overwhelmingly in favor of this enterprise, and has sought its transformation into reality for some years. Now donations of land by the Federal Government have added to the total acreage available.

It would be foolish in the extreme to allow the present opportunity to pass without action on our part. With approval already secured from the other body, it is incumbent upon the House to act accordingly and affirmatively.

DEATH OF AN INDUSTRY

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HARVEY. Mr. Speaker, as one who has joined in sponsorship of legislation to amend the Communications Act of 1934 to establish more orderly and reasonable procedures for the consideration of applications for renewal of broadcast licenses, it was with more than passing interest that I noted and read with care the article entitled "Death of an Industry?" which appeared in this month's edition of "Nation's Business." I strongly recommend that all Members read this article, and I am certain there will be general agreement that some congressional action is truly necessary to stabilize the current license renewal process.

The article follows:

DEATH OF AN INDUSTRY?

How would you like to own a business where you are required every three years to justify your performance to seven political appointees and perhaps lose that business if they don't think you measure up?

Or perhaps be forced to give away one of your wares for each one you sell?

Those are only two of the life-or-death problems facing the American radio and television industry.

Why should you be concerned about the broadcasters? Everybody knows they make millions and millions of dollars.

Their plight is of concern to you, however, for two reasons. If you ever advertise anything at all, new rules proposed for the broadcasting industry could eventually affect you, whatever form your ads take.

In a broader sense, you have a stake in the broadcasters' struggle because government policies that could cause the death of their industry could spread to others. The worst threat to the stations, of course, is that of being put out of business.

Owners of two TV stations—one in Boston, Mass., the other in Jackson, Miss.—have actually been stripped of their licenses, and over a hundred more stations are under attack.

Because of court decisions, any individual or group can challenge a station's right to continue operating. No matter how frivolous or unrealistic the complaint, the station is compelled to respond.

And a recent decision by the U.S. Court of Appeals in Washington has raised concern that a broadcaster—even after meeting the demands of a protester—might be required to pay for all expenses incurred by the challenger. And this, warn industry officials, could open the floodgates to all kinds of extortion by persons more interested in money than in changing a station's programs.

Pressures on broadcasters are coming from militant minority groups on the one hand and government edict on the other.

Target stations are having to spend untold man-hours and many thousands of dollars in legal fees to protect their investments.

The seven-member Federal Communications Commission can wipe out those investments by refusing to renew the licenses of station owners who come under attack. The owners' recourse: a further investment in money and time before the U.S. Court of Appeals in Washington, whose past rulings do not cast it in the role of the broadcaster's best friend. And now the Federal Trade Commission is asking the FCC to force radio and TV stations to offer time—even free time—to almost anyone who wants to challenge the contents of commercials.

This is known as "counteradvertising" and if it should come to pass, warns the Columbia Broadcasting System, it would "undermine and destroy" the financial base of commercial broadcasting.

Here, too, the fate of the industry is in the hands of the FCC.

These twin threats are part of an overall review of who should have access to the airwaves under the so-called Fairness Doctrine for presenting all sides of controversial issues.

The implications are abundantly clear: Under this kind of oppressive federal regulation, the foundation of the competitive enterprise system is being severely rocked.

While advertisers on radio and television are most immediately under the threat of counteradvertising required by government decree, it's only a short step to the point at which any form of advertising would be affected.

Broadcasting officials, from the owners of tiny radio stations to executives of the national networks, have warned that any attempt to implement a counteradvertising policy in their industry could lead to an end to free TV and radio in this country.

After all, the only thing the broadcasters have to sell—in order to remain in business—is the time for commercials.

Sponsors, they say, are hardly likely to continue paying for commercials when part of the money is going to finance time to rebut those commercials.

One broadcasting executive asks specifically: Should free air time be made available to horse lovers to condemn autos, or to let "the carrot juice sippers" rail against soft drinks?

A colleague puts the issue in somewhat different terms: "When a commercial for a brassiere is aired on radio or television, should the no-bra bunch be offered equal time to extoll the virtues of the swinging life?"

PROGRAMS AND PERSONNEL

While the counteradvertising debate rages, militants are aiming at the very heart of the broadcaster's business—his federal license to operate.

Petitions to deny license renewals are being filed with the FCC on behalf of Negroes, Mexican-Americans, Puerto Ricans, Indians, Orientals, Gay Liberation, Women's Lib and various other groups and causes. Common threads of their complaints concern programing and personnel.

They argue that they are entitled to more attention in broadcasting through "relevant" programs reflecting their interests and concerns. The racial and ethnic blocs in particular contend they should be represented on the broadcasting staffs of the stations.

Recent court and administrative decisions have opened the FCC's door to petitions by such groups for denials of license renewals, even though the complainants do not want to take over the licenses themselves and indeed often have no suggestions on who should operate the stations.

Some stations have compromised and agreed to such steps as putting on more black-oriented programs and hiring blacks for on-the-air jobs.

Hanging over the broadcasters, who have at stake millions of dollars in capital investments, not to mention goodwill built up over the years, is the fact that their licenses must come up for renewal every three years. The long-standing policy for the 7,000 radio and television licenses in this country once was to judge a broadcaster at renewal time on the basis of the record. Satisfactory performance in the previous three years virtually guaranteed renewal.

A competing application for the same license could be filed by a party with sufficient resources to establish and maintain a station on that same frequency. But a petition to deny the renewal application could be filed only by someone who could show a direct economic stake—another station that claimed interference with its signal, for example.

SHOCK WAVES

In recent years, however, two major developments have sent shock waves through the broadcasting industry.

Here's what happened:

In 1966, the U.S. Court of Appeals in Washington—overruling the FCC—held that the general public, as individuals or groups, had legal standing to challenge a renewal and to argue that a given station had not performed in the public interest. (In the same case, three years later, that court stripped television station WLBT in Jackson, Miss., of its license as a result of objections to the way it handled matters concerning the local Negro community.)

The FCC, in 1969, made a major departure from its own policy that an adequate record gave a licensee priority over a challenger. It refused to renew the license of WHDH–TV, of Boston, Mass., which had gone on the air in 1957 and was estimated to be worth more than $50 million. The station's record was not "superior," the FCC ruled, and the licensee would therefore be considered on the same basis as a competing applicant for the same license.

Then the FCC went on to take the license away from WHDH on the ground that its parent company also owned a newspaper, the *Boston Herald Traveler*. The FCC said it be-

lieved in diversification of ownership of communications media.

(There were two grim ironies for the station here: Only three of the seven members of the FCC voted against it. One member voted against transferring the license and the other three did not act on the decision.

(And, when the station finally ceased broadcasting this past March, company officials said the *Herald Traveler* could not long survive without television revenues that more than offset its losses.)

Later, the FCC sought to draw back from its sharp departure in the WHDH case and issued a policy statement reaffirming the importance of a good record in renewal applications. But the Court of Appeals in Washington struck down the policy statement last June on the ground it discriminated against new applicants.

LIBERALS ATTACK A LIBERAL

Sen. John O. Pastore (D.-R.I.), chairman of the Senate communications subcommittee, introduced a bill in 1969 to stabilize the situation. Under the legislation the FCC could not consider a competing application for a license unless it had first taken the license away from the applicant for renewal.

Said the Senator: "A person who has a license has to live up to the law. And when he does, and does a good job, he hadn't ought to be harassed by any entrepreneur who comes in and makes a big promise."

Sen. Pastore, a veteran liberal and staunch supporter of civil rights legislation, suddenly found himself the target of liberal, civil rights and other activist groups.

Absalom Jordan, national chairman of Black Efforts for Soul in Television (BEST), told the Senator: "This bill is back-door racism . . . it says, in effect, no black ownership. First priority goes to whites."

The Rev. William F. Fore, executive director of the Broadcasting and Film Commission of the National Council of the Churches of Christ, opposed the bill "because we believe it would have the effect of permanently protecting the licenses of incumbent broadcasters. . . ."

The hearings on the Pastore bill became so emotionally charged over allegations that it would insulate broadcasters from challenges by minority groups that it got nowhere. While the Senator pointed out that challenges would be possible, the provisions of the bill itself were obscured by injection of the racial issue.

Sen. Pastore, who was subjected during his 1970 re-election campaign to charges of racism because of his sponsorship of the bill, has declined to take up the fight again.

And the industry has been unable to obtain hearings on measures to restore some stability to the license renewal situation while at the same time keeping open avenues for legitimate grievances against a station.

As a result, more and more stations find themselves under fire.

In 1967, only one petition to deny a license renewal was filed with the FCC. In 1970, there were 32. In 1971, there were 68. The total this year is expected to go even higher.

Organizations that have filed, or are considering filing, petitions to take licenses away from present holders include such groups as the Black Knights and the Columbus Civil Rights Council, both of Ohio; the Black Identity Educational Association, of Omaha, Nebr.; the Bilingual-Bicultural Coalition on Mass Media, of San Antonio, Texas; the Chinese Media Committee of San Francisco, Calif. the United Farm Workers (see "Chavez Blight Spreads East," page 32); the National Organization of Women (NOW); and the National Union Alianza Federal de Pueblos Libres of Albuquerque, N. Mex. (The Alianza was organized originally to press a claim that Southwestern inhabitants of Mexican origin are entitled to vast tracts under Spanish land grants.)

ONE STATION'S STORY

In Denver, Colo., for example, station KLZ–TV was the target of a complaint that carried such allegations as "lack of programing related to the black community and the Chicano community. . . . Programs fail to deal with human relations. . . . [The station] failed to display to the total community the frustrations, problems, aspirations and the cultural values of the black community and the Chicano community. . . . Many commercials urge children to purchase edibles of doubtful nutritional value and perhaps harmful. . . ."

KLZ–TV officials estimated that to prepare a response to those and other allegations, executives and employees put in 1,200 manhours. In addition, University of Denver students were hired to review more than 1,000 days of news scripts. And thousands of dollars went for legal fees involved in drafting the response.

The station said:

"With one exception, none of the individuals or organizations signing the petition even contacted the station to make known any of their views, suggestions and observations . . . which are so vehemently expressed in the petition.

"Because of the nonspecific nature of charges, the preparation of this response . . . has consumed tremendous amounts of time . . . Effort of this magnitude was required because the petitioners indulged in broad characterizations and loosely stated serious allegations without providing supporting facts. The licensee is left, therefore, to defend itself against many charges and innuendos that are neither articulated nor supported."

As an example of what it was facing, the station told of one incident. It had received a complaint that a commercial featuring the "Frito Bandito" was considered offensive by Mexican-Americans.

The station told its advertising agency, the sponsor and CBS that when the commercial was scheduled, it would disconnect from the network and substitute a commercial acceptable locally. This involved special arrangements for a cue, breaking the network connection, presenting the local commercial and then rejoining the network.

"This arrangement required special handling by six different members of the station's personnel," KLZ told the FCC.

HOW MUCH IS ENOUGH?

Broadcasters confronted with challenges often find themselves up against such questions as who, if anyone, has the wisdom to lay down specific standards for determining "relevance" of programming to one or more minority groups, for identifying the genuine spokesmen for such groups, and for fixing the point at which minority-oriented programming is sufficient.

How much is enough? A Bakersfield, Calif., radio station directed 97 per cent of its programming to the Mexican-American community but was challenged on grounds it had not discussed programming with bona fide representatives of that community.

From the industry standpoint, the key legal case now pending involves WMAL–TV of Washington, D.C. That city's Black United Front has filed a petition for a denial of license renewal on grounds the station "has failed to serve the public interest . . . by completely overlooking and failing to serve the interests, needs and desires of the substantial black population within its primary signal area." The petition noted that blacks "constitute an overwhelming majority" of the city that WMAL "purports to serve."

The cost to WMAL–TV, in legal fees alone, of defending its position and retaining its license can only be described as staggering. Nation's Business editors, examining FCC files, studied one set of documents submitted by the station—not its entire response—which amounted to a stack measuring some 36 inches high.

The FCC refused to order a hearing on the complaint. "Many types of programing cannot be broken down into that for black people and that for others," it said. "Were the Commission to require such a breakdown of programing according to the racial composition of the city of license, we would effectively be prohibiting the broadcast of network and other nationally presented programing. It is sufficient to say that such 'separate programing' is not feasible."

The Black United Front has asked the U.S. Court of Appeals to overrule the FCC and order a hearing.

A key issue in the case, one that could have a major impact on broadcasters in urban areas everywhere, is what constitutes WMAL–TV's area of responsibility.

The Black United Front says it is Washington, D.C., which is 70 per cent Negro. But the station points out its signal area, extending far beyond the city limits, contains a popularity that is predominantly white.

RUNNING THE GAUNTLET

Thomas H. Wall, president of the Federal Communications Bar Association, says broadcasting is "the only industry I know where you have to run the gauntlet every three years to stay in business."

No one is suggesting, he says, that broadcasters who do not live up to their responsibilities be shielded from competition. On the other hand, Mr. Wall says, those who make charges against licensees should be compelled to bear the burden of proving them. And, he adds, "if broadcasters give in to wishes of the protesters too much, they will wind up being led around by the nose."

Mr. Wall says the bar group believes Congress should act to clarify the "confusion and uncertainty" surrounding license renewals.

The National Association of Broadcasters is backing legislation to extend the license period to five years from three. It also would provide that a license be renewed if the holder shows he has made a "good faith effort" to fulfill his responsibilities and has not shown callous disregard for the law or FCC regulations. Opponents could still come in to challenge licensees on whether they had met those standards. Meanwhile, what amount to pools of legal aid have been set up for challenges.

That pioneer case in Jackson, Miss., was brought on behalf of the local black community by the Office of Communication of the United Church of Christ, which has since made its legal expertise in license matters available to protesting groups in many other communities. And several other organizations have been formed to provide legal services in license challenges on request.

One recent case in which the United Church of Christ figured prominently could well cause even more headaches for the broadcasting industry.

Several black groups filed a petition to deny renewal of the license of KTAL–TV, in Texarkana, Ark.

Whereupon, KTAL entered into an agreement in which it pledged, among other things, to "discuss programing regulatory with all segments of the public." It also hired two black newsmen to appear on camera.

On top of that, the station agreed to a demand that it pay more than $15,000 in legal and other fees incurred by the protesters.

The challenge to the license renewal was withdrawn, but the FCC refused to allow the payment to the challengers, holding that would not be in the public interest.

Then the same Court of Appeals that had ruled against the broadcasting industry so many times in the past overturned the FCC ruling and said the payment could be made.

Another case in which protesters have demanded that a station pay their legal fees—this time, the station refused to pay—is now before the FCC and is expected to wind up in court. Industry sources are concerned, because of the KTAL decision, that judges are heading toward requiring, not just permitting, payments by stations when challengers are withdrawn.

Taking a long look at all that is going on, the National Association of Broadcasters sums up this way: "It is no longer foolish or alarmist to say that present trends in government control . . . could wreck broadcasting."

NOW YOU SEE IT, NOW YOU DON'T

In 1967, the Federal Communications Commission ruled that radio and television stations had to carry—without charge—antismoking messages to counter the paid commercials of the cigaret companies.

Smoking, the FCC said, had become sufficiently controversial to come under the Fairness Doctrine requiring broadcast licensees to air all sides of major issues.

On Jan. 2, 1971, cigaret commercials were banned from the airwaves under a law Congress had passed the previous year.

But the antismoking messages continued. The FCC had announced just before the ban took effect that continuing the antismoking spots would be regarded as a public service. (Many broadcasters took the announcement as a strong signal that it would be good to be able to tell the FCC when their licenses were up for renewal that they had provided this service.)

So, under the Fairness Doctrine, it now appeared that the shoe was on the other foot, that stations carrying antismoking messages would have to carry the industry's arguments on the smoking-and-health issue.

No, it wouldn't be that way at all, the FCC said. Only the antismoking messages could continue.

The Fairness Doctrine? Well, the FCC explained, information about cigaret smoking had become so well-known that there no longer was a controversy over its effects. And the Fairness Doctrine, you know, applies only to controversial issues.

RESULTS OF HON. WILLIAM L. HUNGATE'S LATEST QUESTIONNAIRE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HUNGATE. Mr. Speaker, I would like to bring to the attention of my colleagues the results of my recent questionnaire to my constituents in the Ninth District of Missouri. With responses from more than 25,000 men and women in my district, from both rural and urban areas, I believe the results will be of value to the Members of the House:

1. Should the federal government subsidize health insurance for every citizen?

[In percent]

	His	Hers	Total
Yes	33.1	33.4	33.2
No	62.1	60.5	61.3
No opinion	4.8	6.5	5.5

2. Would you be willing to pay more for products (i.e., automobiles), and utilities (i.e., gas, oil and electricity) if they were made virtually pollution free?

[In percent]

	His	Hers	Total
Yes	61.6	60.7	61.2
No	33.3	33.1	33.2
No opinion	5.1	6.2	5.6

3. Do you believe the Federal Law Enforcement Assistance program has been effective in fighting crime in your area?

[In percent]

	His	Hers	Total
Yes	21.7	20.5	21.2
No	57.4	55.8	56.6
No opinion	20.9	23.7	22.2

4. Do you favor no-fault insurance?

[In percent]

	His	Hers	Total
Yes	67.0	60.3	63.8
No	22.2	23.3	22.7
No opinion	10.8	16.4	13.5

5. What do you consider the three most pressing problems currently facing our Ninth District?

1. Inflation.
2. Unemployment.
3. Vietnam.

Control of crime and drug abuse also ranked high as sources of concern.

This report on Ninth District opinion should be of value to us all in consideration of the appropriate legislation.

THE DOCTOR'S PAPERWORK MOUNTAIN: WE ALL PAY THE PRICE

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. VEYSEY. Mr. Speaker, we often hear complaints about the shortage of good medical care in this country. Everyone knows we have a shortage of doctors and we are now underwriting large new training programs to train more.

But merely increasing the number of doctors will not make much difference if the paperwork mountain standing between the physician and his patient keeps growing.

There seems to be a competition between the Government and private insurance carriers to see who can force the physician to fill out the most forms. The Government has the resources to win easily, of course, and is pressing its advantage. But the public pays a large price for this flow of redtape.

The unnecessary duplication of recordkeeping by separate agencies along with constant revision of the requirements tie up doctors for thousands of hours every year: It has a direct impact on the quality of care that is dispensed in the remaining time. I recently received a clear and convincing description of this and a number of other problems facing physicians in this country from Dr. Stefan K. Haller, an orthopedic surgeon in Riverside, Calif. Dr. Haller not only describes the symptoms, he prescribes a number of sensible and workable alternatives. I invite my colleagues to read his comments and bear them in mind as health legislation is considered in this Congress:

STEFAN K. HALLER, M.D., F.A.C.S.,
Riverside, Calif., March 13, 1972.

The Honorable VICTOR V. VEYSEY,
House of Representatives,
Washington, D.C.

DEAR MR. VEYSEY: I was much impressed with your letter of February 10, 1972. Perhaps the following comments might be of some assistance to you during the coming legislative session.

One of the biggest headaches for any practicing physician and the source of much wasted physician's time is the current "paper war" between agencies and the practitioner, particularly agencies of the government at all levels.

If you just look at the forms required for Medicare, Medical, CHAMPUS and compare them to private industry forms (samples enclosed), it strikes you immediately that the government agencies are bent on self-preservation at all costs. (Particularly the taxpayers.)

I recognize that the government has a fiduciary function. There must be a simpler way, however, to accomplish this, both to control quality of care provided as well as its cost.

An additional source of unnecessary costs in care is the periodic recertification of disability for private insurances, lenders, etc., who provide disability payment coverage to the insured. Again, there must be a simpler way of providing this information to the satisfaction of the insurer without having to impose on the physician's time. My office has experimented with simple disability statements (sample enclosed), particularly in cases where this has to be recertified periodically, such as every week or every month. These statements are not acceptable to all insurers for reasons unknown. One of their arguments is that they need an estimate of future disability in order to set aside reserves. Perhaps if we simplified this procedure of reserve requirement and uniformly set aside three months reserve by the individual carrier with a secondary pool of reinsurance between the carriers, it might solve the problem of estimating and re-estimating the anticipated period or temporary disability.

Another area of tremendous waste of the physician's time is litigation. Particularly for an Orthopaedist it is necessary to provide legal documentation both of the positive as well as significant negative findings. Many times this degenerates into a game of "hide and seek" with one side trying to outsmart the other. The end result is a tremendous effort both in time and money to make a case "air tight". The effort is totally nonproductive as far as medical care is concerned, yet it adds to cost. (See sample on Medical-Legal Fees and the Orthopaedic Examination.) In addition, many times, one of my secretaries has to pull the file chart and stand by while a representative of the copying service copies the records. Afterwards, she has to reassemble the file and put it away. Many times, it requires additional telephone calls with the insurance company and the patient's attorney to make sure that the authorization is not stale-dated or still applicable.

My average work week is approximately fifty hours. Of these fifty hours, I spend less than 50% in direct patient care. The remainder is taken up by the above mentioned "paper war" and "red tape". It also makes me employ three full time aides, three part time aides and a part time accountant. In addition, I buy the services of a computer billing

firm to do the accounting. My office has been reviewed and is one of the most efficient orthopaedic practices in town. I say this as a simple statement of fact and not in order to impress anyone.

These preliminary points bring us to the central problem of health care today, not only the lack of man power, but also the tremendous cost of delivering this care. The information requested is usually the same for all the carriers. Many times it is repetitive and redundant. There must be a way to simplify and standardize this reporting so that it can be delegated to the office staff, rather than require a physician's own time.

Since I have been on the computer, I have been receiving regular averages of the care provided. Under the present setup, I work with a variety of fee schedules, such as the Industrial Accident Commission, the Medicare-Medical, CHAMPUS programs and private fees. Although there is a spread of almost 100% between the Medical fee and my usual and customary private fee, it has impressed me that the same care could be delivered at a lower cost if some of these nonproductive matters were removed from my practice. The Medical Association has attempted to solve this problem by establishing the Foundation concept. I am sure that you are well aware of California's leading contribution to this approach. The heart of the Foundation concept is retention of the personal physician-patient relationship since medical care still is delivered from me, the physician, to you, the patient. With very few exceptions which lend themselves to delegation, there is no way around this fact of medical life. In addition, the physicians commit themselves to a uniform, lower fee across the board with the expectation that Foundation claims have a turn-around time of less than three weeks. This helps immensely in reducing the overhead and of course, the savings are directly passed on to the consumer. It also helps with local peer reviews since the local physicians know their own "bad apples" and are able to control the quality and adequacy of care. Since the public and particularly the patient has a specific interest in this phase of peer review, it would be very simple to add a consumer watchdog or any representative of Labor Unions, Government or whoever, to participate in this peer review and make sure that the interest of the public is safeguarded. Practically all foundations have provisions in their By-Laws to include lay people on their review board.

There are some other aspects of medical practice which are greatly overlooked in national debate. Let me mention again the physician-patient relationship. Medicine is an art and a science. Most of our critics concentrate on the science part and forget the art. If it were that simple, a "cook-book of medicine" would solve the problem and everyone could do his own medical care. Since medicine is an art at this stage and requires a great deal of learning, judgement and discretion, there will be certain phases of medical care which cannot be computerized, standardized or otherwise pressed into the neat formulas devised by our critics who almost uniformly are nonphysician. Once you apply this particular thought to your own situation and everyone of us has had experience with illness or injury, it becomes immediately apparent that there is a great fallacy in the thinking of our contemporary critics. I have tried this argument on the most critical patients and they have all agreed that it is correct.

Another point in the national debate is the so-called "preventive medicine".

All through our training we are taught to prevent rather than treat after effects. However, prevention takes two people. The doctor who gives the advice and the patient who follows it. As long as the patient is actuely ill, the doctor is a "saint" and his word is law. Once the disease subsides, the concern for health becomes rather remote and I do not believe I have to elaborate anymore on this point. In addition, there is a large body of medical conditions which cannot be anticipated and will have to be treated when they occur.

And again I know that no one would prophylactically have their appendix out, their hemorrhoids removed, their gallbladder taken out, the stomach out to prevent ulcers, the breast to prevent cancer of the breast, the bones to prevent cancer of the bones and prevent them from breaking, etc. These arguments proposed by our critics simply show their lack of knowledge.

We have many excellent, preventive programs in effect, and as research provides new clues, they are immediately put to work, many times even without proper testing. However, this leads to another argument of preventive medicine and it is as old as Ehrlich, Behring and Koch and all the other investigators who used their newly discovered medicine to help their patients rather than wait for double-blind scientifically acceptable studies. No physician in his right mind will ever object or withhold preventive measures from his patients.

Finally, let me assure you that satisfaction for a physician is seeing a patient walk out of his office on his own two feet for good. Material gain is a by-product of a job well done. And here again, it has been the experience of many financial advisers to psysicians that an increase in the physician's fee and restriction of his accessibility inevitably leads to higher demand. The patient associates the successful physician with good medical care and he would rather pay more than go to a poorer physician who cannot afford to raise his fees because it would drive away his patients.

Many times my patients tell me during the evening hospital rounds, "Doc, you now get a good night's sleep and be fresh in the morning when you operate on me."

The emotional strain on any physician is tremendous. The more advanced our medical techniques become, the more risky they are. When the chips are down, the patient places his full confidence in his physician and he is the one who worries, wondering if he has covered all fronts and not overlooked anything in order to see his patient through safely. There is no money in the world that can pay you for those sleepless nights and many moments of tension. After all is done and over, I enjoy my vacation and I enjoy my afternoon on the golf course. I don't feel apologetic about it at all.

As far as I am concerned, I am a physician because I like it, not because I make money in it. If I had wanted to make money, I would have been a tough competitor in any occupation. The many years of hard training, studying and self discipline have convinced me that I would have been at the top of any class, no matter what the endeavor.

When you and your worthy colleagues consider health legislation, please keep in mind that you cannot legislate motivation.

I hope I have not bored you with these thoughts. Usually there is no time to verbalize these sentiments. Perhaps we can interest Ralph Nader to look into the aspects of medical practice which are wasteful at the present time, and obtain some rational data to simplify procedures. This would result in immediate savings both of physician manpower and money to the patient.

It would be far simpler and less expensive than imposing an entirely new and untried system on the already existing inefficient system.

I believe I can assure you not only on my part, but also on the part of my colleagues, that whatever legislation Congress will develop to make medical care more accessible will be welcomed by the physicians. There is nothing more frustrating for the physician to know that the means and techniques are available to counter a certain medical problem, yet the cost is out of reach both to the patient and his physician.

I have included several copies of correspondence which will give you a first-hand flavor of the problems encountered and my personal response to them.

If any of this material is of value to you, please feel free to use it in any way that you wish. I have tried to eliminate patient identifications for their protection.

I am a one-man office. There are no frills or luxuries in my office. My personal overhead before taxes runs between $50,000.00 and $60,000.00, excluding x-rays. If x-ray is added, the anual overhead rises to more than $80.-000.00 per year. These figures do not include physicians compensation or taxes.

I hope that this information will be useful to you. If more documentation is required, I shall be happy to supply it.

Respectfully yours,

STEFAN K. HALLER, M.D., F.A.C.S.

INTERNATIONAL ORDER OF ODD FELLOWS DECORATE THE TOMB OF THE UNKNOWN SOLDIER

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. MARTIN. Mr. Speaker, the International Order of Odd Fellows yesterday had the honor to hold services and decorate the Tomb of the Unknown Soldier at the Arlington National Cemetery. The Patriarchs Militant, a subordinate branch of the IOOF, had the honor of standing guard at the Tomb of the Unknown Soldier. These militants were headed by the Nebraska division, and Maj. Gen. Wilmer Hamilton of my hometown, Kearney, Nebr., was in command. The Sovereign Grand Master, Mr. J. Ray King, is a constituent of mine from Sutherland, Nebr. I include below the very appropriate remarks of Mr. King on the occasion yesterday, at the Arlington National Cemetery:

REMARKS BY MR. J. RAY KING

We assemble here today to raise our voices in solemn praise and extoll the valor exhibited by the men of our beloved nation, who have been laid to rest here. We revere their memory, and cherish in memory their display of gallantry on the field of battle. As members of the Independent Order of Odd Fellows we gather at the tombs of the unknown soldiers and look about us and see evidences of valor. Now we can only exclaim, what price was so dear as to give up life so precious for the land he loved. And it may be true that many lie in unknown tombs. Even though unknown, their gallantry was great, and some may have been in the front lines of battle where the spirit of bravery was a supreme virtue. It is in meager appreciation that we stand here and enjoy the great freedom that was bequeathed to us by such men of noble character.

We must honor them because they fought in wars; not for territory, but for freedom from tyranny. Wars are terrible because they bring about destruction of life and property. Even the airplane, an instrument of great utility has been transformed into a mechanism of great destruction, along with the rifle, the cannon, the tank, and the bomb. The atom is small, but because of its mighty power has been commandeered to

form feats of destruction and casualty to human life. We can hope that such means of destruction may some day be eliminated from the ken of man.

Our presence here is a testimony of our love and admiration for the sacrifices these honored dead have made for human benefaction of those of us who make up the generations who succeeded them. It is our duty to live so worthily as to honor their heroic effort to build an honorable society. Our debt is to live so nobly as to assure them that they have not died in vain. Our lives ought to be a tribute of our affection for the grandeur of their noble lives.

We stand here before these monuments and realize that brave and courageous men paid the supreme sacrifice that we might enjoy the blessings of a great and cherished freedom. That freedom means that we may order our lives in daily activities that bring comfort and happiness to every American. The citizenry of this grand and noble republic may worship according to the dictates of his own conscience.

This citizenry may also come and go where he will in this fair land of ours. He may enjoy the fruits of his labors as he may fondly desire. He may provide himself and family with any type of education that best adapts him for happiness. It is the hope of every American and every member of the Independent Order of Odd Fellows that this freedom shall be the privilege of good citizens. Such is the desire of every good citizen.

The purpose of good government is to promote peace and understanding among its peoples. We, in America, need to follow such guidelines that the peoples of the world will understand and trust us, as men of truth. Then a common bond can be found between us and the nations of the world. Truth, as well as trust, must be a characteristic of mankind. The world needs brotherhood so that freedom may be promoted for all its people together throughout the whole world.

Here on the banks of the Potomac is raised a city that has become the capital of a great nation. This nation has longed to be the herald of that spirit of brotherhood that makes a great nation. It has unselfishly stood by the needy with a helping hand. Such is the sense of justice that has animated the spirit of the American people that they have lent aid to others in need. That spirit grew up like a flower ascending from fertile soil. That nation had its birth at Bunker Hill, and found its borders transplanted westward, far across mountain, valley and plains of the American continent. We call it the spirit of American Idealism. It has come into full fruition by declaring full equality for all races and creeds of mankind.

That idealism must completely serve mankind in this great hour of human need. Then men of all races must find ways to make progress in his society. The needs of our times demand that we keep our ethical standards high. The history of this great American Republic marks tremendous advancement in society and industry. It shows progress as clearly as a mirror reflects images of an object before it. We are turning toward a new brotherhood, a brotherhood of friendship. We also need a brotherhood of nations whose members can promote love and trust in mankind. The spirit of America must not drift from the love of freedom that animated its beginning.

However, it is true, that the course is changing with electronic speed. It is taking on a very broadened meaning. Youth is becoming aggressive and is trying to point to new concepts of government. So the age to which we belong moves in restless motion. It is a transition age. Even science is covering the earth with new creations. Industry seems to have found new bounds for its creations. Chemistry expands in the creation of new products, possible for good or ill as some think. So the history of man is advancing in marvelously new directions. The age of development and invention has not passed.

All these developments ushered in a spirit of impatience. May that impatience finally be transformed into power, liberty and freedom. May it become the basis for progress. May it also form the basic process of law and order. Thus will hatred be banished, and men will believe in reason and gain confidence in the potentiality of good government.

We live in a country that has kept step in the progressive movement and yearnings of the human heart. The gallantry of the American soldier has been exhibited in unselfish loyalty to the defense of the spirit of progress. Yes, may I repeat that the gallantry of the American soldier has never been wanting in the defense of his honesty and integrity. There are times when we seem to be breaking with the past, but it is only an aggressive effort to find a new and deeper meaning to life. This nation is looking for a new opportunity to advance in moral force and make progress in the fraternity of man. No matter from mountain, valley, plain or city where man may come, there is a need of a better social order. And this is the hope of every citizen of this nation.

Sacred memories prompt us to come and pay reverent respect to the honored dead. Time in its rapid flight has borne us past the close of our great wars, which cost us thousands of lives and billions of treasure to save our country from destruction. Those who participated as soldiers fraternize as brothers. They carried the Stars and Stripes as the insignia of freedom. It is fitting and proper that those who died in the struggle or those who have since died, should be remembered and honored. Theirs was an invaluable service to their country and humanity. Let the graves of the dead soldiers be decorated with flowers and the memory of their noble deeds review anew with oratory and song.

"Blessing for garlands shall cover them over,
Parent, husband, brother and lover.
God will reward those heroes of ours,
Cover them over with beautiful flowers."

RESEARCH IN PSORIASIS

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. WYATT. Mr. Speaker, on May 2, I testified before the Labor-HEW Subcommittee of Appropriations in support of a $3 million appropriation for research in psoriasis. I believe it is extremely important that we do more in seeking a cure for this affliction, which affects between 8 and 10 million people in the United States. Most of you know psoriasis is a disease of the skin causing flaking and scaling, while in more severe cases the disease manifests itself in lesions sometimes over the entire body. The suffering and mental anguish are difficult to comprehend unless you are actually a victim.

Recently victims of psoriasis have banded together to focus more attention on the disease. The National Psoriasis Foundation was organized in Portland, Oreg., by Mrs. Beverly Foster and the work of this woman has been an inspiration to everyone connected with the foundation to myself included. I know many of my colleagues have received letters from psoriatics asking them to support this request for $3 million in research funds, and I believe the testimony will provide more adequate background on the issue:

STATEMENT BY THE HONORABLE WENDELL WYATT IN SUPPORT OF FUNDS FOR PSORIASIS RESEARCH

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to appear before you in support of additional funds for psoriasis research.

I'm sure that most of you are somewhat familiar with the disease. It afflicts in varying degrees between 8 and 10 million Americans, and an estimated 150,000 new cases are diagnosed each year. It is not known what causes the disease, and there is no cure or universally effective treatment.

In its mild form, psoriasis may appear as a few scaley spots on the arm or leg, or in pitting of the finger or toe nails. But more severe cases manifest themselves in lesions over the entire body, or as one woman described her affliction: "You break out and look like raw beefsteak."

During Biblical times psoriatics were often classed as lepers and forced to carry a bell warning the populace of their presence. This barbaric practice has, fortunately, ended, but for too long now psoriatics have suffered in silence when the disease cries out for public attention and commitment in seeking a cure.

Psoriasis is seldom, if ever, fatal in itself. Because of its prevalence it has been assumed to be a trivial disease. Because of the embarrassment associated with its appearance, individuals with psoriasis have not been effective spokesmen in seeking a cure, or at least an effective treatment.

Fortunately, psoriatics are beginning to speak out and the major credit must be given to a sufferer, Mrs. Beverly Foster, of Portland, Ore. Mrs. Foster is the founder and director of the National Psoriasis Foundation which has some 30,000 members and chapters in 37 states. Mrs. Foster first drew my attention to the desperate need for additional research on psoriasis, and I have been pleased to contribute what little I have to date in spotlighting the need for funds to help conquer this disease.

The subcommittee should know that psorasis is a model for the study of malignant diseases in which the growth and division of cells is uncontrolled. If we can unlock the key to why cell division continues unchecked in psoriatics whereas in normal persons this division stops when the injury is repaired, we may have come a long way in efforts to treat various cancers.

Mr. Chairman, I am here to request a $3 million appropriation to accelerate research toward this end. This is a small enough figure when measured against the millions spent in seeking cures for other diseases; but it is large by comparison to the estimated $200,000 research expenditure to date on psoriasis.

I wish you could read the hundreds of letters in my files describing the misery, the mental anguish, individuals suffering from psoriasis have endured, often from early childhood. Just the other day, a fine young man whom I had appointed to the U.S. Naval Academy was denied the appointment because doctors there diagnosed an active case of psoriasis.

Again, Mr. Chairman and members of the subcommittee, I appreciate the privilege of appearing before you and I respectfully urge that you approve the $3 million appropriation for psoriasis research for Fiscal Year 1973.

BOWIE KUHN DISCUSSES THE SUBJECT OF GAMBLING ON PROFESSIONAL BASEBALL

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SYMINGTON. Mr. Speaker, last March at the Conference of the National District Attorneys Association, the subject of gambling on professional baseball games was discussed. A forthright, articulate and compelling argument legalized gambling on team sports in general and baseball, the great American pastime, in particular was offered by the Commissioner of Baseball Bowie K. Kuhn. I think Commissioner Kuhn's remarks deserve an audience as wide as the country itself and, accordingly submit them here for the RECORD:

SPEECH OF BOWIE K. KUHN

President William Cahn of your Association has graciously invited me to address you regarding Baseball's opposition to proposals existing in several states to legalize gambling on professional sports events. It is our position that any form of gambling on professional Baseball games, legal or illegal, poses a threat to the integrity of the game, exposes it to grave danger and threatens to disserve the public interest. I would like to tell you why.

The proponents of legalized gambling on team sports have argued that legalization would contribute in the following ways to the public welfare:

1. It would deal a death blow to organized crime.
2. It would increase state and local revenues.
3. It would not have adverse effects on society or the team sports involved.

Speaking on behalf of professional team sports, I disagree emphatically on each of these three points. Let me say preliminarily that I have discussed this matter extensively with Commissioners Kennedy and Dolph of Basketball; Commissioner Rozelle of Football and President Campbell of the National Hockey League. We are all in agreement as to the adverse effects of legalization on team sports. These gentlemen are all aware of my appearance here today and have authorized me to say they join with me in opposing legalization.

EFFECT ON ORGANIZED CRIME

With respect to organized crime it is my very strong conviction that legalization would lead to greatly increased gambling on baseball both in terms of the dollar volume and the number of bettors. As I will discuss later, I believe this because in my judgment legalization with the attendant government sanction it implies would open up the avenues of gambling to the scores of millions of team sports' fans who presently have no interest in gambling. *Remember that most people in this country do not gamble.* That is the fallacy of the oft heard argument that you might as well legalize gambling because people are going to do it anyway. Maybe a small percentage will but not the vast majority who are not gamblers.

Under the circumstances it is naive to think that legalization would eliminate or even substantially diminish the substantial volume of illegal gambling on baseball. By introducing gambling to the non-gambling majority, legalization would open the doors for organized crime to a vast array of people they could not otherwise have interested.

We are realistic about the existing volume of illegal gambling and we recognize that it is substantial. Going back to the days of the Black Sox scandal in 1919, Baseball felt the frightful impact that gambling could have on our sport. The simple fact is that a group of hoodlums succeeded in fixing the result of the World Series in that year. In order to protect Baseball against this real danger the Office of Commissioner of Baseball was created in 1920 with the foremost purpose and mission of protecting the integrity of the game. Kenesaw Mountain Landis, the first Commissioner and all of his four successors have viewed this as their most critical assignment. Baseball's record for honesty in the ensuing half century has been a distinguished one. To ensure the record, Baseball adopted a major league rule with the strictest possible penalty for baseball people who attempt to fix the outcome of games—namely, mandatory lifetime ineligibility.

We have also maintained a Security Department headed by experienced former FBI executives which operates effectively and efficiently throughout the wide world of professional baseball to protect its integrity.

We think we know the habits and ways of the illegal bookmaker. He will not be put out of business by legalization, but rather can be counted on to compete by private services and other advantages which will assure the continuation of his profitable operations and which will feed on the host of newly initiated gamblers which legalization would make available to him. He will meet gimmick with gimmick and service with better service. He will give credit and rebates. He will accept poor credit risks confident that his strong arm methods will be an efficient collection agency. He will benefit from the tax free profits and his customers from tax free winnings. He will benefit further from enlarged loan sharking opportunities presented by increased gambling.

Off Track Betting which has recently been adopted in New York has made no bones about the fact that it has not reduced illegal gambling on horse races. So have the federal authorities fighting organized crime. Daniel P. Hollman, head of the U. S. Justice Department's Joint Strike Force against organized crime recently contended that Off Track Betting in New York was an example of how such public betting had failed to interfere with the bookmaking activities of organized crime.

EFFECT ON STATE AND LOCAL REVENUES

As to the argument that legislation will increase state and local revenues, we do not see it as the financial bonanza which has been forecast for local treasuries. Indeed some experts have already characterized Off Track Betting in New York as a failure. At the present time the Governor of New York is sufficiently concerned with the possible adverse effects of Off Track Betting on legalized track operations that he is seriously reviewing whether or not it is desirable to extend it beyond New York City. Aqueduct Race Track in New York has recently been shut down by a costly strike because of the need to lay off employees brought about by dwindling attendance and betting revenues. The cause was Off Track Betting.

If increased anti-social behavior should be the result of legalization, the costs to the state and citizenry could easily offset whatever immediate revenue benefits, if any, might occur. I will deal with the anti-social aspects subsequently in my remarks.

Certainly the possibilities of direct loss of revenue elsewhere must be considered; for instance, if moneys used in betting are siphoned away from the purchase of taxable commodities.

I do not think society has even begun to evaluate the complex set of potential interactions which could make the promised riches of legalization fools gold.

EFFECTS ON SOCIETY

What are the likely effects of legalization on society in general? One must fear that many of its well intended proponents seeking somehow to improve the serious revenue problems of local governments have blinded themselves to its dangerous consequences. A February editorial in the Chicago Tribune stated the case well against legalization:

"As too few people are saying out loud these days, gambling can be as addictive as heroin or alcohol. Despite revenues from liquor and tobacco taxes, governments increasingly try to discourage drunken driving and smoking. Tho profits in the heroin business are high, too, yet few urge government to take it up. No discussion of legalizing gambling (and thus inevitably spreading and encouraging it) is complete without an acknowledgment of its unmeasurable social costs.

"On balance, encouraging vices for the sake of taxing them is counterproductive."

What is going to be the source of the money that the public uses for legalized gambling? Is it likely to be money that would otherwise go into luxury items? I doubt it. It is mathematically certain that those who gamble regularly with either the legal or the illegal bookmaker always lose in the long run. If we open this gambling door further to a whole new generation I shudder to think what the price will be. The money will come from people who are least economically able to lose it; money that should go for food, clothing, education and other necessities will go into gambling. Gambling money is also likely to be taken from welfare payments with all the varieties of problems that could present.

I think it is the utmost in cynicism to use the great family sport of baseball to draw into the addiction of gambling the overwhelming majority of our population which does not gamble today. We have enough problems of addiction in our society now without introducing another lure such as legalized gambling.

EFFECT ON SPORTS

Probably the area in which the legalization proponents have the least knowledge and sophistication is the effect on team sports. I do not think I exaggerate one bit when I say that legalization could jeopardize the existence of professional baseball and other professional team sports by—

1. shaking public confidence in the integrity of the game;
2. creating a new class of gambling fans;
3. adversely affecting Baseball's strong family following;
4. creating a climate favorable to gambling which would undermine Baseball's historic efforts to prevent gambling by its people;
5. threatening the financial stability of Professional Baseball.

I have no doubt that legalization would adversely affect Baseball's reputation for honesty by creating suspicion in the mind of the betting and non-betting public. Where there is heavy gambling suspicion of dishonesty will inevitably follow regardless of however honest the sport may actually be. There is no way of proving that this is no other than to search the opinions of knowledgeable people ins ports all of whom uniformly recognize this clear danger. Baseball has long been free of even whispers regarding its honesty and there can be no doubt that this freedom is in large measure responsible for the enormous popularity of the game.

Moreover legalization would certainly increase the likelihood of efforts being made to

fix baseball games and performances. This is simply inevitable as the quantum of gambling and the number of gamblers increase. For a shocking but tremendously meaningful comparison look at the record summarized from New York *Times* stories since 1960 of sports scandals in countries abroad which have gone down the side road of legalization:

Roy Paul, Welsh international soccer star, admitted he and several Manchester City teammates had taken bribes to throw two games. Two other players admitted receiving offers of bribes. (10/10/60)

A top British soccer club investigated reports one of its stars had offered bribes to two Everson players to throw a game in March 1960. A British bookmaker claimed he was certain soccer matches were being fixed. (10/12/60)

Sentences were imposed on more than 80 Czech sportsmen convicted of influencing the results of the sports pool thru fraudulent speculations. Among those included were 30 hockey players, 30 soccer players, 13 wrestlers, two tennis players, and a coach. (10/13/60)

A list of 20 soccer players reportedly involved in bribing and fixing of games has been drawn up by the leaders of the Football Association and the English Football League to be given to Scotland Yard. (10/19/60)

Esmond Million, goalie for the Bristol Rovers, admitted accepting $840 to throw a game that ended in a two to two tie. Keith Williams, a center forward, and Million were suspended. Subsequently Million, Williams and Brian Phillips, captain of the Mansfield Town team, were suspended for life by the Football Association after pleading guilty to sports bribery charges. (8/16/63)

A former British pro-football player, James Gould, was found guilty of attempting to fix results of soccer matches. (11/23/63)

James Thorpe, one of Sheffields biggest soccer bookmakers, asserted at least two pro-soccer matches were fixed each week last season. (4/19/64)

A drowning victim, Joseph Hancock, who was a 52 year old bookmaker had been questioned by police about alleged bribes of some of the major soccer teams in England. (4/28/64)

Peter Swan, former Sheffield, England Center has been in jail four months for his part in a soccer bribery case and was suspended for life by the Football Association. (5/6/65)

A disciplinary court of the West German Soccer Federation suspended three players for life, October 23, for their involvement in a bribery scandal which rocked the First Division last season. (10/25/71)

Italian Soccer Federation demotes Udinese Club to minor league, 1955 through 1956 season, suspends four players indefinitely on finding evidence that club bribed Pro Patria players to lose game, 1953. (8/3/55)

Incensed Italian fans blocked trains and overturned trucks after the Italian Soccer Federation dropped Caserta Team to a lower division. Caserta was penalized after a charge that one of its players had tried to bribe a Taranto player before their game last May. (9/9/69)

One can only shudder at the effect stories like this would have if they occurred in our professional sports in the United States.

Based on our own investigative experience and substantiated by law enforcement authorities it is our conclusion that both big and small-time gamblers who patronize legal or illegal sports bookmaking operations will try to get *inside information* from players and others who work in or in conjunction with Baseball in order that they will have what they call the "edge", which is restricted knowledge of a strength or weakness on the team. Likewise bookmakers are seeking the same type of inside information in order that their "odds line" will be accurate and thus attract bets to both teams in the contest which leads to a "balanced book" and sure profits for the bookmakers regardless of which team wins. This pressure for inside information would inevitably lead to undesirable associations involving our people and would focus suspicion on the integrity of our game.

There is another danger for Baseball if legalization were to occur. It is altogether probable that it would lead to forms of baseball betting other than individual game bets. The most likely new forms of betting would be spread betting and individual performance betting. The reason is simple: where you have a wide spread betting climate which is what legalization would produce you can be sure that more sophisticated forms of betting would ensue. The danger of these more sophisticated forms is that performers might be lured into run shaving and predetermined individual performances which would not necessarily involve fixing a game. Such approaches give the gamblers a much more persuasive argument when trying to induce athletes to give less than their best.

NEW YORK LEGISLATIVE RESEARCH

In 1963 the New York State Assembly completed a report on Off Track Betting in England. Its conclusions (appearing on pages VII and VIII) have for us an ominous ring in their applicability to legalization here:

Serious economic and social problems have been generated by the enactment of the British statute. These include:

1. A massive increase in gambling expenditures which involve at least a fourfold increase in turnover and the participation of thousands of new citizens in this activity.

2. The great bulk of increased gambling turnover has come from those in the lowest income strata, contributing to an unhealthy and largely unproductive shift of wealth, via betting, away from lower income families.

3. A sharp increase in defaults of debts owed small shopkeepers as a result of family resources diverted to betting.

4. Changed family expenditure patterns with an increased proportion of household income diverted to gambling.

5. Millions of leisure man and woman hours being consumed in the process of gambling.

6. Juvenile indoctrination in gambling habits as a recognized form of entertainment.

7. The development of new forms of gambling to meet the demand generated by the increased public appetite for wagering.

There are also strong indications, although there has been no effort by government or private organizations to research these areas, that:

(a) a greater proportion of social welfare funds are siphoned off into gambling;

(b) new strains have been placed upon family relationships;

(c) new forms of criminal activity have developed."

CONCLUSION

In summary legalization would jeopardize the public acceptance of Baseball—one of our national treasures—and would threaten its integrity and financial viability. Professional Baseball in North America consists of 24 major league and over 150 minor league teams (10 in New York State). Their games are attended by over 40 million fans annually. They constitute one of our most important and popular entertainment systems. In jeopardizing this system, legalization cannot do anything but a serious disservice to the public interest.

We in Baseball will try to persuade the public through every means available to us that we are right in our fight against legalization. We intend to enlist leading organizations and institutions and private citizens in our fight. We appeal to the District Attorneys of the United States and to all friends of team sports to give us their assistance and support. Time is critical and the cause is vital.

THE AVIATION INDUSTRY IS ON THE MOVE

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SPRINGER. Mr. Speaker, the Federal Aviation Administration held its fourth annual planning conference in Washington earlier this month. It opened with speeches by FAA Administrator John H. Shaffer and Deputy Administrator Kenneth M. Smith. Their remarks provide us a valuable insight into the present situation of the aviation industry and the changes that are in prospect during the next few years.

Despite the problems of the past, business indicators for the aviation industry are pointing upward and Administrator Shaffer is confident that the industry is on the move with "a vitality of spirit which has made, and kept, this country great."

I know my colleagues will be interested in these remarks of John Shaffer and Ken Smith, two men who are well qualified to speak on the problems of this great industry and what is being done about these problems:

REMARKS OF JOHN H. SHAFFER

Thirty years ago the mission of the aviation industry was to build an armada to safeguard the model of free government—democracy as practiced in America. We responded to that challenge as businessmen patriots and, during the next three years, supplied our country and its allies with most (more than 90 per cent) of the aircraft used in World War II.

Twenty years ago, in the era of American aeronautical predominance, our aircraft, aircraft engine and components industry were virtually sole supplied to the airlines of the world. Our general aviation export was equally impressive, but on a different scale. Our domestic and international air carriers were expanding at an incredible rate and our national aviation system somehow managed to keep abreast or more accurately to "hang on."

Ten years ago, with our government's preoccupation with Far Eastern affairs, the image of world ladership earned by the United States aerospace industry during the 1950's, though still on the ascendency was growing, dimmer—tailing off so to speak. We often acted as if our role was principally one of exporting American know-how instead of hardware.

The shift from the false industrial affluency of the wartime 60's, to the solidly based peacetime economy of this decade and beyond isn't easy and, I daresay, repercussions in certain quarters of the aviation industry are yet to be felt. I am confident, however, of one fact; our industry is on the move. There is a vitality of spirit which has made, and kept, this country great.

Business indicators for our industry are strengthening. Airline revenue passenger miles were up—in 1971, about four per cent over 1970, and the outlook for this year is this recovery in demand for services, cargo and passengers. For general aviation, the first quarter of 1972 is the best since 1969 in both units and dollars. Shipments during this first quarter of the year have increased 25 percent in units and 40 per cent in dollars over the same period in 1971. The major segments of our manufacturing industry still suffer from a lack of new programs partially attributable to the strain on investment resources and our withdrawal from Vietnam,

but there is a glimmer of light at the end of the tunnel; military and space programs now before the Congress should provide aerospace industry a healthy infusion of dollars—the military STOL, lightweight fighter, space shuttle, to name just a few.

I'm of the persuasion that the greatest challenge with which industry and government, managers and planners are still reluctant to face, is acknowledgement that we must adopt a pattern of behavior different from that we learned, practiced, and fell victim to during the inflationary boom of the 60's. Today we're marching to the sound of other drums—the public need, the public requirement and the public demand. This requires a cooperative effort which the entire aviation community is just beginning to understand. We are slowly but definitely shifting from a "fractionated" industry to a team effort—in manufacturing, and in both the public and private sectors of air transport.

This new sharing of ideas, techniques and procedures by the aviation community in the building of progress—consortiums if you will—are as American as apple pie. We've been engaged in this sort of effort for years, perhaps on a smaller scale, under a banner we have called sub-contracting. Its financing has been different to be sure but therein, nevertheless, lies the key to progress—partnership.

For example, there is a genuine concern in America dictating the reduction of noise of the civil aircraft fleet and, to the everlasting credit of the industry, engine manufacturers have succeeded in reducing it at the source. We effectively put a lid on the sound of aviation with FAR 36 and every one of the aircraft that have been produced since have either met or improved on the standard. These planes are identified as the Boeing 747, the DC–10, the L–1011 and the Cessna citation.

All of these aircraft are better than the Federal standard, and technology holds forth the hope that in the next ten years we will progressively reach even lower levels of aircraft sound. Indeed, technology is now available to cut the sound of aviation in half *again!* In this regard, a modification of the engine for the new North American B–1 bomber has the potential for powering a civil aviation aircraft this nation sorely needs—a short-haul transport with 25,000 pounds of thrust per engine and a forecast noise level of 95 EPNDB.

Now, let me complete this rationale by questioning our anti-noise sect who keep suggesting that we retrofit the DC–9's, the 737's, the 727's, and even the DC–8's and 707's with quieter engines. The dollars that would be involved in such a program have been variously estimated to be in excess of $1.5 billion.

If there be that much capital around that's not working, I suggest that a more meritorious project than retrofit would be the development and construction of the airplane America needs for its transportation system—a short-haul transport designed for the U.S. airport network. If we collectively make up our minds, with minimum help of a responsive Congress, and the support of an enlightened public who should be more interested in the future than in the past, we could have a new quiet, short-haul transport certificated and in domestic service in this decade. This annual Planning Review Conference is an important step in the Department's annual consultative planning cycle. The record of comments and discussion at this conference will be carefully reviewed by the FAA and DOT and reconciled in its programming processes and in framing or reframing transportation policies.

The topics of report, and for discussion, during this and the two days subsequent will encompass all elements and exhaustively examine each aspect of aviation activity within the Departmental purview. The format of this conference, as with those in the past, is designed to demonstrate the relationship between FAA's specifications during the past year and those planned for the next ten in the building of the national aviation system. In return we ask your candid appraisal and encourage thoughtful comment.

REMARKS OF DEPUTY ADMINISTRATOR KENNETH M. SMITH

This fourth annual planning review conference—as with our first in 1969—is in a sense our annual meeting with the stockholders of the aviation community.

In developing the national aviation system, the Airport and Airway Development Act instructs the Federal Aviation Administration "to consult with other Federal agencies as appropriate, airport operators, air carriers, aircraft manufacturers, and others in the aviation industry." It was at our instigation that these words exist in the act.

These planning review conferences highlight the annual results of the consultative process of the FAA in the orderly development of the national aviation system authorized for at least a ten year period, as called for by the Airport and Airway Act of 1970. The ten year policy planning document is a report of what we are doing and what we are planning to improve the national aviation system. But it is more than a recital of events. It reviews the premises and philosophy of FAA policy within the context of President Nixon's mandate, the Airport and Airway Development Act, to build a system totally responsive to the public need in this last quarter of the 20th century.

The role of industry is to lend *credibility* and importance to our planning review. These ingredients will accrue from the dialogue developed during these next three days and the next 12 months. We hope to tap the planning resources of the many elements of industry, Government and user organizations participating here. The fullest extension of our dialogues must, of course, inevitably encompass the pro as well as the con. This is good and this is healthy. In this, the consultative process, lies the ultimate strength of the Federal Aviation Administration and the viability of the national aviation system which it serves.

You may be sure that what *is* said here in these next few days shapes our national aviation system policy in the year to come and those to follow. You may be sure that what you have to offer is thoughtfully studied by the FAA and reconciled with the interests of other elements of our community, the users of the aviation system, and importantly, the non-using public.

Thus the core of our planning review conference is a partnership that reflects the basic theme prefaced by President Nixon in 1969: "We can no longer afford to approach the longer-range future haphazardly. Only by focusing our attention farther into the future can we marshal our resources effectively." The President's reasoning is basic to the orderly acquisition of new facilities and equipment for the national aviation system at a rate great enough to fulfill immediate shortcomings as well as provide for future demands.

But the building of the system embraces more than an expansion and modernization of our airport and airways network. Its necessary adjuncts are a strong and competitive manufacturing and airline industry, and an equally healthy general aviation component, responsive to the vastly growing needs of the private sector as well as commuter and air taxi operations. So, in the final analysis, the aims and goals of the Federal Aviation Administration and the many segments of the aviation community, government, and public and private represented here are inter-dependent. In the progress of one lies the success and purpose of another.

Adjustments in our national aviation system policy surely will be required, but our experience with these annual planning review conferences—particularly since enactment of President Nixon's Landmark Airport/Airways Act—has confirmed the soundness of our approach.

For example, the advancement and modification of our ILS/MLS replacement program, facilities and equipment for privately owned, public-use airports, our modular construction control tower program, stepped-up modernization of flight service stations, and the creation of a special task force to develop the urgently needed area navigation system to name but five, are all requests of the consultative process between the FAA and its constituency.

To further amplify, we are currently in the development stage of a microwave instrument landing system which will enable small communities, particularly those with rough terrain features, to have reliable ILS's. The FAA has awarded contracts totaling $3 million to six companies for the initial phase of a planned five-year program to develop a new common civil/military microwave landing system which we call MLS.

Further, until a recent change, and as a result of the consultative process, Federal funds could not be used for equipping privately owned airports. However, the FAA can now utilize F&F funds to finance certain facilities and services at qualified privately owned airports which are open to and available for use by the public. The owner(s) of privately owned airports must comply with the requirements of airways planning standard number one to qualify for FAA F&F funds for this purpose.

FAA research and development efforts, again as the direct result of industry/government consultative interface, have led us into the design of modular air traffic control towers. These standardized turn-key installations will enable us to establish air traffic control service at some of the less busy airports. Their modular design permits permanent installations at lower cost than conventional hand tailored built in place towers. Sixty-four prefabricated control towers are to be installed at low and medium activity airports in 33 States and Puerto Rico, under a $12,900,000 contract. The turn-key package includes design, site work, fabrication, erection, furnishing and installation of electronic and other equipment.

The first delivery will be made by December of this year and thereafter at the rate of one a week for 15 months. The towers will vary in height from 30 to 70 feet and can be expanded in 10 foot modules to a maximum of 90 feet. These facilities, I might add, can be dismantled and relocated should future airport expansion dictate.

Flight service stations began operating in 1920 when the Post Office Department established four aeronautical stations to support a transcontinental airmail route. These stations literally kept the bonfires burning as an aid to navigation, accumulated weather information and served as radio telegraph stations for the airmail service. As the system expanded, the bonfires were replaced by beacons and the first radio range was introduced. Despite some opinion to the contrary, that a return to the bonfire concept might be more expeditious, we are making considerable progress with regard to flight service stations.

To meet the challenge of a growing and volatile aviation industry, more effectively, an action program is planned to reconfigure the entire FSS system and streamline its operation. Under this program, four types or categories of stations will be established. The specific type, and the services provided at any particular location will be responsive to the level of user demand.

Type I stations will be unmanned facilities providing self-briefing materials, a telephone to a briefer at a higher level FSS.

Type II and III stations will be FAA staffed facilities operating on a part-time basis. They will provide individual pilot briefings and flight planning services.

Type IV stations will perform the centralized functions for the entire flight service network, including en route communications and in-flight assistant services, search and rescue, lake-mountain-island reporting, transborder services and mass pilot briefings.

I believe, however, that the FAA airport certification program is an example of the consultative planning process at its best. Development of the draft certification regulations has involved an almost continuous coordination and consultative effort between the Federal Government and the industry. Many of you here today have been deeply involved in this process. When the notice of proposed rulemaking was published—we received over 900 individual comments. These comments significantly affected the requirements as developed in the draft regulation.

Again, when the agency found itself faced with a problem of how to implement this huge program with minimum manpower resources, we turned to industry for advice. A meeting held in February produced suggestions that have had a significant impact in the final recommendations submitted to the Secretary of Transportation. A decision on this will be forthcoming very soon.

Airport planning is another area in which very close consultation is maintained between the agency and industry and professional organizations. For instance, technical planning guidance such as our advisory booklet on metropolitan airport system planning was developed by a joint committee involving FAA and the airport operators council international in close cooperation with the Department of Housing and Urban Development and the Federal Highway Administration. Similarly, the document entitled "planning the state airport system" was developed by a joint effort involving FAA and the National Association of State Aviation Officials (NASAO).

Our airport master plan advisory, although not developed jointly, was closely coordinated with industry. The planning grant program procedures also received extensive coordination with industry groups, consultants, and professional societies.

This fourth planning review conference, then, is a means to fulfill our national transportational responsibilities on a sustained basis by evoking both the contributions of our friends in industry and the continued support of the NASA and the Department of Defense.

The annual planning review conference was never designed to be the sole point of consultation. It is instead an opportunity to review the efforts of consultation of the past twelve months. The policy and planning documents have been finalized, printed and distributed. Most of you have them before you now. They are not gospel. They are the foundation for consultation for the next twelve months.

The very nature of the expanding requirements of the National Aviation System calls for, indeed demands, continuing dialogue among us all.

WASHINGTON REPORT FROM CONGRESSMAN BOB PRICE

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. PRICE of Texas. Mr. Speaker, it is my policy to publish a weekly news report at my own expense to keep my constituents advised of my activities in their behalf. The following is the text of my latest Washington Report:

WASHINGTON REPORT FROM CONGRESSMAN BOB PRICE

Ever since the bill proposing to increase the minimum wage was introduced in Congress last year, I have received many letters, telegrams and phone calls from Texans expressing their opposition to any increase in the minimum wage.

I am opposed to an increase in the minimum wage and will vote against it when it comes up for a vote this week in the House of Representatives. I am opposed to it, because it would result in higher prices and fewer employment opportunities—at a time when lower prices and more employment opportunites are what we need.

This bill called for an increase from $1.60 to $2.00 per hour in the minimum wage. It was introduced by a member of the opposition party, which has a majority in Congress. It was approved by the House Democratic Caucus. And it was approved with amendments by the Education and Labor Committee, which is controlled by the majority party.

An example of the many letters I have received opposing an increase in the minimum wage is this one from a small businessman in our district:

"DEAR BOB: I'm writing you about the efforts now being made in Congress to raise the minimum wage from $1.60 to $2.00. When this is considered against the background of wage-price controls and the battle to slow inflation, it is absolutely bewildering!! Here the wage board is trying to hold wage increases to 5.5% and at the same time our Government may legislate a 25% increase!!!

"To legislate an increase of this size can only add pressure for higher prices and cause additional unemployment as businesses try to cut back and control their expenses. It will work a special hardship on teenagers. Many businesses won't hire them now because they don't feel they can afford to pay them $1.60 much less $2.00 per hour. It works a hardship on small businesses such as ours also. We have two secretaries with several years experience that make a salary based on about $2.30 per hour. If we have to hire an untrained green employee maybe just out of school and pay her $2.00, then we will have to raise our other employees accordingly.

"We are flatly against any increase in the minimum wage at this time. If there must be one, then let Congress set a good example and limit it to 5.5% increase. Please vote against H.R. 7130, and if our only choice left is H.R. 14104, then please support the Anderson amendment to raise to $1.80 this year and $2.00 next year."

This letter makes good sense, and I hope my colleagues in the Congress will heed the advice of small businessmen like this Texan. I certainly plan to do so.

FREEDOM OF INFORMATION ACT SEEN FLOUTED

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. MOORHEAD. Mr. Speaker, the Foreign Operations and Government Information Subcommittee began a comprehensive review of the operation of the Freedom of Information Act—5 U.S.C. 552—on March 6. Our hearings are the first in-depth examination of the way the law has been administered since it became effective on July 4, 1967.

Thus far, we have held 18 days of hearings, taken testimony from more than 60 witnesses, including 10 Cabinet departments and seven executive agencies, and have received many constructive recommendations for strengthening the act.

The hearings, now centering on the relationship of the Freedom of Information Act to the security classification system, will also include an investigation of case histories of the denial of information by the Executive to Congress. This phase of our hearings will begin on May 15.

Early in June, the subcommittee will begin its review of public access to information, meetings, and activities of various types of advisory commissions, committees, and other executive branch groups.

Mr. Speaker, an article by Bill Andronicos in the March 29, 1972, issue of the Federal Times provides an interesting summary of the first several days of our hearings. It is included at this point in the RECORD:

FREEDOM OF INFORMATION ACT SEEN FLOUTED

(By Bill Andronicos)

WASHINGTON.—Federal departments and agencies are not adhering to the provisions of the Freedom of Information Act of 1967, congressional witnesses have contended.

Charges of weaknesses in the practice of disclosing information and documents for public consumption were hurled at hearings of the House subcommittee on foreign operations and government information, headed by *Rep. William S. Moorhead, D-Pa.*

However, the government's role—as being consistent with the spirit of the act—was defended by Anthony L. Mondello, general counsel of the Civil Service Commission and one of the original drafters of the law.

To determine the extent to which the federal government is observing the law, Moorhead's subcommittee has scheduled a long series of hearings that will run twice weekly through June.

Witnesses will include government officials from virtually every department and agency, public information officers, representatives of the legislative and judicial branches, educators, industrialists, labor representatives, members of all facets of the news media and others too numerous to list.

Moorhead indicated that on completion of the hearings, Congress plans to suggest legislative solutions for any shortcomings found.

In his opening statement, he noted that the subcommittee also will look into the special information problems "posed by the hundreds of government advisory groups who hold thousands of official meeting often behind closed doors with no public or congressional knowledge of decisions made or deals discussed."

The first day of testimony saw two former presidential press secretaries—James Hagerty, who served under President Eisenhower, and George Reedy, who served under President Johnson—acknowledge there is too much secrecy in government.

Hagerty, now vice president of the American Broadcasting Co., reported on the frustrations he experienced in trying to release overclassified information to the public when he was in the Eisenhower administration.

The classification system, he said, was an antiquated one "often subjected to abuse and used with widespread regularity as a matter of rote or imagined protection from error." He added that there are too many "stamp happy" bureaucrats keeping government information from the public.

Reedy suggested that Congress should look into a proliferation of operations centered in

the White House where they are covered by presidential executive privilege, thus making it "literally impossible to get at the facts."

In suggesting the subcommittee should come to grips with modern problems of "executive privilege," both Hagerty and Reedy agreed that intimate presidential advisers should remain protected from possible harassment. Both indicated the interrelationship between the President and his advisers was a personal one—and should not be interfered with.

A group of former public information officers also attacked the government's shortcomings in disclosing information to the public.

Among them was Harold R. Lewis, former director of information in the Department of Agriculture, who suggested that "direction from the Congress" is needed to strengthen the administration of the Freedom of Information law.

With particular reference to nine exemptions within the law—under which the government can refuse to disclose information—Lewis said the exemptions encourage some officials to refuse disclosure of information in instances where withholding is not actually necessary.

J. Stewart Hunter, former associate director of information for public services in the Department of Health, Education and Welfare, told the subcommittee that in HEW—and possibly in other agencies—clear conflict exists between earlier legislation and the Freedom of Information Act.

For example, Section 1106 of the Social Security Act, as later amended, authorizes denial of information on virtually every operation of that agency. This authority was blanketed into HEW's public information regulation, as was similar restrictive legislation dealing with the Food and Drug Administration. According to Hunter this "has placed severe inhibitions on the successful administration of the Freedom of Information Act."

"The original intent of the Social Security Act amendment was to protect the earnings records of those enrolled—a perfectly laudable objective," Hunter said. "But, Section 1106 as it now stands squarely contradicts the Freedom of Information Act. As long as it exists, it will constitute a barrier to obtaining information on that agency's operations."

Richard B. Wolf, deputy director of the Institute for Public Interest Representation, Georgetown University Law Center, charged that instead of offering prompt and inexpensive disclosure of information, federal agencies have sought refuge in the act's exemptions. In many instances, he added, agencies take several months to respond to specific requests for information.

According to Wolf, the federal government is forcing the freedom of information issue into a posture so inflexible that only the courts can settle the controversy.

Frank Wozencraft, a Houston lawyer and a former assistant attorney general who helped draft the information act, expressed disappointment that the act has not yet had greater impact.

He urged the subcommittee, in its quizzing of witnesses, to ask each government agency representative specifically what he has done to assure that guidelines for information have been published and made available to the public.

On the other hand, Mondello, in defending efforts of the Civil Service Commission and other agencies in upholding the Freedom of Information Act, denied that the federal government is derelict or negligent in disclosure of information.

He decried the attitude of critics who insist the withholding of information constitutes the prevailing philosophy of all federal bureaucracy, simply because of isolated actions.

Mondello said one of the problems is that the federal government is torn between those who want public information officers to divulge "just about everything" and those who are concerned that disclosures might constitute unwarranted invasion of privacy.

Another witness, David Parson, chairman of the Federal Bar Association's committee on government information, discussing the role of the federal lawyer, said that although the lawyer's ultimate employer is the people, he has chosen to be a civil servant and thus cannot be expected to countermand his immediate employer.

Whatever the case, because of congressional pressure, it appears that agency officials will need to take a second long look at—and review and revise where necessary—internal policies in an effort to comply with the Act which became effective July 4, 1967.

A key role in the development of the act was played by Rep. John E. Moss, D-Calif., who devoted years of effort to it. At the time it became law, Moss told House colleagues he hoped its guidelines would convey to officials of the executive branch of the government the basic objective—"which is to define the right of access to official records of the government and to broaden the availability of all government information to the public."

But what of the Freedom of Information Act itself? Specifically, it encompasses several key issues. These include:

Disclosure is to be the general rule, not the exception.

All individuals have an equal right to access.

The burden is on the government to justify the withholding of a document—and not on the individual requesting the document.

Individuals improperly denied access to documents have a right to seek injunctive relief in the courts.

There should be a change in government policy and attitude, particularly where there is a tendency to be reluctant to divulge information.

At the time of the law's passage, then Atty. Gen. Ramsey Clark cautioned in a memorandum that "if government is to be truly of, by and for the people, the people must know in detail the activities of government."

BUREAU OF THE CENSUS STATISTICS FOR 1970 ON INDIANA'S NINTH CONGRESSIONAL DISTRICT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HAMILTON. Mr. Speaker, the Bureau of the Census has just released its 1970 report on the population makeup, housing patterns and voting trends in the new congressional districts in Indiana. The statistics in this report offer an insight into the makeup and the character of the 19-county Ninth District and southeastern Indiana.

The report includes these facts about the Ninth District:

NINTH DISTRICT STATISTICS

POPULATION	
Population	472,321
Percent of the State's population	9.1
Percent of population change (1960–1970)	11.1
No. of residents per square mile	78
White residents	463,894
Negro residents	7,702
Other	725
Percent Negro and other residents	1.8
No. of male residents	230,494
No. of female residents	241,827
No. of urban residents	215,231
No. of rural residents	257,090
Percent of urban residents	45.6
No. of metropolitan residents	160,928
No. of non-metropolitan residents	311,393
POPULATION MAKEUP BY AGE	
Under 5 years	42,733
5–13 years	90,813
14–17 years	38,640
18 years and older	300,135
18–20 years	21,129
21–24 years	26,930
25–34 years	59,155
35–44 years	53,132
45–64 years	92,742
65 years and over	47,047
Median age (years)	27.7
HOUSING	
No. of housing units	155,905
Owner occupied	109,826
Renter occupied	35,118
Percent of units owner-occupied	75.8
Units lacking some or all plumbing	21,017
Units with 1.01 or more persons per room	14,034
RENTAL UNITS	
No. renting for less than $60 per month	10,270
$60–99	11,171
$100–149	4,530
$150–199	792
$200–299	97
$300 or more	8
Median rent	$68
VALUE-OWNER-OCCUPIED UNITS	
Less than $5,000	6,311
$5,000–9,999	19,780
$10,000–14,999	21,594
$15,000–19,999	15,302
$20,000–24,999	6,993
$25,000–34,999	4,429
$35,000–49,999	1,469
$50,000 or more	463
Median value	$12,800
VOTING	
Votes cast for U.S. Representative, 1970	169,617
Democratic	104,291
Republican	65,326
Votes cast for U.S. Representative, 1968	189,668
Democratic	102,806
Republican	86,860
Votes cast for U.S. Representative, 1964	194,213
Democratic	112,182
Republican	82,031
Votes cast for President, 1968	198,432
Democratic	76,980
Republican	94,637
Wallace Party	26,178
Votes cast for President, 1964	197,368
Democratic	118,340
Republican	78,029

DEMONSTRATORS ARE NOT ALWAYS QUAKERS

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BRAY. Mr. Speaker, it is often assumed—and very erroneous the assumption is, too—that most if not almost all demonstrators for "peace" are Quakers or members of Quaker-endorsed

groups. This simply is not true. As a Quaker myself I have long resented this unwarranted allegation and I know many of my fellow members of that faith do, as well.

Earlier this year I received a letter from Southwood Friends Church, of Southport, Ind., which addressed itself to that very topic. I have permission of the meeting to insert their letter in the RECORD, which I am pleased to do at this time:

SOUTHWOOD FRIENDS CHURCH,
Southport, Ind., January 22, 1972.

Mr. WILLIAM BRAY,
U.S. Capitol Building,
Washington, D.C.

DEAR MR. BRAY: America's vast communications network keeps the world's news in every citizen's home—whether he be a citizen of the United States or any other free world country. When this news is indicative of some prevailing social turmoil within our nation, it becomes more and more interesting to our own people, our nation's allies, and our "cold war" foes, too. And when the communications media report that the turmoil has been initiated by some particular organized religious or church group and that members of the denomination in question participate daily in the turmoil, yet more attention is awarded the movement.

More specifically, we are speaking of the "Quaker" camp-in at the White House in Washington, D.C. Several individuals have felt compelled, for some reason, to maintain a constant vigil at the White House in protest of hunger and inadequate shelter for the poor, United States involvement in the Vietnam conflict, and our country's entire governmental and social structure.

Two friends of our meeting spent some time in Washington during the holiday period and were told by the friends with whom they were staying to make certain they did not miss the spectacle created by the "Quakers" at the White House. A city bus driver conducting a tour of the city stopped the bus and brought to the attention of all the passengers the "Quakers" who were lying all over the sidewalk. That night when the 11:00 p.m. news was televised, there was mention of the "Quaker" protest that was still in process at the White House after more than five months.

These friends of our meeting, one of whom is a Quaker, were perturbed to think that Quakers were involved in such a fiasco. They did not disagree, in theory at least, with some of the supposed objectives of the participants. They did object seriously, however, to the terrible spectacle being created by human beings in the name of Quakerism.

Our friends decided they had to talk to the movement's participants and learn more about their objectives. They walked into the "camp" and spent about ten minutes conversing with two of the most talkative of the campers. Some of the most noteworthy of the revelations they found and the observations they made were these:

1. The participants were physically filthy.
2. Jail is no threat to these people and, at times, is a haven for them. They respect the law only when it affords them protection and provides physical comforts.
3. Drugs, pot, etc. are used by the campers.
4. They advocate the abolishment of all national governments and the eventual creation of a world government if any government at all is necessary.

The most interesting fact of all is this:

5. Not a one of the White House campers is Quaker!

Our friends learned from the campers that the last Quaker had departed in November. The present participants seemed to be glad of their departure, insinuating that the Quakers were ineffective to the movement. They also stated happiness over the Quaker departure because the Quakers had objected to their drug and drinking habits, smoking, and other related activities. Also, the Quakers did not like their foul language.

We do not know the absolute facts about the original Quaker involvement in the White House camp-in. Neither are our friends who talked with the present campers necessarily willing to accept as absolute everything they were told. But we have no reason to suspect that the present campers are Quakers when they say they are not and when they express so much sarcasm toward the Quakers for their moral views.

Mr. Bray, it hurts our national pride to have this type of individual camping in Washington outside the residence of this nation's president. But as Quakers who are reasonably conscientious about our Society's public image, we are embarrassed that Quakerism is receiving the notoriety for the movement we have described. We solicit your help in a publicity movement to inform all who have heard about the "Quakers" at the White House for the past several months that there are no Quakers there. We also seek your advice concerning what we can do in this regard at our local level. We have several months' worth of news media publicity to negate, and we feel that the job can only be accomplished through assistance from someone in a position such as yours.

Will you help us, please?

Yours truly,

EVERETT DALE CARTER,
Clerk.

THE BIHARIS OF BANGLADESH—A PEOPLE WITHOUT A FUTURE

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HALPERN. Mr. Speaker, the tragedy of the 1.5 million Biharis in Bangladesh is the latest example of the hatreds and communal strife that have plagued the Indian subcontinent for decades and even centuries. Three times in the last 25 years the people of the subcontinent have gone to war over their religious and ethnic conflicts. Millions have died needlessly as Indians fought Pakistanis, Hindus clashed with Muslims, Sikhs fought Hindus, and Kashmiris fought against each other. And so it goes on and on with the death toll rising year after year from the senseless killing.

Many of us believed that the India-Pakistan war of last December would finally end this senseless slaughter. Logically, or so we thought, we concluded that the killing of between 200,000 and 1 million innocent East Bengalis—no one really knows how many died in the bloodbath—would sober the governments and people of the region into a realization that the violence and hostilities had to cease if they were ever to join together to unshackle the chains of poverty that have bound them for thousands of years.

Unfortunately, we now know that our own logic and values seldom apply to the Indian subcontinent. The tragedy of the Biharis in Bangladesh has demonstrated once again that the ethnic and religious hatreds of that part of the world have a staying power that defies all logic and reason. It has also shown us that no single group in South Asia is responsible for the violence and killing of the past 25 years. Indians, Pakistanis, Bengalis, Sikhs, Biharis and other peoples all share equally the guilt and responsibility. The oppressed Bengalis of 1971 have become the oppressors of 1972. The Biharis, some of whom participated in the persecution of the Bengalis in 1971, have now become the persecuted. The Indians, who went to war in 1971 in a crusade to liberate the Bengalis now shrug their shoulders at the plight of the Biharis. And the Pakistanis, who so eagerly used the Biharis in their ill-fated effort to subdue the Bengalis, now express reluctance to discuss the possibility of repatriation of the Biharis to West Pakistan.

The Biharis today have been herded into camps and ghettos where they live in the most squalid conditions. In one camp near Dacca, 16,000 people live within a walled compound about 50 yards square. The compound has 23 latrines and four water pumps at which people line up hours to draw water. The only source of food is the International Red Cross. The Bangladesh Government has provided little or nothing and has restricted outside efforts to help the Biharis.

The United States, which now has recognized Bangladesh, will provide over $200 million in humanitarian aid to that nation this fiscal year. President Nixon has asked the Congress for an additional $100 million for fiscal year 1973. The United States should insure that its aid reaches the Biharis in order to relieve their suffering. As a first step I propose that the United States ask the Government of Bangladesh to allow the American Red Cross to conduct an on-the-spot investigation of the needs of the Biharis. Complete knowledge of their requirements will enable our aid people to direct adequate amounts of food, medicine, clothing, and other items to them. It will also indicate to the Government of Bangladesh our concern that the Biharis receive humanitarian assistance and be allowed to live in peace; it may also generate international awareness over their plight. By doing this, the United States can help to insure that the Biharis cease being a people without a future.

HAIPHONG BLOCKAGE WOULD BE CRIMINAL INSANITY

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. LEGGETT. Mr. Speaker, gentlemen, yesterday Evans and Novak reported that the administration is seriously considering a quarantine—a Cuba-style blockage—of Haiphong.

Such a move would not strengthen our national security. It would not weaken it. It would destroy it.

The year 1972 is not 1962. We no longer have the faintest hope of a successful first-strike capability against the Soviet Union. Vietnam is not Cuba; the Soviets have not overextended them-

selves into our backyard; they are supporting a brother Asian Communist nation in what they regard as an effort to drive out a colonial invader. Russia cannot abandon North Vietnam and the NLF without suffering unacceptable loss of face.

Russia cannot afford this loss of face. It wants the summit and the SALT agreement, but anyone who thinks it wants them badly enough to publicly yield to U.S. military pressure is out of his mind. It cannot order its freighters to turn back when confronted by our quarantine. The only way we can stop them is to sink them.

If we do this, the Soviets will have to respond. They might bring their air force directly into the war, they might attack our carriers with their submarines, or they might use their subs to set up a quarantine of Saigon. Any of these would, in turn, force a greater reaction from us, which would then force a still greater reaction from them, and so on.

The risk of global nuclear war generated by blockade of Haiphong is unacceptable.

President Nixon has Vietnamized Vietnam up to the ears. He has given Thieu all the equipment money can buy. If the Saigon regime needs more equipment, we should give it to them. If they swim with it, fine. But if they sink, we cannot and must not jump in after them.

Thieu is not worth world war III.

The Evans and Novak article follows:

NIXON'S "QUARANTINE" OPTION

(By Rowland Evans and Robert Novak)

A "Quarantine" or blockade of the port of Haiphong to stop the flow of Soviet war material pouring into the battlefields of South Vietnam is under intense study as the likeliest, most dramatic response to Hanoi's invasion now available to President Nixon.

A second option—all-out bombing to destroy Haiphon's port and dock facilities—is viewed as more politically dangerous. If battlefield conditions in South Vietnam continued to deteriorate and Mr. Nixon decided he could no longer delay a military reaction, a major bombing campaign before the May 22 Moscow summit would almost certainly cause the Kremlin to cancel the summit.

In short, the Russians would refuse to receive the President while Soviet ships were in danger of being sunk by American bombs and the principal port of Moscow's ally in North Vietnam was under severe attack.

And yet, for his part, Mr. Nixon could scarcely go to Moscow as Hanoi's invading armies were about to crush the city of Hue. Hue, a few miles south of the enemy-held city of Quangtri, is symbolically vital to Saigon.

What, then, can President Nixon do within the extremely narrow margins available if, in fact, Hue is successfully attacked before May 22—or if, to the south, the Communists split South Vietnam in two or start advancing toward Saigon iteself?

The answer as of now: declare Haiphong "quarantined" to all war shipments and order the U.S. fleet to enforce the quarantine, much as President Kennedy did in the Cuban missile crisis of 1962.

That dramatic military action would be coupled with a credible warning to Moscow and an appeal that, to save the summit and a possible U.S.-Soviet confrontation, the Soviet Union must respect the quarantine.

As some top-level experts now view this admittedly high-risk scenario, Moscow might be persuaded to accept it. The most persuasive part of the U.S. argument is this: that after a full generation of the nuclear arms race and off-and-on cold war, the United States and the Soviet Union cannot permit their first successful effort at bilateral negotiations on arms control and trade agreements to be wrecked by a small Asian country.

Thus, both American and Soviet officials are saying privately that if the summit meeting between Mr. Nixon and Communist Party chief Leonid Brezhnev collapses now, it could be a long time—perhaps years—before the climate for detente becomes favorable once again.

Moreover, in addition to a nuclear arms agreement and trade with the United States, Moscow also regards the summit meeting as essential to restore the Soviet balance in the dangerous game of triangular politics now being played between Washington, Peking and Moscow. Mr. Nixon's spectacular visit to Peking in February had a distinctly uneasy audience in Moscow.

If the command shakeup in the South Vietnamese army following the fall of Quangtri actually results in stiffening its combat capability, the quarantine option could be postponed until after the summit meeting or indefinitely.

The most sensitive point today is still the city of Hue, where the Communists are now regrouping and re-equipping after severe losses. It is at least possible, in short, that the North Vietnamese will not be able to repeat their successes of the past five weeks.

But every political and diplomatic effort by the Nixon administration to slow down the offensive (particularly Mr. Nixon's efforts to revive the Paris peace talks with at least a "tacit" slowdown of the enemy offensive) has dismally failed so far.

Some officials here are arguing that Mr. Nixon cannot wait to react with extreme toughness to Hanoi's invasion even without any new Communist successes. As of today, the President is acting more cautiously. But if Hue falls in the north or if there are major new enemy successes in the south, Mr. Nixon will feel he must react and react hard and the option at the top of the list is the quarantine option.

DRAMATIC REVIEW OF DR. MARGOLES PLEA FOR CLEMENCY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. McCLORY. Mr. Speaker, a dramatic and informative series of articles has appeared recently in the News Sun, a daily newspaper published in my congressional district in Waukegan, Ill., concerning the heartrending case of Dr. Milton Margoles.

Mr. Speaker, this series, prepared by the News Sun staff writer Steve Rothman dramatizes and explains the human emotion and suffering which Dr. Margoles and his family have experienced following Dr. Margoles' conviction in an income tax case in 1950.

Mr. Speaker, I have tried in vain to secure a Presidential pardon for Dr. Margoles who, long ago, completed his prison sentence and has paid more than $300,000 in penalties, interest, and taxes on an original deficiency claim of $33,000.

Mr. Speaker, the articles explain more eloquently than can I the justification for executive clemency in behalf of Dr. Margoles. I commend this series to my colleagues in this Chamber and to others in authority who may wish to lend their understanding and support to this petition for compassion and relief:

ZION DOCTOR'S STORY: A STUDY IN FUTILITY

(By Steve Rothman)

It was raining out and the drops beat steadily on the windows of the gray octagonal house where Dr. Milton Margoles lives in Winthrop Harbor.

"All I want is peace and a chance to do something with the rest of my life," said the 59-year-old medical man. "I am tired and I just want to be with my family."

His wife, Betty, and his son, Perry, sat in front of the fireplace of the home they recently purchased.

"You'll have to come to Milwaukee with us one of these days and see our former home," said his wife. "That was a real place. That's where Perry and his sister were raised."

His 26-year-old son held a briefcase full of files dealing with the tragic set of circumstances which left his father almost penniless. Practically every dollar he now makes goes to pay a staggering tax debt totaling almost one half million dollars.

"You know Congressman (Robert) McClory is working on our case," said Margoles. "He's been in touch with the Justice Department. He hopes something will break the right way for us in the near future."

"He's also been in contact with the President," said Perry. "He thinks Nixon may take a hand in this matter himself. At least he hopes so."

Dr. Margoles has been the subject of a sympathetic press for more than 15 years. Recently, Washington columnist Jack Anderson raised new questions concerning the doctor's case.

"I am not interested in fighting any battles now," said Margoles. "I am tired of fighting. It's for younger men, for those who still feel society can be made a better place to live. I am sick of inquiry, investigations and words. Let it die now before it kills me."

"I hope we can get this thing settled quickly now," said McClory when reached by phone. "There has been too much said and not enough done."

McClory became embroiled in the strangest tale of misadventures he had ever heard more than 18 months ago. He had taken on the battle started by Congressman H. R. Gross, R-Iowa, before him. That was when Margoles tried to get an Iowa license to practice medicine.

McClory began his fight as Zion officials sought the doctor for their tiny northern city. He had won the right to practice in Illinois in 1970—a small victory in a fight where more battles have been lost than won. Now he was fighting what he hopes will be his last battle for a presidential pardon.

While the Justice Department reviews each case for the President, there are times when the executive branch of the government can make a request for action on its own. Margoles and his many supporters hope this will be one of those cases.

White House Press Secretary Ron Ziegler has been informed of the case and promised to get the President's ear—possibly this week. At least this is what his office said when contacted by the News-Sun about the case.

The series of mis-adventures began almost three decades ago when Margoles returned from World War II. He had come back to Milwaukee where his family had lived for many years. He opened an office at 12th and Vliete streets—in an area since throughly integrated.

"I found Milwaukee 30 years behind because of the war," said Margoles, who came out of an era in medicine when doctors served an apprenticeship before even thinking of taking up a specialty.

That was in 1946 when the hospital situation reached crisis proportions. "There was an influx of doctors and not enough hospital beds," he said. "It was a time when medical insurance was just coming into vogue."

In those days, Margoles recalls, he performed many a tonsilectomy and delivered many a baby on a kitchen table.

It was also an era when integration was still a word unknown in most people's vocabulary. "I found there was a desperate need for hospital beds for blacks especially," he said.

During those days he found himself fighting for bed space every time he had a black patient. The hospitals were not too interested in this clientele.

One of the cases which decided his future was that of the late Joe Harris a leader in the black community. Harris had suffered a case of acute appendicitis.

"I watched one of the strangest events take place in my entire life," said Margoles. "I watched a nurse walk into a ward holding five white men. She asked each one if they minded having a black man in the ward.

"They all said yes so I was forced to put my patient in segregation—in a $30-a-day private room instead of a $15-a-day ward bed."

With the encouragement of a few friends and colleagues, he opened Capitol Hospital at the north end of Milwaukee. Over the next few years he poured all he could get into building one of the finest community hospitals in the country.

"We were quite successful," he said. "We peaked at more than 40 bed patients with a staff of 65 and 20 doctors—ten of them black."

This was in 1957 at the opening of the battle for school integration in Little Rock. The Ford Foundation had recently given the hospital a grant because of its not-for-profit work. He was fighting for hospital accreditation in a period where there was great hostility to integrate at any levels.

It was also the beginning of a move by the larger hospitals to fight any expansion of small institutions like Capitol Hospital. They saw such hospitals as a threat to their economic well-being.

"I really wasn't thinking about the number of problems which I was creating," he said. "All I could think about was building that hospital up."

Margoles was so successful that Charles Letourneau, a professor of hospital administration and editor of Hospital Management Magazine gave this institution nationwide attention for its unique success in integration. Then the next series of problems began for Margoles.

THE MARGOLES STORY: TAX TROUBLE AND JAIL

Mrs. Betty Margoles brought in steaming cups of hot Sanka and placed them on the narrow coffee table.

She had been listening while her husband, Milton, had related some of the earlier experiences leading to a tax suit which has stripped him of almost $500,000 in taxes and legal expenses, putting the family into debt.

"It's the wife who suffers and the children," she said. "You don't know what it's been like. The endless telephone calls, the trips to Washington, endless questions and never any peace. Do you know what it is like to be hounded by the Internal Revenue Service? Do you know what it is like to just want to be able to start a new life and know you can have something to build with?"

Perry Margoles, their son, hushed his mother. "It won't be much longer," he said. "I'm certain that McClory will be able to do something. He's is trying."

Congressman Robert McClory, R-Lake Bluff, took up the fight where Congressman H. R. Gross, R-Iowa, started. He has written to President Nixon and made repeated visits to the Justice Department.

"I hope I'm not asking for all that much," said Margoles, who has spent 15 years trying to clear up what started as an alleged $33,000 tax bill with Uncle Sam.

"You can't really appreciate the way things were going," he said. "Those were good years when we were getting Capitol Hospital in Milwaukee moving."

There was also an ugly undercurrent of hostility from the rest of the predominantly conservative Wisconsin city. The other hospitals didn't like his success. Many of the people resented his concept of "integrated" medical care. And there was occasional harassment.

"We even had an attempt to plant an illegal abortion in the hospital," he said. "But our operating room nurse was a strict Catholic. Do you really think that she would have let us get away with a thing like that even if we wanted to, which we didn't."

Margoles didn't know what was coming when the first IRS man entered the hospital. "He spent about three months piddling around then left," he said.

Then the IRS suddenly took interest in Margoles' financing during the same period when a Milwaukee union showed interest in buying a hospital. Margoles' operation seemed particularly interesting. It was learned later.

Margoles found the IRS was looking into the way he purchased his government bonds and some of his other financial arrangements. He had been buying small bonds and converting them into larger bonds without declaring the interest. He had also mortgaged his house on various occasions to get credit to build his hospital.

In retrospect, Margoles admits he was not very smart when it came to this financing and his other investments and awoke one day to find himself embroiled in a tax suit. Uncle Sam wanted $33,000 in unpaid income taxes.

"I went to my tax consultant and asked him if I should pay it," said Margoles. "He told me not to worry as we would fight it all the way to the Supreme Court." In 1959, the case not having been settled, he was indicted for income tax evasion.

Facing a prison sentence in 1960, Margoles threw in the sponge. "I can remember spending the entire day waiting while my lawyer and the government's attorney met with the judge in his chambers," he said.

Out of this came a negotiated plea which was neither legal or on the record in those days. It was agreed that Margoles would plead no contest and receive a stiff fine and probation, he was told later.

"I didn't have anything to worry about," he said. "Few people were being sent to prison for tax evasion. I had watched the cases closely. It was a civil matter as far as I was concerned. I was wrong and willing to pay."

However, when Federal Judge Robert Tehan told him the penalty was one year in prison and a $15,000 fine, Margoles paled. The judge said one of the reasons he was giving him this sentence was that the doctor had hidden away $731,000 in cashier's checks. A charge never made by the government and steadfastly denied by the Margoles.

The doctor asked for three months to get his affairs in order. He also went to Mayo Clinic in Rochester, Minn., for help with a medical problem. Upon his return he had planned to seek a reduction in the sentence. He felt something must be wrong as the judge had given as his reason for the stiff penalty a figure which represented the worth of his entire hospital operation. He had hired Wisconsin attorney David Rabinovitz to represent him.

During this same period, he received a phone call from a man named Earl Villmow who was seeking some help in financing his home. The doctor had been known to make some second mortgages where a man was in trouble.

"I went," said Margoles. At this meeting he was approached with a proposition that if he would pay $5,000 down to a law firm in which Tehan's son was associated, he would get a suspended sentence according to Congressman Gross in a statement made part of the Congressional Record.

"I asked my attorney and was told perhaps it would work," said Margoles. "He told me to go ahead and pay it."

At the same time, unbeknown to Margoles, an Indianan had written a letter to Sen. James O. Eastland, then chairman of the Senate Judiciary Committee. Attorney Owen Crumpacker had asked the Mississippi Democrat to look into Tehan's handling of a multimillion dollar court reorganization case in Hammond, Ind.

"Whether Tehan became frightened because of this investigation, I'll never know," said Margoles, "We didn't even know he had any problems."

Tehan also might have found himself in trouble for failing to file or even pay income taxes for eight years prior to his appointment to the federal bench according to Sen. John Williams, R–Del., in the Congressional Record. But somehow this problem got swept aside and was never raised again.

It was in this atmosphere that Margoles was indicted for attempted bribery and obstruction of justice. And the judge, in what can only be considered an act of questionable conduct, issued pre-trial publicity releases, implying the doctor's guilt.

After what must have been a difficult case, the jury decided that Margoles was not guilty of attempted bribery. But on the same set of facts, it found him guilty of attempted obstruction of justice.

As in any court battle, some of the important facts get left out through various legal maneuvers so the jury never learned that the doctor had received advice from his attorney to pay the money.

And as Washington columnist Jack Anderson said last week, the junior Tehan's law firm had a lucrative bankruptcy practice in his father's court. The jury never learned of this either as the younger Tehan never took the stand.

THE MARGOLES STORY: STARTING ALL OVER

It was a somber day in 1962 when Dr. Milton Margoles returned to his Milwaukee home after 22 months in a federal prison at Sandstone, Minn.

While he had been away, a local union had seized control of Capitol Hospital, which he had started many years before. It had been the first integrated hospital in the Wisconsin city.

Now he was returning to find most of his assets dissipated and a ballooning tax bill which would eventually reach several hundred thousand dollars.

Margoles had pleaded no contest to evading income taxes amounting to more than $33,000 by time he was finally sentenced in 1960. He had received one year in a federal prison and a fine of $15,000.

In what can only be considered a case of bad legal advice, he had paid a retainer of $5,000 to the law firm of the sentencing judge's son after being solicited by a third party, according to testimony in the Congressional Record of March 27, 1972. His own lawyer had advised him to do it and never warned him that such an act could be considered criminal.

This resulted in an indictment for attempted bribery and charges of attempted obstruction of justice. A jury found him innocent of bribery, but guilty of attempted obstruction of justice. He received five years more in prison because of this bad advice.

"It all seemed like a bad dream," said Margoles as he sat down to lunch in the gray octagonal house in Winthrop Harbor.

Through the efforts of Congressman Robert McClory, R-Lake Bluff, he had been able to get a medical license in 1970 so he could help serve the people in Zion. McClory is also trying to obtain a presidential pardon for Margoles.

"I just don't think income tax evasion is the kind of crime which warrants the punishment this man has received," said McClory. "He has suffered more than enough for what he accidentally did to himself."

During the months Margoles was away, the union managed to dissipate all of the accounts receivables and assets of the hospital and left a stack of unpaid bills for Margoles.

By coincidence, Margoles returned home on the day union leaders decided to sell or lease the hospital. The union threw the institution into voluntary bankruptcy. All of the key records showing how the assets had been dissipated had disappeared.

"I went out and borrowed the money to get back the hospital," said Margoles. "I had to buy back the medical equipment, the beds, and even the office equipment. If my friends hadn't loaned me the money, I wouldn't have succeeded."

Meanwhile Uncle Sam was watching eagerly from the side lines and immediately took an interest in Margoles as he regained control of the hospital. He was forced to assign all funds obtained by leasing the building to a medical group to pay his tax bills. A sore point with the Margoles family has been that they could have paid off their debt to IRS if the government had approved the sale of the hospital in 1966.

Needless to say, the federal wheels turn slowly and the potential sale fell through. "We could have paid off all of our loans, tax and legal obligations if the government had moved faster," he said.

Since that time, the building has been leased to another organization and Margoles' son, Perry, has devoted all of his time to trying to find a buyer.

As a result of the failure to complete the sale, however, the family incurred an additional $60,000 in real estate taxes.

The doctor is still mystified why the IRS in 1960 had threatened him with a jeopardy action if he refused to assign control of his few assets to a third party bank for management.

Even then IRS District Manager Emil J. Nelson was unable to explain what prompted this threatened use of force.

The Margoles family has also discovered that the government wasted assets worth more than $7,000 by failure to collect on outstanding debts to the hospital.

"We also found that the government had invested thousands of dollars they had collected in government bonds which paid only two or three per cent. The government was charging us 6 per cent interest on the unpaid balance of our tax bill," said Margoles.

It was not until 1969 that the IRS admitted in a letter that Judge Robert Tehan Sr.'s claim that Margoles had assets worth $731,000 buried in the ground as being unfounded. This had been the basis for the stiff penalty handed down by Tehan during the income tax case in 1960.

In addition to this harassment, tax officials put the doctor's home on the auction block in 1969. Margoles was forced to go out and borrow more money to buy it back.

It was under this economic burden that Margoles was forced to try and build something out of his remaining life.

At the same time, Margoles was fighting another battle—getting reinstated as doctor.

"It's a tough battle trying to take on a huge tax burden and try to restart your life again," said Margoles. "There were so many forces to contend with that it's hard to know just where to begin."

"I was seeking to go back to work. I am a career physician and this is the only way I can pay off the mounting tax bills."

But when Margoles went to obtain a license in Wisconsin, he was thwarted.

"First I was told that I couldn't get a license until I finished serving my four years on parole," he said. Margoles resigned himself to wait and returned to school. And his wife went to work.

But it was during the early 1960s, that many communities found a need for doctors. Margoles had the skills and there were plenty of communities which wanted his services.

"I kept asking the Wisconsin medical board," said Margoles, "but it did no good." There were openings, however, with the federal government, so Margoles went to Washington, D.C. He had already been turned down, however, in Iowa, the Dakotas, Illinois, Minnesota, and every other state where he applied.

"I had little reason to think I would be successful," said Margoles, "but I had to try."

To his amazement, he received a license. "It was a wonderful Christmas present," said Margoles. The federal examiners ignored all considerations except his qualifications as a doctor.

Suddenly, doors began opening. Michigan offered him a position with a state hospital. He received an invitation to come to New Jersey. California re-instated his license. But Wisconsin remained adamant. State officials still refused to grant him a license.

"If he had been granted a license right after he came out of prison, he would have been able to pay his debts by this time," said his son, Perry.

And as support grew for the doctor, more and more newspapers began asking why the doctor still was being treated as a second class citizen in Wisconsin. Congressman H. R. Gross, R-Iowa, asked in Congress whether Margoles' civil rights had been violated. He raised a question of discrimination.

And Gross asked how long a man must suffer before he regains his civil rights including the right to practice his profession where he pleased.

THE MARGOLES STORY: A FIGHT FOR JUSTICE

It was a crisp February day when Dr. Milton Margoles first came to Zion. He had answered an advertisement in the Journal of the American Medical Association. The community was seeking another doctor.

"This wasn't the first Illinois community I visited," said Margoles. He previously tried to move to Buckley in 1964. The city fathers had placed an advertisement along the highway seeking a doctor for the community.

"They wanted me, but I couldn't get a license at that time," added the 59-year-old physician.

Margoles and his wife, Betty, are busy reestablishing a home in Winthrop Harbor after 15 years of troubles with the Internal Revenue Service, the federal courts and conservative elements of Milwaukee.

He had founded the first not-for-profit integrated hospital in the Wisconsin city in 1951 when integration was still a very new word in the public's vocabulary.

Capitol Hospital was a small proprietary institution which was viewed, along with similar institutions, as a threat to the economic well-being of other larger and established hospitals.

It was during this period that the doctor placed his financial matters into the hands of other people he now recognizes were not qualified so he could devote himself to building this not-for-profit institution.

This led to the income tax evasion case which ultimately caused the doctor to serve 22 months in a federal prison. After the doctor was sent to Sandstone, Minn., to serve his time, a state court action was started to lift his Wisconsin license.

The doctor, who was represented by counsel but not allowed to defend himself by being present, was accused of moral terpitude because he did not pay his income taxes. He also was accused of certain financial arrangements which were later dismissed as unfounded.

The doctor didn't learn that these allegations had even been made until 1966 . . . four years after he was released from federal custody.

Milwaukee lawyers contacted by the News-Sun said Margoles was considered one of the finest medical men the city ever had.

"I can remember having Margoles as a medical expert in one of my cases," said one lawyer. "It is the only case in my entire legal profession where more people knew the doctor who would be testifying in the case than they did the names of the lawyers."

While most lawyers would not discuss the Margoles tax case, they did indicate he had received a raw deal in state courts.

"The case involving the doctor's license went all the way to the Wisconsin Supreme Court," said one lawyer. "The court affirmed a lower decision, which said income tax evasion could be considered moral terpitude."

This was the reason (moral terpitude) that caused the doctor to lose his license, one lawyer said.

The doctor's struggles had taken him to various states seeking re-licensing. But it was not until December 1966, that he obtained a license from the District of Columbia. At one point in his battle, he even had volunteered for service as a civilian doctor in Vietnam. He had been turned down because he didn't have a license. After practicing in Michigan for two years, the doctor was now coming to Zion. He wanted to practice closer to his relatives and loved ones across the border in Wisconsin.

"We needed doctors for the community," said Zion's former Mayor Lee Fleming. "I listened to the doctor and thought his qualifications excellent.

"But when I began making inquiries elsewhere, I received some unfavorable reports from Milwaukee," continued Fleming. "These reports seemed to be vengeful and full of vindictive comments."

Fleming said he even received a call from a woman claiming to be a reporter for a Milwaukee newspaper. "She told me we didn't know what we were doing," he said. "She told us Margoles was a terrible man."

"Someone had a lot of hatred in their mind," said Fleming in thinking back to his investigation. "He (the doctor) was even accused of running an abortion mill."

Fleming also received a mountain of favorable reports. More and more it began looking like a personal vendetta," he said.

Fleming said he contacted officials in Springfield, who also took a negative attitude about giving the doctor a license. But with the help of U.S. Rep. Robert McClory, R-Lake Bluff, he was able to overcome this negative attitude.

"After we completed our investigation, we found that the only thing the doctor ever had done was this attempted obstruction of justice," said Fleming. "In fact, we found that the doctor had been approached by a government informer posing as a go-between for the judge's son's law firm. This was the man who solicited Margoles. It wasn't the way the Milwaukee papers had printed it at all."

Fleming said he didn't look on the doctor's failure to pay all of his income tax as "any great crime. He wasn't doing anything more than any of us try to do every year.

"The only difference between the doctor and the rest of us is that when IRS tells us to pay, we pay," he added. "The doctor's mistake was in trying to argue with IRS."

Fleming said the community felt that his qualifications as a doctor were "excellent" so it gave the doctor the green light to come to the city and practice medicine.

"Now all we are interested in is getting my husband a presidential pardon," said his wife. "My husband has a lot to offer society and he should be entitled to serve the people who need his services and want them.

For the doctor, there have been many punishments since he was sent to prison in 1960 for 22 months.

He has lost:

The Milwaukee hospital which he founded in 1951.

The family home to pay back taxes.

His license to practice medicine in Wisconsin where his family lived and where his friends are.

His right to practice medicine for six years in any community.

His life savings.

His social prestige and professional standing in his community.

His health, and that of his wife, have been injured by pressure from those who don't want the doctor to return to Wisconsin to re-establish his practice.

The issue which the president has been asked to deal with is how much punishment should a man receive for improperly filling out his income tax, said McClory. If we can consider pardoning men and women who have killed and maimed other human beings why not a man whose major crime was filing out his 1040 in the wrong manner.

HORTON RESOLUTION SEEKS AN ADDITIONAL $2.5 BILLION FOR EDUCATING POOR YOUNGSTERS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HORTON. Mr. Speaker, I have introduced today a resolution calling for forward and increased funding of Title I of the Elementary and Secondary Education Act of 1965, a prime vehicle for improving educational opportunities for the disadvantaged. The text of the resolution follows:

H. RES. 967

Whereas the President of the United States, in a message to Congress on March 17, 1972, called upon the Congress to direct $2,500,000,000 so that we may move forward to guarantee that the children currently attending the poor schools in our cities and rural districts be provided with education equal to that of the good schools in their communities, and

Whereas the President of the United States, in his aforesaid message has requested that such funds be channeled through the authorities under title I of the Elementary and Secondary Education Act of 1965, and

Whereas the Congress has effectively extended the Elementary and Secondary Education Act of 1965 through the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, and

Whereas there are presently authorized to be appropriated for each of the fiscal years ending June 30, 1973, and June 30, 1974, approximately $6,100,000,000 to carry out the provisions of title I of the Elementary and Secondary Education Act of 1965, and

Whereas there is a financial crisis in the schools currently being attended by concentrations of children from low-income families in our cities and in our rural districts: Now, therefore, be it

Resolved, That there be added in a supplemental appropriation bill for the fiscal year ending June 30, 1972, to remain available until expended the sum of $2,500,000,000 for the purpose of allocating funds to schools pursuant to the provisions of title I of the Elementary and Secondary Education Act of 1965.

Mr. Speaker, in 1968, I conducted together with four of my colleagues a fairly extensive study of the problems of urban education. We concluded that America's urban schools were in deplorable shape and that, in order to make any progress in the achievement and motivation of urban school pupils, our urban schools had to offer not equal but superior educational opportunity than that available in the suburbs. While we recognized that so-called compensatory education programs are not a panacea for learning success of poor youngsters, the facilities and program gap between most urban and suburban schools was so great as to cry out for upgrading every aspect of urban education.

Certainly, our urban schools are in even worse shape today. Since 1968, the school tax squeeze has gone beyond the crisis point. In some cities, schools have literally shut down for lack of an adequate tax base. It is common knowledge that property tax growth cannot keep up with the costs of providing a decent education—particularly in decaying urban areas.

Despite the crisis in urban education, the sad fact is that the Federal Government has failed to put its money where its mouth is where educating poor children is concerned. For example, for the past year, the administration has requested and Congress has appropriated little more than $1.5 billion for title I of the Elementary and Secondary Education Act. On the surface, this might sound like a lot of money. But it is spread among 16,000 or more school districts and it is less than one-third of what Congress authorized as the needed funding of this program. We know that $1.5 billion is inadequate to reach most poor pupils; it is even inadequate to really help the few who can participate in title I programs. Over the past 7 years, $7.8 billion has been appropriated for title I, compared to $16.8 billion authorized by Congress.

These figures underscore the failure of the executive and legislative branches to come to grips with educational opportunity for the poor. Our own inaction has left the judicial branch to stumble along in an effort to achieve some modicum of equal opportunity. If Congress and the President are now to step in to relieve these problems we must provide the alternatives—and the moneys—to realistically deal with equal educational opportunity and racial integration.

Mr. Speaker, the resolution I have introduced is an important first step toward adequate funding of compensatory services for the disadvantaged. That our States are in critical need of increased title I funding was made abundantly clear by New York State Education Commissioner Ewald B. Nyquist. I commend his remarks in support of this resolution for the consideration of my colleagues.

UNIVERSITY OF THE
STATE OF NEW YORK,
Albany, April 6, 1972.

HON. FRANK HORTON,
United States House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HORTON: In recent weeks there has been evidenced an increased interest in using Title I of the Elementary and Secondary Education Act as a vehicle for providing compensatory services for equal educational opportunity, presuming an ability to reach all disadvantaged children in the Nation. Title I is based on the concept of targeting funds on the neediest children, making it the one existing program with a built-in potential for reaching this end. However, due to the nationwide inflation increase and the resultant rise in cost factors, there has been a rapid decline in the effectiveness of funding over the last seven years. As a consquence, most states in the Nation have not had the opportunity to develop a concentrated level of services.

Since fiscal year 1970, New York State has experienced an approximate 21% increase in poverty statistics, along with a concurrent 25% decrease in the full funding level for Title I. In fiscal year 1972 alone, twenty-nine of our sixty-three counties in New York State received less in allocations than in fiscal year 1971, despite a 13% rise in the poverty statistics in the State.

Our Federal assistance level for fiscal year 1972 provided approximately $245 per disadvantaged child as compared to $273 per child in fiscal year 1971. The poverty statistic in fiscal year 1972 for the State was 788,564 students with need. In moving toward the 1968 Office of Education guidelines of providing for disadvantaged pupils under Title I, one half the average state per pupil expenditure, we concentrated those funds at $350 per pupil. This allowed New York State to accommodate only 552,743 of its needy children, leaving 235,821 equally qualified students by the wayside. Providing $632 per pupil in accordance with the Federal guidelines would have enabled New York State to accommodate even less students.

It is quite possible that, due to the present economic environment, the total of poverty eligibles in New York State will increase substantially for fiscal year 1973, as measured in terms of January 1972 AFDC statistics. The policy in New York State for fiscal year 1973 is that a program should be so constructed that there is a concentrated expenditure of $400 per disadvantaged child under Title I. The President has suggested an average mass critical level for the Nation of $400 per disadvantaged child. Taking into consideration the cost factors in New York State and the vital need to provide concentrated assistance for all the disadvantaged students, the New York State equivalent to this suggested mass critical level would amount to approximately $660 per pupil. This figure would be in accord with the Office of Education guidelines and with the Administration's recently stated desire to see a concentration of funds.

Clearly, then, since the funding for Title I began, New York State and other similar urban states have not had the ability to put to test the contention that an established mass critical funding level would bring about greater success to the compensatory education programs. For this reason, I strongly urge you to support legislation providing for a forward funding of Title I at an increased level.

Faithfully yours,

EDWARD B. NYQUIST.

REV. DR. DANA McLEAN GREELEY: SERMON ON VIETNAM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. DRINAN. Mr. Speaker, I am pleased and honored to reproduce herewith a moving and splendid sermon given by the distinguished Rev. Dr. Dana McLean Greeley, a former president of the Unitarian-Universalist Association of America.

Dr. Greeley delivered this sermon at the First Parish Church, Unitarian, in Concord.

Dr. Greeley's sermon is very perceptive and most constructive. The title of the sermon is "Vietnam! and What Can We Do About It?"

Dr. Greeley's sermon follows:

VIETNAM! AND WHAT CAN WE DO ABOUT IT?

(By Rev. Dr. Dana McLean Greeley)

Our subject this morning is again the most difficult one that we have to face, in this Church, and in America, and in the world, the war in Southeast Asia. There are varied opinions about it in Washington, and among us, and I don't doubt even in Peking. I know there are many who think that the war in Vietnam must go on to victory at any cost, many who think that we cannot yield an inch at any point to communism, as some of them would not yield an inch to capitalism. To me it seems as if the conflict in Northern Ireland is just as shameful but not nearly as dangerous to the world. I guess I will change that and say it is not as shameful. The war in Bangla Desh is over. The tensions and sporadic fighting in the Middle East constitute a powder-keg with a horrible potential; but they cannot be compared currently with Vietnam as a threat and an affront to mankind and all human decency.

The race question in our country is a momentous issue; and even the bussing problem does not yet appear to have a solution. Scientists who ought to know are telling us that we have an emergency situation with relation to the ecology, and that if we don't turn the tide against pollution in 10 or 20 years, life on this planet may be permanently and fatally poisoned. Population and birth control and abortion are issues that if they are not dividing American, are yet splitting its largest religious body wide open. And law and order, many officials tell us, must be achieved, or anarchy and chaos will ensue, and no man, no property, no value will be secure. But I am asserting that above every other curse or cancer in our culture at the present moment is Vietnam, which is like the Black Plague of the Middle Ages, and no second curse or plague is to be compared with it. Vietnam is the most crucial problem both morally and finally that we have to deal with.

I don't think that the fact that we have a presidential election coming up should either incite or prevent the discussion of this subject. And I do not believe that it has to be a partisan issue. My own personal feeling toward Johnson and Rusk and Rostow was no different from my personal feeling now toward Nixon and Laird and Kissinger. And the Republican "plan to end the war" in my judgment hasn't differed in any basic sense from the Democratic plan that preceded it. Nor are changes in the draft on the one hand, or bringing home the big majority of the ground troops on the other hand, going to provide any essential alleviation, as long as we are amassing our naval strength within the range of Haiphong Harbor and seeking still a military victory and dropping two million pounds of bombs a day or more on North Vietnam or anywhere else.

I am sure that the vast majority of Americans wish that we were not in Vietnam today. I wonder if there are many who would deny that we went there first to bolster a tottering French Colonialism and to prevent a revolution that might transfer the power from the feudal lords to the communists. But the French were defeated, and later it became our war; and it has been our war and an open war longer than any other in our history.

We used to talk about the domino theory in relation to Southeast Asia, which was that if one country went Communist, another would do likewise, and then another, until they had all fallen away from the free world. But what has happened in domino-like fashion is that the war has spread from Vietnam into Cambodia and Thailand, and unless we can negotiate or withdraw, there is no end in sight.

I have said before that Vietnamization seems to me to be a massive mistake or hoax. In 1965, before the real American fighting began, the Vietnamese on the side of the government could not win the war. How can they win it today? It is obvious that they cannot. We have dropped, is it more than twice as much in bombs on that little area, as we dropped altogether on Germany and Japan in World War II, and we have actually been unleashing and escalating that bombing in the last couple of weeks, with statements from the Secretary of Defense that we will do whatever is necessary to overcome North Vietnam's aggression. Is that Vietnamization? We know that it is not.

We have also had official statements, one after another, that our bombing is to protect our own troops as they withdraw. And to me that appears to be equally flagrant deception, or double-talk. If the object is to withdraw the troops, I really believe they could be withdrawn without a war in Thailand or the bombing of Hanoi. If there is another purpose to be accomplished, perhaps the arguments for bombing would be plausible.

A third pronouncement just lately that has been made repetitiously and that sickens me is the charge against Russia for supplying weapons to North Vietnam. The White House has blamed Russia for aiding and abetting the North Vietnamese aggression. I truly cannot understand how American officials can be so stupid or so brazen as to make such statements. We are supplying practically all the power that South Vietnam possesses, and we know that without our help it would fall in a very short time. Why has not Russia as much justification for assisting the North as we have for assisting the South?

The first time that I was in Saigon we were told emphatically that Ho Chi Minh loyalties were to Moscow, not Peking, and that the important axis is the Hanoi-Moscow axis; and that is certainly being borne out today. Russia's help for Hanoi may threaten us, but our protest is shockingly like the pot calling the kettle black. If the war is still primarily a civil war in South Vietnam, then we could say that North Vietnam and the United States are the other two participating belligerents. But I think it is more nearly correct today to acknowledge that the government of Saigon and the government of Hanoi are the parties that are pitted against one another, and Russia could readily rationalize that it has as much obligation to one party as we have to the other.

I want to speak more specifically, as I have a hundred times, about what seems wrong to me. It seems wrong to me to be using military might to combat ideas, namely communism. All the great sages of the ages have pointed out that that is not the way you get rid of an idea. And I have said that to me it is as bad as if we were today to start the crusades all over again, and send Christians to fight Moslems. We are not going to create a better world by fighting that way. And we are not going to get rid of Communism by the force of B–52s.

Secondly, the killing that we are doing is wrong. If there are nearly a hundred thousand homes with broken hearts in America, there are nearer a million in Southeast Asia. And they are not just the enemy, any more than we are just the enemy. They are people. You perhaps noticed the other day that someone asked an American general if we push the enemy troops all the way back to Thailand, and the general replied that we would kill them all before we get there. It's a horrible thing to say, but it seems to me that a person like Melvin Laird must become as callous to death and as void of humanity as Goebbels or Goehring in Nazi Germany. History will pass a very severe verdict on both the White House and the Pentagon in connection with this war. Whether Sacco and Vanzetti were guilty or innocent, a wave of public sentiment rose to their defense both before and after their electrocution; and public sentiment will increasingly condemn civilians in the last seven years as if they were chickens or hogs.

Thirdly, it seems wrong to me for us to make a profession of democratic ideals, and prevent democratic self-determination in South Vietnam. We have just celebrated the beginning of the American Revolution, and yet America is stubbornly using its enormous power to thwart the revolution in Southeast Asia. We have broken the Geneva Agreements. We have supported a corrupt, authoritarian puppet government. We have frustrated the will of the people. We have prevented the possible reunification of a country, in such fashion perhaps as if a foreign power had supported the Confederate South a century ago, against the North, and prevented the preservation of the U.S.A.

Again, it seems to me that our failure in negotiation is a tragedy and a travesty. Whether Lyndon Johnson would have been willing to have the Paris Peace talks accomplish anything short of what could be achieved by a military victory in Asia, possibly we cannot know. But the fact that they have accomplished nothing over this long period of time is a disgrace in our diplomatic record, and a major blow to the diplomacy of the world. It was only a few days ago that the French Government gave us a mild rebuke for the cancellation of the peace talks, and Washington replied with a little pique or irritation.

Of course it takes two to negotiate, and North Vietnam may have been very difficult; but it was four years ago that that negotiating was initiated, and that we have gained nothing in that time is no credit to the then Johnson administration or to the subsequent Nixon administration. And it is profoundly demoralizing to everyone concerned. At least one chief American negotiator resigned because he was not given the freedom or power by Washington to truly negotiate. I cannot believe that if labor and capital, and dock strikers and owners, and baseball personnel can all resolve their problems in a matter of days, it should not be possible for the Paris Peace negotiators to resolve their problems in a matter of a few years, if either side had a resolute will to do so, and the other side was at least mildly responsive to world sentiment.

The United States conference of private arbitrators had its annual meeting in Boston earlier this month. There is no excuse for arbitration on the international level today to be as hopeless or impossible as it appears to be in the case of Vietnam. Allow me

to say that Walt Rostow of the Johnson administration once said to another man and me in the White House that he could assure us that there would be negotiation—we had been pleading for it. But what he meant was that the Viet Cong and Hanoi would be forced by our superior military power to negotiate. I think that is what each administration has hoped for and believed in, but that is not the negotiation that I have in mind.

But that brings me naturally to my next point. It seems wrong to me for the U.S. in such a context, to be acting still unilaterally, not re-convening the Geneva Conference, or using the World Court, or asking for the help of the United Nations. The world bank and international monetary discussions and decisions are indispensable in 1972. We were forced to recognize this recently. World Health regulations are essential. Why can we not sacrifice an ounce of pride of sovereignty to achieve world diagnosis of a world crisis? Or if we are afraid of communism in the United Nations (which fear I could not condone), why can we not submit the whole question of Vietnam to such a committee as England, Canada, and France?

Anything to save ten to one American life and the extermination of countless equally precious lives and whole cities and villages and the fertility of their land in Southeast Asia? Some one said a while ago that the whole budget of the United Nations, which he thought was the promise of mankind, was less than the cost of garbage removal in the city of New York. And Justice Arthur Goldberg has just charged in the New York Times that one of the major sins of Vietnam is Washington's by-passing and down-grading of the United Nations.

Sixthly, it seems wrong to me to risk a third world war, which most of us believe would mean the destruction of both sides in the conflict, if not of civilization altogether; and if either Russia or China should decide to become as aggressive in defense of North Vietnam as we are in defense of the Thieu regime of Saigon, we would be on the verge of that third world war. If Russia were as determined to extend its sphere of influence and power in Cuba and South America, for example, as we are to defend or extend ours in Asia, then also we'd be on the verge of that unthinkable third world war. How and when can we begin to substitute goodwill for threats and friendship for fear and positive treaties for neutral balances of power?

What can we do? We can think hard, every one of us, and try at the grass roots to resolve a problem that three presidents have not been able to resolve, but that must be resolved. We can speak freely, privately and publicly, and increase knowledge and counteract both repression and irresponsibility, and also get people to understand that patriotism does not mean accepting a certain position, or supporting the government, but having a deep concern for America and for mankind. We can vote, not alone for president, but at every level, for people who we think will work to bring about peace in the world, as the foremost necessity of our time.

We can write letters and send telegrams to people whom we know and to people whom we don't know, in high positions and in low positions—everyone counts. We can refuse to pay our taxes, telephone taxes or others, if we wish to, as Henry David Thoreau did in the case of the Mexican War, as a kind of financial protest or boycott, though I rather think for myself I prefer the ballot-box to the boycott. We can use investments, if we have them, or can help control any, to express our convictions and to influence both corporate and public policy. We can give money, little or great, to peace movements or political committees to be at work in your behalf. We can participate in demonstrations that dramatize citizen sentiment, peaceful demonstrations that constitute personal witness. We can counsel young people who are opposed to the war and support their stand.

I have the highest admiration for the courage of young men who are convinced that military service is their duty, and I pray for their health and integrity and safety; and I admire also the courage of those who honestly believe that war is wrong and that they cannot fight, and I think that we can struggle to see to it that they are not called draft-dodgers and that they are not punished for conscience' sake. They may be the heroes of tomorrow's world.

Can we get rid of war? We must, both morally and practically, as much or more than we must get rid of the crime on our streets. It is worse to sanction the systematic slaughter of millions or of hundreds or thousands than to suffer the killing of hundreds or thousands; and the added crimes of theft and rape that are rare in peace seem axiomatic in war. We must get rid of war before war gets rid of us.

It is time in the development both of ethics and of science for a real turn toward peace. Of course that is a Herculean step, but it is possible. H. G. Wells some time ago said, "I agree to the existence of a mountain range of difficulties, and to the prospect of complications and set-backs beyond number on the way to a federated world peace.—But over that mountain range of difficulties lies the way, the only way" for men to go. It used to be argued that man had an aggressiveness that could not be overcome. I don't think my daughters or son-in-law have it and they are normal people.

The policy makers are in Washington and not on the battlefield or in the air. And I do not believe that the enlisted or conscripted men have any irremedial compulsion to go to war. George Wald wouldn't accept that and neither would General Eisenhower. President Eisenhower thought that we could get rid of war and should. He said after Korea, which he ended. "Every gun that is made, every warship that is launched, every rocket that is fired, signifies—a theft from those who hunger and are not fed, those who are cold and not clothed. This world in arms—is spending the sweat of its laborers, the genius of its scientists, the hopes of its children" on the art and tragedy of homicide.

It is time to use the sweat of our laborers and the genius of our scientists and the hopes of our children in another direction. "I saw a new heaven and a new earth," said John on Patinos. It is time for us to build a new world, without war, and founded upon brotherhood and justice and peace. War is of the past. Peace is of the future.

LARRY EISENBERG ELECTED NATIONAL EXPLORER PRESIDENT

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SCHWENGEL. Mr. Speaker, the Explorer Scouts of America are a vibrant and vital organization for our American youth.

Recently, Larry Eisenberg was elected National Explorer President. Larry, past president of the Illinois-Iowa Explorer Council, brings a distinguished record of service and achievement to his new position. My personal congratulations to Larry and my hopes for his continued success.

News release follows:

EISENBERG ELECTED NATIONAL EXPLORER PRESIDENT

WASHINGTON, D.C., APRIL 16.—The leadership of more than 400,000 young adults has been set with the election of Larry Eisenberg, 18, of Rock Island, Ill., as national Explorer president.

Eisenberg and 12 national officers were elected in a full-scale political convention and machine balloting at the National Explorer Presidents Congress, April 12–16 in Washington, D.C. The officers for this young adult program of the Boy Scouts of America were installed by Associate Chief Justice William O. Douglas.

As Explorer president, the Rock Island High School senior will provide a communications link to more than 30,000 Explorer posts throughout the nation; plan national Exploring programs, and represent Explorers in national and international youth events.

Eisenberg's election by more than 2,500 Explorers attending the Explorer Congress culminated a long campaign trail. Larry started his Exploring leadership as president of Explorer Post 2007, in Davenport, Ia. Later he was elected Explorer president for the 1,000 young men and women Explorers in the Illowa Council. In that position he is also a member of the adult executive board for the council.

Before becoming an Explorer in 1970, Larry was an active Boy Scout for five years. As a Scout, he reached the highest rank of Eagle, and earned the Ner Tamid award for Scouts of the Jewish faith.

In school, Larry is an A student, taking advance courses in math, English and biology. In addition, he is active on the newspaper staff, dramatics productions, and is a member of the Spanish, and Ecology clubs.

Larry also holds active leadership positions as regional chairman of B'Nai B'Rith, and last January was elected Youth Governor of Illinois at the Annual Citizenship Program.

After graduation in May, Explorer President Larry Eisenberg plans to study political science. He is the son of Mr. and Mrs. Harry Eisenberg.

Exploring is the young adult, co-ed, program of the Boy Scouts of America. It is a planned program that brings young people voluntarily into association with adults in specialized fields of interest ranging from space science to auto mechanics, and banking to law enforcement. Exploring is presently the largest young adult program in the country.

THE POLISH CONSTITUTION

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EILBERG. Mr. Speaker, on May 7, 1972, the Polish American Congress of eastern Pennsylvania held a commemorative celebration of the 181st anniversary of the adoption of the Polish Constitution.

I was privileged to be the guest speaker at this ceremony, which was held at the National Shrine of Our Lady of Czestochowa, in Doylestown, just outside of Philadelphia.

The struggle of the Polish people for freedom and independence dates back to the 1760's. It is a fight which continues today.

Polish independence is a cause which should concern all Americans because we owe so much to the Polish people. During

our War of Independence two of Poland's greatest heroes, Casimir Pulaski and Thaddeus Kosciuszko, fought with us against the British. Pulaski was killed at the battle of Charleston, S.C.

At this time I enter into the RECORD the program for this celebration and the speech I was honored to deliver:

PROGRAM

General Chairman: Walter Szmid, President, Polish Language School of St. Adalbert's Philadelphia.

1. Opening: Edwin Pelczarski, Vice-Chairman of the Polish Constitution Day Observance.

2. Master of Ceremonies: Henry Wyszynski, President, Eastern Pennsylvania District and National Director of Polish American Congress.

3. Presentation and review of colors: Szymon Klimek, Post No. 12, Polish Army Veterans Association.

PARTICIPATING POSTS

Post No. 12 P.A.V., Philadelphia, Pa.
Post No. 121 P.A.V., Camden, N.J.
Post No. 178 P.A.V., Philadelphia, Pa.
Post No. 207 P.A.V., Conshohocken, Pa.
Polish Veterans in Exile Group No. 36, Philadelphia, Pa.
Polish Air Force Veterans Association, Philadelphia Wing.
Polish Air Force Veterans Association, New York Wing.

4. National anthems: Combined Youth Groups, Asia Bodziuch, conducting.

5. Pledge of Allegiance: Led by Maria Szmid, 1972 Carnival Queen Polish Language School St. Adalbert's.

6. Invocation.

7. Proclamations.

8. Principal speaker: Hon. Joshua Eilberg, Member of U.S. Congress.

9. Selections: Adam Mickiewicz Polish Language School.

10. Remarks of Youth: Christine Pelczarski, student Polish Language School St. Adalbert's.

11. Presentation of youth groups representing fraternal organizations:

St. Adalbert's Polish Language School of Philadelphia.
Union of Polish Women in America.
Polish Beneficial Association.
Polish Intercollegiate Club of Philadelphia.

12. Presentation of awards: Henry Wyszynski, president Eastern Pennsylvania District Polish American Congress (awards donated by the Hon. Tom Gola, Philadelphia City Controller).

13. Closing remarks: Very Rev. Michael Zembrzuski, O.S.P., Vicar General, Pauline Fathers, Director National Shrine Our Lady of Czestochowa.

14. Combined group presentation: Song "Mysmy Przyszloscia Narodu." All youth groups conducted by Asia Bodziuch.

15. Audience participation:
"God Bless America."
"Boze Cos Polske."

REMARKS OF JOSHUA EILBERG

In this time of trouble and unrest the American people are being called upon to reaffirm their dedication to the ideals of freedom and democracy on which this country was founded.

Many questions have also been raised about our desires and goals as a people.

In order to answer these questions we must remember who we are and what is our heritage. We must know who are our ancestors and what they stood for.

That is why this celebration is so important. Today we are not only reaffirming the United States' strong ties to the cause of Polish freedom and independence.

We are also honoring the men who fought for Polish freedom and who made the cause of American independence their own battle.

For these reasons, I am exceedingly honored by your invitation to appear here today.

Among the men who fought for Polish and American independence, the greatest were undoubtedly Casimir Pulaski and Thaddeus Kosciuszko. I will say more about their great deeds in a moment.

But, first, I would like to talk about what is being done to honor Thaddeus Kosciuszko and the contributions of all Polish-Americans.

In Philadelphia, at Third and Pine Streets, is a house which was once the home of this great man. For some time, myself and other Congressmen have been working with Polish-American organizations to have this building designated as a national historic site.

Until now these efforts have been delayed by the bureaucratic red tape and inertia which seems to plague so many worthwhile projects these days.

However, it now seems that our efforts are going to be successful.

Recently, a bill sponsored by Senator Edmund Muskie, of Maine, designating the house as a historic site was passed by the Senate.

This proposal, along with my own bill, and the plans of other Congressmen, are now being considered by the House of Representatives' Committee on the Interior and Insular Affairs.

And, I am happy to say that a bill with the same provisions as the Muskie proposal should be submitted to the full House in the near future.

I hope that I will be able to report to you very soon the final success of our efforts to honor Kosciuszko and the Polish contribution to the American tradition.

Polish association with the democratic spirit has been strong from the outset, blending as it has with a Polish spirit long preceding the creation of this country in 1776.

In the 1760's—on the eve of the American war of independence—European nobility was preparing for the destruction of Polish independence, by means of the first partition of Poland, in 1772.

The century before, in 1683, Polish troops had won the admiration of all Europe by stopping the Mohammedan armies of Sulemein II, in the battle of Vienna.

Poland had become the savior of Christianity. Her future seemed secure, but events were to prove otherwise.

The glory thus attained faded rapidly, giving way to a general decline in the Polish national spirit under the kings of the early 18th century, who demonstrated only slight concern for the welfare of the Polish people or the Polish state.

Economically, Poland was bled dry by wars with Sweden and Russia, which resulted in the loss of Kiev and Polish control of East Prussia.

This in turn was followed by a governmental breakdown bordering on anarchy and the entrance of Russian troops, supposedly in the interest of law and order. Actually, they invaded Poland to make it a colony for the Czars.

Rejecting the Russian occupation and the authority of the weak Polish king and his lieutenants who were working in collusion with the Russians, Polish patriots in 1768 established the Confederation of Bar, under the leadership of Count Joseph Pulaski who was the voice of Polish independence.

The patriot insurgents were outnumbered, outfinanced, and outgunned in all of their endeavors—yet they held on, to the astonishment of the world, through 4 long years of civil war.

Their leaders were the bravest of men, and of all those involved none prove more effective than Joseph Pulaski's son, young Casimir Pulaski, cavalry commander of all the insurgent forces.

In battle after battle, the Polish cavalry confounded the Russian adversary.

In one encounter in particular, at the fortress-monastery Czestochowa, the cavalry—under Pulaski—scored one of the stunning victories of the war, routing the Russians in confusion, to the delight of Polish patriots in every corner of the land.

In the end, in the year 1772, the confederation of bar collapsed, Joseph Pulaski was put to death, and his many followers, including his son were forced into exile.

With the patriots no longer in the way, the king surrendered to Russian demands and the first partition took place, to the outrage of the Polish people and Polish traditions dating back for centuries.

Many Poles who had sympathized with the purposes of the confederation of bar had not engaged in the war out of traditional respect for the Polish crown.

But, when they witnessed their king's surrender to the ravages of the partition, they, too, lost all concern for his regime and many of their number left the country.

A major figure in this grand exodus was Thaddeus Kosciuszko.

As a member of the upper class, Kosciuszko had received an education at the Royal School in Warsaw, from which he graduated with the rank of captain in 1769.

While the partition was taking place, he was abroad, studying engineering and artillery in France. Following a brief and unrewarding visit home, he returned to France where he remained until 1776.

Advised of the outbreak of the American Revolution, Kosciuszko and Pulaski, acting independently, declared in favor of the American cause, which they regarded in the same light as the cause of Polish independence.

Both were to volunteer their services and make their contributions to the battle for liberty on American soil.

In the uniform of the American Continental Army, Pulaski organized a cavalry legion that earned renown at Valley Forge and later in the war at Charleston, South Carolina, where Pulaski died of wounds received in battle.

Kosciuszko would be remembered for his part in the glorious American victory at Saratoga, and the construction of the imposing American fortifications at West Point.

As outstanding participants in the American War of Independence, Kosciuszko and Pulaski established a record that was to stand forever in the history of democratic accomplishment.

And, as a symbol of freedom, the American cause quickly repaid the actions of its Polish supporters by encouraging the spirit of democracy in Poland, which was implemented virtually at once.

Following the death of Frederick the Great, in 1786, the Polish people moved against oppression by calling a convention to consider the prospect of a governmental change.

The delegates were to convene over a period of 4 years, during which time the Federal Constitution was adopted in the United States.

From 1787 to 1791 the Polish convention struggled to effect a governmental structure satisfactory to all, including those delegates who approved of the American example so recently set forth at Philadelphia, and those who favored a more conservative approach.

On May 3, 1791—181 years ago—after great deliberation, and with Russia and Austria threatening invasion, the convention adopted the Polish constitution, based largely on the spirit of its American counterpart. It is this constitution we revere and commemorate today.

Under the provisions of the document, the powers of the king were considerably reduced and all class distinctions striken from the law of the land.

Under separate legislation confirmed by the constitution, the towns received judicial

and administrative autonomy and parliamentary representation.

Many property rights of the ruling gentry were done away with, in the interest of the townspeople at large, establishing equality in the matter of real property rights, and access to office in the state and in the church.

The peasants were placed under the full protection of the law, and their serfdom mitigated with a view to its utter abolition. Absolute religous freedom was established and provision made for further reforms by subsequent conventions.

Thus, it came about that the Polish people took a stand for liberty, wholly in keeping with the spirit and many of the principles enunciated only 4 years previously in the Federal constitution of the United States.

Yet the battle for democracy in Poland was by no means finished, and Thaddeus Kosciuszko—having fought for democratic principle in his adopted land—was to have the opportunity of waging the fight all over again in the interest of his mother country, for the Russian Government could not abide Democracy in Poland.

In July 1784 Kosciuszko left New York for Paris and from there returned to Poland.

After 4 years of rural retirement, in October 1789, he became Major-General of the Polish Army and in 1792 led the army into battle against the Russians.

Overwhelmed by Russian arms and betrayed by the Polish aristocracy, he resigned his commission and left the country, only to return in 1794 at the head of a revolutionary force.

After several brilliant successes, he was named ruler of all Poland, in which capacity he promulgated a series of liberal reforms.

But the power of the Russian Army could not be overcome and Kosciuszko was finally defeated, for the last time, in October 1794.

In his revolutionary zeal for democratic government, Kosciuszko was following the footsteps of the United States.

But that was not always the order of things. In April 1817, 6 months before he died, he issued a letter of emancipation to the serfs on his estate in Poland.

It was to be almost half a century before the United States was able to emulate this departing gesture of one of Europe's truly great democrats, Thaddeus Kosciuszko, remembered as a "hero of the worlds," with an emancipation proclamation of its own.

So today, when we honor the deeds of great men of the past, let us remember what they stood for and believed in so we can assure ourselves an honorable future.

Thank you.

CHARLES DE GAULLE ON VIETNAM

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. JACOBS. Mr. Speaker, the following is a quotation from Charles de Gaulle as it appeared in his "Memoirs of Hope."

In South Vietnam, after having encouraged the seizure of dictatorial power by Ngo Dinh Diem and hastened the departure of the French advisers, they were beginning to install the first elements of an expeditionary corps under cover of economic aid. John Kennedy gave me to understand that the American aim was to establish a bulwark against the Soviets in the Indochinese peninsula. But instead of giving him the approval he wanted, I told the president that he was taking the wrong road.

"You will find," I said to him, "that intervention in this area will be an endless entanglement. Once a nation has been aroused, no foreign power, however strong, can impose its will upon it. You will discover this for yourselves. For even if you find local leaders who in their own interests are prepared to obey you, the people will not agree to it, and indeed do not want you. The ideology which you invoke will make no difference. Indeed, in the eyes of the masses it will become identified with your will to power. That is why the more you become involved out there against communism, the more the communists will appear as the champions of national independence, and the more support they will receive, if only from despair. We French have had experience of it. You Americans wanted to take our place in Indochina. Now you want to take over where we left off and revive a war that we brought to an end. I predict that you will sink step by step into a bottomless military and political quagmire, however much you spend in men and money. What you, we and others ought to do for unhappy Asia is not to take over the running of these states ourselves, but to provide them with the means to escape from the misery and humiliation that, there as elsewhere, are the causes of totalitarian regimes. I tell you this in the name of the West."

TRIBUTE TO CONGRESSMAN BERT PODELL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BIAGGI. Mr. Speaker, I would like to take a few moments out to pay tribute to my esteemed colleague, the gentleman from New York (Mr. PODELL).

Since first coming to Congress in February 1968, Congressman BERT PODELL has demonstrated a serious concern for the problems of Americans of Italian descent. While his other activities and accomplishments are equally meritorious, I would like to single out his special efforts in this area because it demonstrates his commitment to fighting for the rights of Americans of every ethnic, racial, or religious background.

Soon after coming to Washington, he worked with Congressmen PETER RODINO and FRANK ANNUNZIO in obtaining passage of legislation making Columbus Day a national holiday. This was the first time an individual was honored in this way with the exception of George Washington.

Moreover, Congressman PODELL has been a leader in the fight to eliminate discrimination against Italo Americans. He has taken up the cause of many of his constituents against individuals and groups who are prejudiced against those of Italian ancestry in employment, in housing, and in human relations.

He has recently joined with me and others here in the House to protest Time magazine's printing of statements prejudicial to Italians and Italo Americans. He was also among the first to speak out against the use of the terms "Mafia" and "Cosa Nostra" to describe organized crime and has continuously protested the characterization of organized crime as the sole province of Americans of Italian descent.

The Government of Italy has recognized his outstanding efforts in this area as well. He was the only American Congressman not of Italian descent invited to a special Columbus Day celebration last October in Genoa, Italy. This singular tribute was a mark of the international respect he has earned among Italians and those of Italian ancestry.

I know those of Italian origin in the 13th Congressional District of New York are as appreciative of his efforts as I am. As president of the Grand Council of Columbia Associations, representing over 80,000 Italo Americans in civil service, and as a dear friend and colleague here in Congress, I would like to say "thank you" to Congressman BERT PODELL.

EULOGY OF J. EDGAR HOOVER

HON. JOHN C. KLUCZYNSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. KLUCZYNSKI. Mr. Speaker, it is with a sense of deep remorse that I call to the attention of the House the passing of that great public servant J. Edgar Hoover, Director of the Federal Bureau of Investigation of the Department of Justice.

As the formulator of FBI policy over 48 years, Mr. Hoover became an American institution in his own right, admired by the vast majority of the American people and feared and hated by the underworld.

Mr. Hoover established himself in Washington by providing the FBI from the moment his directorship began in 1924 with the professional quality essential to the effectiveness of such an organization. Under the federal system, with most of the police and law enforcement responsibility resting in local and State governments, the investigative and police arm of the Justice Department was limited in authority and often handicapped by Washington politics. It was lacking in authority and low in prestige. Mr. Hoover—himself a lawyer by profession—established standards which stress professional training in law or accountancy for prospective FBI agents, and gradually over the years built up the FBI until it was a training center for police officers from all over the country and until it was a power in itself in the Washington structure—so much a power that as Mr. Hoover worked beyond the usual retirement age Congress and Presidents made special provisions for him to continue in office.

During the 1920's and the 1930's, the FBI devoted the bulk of its energies to battling the national crime wave, and running down the master gangsters of the period. In World War II, the sabotage of our war industries was prevented by FBI surveillance. All investigative aspects of the Federal Loyalty Program of the 1940's and 1950's fell to the responsibility of the FBI staff, and the recent suppression of radical violence is clearly to the credit of FBI activity.

No matter the nature of the crisis confronting the forces of law and order in America, the FBI—under the direction of Mr. Hoover—has stood ready to serve in the national behalf.

In all the years of his directorship, Mr. Hoover never once allowed himself to become identified with the special concerns of any single political faction and never once was tainted with scandal.

His performance was exemplary and the country is proud of his purposes and his numerous accomplishments. Fortunately, his spirit shall remain, to serve the FBI and the American people for centuries to come.

GEN. BRUCE K. HOLLOWAY HONORED

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. DUNCAN. Mr. Speaker, Gen. Bruce K. Holloway has served his country well and, upon his retirement, the President and the U.S. Air Force have seen fit to honor him. General Holloway has dedicated his life both in peace and war to the service of his country. It is only fitting that the country, upon the conclusion of this most distinguished career, offer General Holloway an expression of its appreciation for a job well done.

A country can receive no greater gift from a man than patriotism and heroism. General Holloway, throughout his career has always been there to perform with patriotism and heroism whenever his country needed his service.

The following article which appeared in the May 2, 1972, edition of the Knoxville Journal will permit all Americans to review the career of a most outstanding general in the U.S Air Force and a patriotic American:

[From the Knoxville (Tenn.) Journal, May 2, 1972]

AIR FORCE ACE, KNOXVILLE NATIVE GENERAL HOLLOWAY RETIRES

Gen. Bruce K. Holloway, a Knoxville native and famed fighter ace of World War II, has received the Distinguished Service Medal (First Oak Leaf Cluster) and a letter of commendation from President Nixon after his retirement Sunday as commander of Strategic Air Command.

The medal honored the 59-year-old Air Force leader for duties as commander of SAC and as director, Joint Strategic Target Planning Staff, Organization of the Joint Chiefs of Staff, from 1968 to 1972.

The letter from President Nixon read, in part, "You have discharged a succession of increasingly difficult and demanding responsibilities with exceptional skill and judgment, and our nation is extremely fortunate to have men of your ability serving as lasting inspiration for every American."

Holloway graduated from Knoxville High School and attended the engineering school at UT for two years before he entered West Point in 1933.

During World War II, Holloway began his combat experience as a fighter pilot in China with the famed "Flying Tigers" of the American Volunteer Group. In that time he earned status as a fighter ace, shooting down 13 Japanese aircraft.

In 1946, the General was made commander of the Air Force's first jet-equipped fighter group, and performed pioneer service in the new field of tactical jet air operations.

After graduation from the National War College in 1951, he progressed through key staff assignments in both operations and development fields.

He spent four years in Tactical Air Command (TAC) as Deputy Commander of both the 9th and 12th Air Forces, and in 1961 he was named Deputy Commander in Chief of the United States Strike Command.

General Holloway assumed command of the United States Air Forces in Europe in 1965, and served in that capacity until his appointment as Vice Chief of Staff of the Air Force in 1966.

POSTAL CRAFT UNIONS COMMENT ON PROPOSED AMENDMENT TO H.R. 12202

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. WALDIE. Mr. Speaker, recently the House passed an amendment to my bill, H.R. 12202, which enabled the Nation's postal workers to share in the provisions of that bill, which includes the increase of the Federal Government's contribution to health insurance premiums.

Several points were raised during the course of debate on this amendment which remain unclear. Thus, I think it beneficial to insert in the RECORD a post-hearing statement by the postal craft unions regarding this amendment:

POSTHEARING STATEMENT OF THE NATIONAL POSTAL CRAFT UNIONS ON INCLUSION OF THE POSTAL SERVICE IN H.R. 12202

The issues raised by the question of amending H.R. 12202 to provide for the express inclusion of the Postal Service therein (Tr. 92)* were sharply pinpointed at the hearing. Those issues are:

(1) Did Congress intend by enactment of the Postal Reorganization Act *ipso facto* to exclude the Postal Service from legislative improvements in the "fringe benefit" statutes referred to in Section 1005(f) of PRA;

(2) In adopting Article XXI, Section 1, of the July 1, 1971, contract, pertaining to the health insurance benefit program, did the parties intend to exclude legislative changes in the program during the life of the contract?

(3) If Congress finds that the phrase "current contribution level," as used in the first four sections of Article XXI, was not contemporaneously understood by the Unions to exclude future changes mandated by Congress for the Federal establishment generally, should the Postal Service be expressly included in H.R. 12202 to prevent frustration of the Postal Unions' legitimate expectations?

I. CONGRESS DID NOT INTEND OR CONTEMPLATE THAT PRA, IN AND OF ITSELF, WOULD EXEMPT THE POSTAL SERVICE FROM SUBSEQUENT AMENDMENTS TO THE HEALTH BENEFITS PROGRAM

At the hearing, it appeared that several members of the Subcommittee interpreted the language of Section 1005 of PRA to mean that Congress had divided fringe benefits of postal employees into two categories. One, such as retirement, provided for in subsection (d) of Section 1005, was to be controlled exclusively by Federal law (chapter 83 of title 5), subject, however, to such improved benefits as the parties might negotiate. The other, health insurance and the other kinds of benefits referred to in subsection (f) of Section 1005, was to be governed exclusively by collective bargaining, provided only that the parties could not agree to a level of benefits lower in the aggregate than that prescribed by law on the day that Section 1005 became effective. This was the dichotomy espoused by the Postal Service in its letter of January 26, 1972, to Chairman Dulski, and reiterated at the hearing (Tr. 16, 28–29, 45).

The Unions believe that a close reading of the language of Section 1005 does not support the implications so attached to subsection (f). On the contrary, a quite different construction of that subsection emerges rather clearly. It is true that, in subsections (c) and (d) of Section 1005, Congress treated separately the subjects of compensation for work injuries and retirement. The purpose of segregating these items from the other fringe benefits referred to in subsection (f) is quite clear, however; Congress intended to deny the parties power to bargain postal employees out of these Federal systems. Congress dictated, in other words, that postal employees *must* remain participants in the Federal civil service retirement and workmen's compensation systems (and, accordingly, benefit automatically from any subsequent changes in those systems).

Congress chose to deal differently, however, with other fringe benefit systems, including specifically subchapter I of chapter 85 (unemployment insurance), chapter 87 (life insurance), and chapter 89 (health insurance). As to these, in subsection (f) of section 1005, Congress gave the parties authority to "vary," "add to," or "*substitute for*," the existing Federal employee benefit systems. Congress thereby authorized the parties, for example, to agree to an entirely new health benefit system, completely divorced from the Civil Service Commission and chapter 89 of title 5. Logically, this difference required sectional segregation of the several types of fringe benefits in this category from the others. But the conclusion drawn from this segregation by the Postal Service—that legislative changes in the retirement and workmen's compensation programs automatically apply to the Postal Service, whereas changes in the other programs included in Section 1005(f) do not—simply does not follow. Section 1005(f) is very clear on this point; the statutes providing the fringe benefits referred to therein *continue* to apply to postal employees *unless and until the parties agree to abandon or modify them.* The key is the second sentence of 1005(f), which reads (emphasis added):

"Subject to the provisions of subchapter I of this chapter and chapter 12 of this title, the provisions of subchapter I of chapter 85 and chapters 87 and 89 of title 5 *shall apply to officers and employees of the Postal Service, unless varied, added to, or substituted for,* under this subsection."

This language can mean only one thing: unless the parties expressly agree to changes, the referenced statutory provisions shall continue to apply to Postal Service officers and employees. This construction is fully supported by the chart introduced into the Congressional Record by Congressman Udall on June 19, 1970 (H. 5709) and offered as an exhibit by the Postal Service at the February 16 hearing. The chart states that "Health and Life Insurance" for the "New Postal Worker"

"Will be *identical* to *existing law until changed by collective bargaining.*" (Emphasis added.)

In view of the adverse inferences drawn

*The symbol "Tr." refers to the transcript of the hearing held on February 16, 1972, which did not become available until February 22, 1972.

by some at the hearing from this chart, it cannot be over-emphasized that Congressman Udall's reference was not to "existing *benefits*," but to "existing *law*." And the health insurance program for postal employees was to be *identical* to *existing law until changed* by collective bargaining.

To sharpen the issue, assume that the parties had made no provision at all in the 1971 contract on the subject of health insurance benefits. Necessarily, since there would have been no "variation," "addition," or "substitution" by contract, the referenced statutory provisions would remain applicable. Any legislative change in those statutory provisions would apply to postal workers, as to any other federal employees, absent express exclusion of postal workers by agreement of the contracting parties, for the changes would become part of "existing law." It can hardly be doubted that a legislative change effected before the parties made a collective bargaining contract would govern their relationship as "existing law."

The Postal Service would rebut this conclusion on two theories: one, that it is inconsistent with the first sentence of Section 1005(f); the other, that it is inconsistent with a "canon" of statutory construction. We deal with each in turn. The first sentence of Section 1005(f) provides:

"Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the former Post Office Department or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Postal Service, until changed by the Postal Service in accordance with this chapter and chapter 12 of this title."

The Postal Service says that the phrase "in effect immediately prior to the effective date of this section" was obviously intended to place a ceiling upon benefits to which postal employees could become entitled by statute. Read literally, standing alone, this may well appear to be the intent of the first sentence. Under that reading, *all* "compensation, benefits, and other terms and conditions of employment" in effect on the effective date of the section would be frozen as of that date, and could not be improved by statute, rules or regulations, but *only* by collective bargaining. But if, indeed, that *is* the intent of the *first* sentence, it strengthens the force of our interpretation of the function of the second.

For the *second* sentence deals separately with three specific "benefits," those covered by "subchapter I of chapter 85 and chapters 87 and 89 of title 5." It provides that those statutes shall apply until changed by collective bargaining and thereby excludes them from the general category of "compensation, benefits, terms and conditions of employment" as to which Congress laid down a different rule in the first sentence. Unlike the first sentence, the second, which refers only to these three benefit systems, carries no restrictive reference to what was "in effect immediately prior to the effective date of this section." Instead, the second sentence simply states that the enumerated provisions of title 5 "shall apply," unless changed or substituted for. If Congress had not intended different treatment for these three benefit programs, it would not have written the second sentence of subsection (f), since the first sentence, which refers to "benefits," would have unmistakably encompassed these three subjects as well. But the fact is that Congress *did* deal separately with these three programs in the second sentence, and *did not* say, as it said in the first sentence, that they were to be limited to the level of benefits "in effect immediately prior to the effective date of this section." In fact, if this limitation were to be read into the second sentence, then the second sentence would become utter surplusage, and it is presumed, of course that Congress does not indulge in surplusage. On the contrary, realistic comparison of the first and second sentences of Section 1005 (f) can only lead to the conclusion that Congress intended to draw a sharp distinction between the applicability of post-effective-date legislative changes to "[c]ompensation, benefits, and other terms and conditions of employment" generally, and to the three "benefits" specifically referred to in the second sentence.

The Postal Service argues, however, that a particular rule of statutory construction defeats our reading of the second sentence as encompassing subsequent legislative amendments. That rule, as stated at page 2 of the Service's letter of January 26, 1972, is that:

"A statute of specific reference [i.e., one that refers to a particular statute by its title or section number] incorporates the provisions referred to from the statute as of the time of adoption without subsequent amendments, unless the legislature has expressly or by strong implication shown its intention to incorporate subsequent amendments with the statute. 2 *Sutherland, Statutory Construction*, § 5208 (3rd ed. 1943)."

It should be noted at the outset that the rule invoked by the Service actually confirms our differentiation of the specific subjects referred to in the second sentence from the general subjects of the first. For, under *that* rule, the ceiling on the three benefits would be the programs as they existed on the date of *adoption of the legislation*, whereas, with respect to all the others, the ceiling would be the *effective date of the section*, which Congress understood would occur quite considerably later. It is unthinkable that Congress intended to treat the subjects referred to in the second sentence *less* favorably than all the others comprehended by the first sentence. Yet, that would be the result of applying the presumption.

Second, of course, we have shown that the very function of the second sentence is to remove the three referenced benefit programs from the ceiling upon legislative improvements implied by the "effective date" clause. This removal *itself*, and the absence of a comparable clause in the second sentence carries a "strong implication" that Congress intended "to incorporate subsequent amendments" of the three referenced statutes.

Third, and equally important, intrinsic evidence in other subsections of Section 1005 conclusively rebuts the theory that Congress intended the "special reference" presumption to apply. General Counsel Cox agreed, indeed insisted, at the hearing, that Congress intended in subsection (*d*) of 1005 to incorporate not only the statutory retirement scheme as it existed on the date of enactment, *but also any subsequent amendments thereto adopted by Congress* (Tr. 12, 15, 17, 28, 38, 74). The legislative history of subsection (d) bears out this contention, with which the Unions fully agree. Yet that provision is one which can only be characterized as a statute of "specific reference":

"Officers and employees of the Postal Service (other than the Governors) shall be covered by chapter 83 of title 5 relating to civil service retirement. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in such chapter. The Postal Service, upon request of the Civil Service Commission, but not less frequently than annually, shall pay to the Civil Service Commission the costs reasonably related to the administration of Fund activities for officers and employees of the Postal Service."

Similarly, subsection (c) of § 1005 is, just as clearly, a statute of "specific reference":

"Officers and employees of the Postal Service shall be covered by subchapter I of chapter 81 of title 5, relating to work injuries."

Although General Counsel Cox did not comment on this provision at the hearing, it seems certain that he would agree that any legislative amendments to subchapter I of chapter 81 will apply to the Postal Service, since "On-The-Job-Injuries" was one of the subjects which Congressman Udall's chart, discussed above, described as "Set By Congress."

Thus, it is plain that the canon of the construction upon which the Services relies cannot legitimately be applied to *this* statute. The Chairman of the Civil Service Commission appears to agree that this rule of construction cannot be applied willy-nilly. In his letter of February 2, 1972, to Chairman Dulski, Chairman Hampton stated:

"Where an entire chapter or subchapter of a code title is referred to, such as the political activity restrictions of chapter 73 of title 5 of the United States Code, *it seems more likely that Congress was adopting the applicability of restrictions on political activity as a general matter,* and did not intend to apply different sets of restrictions to different groups of employees, dependent upon subsequent amendment" (Hampton letter, p. 4; emphasis added).

This approach to statutory construction is even more appropriate when the issue involves the benefits to be afforded postal employees, rather than the restrictions to be imposed upon them. It is inconceivable that Congress, intent upon improving the economic status of those employees, would have meant to withhold from them, absent an express concession by their bargaining agents, the fruits of any Congressional liberalization of these crucial fringe benefits programs which would accrue to other Federal employees.

Finally, it should be noted that the last sentence of Section 1005(f) does not in the slightest impair this analysis. This sentence, following immediately after the concluding phrase of sentence two, which authorizes the parties, by collective bargaining agreement, to "vary, add to or substitute for" various statutory fringe benefit programs, provides, in part, that:

"No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section. . . ."

This sentence simply sets a floor below which the Postal Service and the Unions are not permitted to go even by way of contractual "variation. . . or substitution." Thus, even if the postal Unions were to win by bargaining a 50% increase in wages, Congress nonetheless decreed that the parties were powerless to agree that the accompanying fringe benefit package could be one cent less than that which postal employees enjoyed on the effective date of the section. No inference can possibly be drawn from the existence of this floor, that, in the *absence* of "variation" or "substitution" by contract, legislative improvements of the fringe benefit statutes referred to in the second sentence of Section 1005(f) would not also apply to postal employees.

We have set out this necessarily lengthy exposition for the purpose of refuting the Postal Service's claim that Congress' mere authorization of the Postal Unions and the Postal Service *to bargain* over unemployment compensation, life insurance, and health insurance programs, was intended to exclude application of legislative amendments of these programs, absent variation by bargaining. We have done this by showing that Congress intended to continue to accord postal employees the benefits of such improvements unless and until the parties, by collective bargaining, expressly agreed to "vary," "add to," or "substitute for" those benefit systems. As to this group of benefits, as we have shown, Congress **did not**, contrary to the Services' assertion, simply kick

the fledgings out of the nest, saying "You are entitled by law to what you were getting on July 1, 1971, and nothing more, unless you win it in bargaining." Instead, Congress told postal workers, "Until such time as you expressly agree to fly on your own, the Postal Service will continue to regard you as Federal employees for purposes of these laws."

It follows that it would be wholly consistent with the Congressional intention manifested in PRA for this Committee explicitly to declare applicable to the Postal Service any improvement in the Health Benefits Act which it might report out. As we have shown, Congress clearly "retained jurisdiction" over this area of postal labor relations in the absence of deliberate variation in, addition to, or substitution for, the present program which might result from negotiations. The only question remaining, therefore, is whether the national postal bargaining agreement of July 20, 1971, clearly "varied, added to, or substituted for" the provisions of chapter 89 of title 5.

II. THE COLLECTIVE BARGAINING CONTRACT DOES NOT, AND THE PARTIES DID NOT CONTEMPLATE THAT IT WOULD, EXEMPT THE POSTAL SERVICE FROM SUBSEQUENT AMENDMENTS TO THE HEALTH BENEFITS PROGRAM

The Unions submit that, on the basis of the contract language itself, the meaning contemporaneously attached to it by the parties, and the subsequent practice of the Postal Service, the contract cannot be construed as having been intended to "vary," "add to," or "substitute for" the provisions of chapter 89.

Initially, it should be noted that section 1005(f) itself establishes the proper allocation of the burden of proof on this question. It states, as set out above, that ". . . the provisions of . . . chapter . . . 89 . *shall* apply to officers and employees of the Postal Service, *unless* varied, added to, or substituted for . . . (emphasis added). Postal employees, that is, together with other Federal employees, shall continue to be covered by chapter 89, "unless" it can be demonstrated that postal employees have agreed to different coverage. In the context of this language and the legislative background of PRA, it becomes incumbent upon the Postal Service to demonstrate that the Unions consciously agreed to forfeit the right of postal employees to benefit from legislated improvements in chapter 89.

That is a demonstration which the Postal Service has not undertaken to make and which it cannot make. In his letter to Chairman Dulski, General Counsel Cox does no more than quote Article XXI, Section 1 of the bargaining agreement:

"The Employer shall continue the health insurance benefit program *at the current contribution level* for the duration of this agreement,"

And then he simply concludes:

"This language reflects a negotiated understanding that accords fully with the Postal Service's interpretation discussed above, that the changes proposed in H.R. 9620 and H.R. 12202 will not apply to postal employees" (Cox letter, p. 3; emphasis in original).

The question of the meaning of this language cannot be so blithely disposed of. The facts and circumstances accompanying the negotiation, execution and implementation of the agreement show that, in fact, the "negotiated understanding" the parties reached was that changes in the Federal Health Benefits Act *would* apply to postal employees.

Before discussing the direct testimonial evidence of intent which has been submitted to this Committee, it should be pointed out that the language of Section 1, Article XXI, is easily susceptible to an entirely different interpretation. The Postal Service emphasizes the words "at the current contribution level," but it neglects to note the final phrase, "for the duration of this Agreement." An agreement to continue "the health insurance benefit program" at that contribution level which is current for the "duration of this Agreement" lends itself more readily to an interpretation that the entire "program" will be supported at whatever contribution level is "current" at any time during the "duration of the Agreement," than it does to the construction proffered by the Postal Service.

Most significantly, Section 3 of Article XXI, which refers to the retirement program, employs virtually identical wording:

"The Employer shall continue the funding and administration of the retirement program *at the current contribution level* for the duration of this agreement" (emphasis added).

At the Subcommittee hearing, General Counsel Cox admitted that, although the underscored words in Section 3 are identical to those in Section 1, the Postal Service construes the words "current contribution level" in Section 3 to mean that the Service is required to honor any subsequently-enacted increases in Government contributions to the retirement program (Tr. 14–15, 38–40). Although questioned repeatedly, he did not satisfactorily explain why the identical phrase, contained in four consecutive sections of the same article of the contract, should, as a matter of contract construction, be construed differently in the third and fourth sections than in the first and second.

Cox claimed that the identical clauses mean different things because they should be read in the light of the PRA provisions (as construed by the Postal Service) to which they relate (Tr. 18, 39–40). But there is no showing that *the Unions* ever had the same understanding or interpretation of those PRA provisions. Thus, the Postal Service would have the Committee adopt the truly novel theory that identical phrases in the same article of a contract should be construed differently solely on the basis of *one party's* interpretation of Section 1005(f), an interpretation which was never articulated during negotiations and was publicly advanced by the Postal Service for the first time in connection with this bill.

Equally fallacious is the Postal Service's attempt to evade the issue on the theory that appearance of the phrase in Section 3 of the agreement is "superfluous" (Tr. 35–36). If the phrase was superfluous in Section 3, it was not less "superfluous" in Section 1. The fact is that the phrase was equally superfluous (or significant) in both places, for the parties are in agreement that all they were trying to do was "continue the status quo" (Blaisdell, Tr. 15, 20). As Mr. James P. Blaisdell, chief negotiator for the Postal Service, put it, "the [health benefits program] was not changed by collective bargaining" (Tr. 30). In the words of Mr. Bernard Cushman, chief negotiator for the postal unions (Tr. 68), Article XXI reflected "an agreement to continue as we were to be covered by the law." As he further specified, "The health benefits for example, were governed by statute and it was our understanding that when we said those matters would be continued that they would continue to be governed by the Federal Health Program" (Tr. 59).

In the context of the bargaining however, the use of this phrase in Article XXI did serve a significant purpose; it reflected the parties' agreement that the Postal Service was not required to do *more* than the legislative programs governing these benefit areas compelled it to do. This was a significant point because the Postal Unions had been seeking improvements by agreement.

As described by James H. Rademacher, in his affidavit and in his testimony, bargaining about the health insurance program from January, 1971 until July, 1971, centered on the Unions' demand that the Postal Service assume *full* payment of health insurance premiums. The Service, on the other hand, stated that it did not even propose "to enter into contractual arrangement on this subject." Finally, on or about July 19, the Unions agreed to drop their insistence on a wholly non-contributory program and to continue to live with the contributory program.

Against this history of bargaining, it is impossible to conclude that the Unions' acceptance of the "current contribution level" phrase was understood as anything more than abandonment of their efforts to obtain 100% contribution by the Service. It is inconceivable that the parties believed that the Unions were intentionally settling for a lesser employer contribution than Congress might grant to Federal employees generally in the future. As shown in the Rademacher affidavit, the Unions knew full well that legislation to increase Government contributions had been introduced in the Senate on March 30, 1971. It is beyond the pale of reason to conclude that, having failed to secure a totally non-contributory program, they would also deliberately sign away (without a word having been spoken on the subject during negotiations) the right of postal employees to benefit from the across-the-board increase anticipated for Federal employees.

The history of the negotiations proves that, far from signing that right away, the Unions were explicitly assured by the Postal Service that they had secured it. On July 19, the Unions finally agreed to withdraw their proposal for a non-contributory program. The Postal Service then unilaterally drafted, overnight, contract language purportedly designed to incorporate the agreement which had been reached, and that language now appears in Article XXI, Section 1. It is, of course, axiomatic that contract language must be construed strictly against the draftsman (see *E. L. Conwell and Co.* v. Gutberlit, 429 F. 2d 527, 528 (4 Cir.), where the rule was applied to employment contracts drafted by the employer), and that canon of construction weighs against the interpretation here offered by the Postal Service. But far more telling is the direct evidence contained in the affidavits and testimony of Bernard Cushman, chief spokesman for the Unions, and Chester Parrish, Chairman of the Council of American Postal Employees. That testimony shows that when confronted on July 20 with the Service-drafted language, Mr. Cushman, before initialling the document (Tr. 72), took pains to obtain from the Postal Service unequivocal confirmation of his understanding that any subsequent changes in the health insurance benefits law *would* apply to postal employees. He asked Mr. Blaisdell explicitly whether the proposed language would give postal employees the benefit of subsequent statutory changes. He was told that it would (Tr. 60–62). Mr. Parrish expressly confirmed Mr. Cushman's testimony on this important conversation (Tr. 63). The Unions relied on Blaisdell's representation (Tr. 82).

Since that had been the understanding of the parties as to the meaning of the Postal Service's proposal to continue the existing program, and since the contractual language is susceptible to the interpretation Messrs. Blaisdell and Cushman contemporaneously placed upon it, Mr. Cushman correctly saw no need to incorporate the mutual understanding on this point *in haec verba* in the contract (Tr. 65). As is customary in collective bargaining negotiations generally, and contrary to the generally more relaxed, conditions under which commercial contracts are normally executed, the weeks preceding the consummation of the postal agreement had consisted of pressure-filled, day-and-night negotiations, which were not conducive to, and did not result in, dotting every "i" and crossing every "t." See Professor Archibald Cox's analysis, quoted p. 19, *infra*. Neither party deemed it feasible or necessary to indulge "an abundance of caution" (Tr. 63), or exquisite draftsmanship (Tr. 14, 64). In view of the positive assurance he had elicited and

received as to the intended meaning of words he was seeing for the first time, assurance which confirmed his previous understanding of what the Service's "status quo" counterproposal meant, Mr. Cushman quite reasonably could, as he did, accept the Service's language.

In his testimony before the Subcommittee, Mr. Blaisdell stated (Tr. 8), "I do not remember this exchange." He added, however, that he has "great respect for Mr. Cushman and I do not doubt that he is sincere in his recollection." He then went on to testify (Tr. 9):

"What I did say, on many occasions, is that we would, of course, abide by any legislation enacted by the Congress which is applicable to the Postal Service."

The Unions believe that the implications of this latter statement are of crucial significance. While we consider Mr. Blaisdell a gentleman whose probity and integrity are beyond reproach, it is clear that the conversations alluded to by Mr. Blaisdell could only have been couched in language which had the unfortunate effect of misleading the Union negotiators as to the Postal Service's position.

Mr. Cushman, as Mr. Blaisdell was well aware from the outset of negotiations, is an eminent and respected attorney. Union Presidents Rademacher and Filbey are, from long experience on Capitol Hill, well-versed in the legislative process. It is not conceivable that Mr. Blaisdell, "on many occasions," found it necessary to tell these knowledgeable Union negotiators that the Postal Service would abide by any law which *Congress expressly* made "applicable to the Postal Service." They would neither need nor seek any assurance from Mr. Blaisdell on *that* score, and he would have insulted them by uttering any such platitude. Plausibly and realistically, the only inference that the Union negotiators could have drawn from whatever comments Mr. Blaisdell made on this general subject was assurance that under the Postal Service's counterproposals on health insurance and other fringe benefit programs, postal employees would continue to enjoy the benefits of any *general* Congressional amendments to those programs which did *not* expressly include or refer to postal employees.

Not only has Mr. Blaisdell thus not specifically denied the solemn testimony of Messrs. Cushman and Parrish, but he has, we believe, conceded, in corroboration of the affidavits of Presidents Rademacher and Filbey, that he engaged in "many" conversations with the Union spokesmen which could only have led them to believe that the Service's counterproposal included improvement of the fringe benefit programs by general legislative amendments. Unimpeachable evidence that the Unions so understood the contract is found in the fact that, on September 28, 1971, *after* the agreement had been signed and long before the present dispute arose, President Rademacher testified before this Committee in support of H.R. 9620, another measure designed to increase Government health insurance contributions. Fully assuming that the amendment would automatically apply to postal employees, President Rademacher gave the bill his complete support, and did not at any time request the Committee to make it expressly applicable to the Postal Service.

Thus, if there is any doubt about the meaning which the parties intended Article XXI, Section 1, to have, it is dispelled by the testimony of Messrs. Rademacher, Filbey, Cushman, and Parrish, as well as by that of Mr. Blaisdell. That testimony shows convincingly that the parties fully understood that any amendments to the Health Benefits law would be applicable to postal employees. And, we might add, whether it is introduced before this Committee, a court, or an arbitrator, oral testimony to clarify the intention of the parties as to the meaning of the lanugage of Article XXI is admissible under established principles of contract law. The preeminent authority in the field, Professor Williston, puts it this way in 4 *Williston on Contracts* (3rd ed.) § 613.

"If words are used by the parties in a special sense even though the meaning is not fully defined, it may be shown, provided the words actually used are appropriate under the local standards to express that sense."

Williston cites with approval the case of *Ganson* v. *Madigan*, 15 Wis. 144, which held:

"If evidence of surrounding facts and circumstances is admitted to explain the sense in which the words were used, certainly proof of the declaration of the parties made at the time of their understanding of them, ought not to be excluded."

Williston also quotes at length from *Stoops* v. *Smith*, 100 Mass. 63, where the court stated:

"The purpose of all such evidence is to ascertain in what sense the parties themselves used the ambiguous terms in the writing which set forth their contract. If the previous negotiations make it manifest in what sense they understood and used those terms, they furnish the best definition to be applied in the interpretation of the contract itself."

These are but a few of the cases holding that where contract language is susceptible to several meanings, one may consider extrinsic evidence as to the understanding of the parties about the meaning to be attached to the words. See also *Metcalf* v. *Williams*, 104 U.S. 665; *Boardman, et al.* v. *The Lessees of Reed & Ford, et al.*, 6 Pet. 328.

In addition, it is universally held that:

"If the language used is ambiguous, it is to be interpreted in the sense that the promisor knew, or had reason to know, that the promisee understood it." *Star-Chronicle Publishing Company v. New York Evening Post*, 256 F. 435 (2 Cir.).

Indeed, "One is bound, not by what he subjectively intends, but by what he leads others reasonably to think he intends." *Globe Steel Abrasive Co.* v. *National Metal abrasive Co.*, 101 F. 2d 489, 492 (6 Cir.). In the present case, the Unions were led to believe and did believe that the language drafted by the Service meant to incorporate future amendments to the Federal benefits statutes, and, on the evidence, the Service knew that the Unions believed this.

Furthermore, even if there were a question whether evidence of the oral agreement between the parties as to the meaning of the contract is admissible in court proceedings, it is clear, and widely recognized, that arbitrators construing labor agreements are not bound by judicial evidentiary rules, and they customarily draw upon many sources in reaching their decisions. As Professor Cox noted in his article "Reflections Upon Labor Arbitration," 72 Harv. L. Rev. 1482, 1500:

"The arbitrator applies a common law of contracts to actions upon industrial agreements. He performs the function because it is inescapable, even though the collective agreement confines him to 'interpretation and application.' Yet the task is markedly different in two important respects. *Collective agreements, because of the institutional characteristics already mentioned, are less complete and more loosely drawn than many other contracts; therefore, there is much more to be supplied from the context in which they were negotiated.* The governing criteria are not judge-made principles of the common law but the practices, assumptions, understandings, and aspirations of the going industrial concern. The arbitrator is not bound by conventional law [1] although he may follow it. If we are to develop a rationale of grievance arbitration, more work should be directed towards identifying the standards which shape arbitral opinions; if the process is rational, as I assert, a partial systematization should be achievable even though scope must be left for art and intuition. I can pause only to note some of the familiar sources; legal doctrines, a sense of fairness, the national labor policy, past practice at the plant, and perhaps good industrial practice generally.

In view of the traditionally liberal practice followed by arbitrators in considering evidence relevant to the meaning of a labor contract, there cannot be much doubt that, in the present case, an arbitrator would, and, *a fortiori*, this Committee should, admit and consider testimony by the parties as to their mutually expressed declarations of intent.

In addition, this Committee unquestionably should read the contract in the light of the Postal Reorganization Act, which was designed to repair past injustices suffered by many generations of postal workers. The legislative history and the language of the statute itself resound with a Congressional purpose to improve the plight of postal employees. It would be incongruous, to say the least, in such a setting, to assume that the Postal Unions would wittingly have surrendered the minimum insurance benefits which their constituents would have enjoyed had they merely continued to be regular Federal employees. And it comes with ill grace from the Postal Service at this late date to assert that Congress should decide that this is what they did, wittingly or unwittingly.

The practice of the Postal Service in interpreting the very provisions in issue must also be accorded great weight. Practice of the parties under the contract has always been a significant factor in determining what the parties intended the contract to mean. As set out in the Rademacher affidavit, on January 8, 1972, a little less than two months ago, the Postal Service increased its health insurance contributions in accordance with the formula prescribed by 5 U.S.C. § 8906. Obviously, then, the Service cannot be taking the position that "current contribution level," as used in the contract, must be literally construed, for a literal interpretation of "level" would mean the pre-existing fixed amount of contributions. Clearly, the Service recognizes that its contributions are controlled by and coterminous with chapter 89 of title 5. This concession, the Unions submit, effectively destroys the "fixed quantum of contribution" rationale offered by the Service to support its contention that it is not bound by changes in the statute.

Additionally, we must point out that Mr. Blaisdell's emphasis (Tr. 3, 6–9, 27) upon the fact that coverage under H.R. 12202 would increase cost to the Postal Service is totally misplaced. Mr. Blaisdell's premise appears to be (Tr. 27) that in entering into the contract the Postal Service insisted upon and the Unions agreed to a ceiling (fixed and determinable when, as of its effective date or as of its enactment date?) upon the total cost to the Postal Service of compensation, *all* fringe benefits and other terms and conditions of employment, a ceiling "whereby a cost [could not] be increased beyond our [the Postal Service's] control." That premise is demonstrably false, for subsequent legislative improvement in retirement and unemployment compensation benefits during the life of the contract would obviously raise the Postal Service's costs, and yet the Postal Service *admits* that it would have to shoulder *those* increased costs, under contract clauses identical to the one governing contributions to the health and welfare program (Tr. 27, 20).

Closely allied to this argument is the Postal Service's contention that it is somehow inappropriate or improper to legislate on the subject of Postal Service coverage

[1] Mayberry v. Mayberry, 121 N.C. 248, 28 S.E. 349 (1897); Smith v. Hillevich & Bradby Co., 19 Lab. Arb. 745 (Ky. Ct. App. 1952); 6 Williston, Contracts § 1929 (rev. ed. 1936)." (Emphasis added.)

under H.R. 12202. According to the spokesmen for the Service, collective bargaining should be an either-or proposition: governed entirely by Congress or entirely by bargaining, but not both (Tr. 31–32, 35). The shortest answer is that the Postal Unions are not here seeking to secure from Congress something surrendered in bargaining, but are only attempting to obtain clarification of Congressional intent behind a statute in which Congress explicitly reserved a major role in the future shape of postal employee benefit programs. In the context of PRA, in which Congress expressly determined that its subsequent amendments to various statutes would apply to the Postal Service and its employees, it is hardly inconsistent for Congress to declare its continuing interest in the field of health benefits.

In the private sector, of course, Congressional intervention is commonplace. Parties cannot collectively bargain for lesser wages on overtime compensation than the Federal Wage and Hour Act provides. A contract for lower wages or overtime compensation than called for by Federal law would be unenforceable. Nor can an employer by contract immunize himself against amendments to the law during its term which raise the minimum rate of compensation above that provided by the contract. This is a hazard every employer assumes when he enters into a collective bargaining contract, and it by no means detracts from or is inconsistent with the principles and practices of free collective bargaining as they are understood in our society. *A fortieri*, in this instance, where the Unions are asking Congress merely to place beyond the possibility of controversy an intention which, in their view, Congress actually manifested in the legislation, namely, that changes in the benefit programs *do* apply unless and until the parties change the programs by negotiation, there can be no conceivable impropriety in granting their request. Of course, we are not saying, nor could we argue, that if the Unions in collective bargaining had intentionally released the Postal Service from subsequent amendments to the Health Benefits program, Congress should relieve them of their bargain for that is the kind of bargain Congress authorized the Unions to make. What we do say is that if the Unions did not intentionally and consciously waive the applicability of such future amendments, nothing in the philosophy of PRA militates against Congress clarifying its intention that in the absence of a deliberate waiver such an amendment automatically applies to the Postal Service.

III. CONGRESS SHOULD PROVIDE EXPLICITLY FOR INCLUSION OF THE POSTAL SERVICE IN H.R. 12202

Finally, we confront the question, sharply raised at the hearing, whether it is appropriate for Congress now to resolve the question of applicability to the Postal Service of the proposed amendment, or whether Congress should leave that question unresolved and relegate it for resolution to arbitration or to a court (Tr. 47). We submit that Congress should itself resolve the question, unequivocally, now. At bottom the question is one of policy: does *this* Congress, *now*, under all the circumstances, including the current contract, believe that postal employees should or should not be included in the improved contribution program with all other Federal employees. Arguments pro and con as to whether, if this Congress abstained from resolving that question, the amendment would or would not apply to the Postal Service, are unnecessary to determination of whether this Congress should itself decide the desirable scope of its own amendment. Now that the question of applicability has been raised by the Postal Service, it would seem the course of responsibility and wisdom for Congress itself to resolve it. Indisputably, Congress is the tribunal uniquely qualified to decide what result it wants to achieve by its own legislation. Legal arguments as to what the rights of the parties would turn out to be under PRA in light of the current collective bargaining contract, are, at best, influential but not decisive on the issue of policy. Thus, assuming, *arguendo*, that if the amendment was silent as to inclusion of the Postal Service, the Unions would win before an arbitrator or the courts, what is to be gained by compelling the parties to expend a large sum in litigation costs and fees when a phrase of legislative clarification would resolve the issue? *Per contra*, assume that the Unions would lose before an arbitrator or the courts. If this Congress believes that such a result would be inequitable or unfair, why risk it?

CONCLUSION

The Unions believe that the preceding discussion demonstrates beyond substantial doubt that postal employees are contractually and statutorily entitled to enjoy the benefits of H.R. 12202. However, the Postal Service has taken a contrary position. To put the matter at rest, so that postal employees can be assured of receiving the benefits owing to them, H.R. 12202 should be amended expressly to apply to the Postal Service.

ALASKA PIPELINE

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. VANDER JAGT. Mr. Speaker, the May 7 editorial section of the Washington Post included a comprehensive article by C. Robert Zelnick on the Alaska pipeline. The economic and environmental issues at stake here are effectively described. A valuable discussion on the Mackenzie River alternative route is discussed. I urge Members of Congress to give careful attention to the article which follows:

[From the Washington Post, May 7, 1972]

THE DARKNESS AT THE END OF THE PIPELINE

(By C. Robert Zelnick)

Among those who care about such things, the conviction runs deep that the battle over the transAlaska pipeline has become the Interior Department's Vietnam. Ill-conceived from its inception, fraudulently purveyed, divisive in its political repercussions and disastrous in its consequences, the project has little to recommend itself other than the enormous quantity of resources already poured into its accomplishment.

Yet Interior continues to see light at the end of the pipeline. That it will issue the right-of-way needed by the Alyeska Pipeline Company—a consortium of seven oil industry giants—to cross federal lands in Alaska seems a foregone conclusion. On March 20, the day his department released its massive "final" impact statement—which conceded every significant ecological objection ever voiced against the 789-mile Prudhoe Bay-to-Valdez route, Interior Secretary Rogers C. B. Morton promised a decision "within about 45 days." Eight days later, after meeting with Morton, Peter Flanigan and other administration officials to express his country's desire "for the construction of a Mackenzie Valley pipeline," Donald S. Macdonald, Canada's Minister of Energy, Mines, and Resources, told reporters at a Washington news conference: ". . . I had the impression that, with so much effort and study invested in the transAlaska pipeline, that it rather looks as though they would be giving that priority in their consideration."

Actually, as Morton conceded in an appearance on the "Today" show the morning after Interior released its report, his department could not have decided anything with finality within 45 days. Since April, 1971, Interior has been blocked by an injunction issued by the federal district court in Washington from issuing the permit. Two weeks advance notice is required, during which time Judge George L. Hart Jr., will have do satisfy himself that Interior has complied with the National Environmental Policy Act of 1969. The act requires a complete statement of the consequences of any agency action "significantly affecting the quality of the human environment," plus a thorough examination of alternative courses.

Hart, a model of judicial self-restraint, is expected to rule for Interior. The Wilderness Society, Friends of the Earth, and the Environmental Defense Fund—the three environmental group plaintiffs—would then probably appeal to the more assertive U.S. Court of Appeals, with the loser, in all likelihood, taking the case to the Supreme Court. The ultimate result is almost certain to be a landmark decision in environmental—or, for that matter, administrative—law.

THE CHOICES

The nub of the social issue involved is not whether Alaskan oil should be brought to market. Rather, the choice is between an 1,800-mile overland route, 1,500 miles of which would traverse Canada's Mackenzie Valley, and a shorter land route from Prudhoe Bay to Valdez, with the oil then moving via tankers to ports on the U.S. West Coast. The nub of the legal issue is whether Interior has considered the Canadian alternative to the degree necessary to satisfy the environment law, and whether, regardless of Interior's diligence, the evidence favoring the Canadian route is not so overwhelming as to make any right-of-way grant through Alaska a clear abuse of administrative discretion.

Environmentalists are convinced that the Mackenzie Valley route is superior, in part because it involves a single pipeline corridor rather than two, and that should Morton decide otherwise, they can beat him in court. They maintain that abundant support for their position can be found in Interior's own impact statement of March 20. The stakes are high. The pipeline project would be the largest undertaking in the history of private enterprise. The oil industry claims to have invested almost $100 million to date in studying the Alaskan terrain and in procuring pipe and construction materials. That figure, even if exaggerated, is a mere pittance compared to the profits they expect to reap from the venture.

The known oil field in the Prudhoe Bay area—three giant pools running inland from a 40-mile stretch along the Beaufort Sea and covering an area the size of Massachusetts—exceeds 10 billion barrels. This, however, is only a fraction of what the industry eventually hopes to find. Forty billion barrels is a more realistic estimate. In September, 1969, an assortment of producers paid Alaska more than $900 million for the privilege of looking for more North Slope oil. A barrel of oil sells for about $3.25 on the West Coast, more in the Midwest and East.

NO "GOOD" WAY

Despite years of study and volumes of "stipulations" designed to protect the environment, there remains no "good" way of running 2 million barrels of oil a day through 48 inches of pipe at a temperature of 145 degrees Fahrenheit over and under a vast stretch of Arctic wilderness. You have to begin by building gravel service roads and air strips large enough to accommodate the big Hercules aircraft. You must find more gravel for 12 camp sites and 6 pumping stations, each 50 acres; this means gouging about 50 million cubic feet of gravel out of riverbeds and off the tops of hillsides along the way. Stream siltation and land erosion are the inevitable results. Some 350 streams would be crossed by the route. Many are spawning

grounds for salmon and grayling. Oil spills can be a problem there. There can be even more of a problem if the oil gets carried out to the Beaufort Sea and trapped under the ice. Then the oil becomes a permanent part of the marine ecology.

If you decide to bury the pipe all the way, its heat melts the permafrost, causing slides and differential settlement, eroding the support for the structure and eventually causing a break. When you are forced to build part of it on stilts, you erect a barrier that blocks caribou and other migrating animals and subjects the line to greater risks of surface damage. When you dig a ditch to catch expected oil spills, the ditch becomes a moat entrapping other animals.

Your service road extends civilization where it has never reached before. The construction activity, the planes landing and taking off and the helicopters hovering overhead frighten bear and caribou, rare birds and sheep. When these move to other areas, they die or cause other animals to die. The ecological balance in the Arctic is fragile. In the winter, a caribou uses almost all its energy just staying alive. A single timberwolf can exhaust and kill the stoutest buck in the herd. So can a bulldozer.

What we get in return for the partial destruction of our nation's largest wilderness area is more oil, a lot of natural gas, the corresponding need to spend fewer U.S. dollars buying foreign sources of energy, and, arguably, a mild, temperature improvement in our national defense posture. This latter case has been stated so often and with such apparent conviction by both the Interior Department and the oil industry that one wonders how we would have survived had not the Prudhoe Bay field been discovered in 1968. Statistical projections provide a clue.

THE EARTHQUAKE PROBLEM

By 1980, the United States is expected to be using about 22 million barrels of oil daily and producing some 10.4 million barrels, excluding what is to be drawn from the North Slope. Part of our expected deficit can be made up by importing an estimated 4 million barrels a day from nations in the Western Hemisphere. The rest will have to come from Indonesia and the Middle East.

Alaska's 2 million barrels daily could reduce this dependency somewhat for about five years. After that, our demand is expected to so outstrip domestic production that North Slope oil will be of little strategic value. In the case of a minor outbreak in the Middle East, say between 1980 and 1985, the benefit is obvious. But if the problem were big and with Russia, an exposed pipeline can offer small comfort to our military strategists. Prudhoe Bay is only 600 miles from Siberia.

While conservationists—at least those involved in the pipeline battle—accept the reality that 10 billion to 40 billion barrels of oil are going to find their way to market, they believe that even if oil was the only resource involved and even if big tankers weren't needed for the remainder of the Alaskan route, the Canadian route, while longer, is preferable. For one thing, the Alaskan area involved is renowned for its extreme seismic activity. In the past 70 years, some 23 major earthquakes have clobbered the terrain over and under which the Alaskan pipeline would go; and one of the quakes could have caused a catastrophic break in the pipe. Valdez itself, where a 900-acre, 510,000-barrel-capacity "tank farm" is planned, is a "new" city, about four miles northwest of its predecessor. The "old" Valdez was substantially washed into the area as tidal waves of up to 170 feet rolled ashore following the great Alaskan earthquake of 1964.

The route through Canada poses no comparable seismic problems. It has fewer miles of unstable soil and more existing roads, even railroads. From Edmonton, the proposed Canadian terminus, existing pipelines now extend both to the Midwest (Chicago) and the West Coast (Seattle). Certainly less environmental damage is involved in expanding existing facilities or building parallel facilities than in constructing new ones.

THE GAS LINE

The relative merits of one land route versus another, however, are matters about which a court is unlikely to substitute its judgment for that of an administrative agency with admitted expertise in the field. But what about *two* land routes versus one land route? Environmentalists claim that this is the fatal legal weakness in Interior's position. Buried, almost lost in the department's six-volume statement, and totally lacking from its consideration of alternatives to the Alaska route, is the acknowledgment that "at some time during the operation of the proposed trans-Alaska pipeline, it would become necessary to transport to market the natural gas that would be produced with the Prudhoe oil."

Indeed it would. In fact, it is estimated that 26 trillion cubic feet of gas are under the Prudhoe Bay fields waiting to be developed with the oil. Moreover, Interior says, "route selection and construction procedures would be similar to those for an oil pipeline but with some simplifications resulting from reduced pipe weight and lower operating temperatures."

Yet logistics militate against the likelihood of a trans-Alaska gas pipeline. The gas would have to be liquefied at Valdez prior to shipment. Interior estimates that operational costs of a liquefaction plant would run to half a billion dollars a year. Additionally, there are only about a dozen liquefied natural gas tankers operating in the world, while some 20 to 40 would have to be built to handle the Valdez traffic alone. Thus, Interior concludes, "A gas pipeline across Alaska appears to be a remote possibility because of the problems involved in shipment from the southern terminus; a gas pipeline through Canada to the Midwest seems to be much more feasible."

Of the various Canadian possibilities, Interior leans toward the Mackenzie Valley, noting, "The Mackenzie River is a valuable artery for us in the construction of a trans-Canada gas pipeline. Good all-weather roads and some railway mileage also exist, and existing winter trails would be valuable at the right time of year." So much does Interior favor the Canadian route when it comes to natural gas—where neither oil industry prestige nor money is on the line—that in March Secretary Morton set aside a 300-mile corridor on federal lands in northern Alaska along the route the natural gas would travel from Prudhoe Bay to Fort McPherson atop the Mackenzie Valley.

If Interior is a bit circumspect about confessing that, in effect, it plans to grant two rights-of-way instead of one, it is far less bashful in assessing the environmental impact of 41 oil-laden tankers as they steam between Valdez and West Coast ports. Here, in fact, the report takes on a quality of terrifying candor, much like Yukie Mishima standing on the balcony, coldly describing the act of harikari he is about to perform.

The sea journey poses exceptional hazards, particularly for the crews of oil tankers. Port Valdez is a 3-mile-wide, steep-walled glaciated fjord that extends east-west about 14 miles. It narrows to less than a mile before dumping out into the Valdez Arm section of the 2,500-square-mile Prince William Sound. The coastline is rocky and treacherous, not entirely free of icebergs and blasted by frequent gale-force winds. A special pilot must guide each vessel through the narrow neck of the port.

The area, moreover, is one of extreme seismic activity. Prince William Sound was the epicenter of the 1964 Alaskan earthquake during which, as Interior notes, "74 lives were lost mainly as a result of submarine landslides, sudden large-scale tectonic displacements, destructive waves, and, to a lesser extent, vibration of structures."

From Prince William Sound the tankers would run into the Gulf of Alaska and down the foggy northern Pacific coast. "During the cool months," Interior says, "the Gulf has the highest frequency of extratropical cyclones in the Northern Hemisphere." From October through February, it is rocked by waves of 12 feet or better about 20 per cent of the time. Moreover, "the 1964 Alaskan earthquake was but one of a large number of earthquakes of moderate and high intensity that have occurred in or near the Gulf of Alaska, and there is no geologic basis to assume that other equally devastating earthquakes will not occur in the near future."

"REHABILITATING" BIRDS

Plans call for about 10 per cent of the tankers to pass through the narrow Strait of Juan de Fuca—where again navigational hazards will require the assistance of a pilot—and into the 40 miles of beautiful waterway known as Puget Sound, a recreational haven for 2 million Americans and Canadians. The remaining vessels would head for San Francisco, Los Angeles and points further south.

Again, seismic dangers will be extreme. Interior recalls that "on April 13, 1949, an earthquake with an intensity of 7.1 on the Richter scale and an epicenter between Olympia and Tacoma resulted in approximately $25 million damage to the Puget Sound area. More recently, on April 29, 1965, an earthquake of slightly less intensity (6.5) with an epicenter between Seattle and Tacoma caused an estimated $12.5 million damage to the Seattle area. These are the two largest of the numerous earthquakes that have occurred in this region during the last hundred years; the level of seismic activity has increased substantially during the last few decades."

Interior estimates that if the performance of the oil tankers on the Valdez run was no better than the world-wide average, we can anticipate spills averaging 384 barrels a day, or about 140,000 barrels a year. Better vessels may reduce these numbers somewhat, but the damage per spill would likely exceed the world-wide average since "large spills in the area would be more difficult to contain, clean up and restore because of the distances from sources of ships and cleanup gear and the generally limited manpower in the region."

Interior details the impact all this filth would likely have on the huge salmon runs of the Northern Pacific, and how it would probably impede, and perhaps wipe out, fishing in the Port Valdez-Prince William Sound area, where the coastal waters are today as pristince as any on earth. On a cheerier note, while chronicling the devasting effect an oil spill might have on the many rare migratory bird species that inhabit Alaska-Canadian coastal areas during certain months, Interior records for posterity Alyeska's pledge to "rehabilitate" those birds belonging to endangered species. The term seems peculiarly appropriate. In this forgiving society we "rehabilitate" drunkards, junkies, whores and others who have gone astray. Clearly the murres, murrelets, loons, grebes, albatrosses, gulls, terns, ducks, geese and shore birds who fall victim to the oil industry's determination to bring its goods to market along the route it deems best are out of step with the natural order of things and gravely in need of "rehabilitation." Unfortunately, only about one in seven of the poor creatures doused in the San Francisco Harbor spill a year ago lived long enough to profit from the experience.

SHOCKING OMISSIONS

If the six volumes of Interior's report dealing with the environmental impact of the combination overland-tanker route contain some shocking revelations, the three-volume economic analysis shocks by what it fails to disclose. Simply stated a careful reading of Interior's economic analysis provides no clue as to why Alaskan crude should go to the West Coast in the first place, certainly none justifying an iota of increased environmental risk.

The West Coast is second only to the Southwest in the production of petroleum. It will not need any Alaskan crude for the next few years, will not be able to absorb 2 million barrels a day from the North Slope until well into the 1980s, and, if as expected, Alaskan production increases to 5 million barrels a day, the West Coast will not be able to absorb the surplus during the life of the pipeline.

Thus, even ignoring the greater hazard of the tanker route from Valdez, it is nonsense to say, as Secretary Morton did on his March 21 "Today" show appearance, that "if the pipeline went through Canada and if it ended up in the middle of the country, you would then have to bring oil into the West Coast by tanker. So the same amount of oil would be arriving by tanker."

The West Coast simply does not need as much oil as Alyeska wants to provide. And, if it did, the obvious source would be the South-west or Canada, a fact Canadian minister Macdonald has been pressing upon his Washington counterparts without apparent success. On April 19, for example, Macdonald was questioned in the Ottowa House of Commons by David Anderson, a Vancouver MP active in the battle against Alaskan tanker traffic, as to whether Canada was willing to supply the United States with enough oil to compensate for the anticipated additional two years it would take to complete the trans-Canada route. Macdonald's reply:

"Both in my discussions with Secretary Morton and other officials of the United States administration in Washington and recently with Secretary Rogers last week, I made it perfectly clear that Canada was prepared to supply additional quantities of oil to the United States not only for a two-year period, but a longer period, and that this would be facilitated by their lifting their quota system."

Would Alyeska, assuming a right-of-way is granted for the trans-Alaska pipeline, then be stuck with a $2 billion to $4 billion Edsel, given the bearish West Coast market for Alaskan crude. A few energy economists believe so and have privately expressed surprise that the oil industry has been able to maintain so united a front on the issue while both the East and Midwest hunger for additional crude oil. More probably, Arco and British Petroleum, the two companies with the biggest positions in the pipeline, would be able to trade their excess crude to Japan in exchange for Japanese rights to Middle East oil, rights purchased long in advance. The Middle East crude oil could then be sold at a good profit on the East Coast, bailing the two companies out of their predicament but making an utter shambles of any national defense arguments for trans-Alaska route.

WINNING IN THE COURTS?

There is a reasonable chance that the environmentalists will ultimately prevail in the courts. Perhaps they will persuade the courts that Interior's failure to consider adjacent oil and gas pipelines rendered its statement procedurally inadequate. Perhaps they will win an even more significant point by forcing Interior to abide by the results of its own research, thus introducing important substantive requirements, as well as procedural ones, into the environment law.

Interior, meanwhile, hopes that its "final" impact statement on the trans-Alaska pipeline will at last get the environmental monkey off its back. From the outset it seems to have regarded the environment statute as an unwelcomed encumbrance to a predetermined course.

Two years ago the department attempted to grant the oil consortium a right-of-way to build a service road adjacent to the pipeline, arguing, incredibly, that the road and the pipeline were unrelated. Its impact statement on 361 miles of gravel carved into the middle of Alaska's wilderness totaled four pages, and became the subject of the court injunction still in effect.

Interior's second attempt at compliance with the environmental law was a bit more sophisticated, but not much. Its multi-volume "draft" impact statement, produced in January, 1971, during the interregnum between the Hickel and Morton secretaryships, was basically a collection of data and argument compiled by Alyeska itself. In that report, the Department found it unnecessary either to consider the impact of tanker traffic from Port Valdez to the West Coast or to assess the feasibility of a trans-Canada pipeline route. Even today, Secretary Morton can be heard arguing from time to time that consideration of the Canadian alternative is superfluous because "no application for a Canadian route is pending."

Since the 1965 *Scenic Hudson* case, however, federal courts have held that an administrative agency charged with protecting the environment has a duty to consider alternatives not placed before it by the parties. It cannot only "sit as an umpire blandly calling balls and strikes," the court found. In any event, Interior's 1971 statement was sufficiently derelict so that even the Corps of Engineers, in its formal comment, warned that the department had failed "fully to comply with the letter and spirit of the Environmental Policy Act."

SCARCE STATEMENT

The Justice Department, fighting the pipeline case for Interior in court, has also shown a greater zest for adversaria than guardianship of the public domain. Last summer, more than a year after the first lawsuit was filed, Justice tried unsuccessfully to remove the case from the District of Columbia to the friendlier confines of the U.S. District Court in Anchorage, Alaska. This past April, when MP Anderson and several Canadian residents of the Puget Sound area sought to intervene in the case, Justice opposed the motion.

Now we have Interior's third attempt at compliance with the environmental act. Legally, the department hopes that by confessing the devastating results of its proposed action, it can achieve what it failed to get by denying those results in its two earlier efforts. Politically, it appears anxious to present the public with a fait accompli. In the weeks since March 20, only seven copies of the impact statement have been made available to the public without cost in six cities across the entire "lower 48" states. For others, the volumes cost $42.50 a set. Faced with a demand for public hearings. Under Secretary William Pecora claimed that "a public hearing would be a circus" and would "interfere with a more thoughtful and rational analysis of this complex document."

"Clearly the department has not tried to encourage hearings or informed debate," complained the Christian Science Monitor on May 2, in what might pass as the editorial understatement of the year. The Monitor went on to wonder "how much 'thoughtful and rational analysis' the Interior Department has itself given to the study." Before too long the federal courts may themselves be wondering the same thing.

SHOULD NUCLEAR WEAPONS TESTS BE STOPPED?

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. FRASER. Mr. Speaker, tomorrow, Tuesday, May 9, Mr. BINGHAM, Mr. WHALEN and I, along with over 60 cosponsors, intend to introduce a resolution calling on the President to propose that the limited nuclear test ban treaty of 1963 be expanded to include testing underground.

The issue of underground nuclear testing is often lost in the forest of international crises. But while the threat underground nuclear tests represent to international peace may be obscured, until these tests are ended, we cannot end the nuclear arms race.

Mr. Speaker, we are very fortunate that almost coincident with the introduction in the House of the Hart-Mathias resolution on a comprehensive nuclear test ban—CTB—the Task Force on a Nuclear Test Ban has published a pamphlet "Should Nuclear Weapons Tests Be Stopped?" In this brochure, frequently asked questions on a comprehensive test ban are answered.

For the benefit of those who have not already decided to sponsor our resolution, I place this fine booklet in the RECORD:

SHOULD NUCLEAR WEAPONS TESTS BE STOPPED? THE CRUCIAL QUESTIONS AND ANSWERS ON NUCLEAR TEST EXPLOSIONS

(Published by the Task Force on a Nuclear Test Ban)

This booklet covers the basic questions on the issue of a Comprehensive Nuclear Test Ban, a treaty that would prohibit underground nuclear weapons tests.

The booklet was prepared by Mrs. Jo Pomerance, Dr. Betty Goetz Lall and Dr. Herbert Scoville, Jr., of the Task Force on a Nuclear Test Ban.

Mrs. Jo Pomerance was chairman of the Disarmament Issues Committee of the United Nations Association of the U.S.; consultant to the U.S. Mission to the U.N.; and is special consultant to the Chairman, Senate Foreign Relations Subcommittee on Arms Control, International Law and Organization. Dr. Betty Goetz Lall is a former official of the U.S. Arms Control and Disarmament Agency and of the Senate Foreign Relations Subcommittee on Disarmament. Dr. Scoville is former Assistant Director of the Arms Control and Disarmament Agency and Deputy Director of the Central Intelligence Agency.

Copies of this booklet may be obtained from the Task Force on a Nuclear Test Ban, c/o Cornell University, 7 East 43rd Street, New York, New York 10017. The cost of the booklet will be 25 cents per copy, with a 20% discount on 100 copies or more.

(Cover Art by Robert Osborn.)

PREFACE

It was hoped that the signing of the Limited Test Ban Treaty in 1963 would signal the end of the nuclear arms race, and be followed within a short time by a ban on all nuclear weapons tests. This has not been the case. Since 1963, the United States and the Soviet Union have conducted hundreds of underground tests, and France and China have exploded nuclear devices in the atmosprere. The nuclear arms race has not only continued, but it has accelerated, increasing the

threat of an atomic disaster and creating environmental hazards.

The present nuclear powers are continuing to develop weapons of greater destruction. The U.S. and U.S.S.R. now possess the capacity to destroy each other many times over. In addition, the danger of nuclear proliferation grows daily. Several nations now are on the verge of developing their own nuclear arsenals.

The Task Force on a Nuclear Test Ban was formed with the single purpose of informing the public of the facts about nuclear weapons testing and the need for a ban on these tests. A comprehensive test ban will help prevent the further development and refinement of nuclear weapons, as well as prevent the proliferation of these weapons to other nations.

We hope this booklet will help explain the reasons why a total test ban is vital to world peace and, therefore, to our national security.

DR. BETTY GOETZ LALL,
JO POMERANCE,
DR. HERBERT SCOVILLE, JR.

THE CRUCIAL QUESTIONS AND ANSWERS ON A COMPREHENSIVE NUCLEAR TEST BAN

1. Q. Why should nuclear weapons tests be stopped?

A. The most important benefit of a comprehensive test ban is that it would be a major step toward ending the nuclear arms race. It would sharply reduce the danger of a nuclear holocaust, and would be a signal that the U.S. and U.S.S.R. were willing to halt further development of nuclear weapons.

Underground tests enable the U.S. and Soviets to continue the costly development of new, more destructive weapons, and encourage other nations to develop their own nuclear capability and escalate an arms race that could ultimately end in a world disaster.

II. Q. Is underground testing hazardous to the environment and health?

A. Yes. Underground nuclear testing presents a variety of hazards. First, these tests can vent radioactivity. The U.S. Government admits that some 20 underground tests conducted between 1963 and 1971 vented radioactive material. Soviet tests have also vented radioactive debris into the atmosphere. It is established that exposure to radioactive substances, even in small doses, has the potential to cause cancer and birth defects in unborn children. Also, leading scientists believe that underground tests produce earth tremors that could trigger major earthquakes and, subsequently, tidal waves. A White House Commission in 1968 concluded after a thorough scientific study that an underground test explosion might induce severe earthquakes or tidal waves that could cause serious damage well beyond the limit of the test site. Another environmental hazard which would be halted by a test ban is the threat of underground tests contaminating vital underground water tables.

In addition, a comprehensive test ban agreement between the U.S. and the Soviets could eventually include China and France, which would stop the radioactive fallout from their tests in the atmosphere.

III. Q. Why have the U.S. and Soviets failed to agree to a comprehensive test ban?

A. The U.S. has insisted that on-site inspection is necessary to prevent clandestine underground tests. The Soviets have rejected on-site inspections, though at one stage in negotiations it appeared that the nations were close to agreement on a limited number (between three and seven) of inspections.

IV. Q. Is on-site inspections still necessary to prevent "cheating"?

A. No. Seismic capabilities of detection and identification have vastly improved over the past few years. These improvements, combined with other verification methods, make a comprehensive test ban possible without on-site inspections. It is now possible to identify underground explosions and earthquakes down to magnitudes as small as two kilotons (two thousand tons of TNT), although some slightly larger explosions might be unidentified.

This seismic capability has been attested to by many of the nation's leading scientists and arms control experts, including testimony by experts before the Senate Foreign Relations Subcommittee on Arms Control, International Law and Organization, in hearings on the comprehensive test ban held in July of 1971.

V. Q. Would signing a test ban now put the U.S. at a military disadvantage?

A. No. The U.S. presently has nuclear warheads for an array of present and possible future offensive and defensive missile systems. The U.S. and Soviets each have a nuclear arsenal that could withstand a first strike attack and destroy the other side many times over. The U.S. also has a wide variety of warheads for tactical warfare ranging in size from those that can be hand carried to large bombs and missiles. The U.S. is well ahead of the U.S.S.R. in almost every category of nuclear weapons design. The cessation of all testing by both sides would work to the advantage of both. A world in which neither tested would enhance the security of each more than a world in which both nations continued testing.

VI. Q. Would clandestine tests unidentified by present seismic technology be a threat to U.S. security?

A. No. Explosions by the U.S.S.R. or any other nation that might not be identified by a U.S. network of seismic stations would be so small that it could be of little value in major weapons development.

Also, important new nuclear weapons programs require many tests before the technology can be used to produce actual weapons. It is considered inconceivable that the U.S.S.R., or any other nation, could conduct an entire series of secret tests without detection. The gains to U.S. security from preventing Soviet's tests above the identification threshold would more than offset the small risks of possible cheating.

VII. Q. Would a comprehensive test ban help stop the spread of nuclear weapons to other nations?

A. Yes. In addition to the two nuclear superpowers, and the United Kingdom, France and China, which have smaller nuclear capability, there are several countries now considering the development of their own nuclear weapons. This proliferation would greatly increase the possibility of an eventual nuclear war.

The purpose of the Nuclear Non-Proliferation Treaty of 1968 is to halt the spread of nuclear weapons. Some nations, including Japan, Israel and India, have refused to ratify the Treaty as long as the U.S. and Soviets continue to add to their nuclear arsenal through testing. If the nuclear superpowers negotiated a ban on testing, as they are pledged to do under a provision of the NPT,[1] these potential nuclear nations may be strongly influenced to forego developing their own nuclear capability. If these nations signed a comprehensive test ban treaty, nuclear proliferation would be forestalled.

VIII. Q. Would China agree to a comprehensive test ban?

A. In view of the recent thaw in U.S.-China relations, it is difficult to predict China's reaction. Before the apparent rapprochement, it was believed that China would probably not initially sign a test ban because its nuclear technology is far inferior to that of the U.S. and U.S.S.R., and they would want to reduce this gap before ceasing their test program. The recent improvement in U.S.-China relations could improve the chances of China's signing a test ban. However, weapons experts believe China is so far behind, U.S. security would not be jeopardized by a test ban that initially would not include China.

IX. Q. Would a test ban prohibit peaceful nuclear explosions?

A. The present Limited Test Ban Treaty prohibits peaceful nuclear explosions in the atmosphere. Underground nuclear tests for peaceful purposes have caused some of the major cases of venting radioactive materials. There is, however, considerable interest throughout the world in the use of nuclear explosions for mining, major construction projects, and for other purposes. While a comprehensive test ban treaty would initially prohibit peaceful nuclear explosions, if these tests could be made safe, the treaty might at a later date be amended to allow these tests under the supervision of an international organization.

X. Q. Will a test ban save money?

A. Yes. The U.S. is presently spending at the rate of close to $300 million a year directly on underground nuclear testing. All of this money and manpower resources could be redirected to peaceful purposes. In addition, over $1 billion is spent annually on related weapons development and tens of billions of dollars are spent each year on the development of weapons delivery systems. A significant portion of these expenditures could also be either saved or put to more constructive use in solving domestic problems and developing the machinery of international peacekeeping.

XI. Q. What measures of restraint can nations undertake while a test ban is negotiated?

A. The nuclear nations can initiate several positive actions preparatory to a test ban. In a Canadian proposal, it is suggested that the U.S. and U.S.S.R. disclose dates of underground explosions so that monitoring equipment could be tested; reduce the scope of their underground test programs; take special precautions to prevent their present tests from causing environmental hazards; and cooperate on the development of monitoring systems.

XII. Q. Is there strong support in the U.S. for a comprehensive test ban?

A. Yes. There has been a resurgence in the public's alarm at the spiraling nuclear arms race. The vast propaganda program of the Defense Department and some defense contractors has for years cited the need for more destructive and costly nuclear weapons. But in the past two years a growing number of leaders in Congress and government agencies, scientists and the American public have become convinced that this dangerous buildup of weapons endangers rather than strengthens our national security.

There are presently three resolutions in Congress calling on the President to negotiate a comprehensive test ban with the Soviet Union. One is a resolution introduced by Senator Kennedy in January 1972; another is a bipartisan resolution introduced by Senators Hart and Mathias in March 1972; a House resolution was introduced by Congresswoman Bella Abzug in December 1971; additional co-sponsorship to existing resolutions is expected.

The strong protest against the huge Cannikin underground test in November 1971, was led by many of the nation's leading scientists, arms control experts, and citizens organizations, and this test was only allowed to proceed by a last minute 4–3 vote by the Supreme Court.

XIII. Q. What is world opinion on a test ban?

A. Strong support for a test ban treaty extends to other governments and people

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[1] "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."

throughout the world. The United Nations General Assembly in 1969 voted 114 in favor, one opposed and four abstentions urging the U.S. and the U.S.S.R. to negotiate a treaty. The most recent resolution was introduced by Canada on December 9, 1971, urging all governments that have been conducting nuclear weapons tests immediately to undertake measures to suspend such tests or reduce the size of their tests pending the entry into force of a comprehensive test ban treaty; to develop and use existing capabilities for seismological identification of underground tests; and to develop proposals for an underground test ban treaty. The resolution was adopted on December 16th with 91 for, two against (China and Albania), and 21 abstentions.

XIV. Q. What can you do to help?

A. If, after studying the issue, you believe that our nation's national security will be strengthened by stopping this dangerous, expensive nuclear arms race, you can help by making your views known. Write your Senator or Representative. Write the President. Write the editor of your local newspaper. The government must become aware that you will no longer accept the views of some of the professional military and munitions contractors that we must continue to increase our overkill capacity by spending billions on new nuclear weapons. Public support can change the course of history.

The Limited Test Ban Treaty, the first small step towards halting the arms race, may not have been possible without the active support of many national citizens groups and individuals who were appalled at the fall-out hazard of atmospheric nuclear tests. We now know that underground testing is dangerous to our environment, and keeps the clock ticking on the nuclear time bomb that someday may explode.

APPENDIX I.—TEXT OF THE HART-MATHIAS RESOLUTION (SENATE RESOLUTION 273)

Whereas, prior to 1963 there were earnest efforts by the United States to achieve a total nuclear test ban treaty in the hope of curtailing the burdensome and dangerous arms race between our nation and the Soviet Union; and

Whereas, inability to achieve agreement on methods of verifying a ban on underground tests frustrated hopes for a comprehensive treaty, and resulted in acceptance in 1963 of a limited test ban; and

Whereas, the massive underground testing which has since continued on both sides has constantly fueled the burdensome nuclear arms race without promoting national or international security; and

Whereas, steady and continuing scientific progress in seismology now makes it possible, using national means alone, to monitor underground events down to levels so small that any remaining undetected or unidentifiable events would have no controlling military significance; and

Whereas, the early achievement of total nuclear test cessation would have many beneficial consequences; imposing inite limits on the nuclear arms race; releasing resources for peaceful purposes; protecting our environment from growing testing dangers; creating a more favorable international arms control climate; helping to win acceptance by more nations of the crucial nuclear nonproliferation treaty; making more stable agreements it is hoped will result from the current SALT negotiations: Now, therefore, be it

Resolved, That in the interest of promoting negotiations for general cessation of the nuclear arms race and advancing international security, the Senate calls upon the President to propose to the Soviet Union and the other nuclear powers an extension of the limited test ban treaty to include testing underground and to strive for its prompt acceptance.

Senators PHILIP A. HART (D), and CHARLES MCC. MATHIAS, Jr. (R).

APPENDIX II

Excerpts from a Staff Report on Subcommittee on Arms Control International Law and Organization (Chairman, Edmund S. Muskie) of Senate Foreign Relations Committee. Report following hearings on Comprehensive Test Ban held in July 1971

". . . Recently the subject of nuclear testing has returned to the arena of public discussion. The multimegaton tests by the United States in Alaska and the U.S.S.R. in the Arctic have recalled attention to this subject and the lack of progress since 1963 toward a comprehensive test ban (CTB) covering underground tests as well. The question has been raised with increasing frequency—what are the barriers to a ban on *all* nuclear tests? The hopes and expectations generated by the Limited Test Ban Treaty, when it seemed that we were so close to a total ban, have remained unfulfilled.

The possibilities of movement toward a CTB have always foundered on the question of on-site inspection. In 1963 the dispute focused on the *number* of permissible inspections (although there were other unresolved issues involving on-site inspection). The United States insisted on seven such inspections, while the U.S.S.R. would accept only three. Subsequently the Soviets took the position that on-site inspection was no longer necessary and that national means of verification were sufficient. In contrast, the U.S. position has remained unchanged since 1963.

In that period, however, enormous advances have been made in seismology so that it is now possible, through seismic means alone, to identify underground explosions to a degree unknown five years ago. It is now possible to deploy new seismic monitoring network which would constitute a powerful force in the monitoring of a CTB. In addition, even presently deployed systems are vastly superior to those deployed a few years ago. These advances would seem to justify, indeed require, a reassessment of the U.S. position regarding on-site inspection. . . ."

APPENDIX III—BRIEF BIBLIOGRAPHICAL REFERENCES

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Women United for the U.N.
Women Strike for Peace.
Women's International League for Peace and Freedom.

HOUSING FOR THE HANDICAPPED

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SCHWENGEL. Mr. Speaker, housing shortages exist in almost every locality throughout our country. Much is being done to remedy this situation. One factor, however, has long been overlooked in designing houses for these areas with short supplies. I am referring to the disabled or handicapped person. In most cases, homes are not designed with the handicapped in mind. Disabled American Veterans are increasing in numbers and their problems in securing adequate housing continues to grow.

Recently an Iowa company, Mini-Mansions, Inc., in conjunction with the Disabled American Veterans, began design and construction of housing suitable for the handicapped. They have created an efficient and unique system of manufacturing and erecting low-cost housing. All architectural barriers—that have long been a source of inconvenience for the physically handicapped—have been eliminated. The special features include bathroom arrangements, utility controls and kitchen facilities which are easily accessible from a wheelchair, ramp entrances, wide halls, interior and exterior wide doors, and weather protected entrances.

Due to the unique design of this special housing plan and the wealth of thoughtful considerations, the millions of physically handicapped can now live more independently. The design meets the standards outlined in VA Pamphlet 26–68–1, and the suitability requirements under title 38, United States Code, chapter 21 for Disabled Veterans. Another important factor is that this housing also accommodates senior citizens in comfort and convenience.

It is, indeed, a pleasure to give recognition to such a fine effort. It is not often we find such thoughtful concern for the interests of the disabled and senior citizen. Mr. William McNeil, president of Mini-Mansions, Inc., deserves praise for his leadership in this area and the courage to put the prestige of his company behind this noble effort.

In this era of housing shortage and high demand, it is refreshing to find a corporation taking interest in the plight of the many citizens in need of adequate housing.

RESULTS OF INDIANA NINTH DISTRICT OPINION POLL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HAMILTON. Mr. Speaker, each year I send to the residents of the Ninth District of Indiana a questionnaire asking for comment on the major issues facing the Congress.

This year over 15,000 responses were received.

I was very pleased with the number of responses, because it suggests the awareness and concern of Ninth District residents on the important issues the Nation confronts.

I recognize the inadequacies of a brief questionnaire in assessing the full range of opinion from the district. Nevertheless, it is helpful to me as one indication—among several—of the trend of opinion in the 19 counties of the district.

The results of the questionnaire are as follows:

RESULTS OF QUESTIONNAIRE

THE ECONOMY

Are you satisfied with the administration's economic program to curb inflation and unemployment?

	Percent
Satisfied	30.30
Not satisfied	63.29
No opinion	4.34
No answer	4.10

Do you think wage and price controls should be—

	Percent
More strict	63.93
Kept about the same	17.60
Less strict	2.05
Discontinued altogether	10.73
No opinion	2.13
No answer	5.52

NATIONAL PROBLEMS

What do you think are the 2 most serious problems facing the Nation?

	Percent
Community development	0.90
Confidence in Government	10.22
Crime	17.00
Drug abuse	11.36
Government spending	16.33
Inflation	11.16
Pollution	6.39
Unemployment	7.97
Welfare	7.49
Vietnam	7.02
Other	1.57
No answer	4.57

CRIME

Are you and the members of your family personally afraid of crime in your area?

	Percent
Yes	40.96
No	55.95
No opinion	2.05
No answer	3.07

POLLUTION

Do you favor stricter federal laws to control pollution, even if it means spending more of the taxpayer's money for this purpose?

	Percent
Yes	59.66
No	31.64
No opinion	2.94
No answer	5.76

"NO FAULT" AUTO INSURANCE

There is increasing interest in a national "no fault" auto insurance system, in which accident victims recover losses from their insurance companies, no matter who is at fault. Do you—

	Percent
Favor	61.32
Not favor	23.04
No opinion	12.07
No answer	5.60

SPACE

The President has proposed spending from $10 to $14 billion on a new, reusable vehicle to continue space experiments. Do you—

	Percent
Favor the proposal	25.65
Favor a reduced expenditure for this effort	32.75
Reject the proposal	35.91
No opinion	4.18
No answer	3.55

DEFENSE

The President is seeking $83.4 billion, $6.3 billion more than last year, for the Defense Department budget. Do you—

	Percent
Approve	37.17
Disapprove	52.72
No opinion	7.49
No answer	4.65

UNITED NATIONS

Do you think the U.S. participation in the United Nations should—

	Percent
Be increased	10.33
Continue as it is	36.38
Be reduced	26.67
Be discontinued altogether	17.44
No opinion	6.31
No answer	4.98

VIETNAM

The Paris Peace Talks have been unproductive, both in the public sessions and in the recently-revealed private talks. Do you think we should—

	Percent
Withdraw all troops immediately	10.18
Withdraw all troops by a specific date, subject only to the release of all prisoners	27.22
Withdraw all troops subject to an agreement on free elections, a cease-fire, and the release of all prisoners	33.38
Withdraw troops only as needed to turn the war over to the South Vietnamese	15.86
Escalate our efforts as necessary for a military victory	10.10
No opinion	1.73
No answer	3.55

NATIONAL PRIORITIES

[In percent]

	Increased	Held at present levels	Decreased
Consumer protection	43.17	35.75	4.55
Crime prevention	65.50	22.88	3.63
Defense	29.51	36.93	24.46
Education	33.85	41.15	15.15
Farm programs	21.07	41.67	26.75
Foreign aid	1.26	11.60	79.55
Health	40.80	41.35	9.07
Housing	16.73	46.01	25.73
Job creation and training	42.54	34.25	14.83
Pollution control	54.93	24.70	12.07
Rural development	16.65	46.17	23.83
Space	11.60	29.67	50.27
Urban development	12.62	44.83	29.83
Welfare	8.20	21.70	63.45

THE FEARSOME NEW YORK FILLIES

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HALPERN. Mr. Speaker, there are a great number of professions which, for centuries, have been dominated by males—law and medicine are but two examples. One by one, however, those bastions of masculine "superiority" which have succeeded in slighting the rights and intelligence of women are being infiltrated by female members. There are, for example, a great number of female journalists, psychologists and professors, and the surprising success being made by the women's liberation movement seems to augur even more progress in the near future.

Yet what Sunday afternoon sports enthusiast, in his wildest male chauvinist dreams, would ever have expected to see a team of 11 women charging down the gridiron? Mr. Speaker, there is now an all-female professional football team—the first of its kind—called the New York Fillies.

This determined group of women have booked a series of games in the New York metropolitan area and hope to accomplish in the area of football what other women have already succeeded in doing in the tennis, golf, bowling and horse racing professions.

Mr. Speaker, I would like to insert into the RECORD three excellent news items written by Roy J. Harris, Jr. of the Wall Street Journal, Larry Sokoler of the New York Post, and Ricki Fulman of the New New York Daily News. I salute the New York Fillies and wish them every success in their exciting endeavor. I am convinced that under the able and energetic direction of Joseph Kover, general manager of the Fillies and a man whose friendship I have treasured for many years now, the NFL and AFL will soon be given a run for their money!

Recently there have appeared in various newspapers some articles about this exciting new football team. I am placing them in the RECORD today and invite my colleagues to read them.

The articles follow:

[From the Wall Street Journal, Dec. 2, 1971]

WHAT KIND OF TEAM HAS A 110-POUND END AND A 265-POUND TACKLE?—PLAYERS SAY FOOTBALL IS ROUGH BUT LOTS OF FUN—ESPECIALLY WHEN IT'S "YOU AGAINST HER"

(By Roy J. Harris, Jr.)

PITTSBURGH.—The football is on Detroit's 12 yard line. The tension in the stands mounts as the Pittsburgh quarterback looks over the awesome Detroit "front four," stares briefly at a giant, 265-pound tackle and begins barking signals.

As the ball is snapped the line of scrimmage becomes a mass of pushing, shoving, tangled bodies. The crowd rises to its feet as the Pittsburgh end speeds across the backfield from the far side of the field, gets the hand-off, breaks a tackle and darts in for the score.

After the game, the end who made that touchdown says that scoring is fun, but playing linebacker on defense is really a bigger thrill: "Nothing's more fun than a one-on-one tackling situation, when it's you or her."

That's right. Her.

That touchdown scoring end is Martie Love. a 22-year-old keypunch operator who played for the Pittsburgh Powderkegs, a semi-pro team composed of about 20 nurses, teachers, students, telephone operators, secretaries and housewives—all decidedly female. The touchdown scene is from a recent Saturday-night game here between the Powderkegs and the Detroit Fillies (who won, 16–12). Some 1,000 fans paid $2.50 each to watch the opposing sets of girls play a tough brand of tackle football that is surprisingly well executed. One intrigued businessman in the stands shook his head after a particularly fine Detroit defensive play and murmured, "I can't believe it. I can't believe they're girls."

SHEILA THE MOUSE

Girls they are. Ordinary girls they aren't. The four defensive lineladies of the Detroit Fillies, for instance, weigh, together, 880 pounds; they are led by 265-pound Pat Young, a 25-year-old housewife. Not all the gridiron girls are that, uh, substantial, of course. In fact, some are downright dainty, such as 17-year-old Sheila (Mouse) Shannon, Detroit's 5-foot-4-inch, 110-pound end.

But big or small, the girls are tough, and they love the contact. And if their sport grows along the lines some promoters have in mind, they'll get plenty more of it. Women's semi-pro tackle football began several years ago as a gimmick dreamed up by Cleveland talent agent Sid Friedman. Mr. Friedman now runs a league that includes teams in Cleveland, Toledo, Toronto, Buffalo and Pittsburgh.

The Detroit Fillies and Pittsburgh Powderkegs are owned and operated independently of that league, and they mostly play each other. But a two-team league isn't much fun, so the promoters of the two teams hope to have at least four and possibly eight new opponents next year—in a league that former Detroit Lions tackle Alex Karras has volunteered to head as commissioner. Plans call for Chicago and Kalamazoo, Pontiac and Lansing, Mich., to field 1972 teams. Mr. Friedman, organizer of the rival league, says he envisions eventual Eastern and Western divisions of teams with champions meeting in a year-end "super bowl."

Despite those ambitions, team owners confess that so far the enterprise has been less than a bonanza. Overhead expenses include stadium rent, printing programs, paying coaches, insuring and paying players and transportation. And the gate receipts are often unpredictable. Some games have pulled several thousand fans. Others haven't.

DON'T MESS WITH LINDA OR LINDA

The players aren't getting rich, either. The Pittsburgh Powderkegs each get $20 a game. Mr. Friedman won't disclose how much he pays his girls, saying it depends on "how good they are," but a couple of his Pittsburgh Hurricanes say that everyone gets $20 a game, merit notwithstanding. But the women don't mind. They say the rewards are in the competition. "I like tackling best," says Linda Mosley, a Powderkeg guard who is a telephone operator off the field.

Indeed, Linda Hodge, the Powderkeg's captain, who plays halfback and does the kicking, believes that a lot of girls who currently fritter away the skills playing softball or basketball would find football more to their liking.

"I'm like a lot of girls," she says, "I love physical activity. I knew this was going to be rough, but it couldn't be rougher than I am." Miss Hodge is 5'6" and weighs 120 pounds, and she says she loves "every aspect of the game—except getting the tape off my ankles."

Even though the girls wear exactly the same protective equipment that male football players wear—"Well, almost exactly," says one—injuries are frequent, especially to weak ankles, and all the teams carry full medical insurance. A doctor is on hand at all games, and practice sessions include lots of calisthenics to build up feminine limbs.

Despite those risks, promoters say they have no trouble at all recruting players. Classified ads and a modest publicity campaign bring they flocking, Mr. Friedman says. Much recruiting is word of mouth—girls who hear about the game from friends or fellow employes—and the Pittsburgh Powderkegs, with a full roster, regularly turn down ladies who show up to join late in the season.

There's no doubt the ladies take the game seriously. They practice as often as four times a week, and they are schooled by coaches who often have considerable experience. The Powderkegs' coach is Charley Scales, a seven-year National Football League veteran player, and the Cleveland Daredevils are coached by Marion Motley, the former Cleveland Brown of Football Hall of Fame fame.

Coaches confess, however, that there are problems that their own football experience didn't prepare them for. Like pressure from boyfriends and husbands. That causes dozens of girls to quit, often on short notice. Coach Scales laments that he seldom knows who's going to show up for practice.

Detroit Fillies' coach Dave Pierce says "girls have a tendency to take criticism more personally" and are often "unfamiliar with the player-coach relationship." He says he finds himself often assuming too much football knowledge on the girls' part. In some early games, he recalls, "sometimes the linebacker would tackle the defense."

Then there is the delicate problem of the quarterback. As in male football, "the quarterback is the most important player," says Coach Pierce. So, naturally, "you never put a married girl at that position."

"She might get pregnant."

ALL-GIRL FOOTBALL TEAM TACKLES A MAN'S GAME

(By Ricki Fulman)

Football is the New York Fillies' game. But New York's first all-girl semi-pro team isn't playing for kicks, or for money.

They'rs playing to win, practicing vigorously three times a week at Sloane House, YMCA (the only gym they could get) to prepare for their first season. It officially begins May 13, when they tackle the Midwest Cowgirls at Randalls Island Downing Stadium. Tickets are $3 apiece, available from Ticketron.

At first glance the 38 team members look like typical New Yorkers. Few tomboys were to be seen at a recent practice session. And no one talked about women's liberation. The Fillies are simply sportswomen and they play it hard and tough—with real honest-to-goodness tackling. Football grabs them.

Most had played touch football when growing up, but never had the chance to play tackle (the boys they knew wouldn't let them).

Pretty Joan Carney, a blonde quarterback from Brooklyn and at 16 the youngest member of the team, said she used to resent that. Admitting that her boyfriend finds the idea of an all-girl team laughable, she explained: "He's just jealous, I'm sure, because he's not on a team himself and can only be a spectator."

Secretaries, bookkeepers, students, one nightclub singer, and a few young mothers, the team members didn't waste practice time on idle gossip or sitting around. They worked out for two hours solid, dressed in old shirts and shorts, with barely a break, first performing calisthenics, then practicing formations.

Dressed in old shirts and shorts, the team will be getting standard football uniforms in Fillie colors—kelly green and gold.

INJURED PLAYER'S COMPLAINT

For added protection, they will wear breastplates, made of foam-padded plastic.

But few worry about injuries, unless they hinder performance. That night, in fact, Nancy Berardino, 17, of Far Rockaway, who plays offense tackle, sprained her ankle. She begged the coach to put her back in the scrimmage, concerned she was missing something.

"What a waste of time to have to sit here with this bag of ice around my ankle" she complained. "I don't care what happens to me," she said fervently, "just as long as I can play. It's what I've always wanted to do."

She, like many of the players, prefers tackling to running or kicking. "I think it's a way to work out lots of frustrations," explained another teammate, Charlotte Rauch, 20, with a knowing smile.

Mother of a 2-year-old son, who attends most sessions, she is the smallest member of the team, weighing in at 105 pounds and standing 5 feet. But most of the other girls are surprisingly slim and small.

According to team coach, Mitch McCarrol, 28, a computer salesman and football coach at St. Francis Prep School, Brooklyn: "Size doesn't matter, as long as they're in top shape and know technique."

He noted that he chose his girls—recruited through newspaper ads—for general athletic ability and coordination.

He stressed that he's training his team as he would a male team, and that the games will be of standard length following the same rules observed by men's football teams.

NO LIFE-STYLE TABOOS

"I've seen film clips of the competition," he added (the Detroit Fillies and Pittsburgh Powderkegs) which didn't impress me at all. Although those girls are enormous physically, many of them don't move too well. I'm not worried."

He asks his team to exercise every day. Otherwise, training doesn't place any taboos on the girls' normal life style.

They will earn $25 a game, according to Jim Egan, an attorney who finances the team.

Just learning the fine points of football himself, Egan decided to organize a team after reading about some of the out-of-town all-girl teams. If the Fillies turn into moneymakers, he hopes to organize more teams in Newark, N.J., and Hempstead, L.I.

Although a few of the players look forward to a career on the field, most see it as a constructive hobby. None seem too concerned about losing their femininity, even though they're playing a rough game.

Said curvy blonde Gail Dearie, 29, of Red Bank, N.J., mother of two children (who switched her college classes so she could play on the team): "I know I can be feminine off the court. Meanwhile I enjoy a bit of Jekyll and Hyde. One night I might play a great game. Then the next night, if a man whistles at me, it's fun to know I can probably kick a football further than he ever could."

FOOTBALL'S THEIR STEADY DIET

(By Larry Sokoler)

It all started with an article two months ago in the Wall Street Journal for girls.

Football for girls? Right.

They're called the New York Fillies and they're the fourth all-girl team to be formed. They come in all shapes and sizes, from all walks of life, and they come to try out, practice and play from all parts of the metropolitan area.

Some are working girls, some are in school and some are entertainers (frustrated actresses, maybe). This makes practice time vitally important.

"The hardest thing," says quarterback aspirant Tracy Gessner, an office supervisor in Manhattan, "is learning the plays and retaining them. We've got about 20 to 25 plays down and it's matter of getting used to them."

And each other. And the contact. These girls don't fool around. There's blocking and tackling just like, you should pardon the expression, the big boys in the NFL. No soft touch here.

It's a long way from the Powderpuff League days Sylvia Morgan, a Richmond Hill High senior, remembers. That's when tackling a running back, which Sylvia hopes to be, was done by grabbing the string attached to the football pants. Times are different now. These girls are, after all, pros, $25-a-game (plus expenses) pros.

"When I saw the article in the paper," Sylvia says, "I thought it was a great opportunity for girls. I love sports so I decided to try out. I run a lot and played basketball and Powderpuff Football when I was in Germany."

Now that she's trying to earn a spot on the Fillies, Sylvia knows she's got to watch her weight and do without some of life's eating pleasures. Not that she's heavy, mind you. But . . .

"But I hate to give up milkshakes," she says. "I really like to have them."

"You practice like we do for two hours or so," says Winnie Walker, a cafeteria manager who'd like to be the Fillies' fullback when they play their first game May 13 at Randalls Island, "and by then you're so hungry you don't know what to do."

"Our coach, Mitch McCarrol, can tell if you've been cheating," says Winnie. "You know, smoking, overeating. But I eat one meal a day. One meal's enough balance for me. It eliminates all the in-between."

And for the lady QB, there's also a dietary restriction. "Since I've been playing," says Tracy, "I stay away from ice cream and most other desserts."

Tracy and Winnie say their coach has complete faith in them where diet is concerned. "It's a trust basis," Winnie says. "We know we have to do it and if we've been cheating he (McCarrol) catches us in calisthenics."

Like pushups. "I can do 10 pushups," Tracy says. "It's no trouble doing nine but the 10th one is real hard for me."

"Others can get away with pushups," says Winnie, "but not me."

Then there's the contact. "I was afraid myself," Sylvia says, "but I conditioned myself." I knew I had to have confidence because I have to get through the holes." Running backs are like that.

"The more confidence you have in yourself and the game," Tracy says, "the better you play. We know the game is played and you have to consider getting hurt.

"Right now we work out in sweatshirts but we'll be putting on shoulder pads and helmets, which are new for me. We'll be fully equipped."

What could she mean by that? "We'll have chest protectors," Tracy says, "for obvious reasons."

* * * * *

The Fillies will play at Randalls Island May 13 against the Midwest Cowgirls, June 3 vs. the Pittsburgh Powderkegs (honest) and June 24 against the Detroit Fillies (no relation). Tickets may be purchased at all Ticketron outlets.

[From the New York Times, May 5, 1972]

WOMEN WHO PREFER GRIDIRON TO STEAM IRON

(By Judy Klemesrud)

There are Phillies (team of men who play baseball of varying quality in the City of Brotherly Love) and there are fillies (female horses who run races and give birth to colts) and now there are the New York Fillies.

The latter, you might have guessed, are women, and on May 13 they will become Gotham's first functioning female football team.

Yes, football, the tackle kind, not the powderpuff stuff where you down your opponent with a two-hand touch. Football, played with National Football League rules and cleats and helmets and protective padding and only one concession made to sex—foam-padded plastic breastplates.

The breastplates hadn't arrived for their practice session last Sunday morning. But everything else had, and the 30 New York Fillies climbed into their new kelly green and gold uniforms and their gold helmets for the first time before running through their plays in a practice field near 97th Street and Fifth Avenue in Central Park.

"People don't believe that we hit, but we hit," said Lynda Berardino, 24 years old, of Far Rockaway, an IBM keypunch operator and right end who was sidelined with torn ligaments in her knee. "Women's football is not a put-on, like the Roller Derby is. You should see the black and blue mark on my chest!"

The Fillies were practicing for their first game of the season, against the Midwest Cowgirls at 8 P.M. a week from tomorrow, in Downing Stadium on Randall's Island. Tickets are $3 each available from Ticketron, and each Fillie will be paid a whopping $25 per game.

"They're not doing it for the money," said Jim Eagan, the team's president, a 30-year-old, red-headed, stocky Manhattan lawyer who came up with the idea of a women's football team in New York after reading about similar teams in the Midwest in an article last winter in The Wall Street Journal.

"They just want to play football," he said, gesturing toward the sweating Fillies as they did push-ups on the field. "Before, if you were a young woman and wanted to play football and you asked your father to buy you the equipment, he would probably laugh."

Mr. Eagan said that almost 100 women had tried out for the Fillies after he placed want ads in newspapers announcing that a tryout would be held last Feb. 27.

Since then, the team members have been practicing three nights a week at the Sloane House YMCA and on weekends in Central Park in preparation for their four-game spring schedule, in which they will tackle the Midwest Cowgirls, the Pittsburgh Powderkegs (two games) and the Detroit Fillies.

WRONG SEASON FOR FOOTBALL

Football? In the spring? "That way we're no threat to the men's teams," said Mr. Eagan, puffing on his pipe. "If you have your choice between men's and women's football, you would probably choose men's because it's the proven sport."

Mr. Eagan admitted that he and his financial backers had organized the team strictly to make money. "And I think we will make money," he said firmly. "Last year 6,000 people paid $3 each to watch two women's teams play in Erie, Pa. It was an $18,000 gate—in Erie, Pa!"

During the week, the Fillies double as secretaries, waitresses, factory workers, actresses, housewives and high school and college students. They range in age from 16 to 40 (the average age is 22) and from tiny 100-pounders to husky 200-plus pounders.

Their reasons for joining the team vary, but generally boil down to these three; a lifelong love affair with football; a desire to get in shape physically; the thrill of being a member of a "first" in New York.

"I'm here because of my love for physical contests," said Mrs. Gail Dearie, of Red Bank, N.J., a 29-year-old mother of two who is also the team's blond glamour girl. "I was always in athletics as a kid—track and field events, diving, swimming. When I was in grade

school in Indiana I pitched my team to the state softball championship."

Most of the Fillies said they had changed their living or eating habits somewhat as part of their training for the team. Carol Brown, 28, a 5-foot-9-inch, 212-pound center, who has the reputation among her teammates as being the Fillies' toughest linewoman, said she had stopped drinking and cut down on her smoking since joining the team.

"Oh, I may have an *occasional* drink during the week," confessed Miss Brown, who is an assembler for a Manhattan electronics firm, "But now I only smoke about five cigarettes a day and I don't inhale. I used to smoke two packs. I also got myself some Greek worry beads to keep my hands busy."

Winnie Walker, 25, a Manhattan cafeteria manager who is the team's star running back, eats only one meal a day—but it has nothing to do with training. She is a member of the Nation of Islam, and is also known as Hassin Ali. Her religion also requires that she abstain from pork.

The Fillies are coached by Mitch McCarrol, 28, a beefy computer salesman who also coaches football at St. Francis Prep School in Brooklyn. He received $20 per practice session, and his three male assistants receive $10 each.

Women football players conceded Mr. McCarrol in comparing their merits with their male counterparts, "don't move as quickly and don't have as much power."

"And you also have to take into consideration that they don't have 10 years of working with weights or with calisthentics," he added. "But size doesn't really matter as long as they're in top shape and know technique."

Joe Kover, the team's general manager, said the Fillies had suffered several injuries so far, including a broken nose, a sprained ankle, and several torn fingernails. In fact, one Fillie quite the team after she broke a fingernail during a practice session at Sloane House.

A random survey of team members indicated that their football heroes are Jim Brown, who retired from the Cleveland Browns several seasons ago to become a movie actor; and Joe Namath of the New York Jets. ("He's got a good arm, but I don't think he's got as much team spirit as he should," Miss Brown said.) Also frequently mentioned were Y. A. Tittle, the retired New York Giants quarterback; Gale Sayers of the Chicago Bears and Duane Thomas of the Dallas Cowboys.

Mrs. Willo Lovett, 30, of Port Chester, N.Y., a beautician at Lord & Taylor and a defensive end for the Fillies, brought her husband, Earl and their five children to the Central Park practice. Mr. Lovett, an upholster, sat quietly under a tree while the children romped around the edges of the practice field.

"I think Willo really enjoys it," said Mr. Lovett, who once played football at Pepperdine College in Los Angeles. "There are women in golf, tennis, basketball and almost all competitions, so why shouldn't they play football, too?"

Most of the Fillies seemed to have stock replies to the question that almost everybody had been asking them: Can a women play football and still be feminine?"

"Sure," said Pat Mambel, 20, of Babylon, L.I., the team's quarterback and a securities clerk for the Chase Manhattan Bank, who so far has learned 30 basic plays, with options.

"You can go out and play football and then be feminine after the game," she said. "There's a time to be a lady and time to use manners and put a dress on. But should you wear a dress all your life? Why can't you just go out and be you?"

THE INDEPENDENCE OF THE FEDERAL JUDICIARY

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. JAMES V. STANTON. Mr. Speaker, recently the Honorable Frank J. Battisti, chief judge of the U.S. district court in the northern district of Ohio, gave a frank and scholarly talk at Boston College on an issue that has in recent years been especially controversial: The role and the authority of Federal judiciary. In his thoughtful speech, Judge Battisti traced the history of attempts to limit the power of the judiciary. I would now like to commend the text of his excellent statement to my colleagues:

THE INDEPENDENCE OF THE FEDERAL JUDICIARY†

(By 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."

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 decree 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 magistracy 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 counts 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

Footnotes at end of article.

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 on 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 Sattes 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 this 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 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 filings 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 certiorari. 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 has 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,

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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, volatile 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 Fourth 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 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 committee 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 in 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 thoughts 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 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

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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 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 Frankfurther'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 EXCLUSIVITY 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 in-

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vests 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 received 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 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 the 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 Justices 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

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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 case 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 executive 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 a hierarchical judicial system, judges of "inferior courts" are subject to the supervision and control of superior courts. 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 that 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 behaviour.[75] The question whether laziness is something less than good behaviour 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

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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 behaviour 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 behaviour 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 it is 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 Legislature 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 nonexclusivists, 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 deemed proper. In response, Judge Chandler filed a motion wtih 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. Justice 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 Justice 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 whatso-

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ever 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 court 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 brethren.* 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.[58]

"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." [59]

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 author 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.[11]

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 tribunal 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. Because 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 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.

[15] 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. Cook 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] 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] Representatives 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 order 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 rules 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.

J. EDGAR HOOVER

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. CEDERBERG. Mr. Speaker, I wish to join with my many colleagues to pay tribute to a great American, J. Edgar Hoover. His sudden death this past week cast a long shadow over the city of Washington.

Director Hoover, in his last years provoked intense controversy, as do all great men, but J. Edgar Hoover will remain for millions of Americans the "ultimate in law enforcement and the personification of rectitude in public life." Even his critics could not minimize those lasting contributions he made to the well-being of the country.

Mr. Hoover took an incompetent and corrupt investigative service and turned

it into a fully professional and honorable institution immune to the pressures of partisan politics. In his 48 years as FBI Director he has been characterized as the crime fighter, the incorruptible foe of the underworld, and the watchdog against communism. Behind that image was a man of personal conviction and massive energy. He was a rigid man dedicated to his own precise schedule and he pursued his principles with a military man's sense of discipline. He carried with him years of pioneering innovations in the organization he rescued from chaos five decades ago. Through these five decades he has remained the single public figure most consistently identified with upholding order and decency in America. I had the opportunity to visit with Mr. Hoover many times over the years as he appeared before my subcommittee to discuss the appropriation for the FBI. I was always impressed with his dedication to excellence in law enforcement.

President Nixon eulogized Mr. Hoover as "the symbol and embodiment of the values he cherished most: Courage, patriotism, dedication to his country, and a granite-like honesty and integrity." It was on these principles, which J. Edgar Hoover exemplified throughout his life, that the FBI was built and it is on these principles that the FBI will continue. Its structure will be a living monument to a great man's extraordinary status. J. Edgar Hoover is, and will continue to be, an American legend.

Director Hoover had many loyal supporters throughout his years, but his legend will survive because even his most severe critics added their voices in tribute. "No man has served his Nation with greater dedication or productivity. He leaves a great name." These are the words of my colleague, the distinguished majority leader, a one-time critic, but they reflect the grief of America.

The FBI stands today not as a reflection of J. Edgar Hoover, but as a reflection of those principles he so fiercely defended. The business of the week continued, as he would have wanted, but it continued with a profound sense of loss and sadness.

PERSONAL EXPLANATION

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. KOCH. Mr. Speaker, I will be voting against H.R. 14718, not because I am against the Federal Government providing financial aid to meet local transit operating costs, but because this House will soon be considering a bill to provide such aid for mass transit systems throughout the country. In my judgment it is proper that any subsidy for the District of Columbia come from funds authorized under such legislation, now under consideration by the Banking and Currency Committee for inclusion in the housing bill. I might add that I am the sponsor of a bill (H.R. 13362) which is cosponsored by 84 of our colleagues, that would provide $400 million annually in operating assistance to mass transit systems; this bill provides a distribution formula based on passengers serviced. Under H.R. 13362 every transit system would be eligible to receive funds in proportion to its share of the Nation's total transit ridership.

J. EDGAR HOOVER

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. GIAIMO. Mr. Speaker, I wish to join my colleagues in paying tribute to Mr. J. Edgar Hoover, a great American, who directed the FBI since 1924.

It is not raw power, political manipulation or patronage that keeps a man in high office for 48 years. These particular values or methods do not have the high-quality consistency of the leadership, discipline and love of country owned and displayed by Mr. Hoover.

Throughout his career, he remained a symbol of dedication, toughness, and keen management. He fought crime and subversion with unbending righteousness, and for that this Nation should be grateful.

Mr. Hoover was a pragmatic and demanding administrator who chose to live a lonely life to be able to set the high examples he laid down of his subordinates to follow.

With imagination and intelligent planning, he helped to construct the best domestic information gathering machine in the world. Without the FBI and Mr. Hoover as its captain, today's problems of law enforcement would be many times larger.

It was J. Edgar Hoover who masterminded the tactics that brought to oblivion the wild rashes of gangsterism which filled the depression years, and it was Mr. Hoover who directed the collection of data that supported convictions of countless espionage agents during and after the Second World War.

The legacy of Mr. Hoover will be what we can best remember him as being—America's watch on crime and other injustices. It is almost certain that the part of him that upheld this constant watch will continue as a motivating factor behind the skills of the existing FBI.

If I had to single out Mr. Hoover's most remarkable and lasting achievements, I would suggest that they were first his great ability to keep America's national police force free from politics and second, his ability to deny at all times the growth in the FBI of those dangers inherent in any national police force which could take on the character and growth of a gestapo.

With the passing of J. Edgar Hoover, the forces of anticrime have lost a bigger-than-life hero. There is no doubt that his absence will be felt for a very long time.

AEC'S SAFETY REGULATIONS ARE UNSAFE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EILBERG. Mr. Speaker, on Friday, May 5, the Washington Post published an article by Victor Cohn about the inadequacy of the Atomic Energy Commission's safety regulations for nuclear powerplants.

The article cites recent tests on laboratory models of these reactors and the failures of the emergency safety equipment to do its job.

Mr. Cohn also states that because of these failures the AEC's safety regulations, including new restrictions added after the laboratory tests, are insufficient.

Despite these developments, the Commission has continued to support the applications of power companies for permission to build similar plants with similar inadequate safety precautions.

In at least one case—the 6,600 megawatts thermal twin reactor installation proposed by the Public Service Electric & Gas Co. of New Jersey for Newbold Island, 11 miles north of Philadelphia—it is advocating the construction of a plant in the heart of one of the most densely populated areas of the country.

When it comes to matters of atomic energy the AEC rarely, if ever, admits that it is wrong or has made a mistake, even when the proof is incontrovertible.

It is up to the Atomic Energy Commission to make sure these installations are 100 percent safe. According to this article, the Commission is not doing its job:

AEC SPLIT ON A-POWER PLANT SAFETY

A serious split among Atomic Energy Commission scientists on the safety of the nation's nuclear power plants has burst into the open.

As a result of the disagreement, the agency's five commissioners are being forced to take a new look at a set of strict safety practices they ordered less than a year ago.

The precautions are intended to prevent any disaster as a result of possible shortcomings in a nuclear reactor's emergency cooling system.

As another result, AEC Chairman James Schlesinger, who took over last year as head of the increasingly beleaguered agency, has begun a series of steps to strengthen the agency's regulatory arm.

Meanwhile, Sen. Howard Baker (R–Tenn.)—who has been acting as a maverick on the traditionally pro-AEC Joint Committee on Atomic Energy—has spearheaded an effort to establish a new independent Safety Research Division inside the agency.

COMBINATION OF DUTIES

Committee Chairman John O. Pastore (D–R.I.) wrote Schlesinger in January asking whether the Nixon administration is satisfied with the agency's traditional combination of regulatory and atom power-promoting duties.

Schlesinger, said an aide yesterday, told Pastore that "the matter is being taken into consideration, and he has given considerable thought to it since becoming chairman."

In this way, the emergency cooling system issue—thrust into public view only a year ago—may be forcing a review of the AEC's basic jobs, a kind of scrutiny not undertaken

since the "military versus civilian control" debate of the late 1940s.

The Joint Committee plans atomic power safety hearings sometime after June 1, when it has been promised a thoroughgoing AEC report.

It was in May 1971 that the public learned of six failures of lab-sized atomic reactors to cool themselves in emergencies. When emergency water was flooded in to cool a reactor core—after the reactor had theoretically lost its primary coolant—pressurized steam unexpectedly kept the water from getting through.

Last June, a concerned AEC ordered new "interim" rules. Five older plants were told to modernize their cooling systems. Three others were told to lower their peak operating temperatures. Some new plants have had to cut their proposed operating temperatures and possibly—despite the threat of nationwide power shortages—their power capacity.

HEARINGS ORDERED

In January, Schlesinger ordered public hearings which are expected to run into the summer, to help set permanent rules.

It became clear in those sessions that at least a vigorous minority of AEC staffers feel last year's precautions were insufficient. Among those who have testified about their reservations have been Morris Rosen and Robert J. Colmar of the regulatory staff and Phillip L. Rittenhouse of Oak Ridge National Laboratory.

Rittenhouse read the names of 28 persons who shared his views. They included William Cottrell, Oak Ridge's director of nuclear safety; David Hobson, his assistant, and 10 officials of Aerojet Nuclear Corp., which manages the Idaho test program.

A news report in Science magazine yesterday accused the AEC of "studiously ignoring, rejecting and even discouraging, dissenting views." AEC information Director John Harris cited the hearing record as evidence of openness.

TRIBUTE TO DON VON RAESFELD, CITY MANAGER OF SANTA CLARA, CALIF.

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EDWARDS of California. Mr. Speaker, on the 19th of May, the city of Santa Clara will honor a good friend of mine, Don Von Raesfeld. His life and achievements certainly deserve a closer look by us all.

Don Von Raesfeld is a member of an old Santa Clara family—his grandparents came from Germany before the turn of the century. This family established a tradition of hard work, thrift, and honesty which Mr. Von Raesfeld reflects. He and his wife, Celine, have in turn instilled these same virtues in their nine children who are and will be constant tributes to their parents and the virtues they live by.

Don Von Raesfeld attended local schools in the area then went on to obtain his degree in engineering from the University of Santa Clara. He soon found employment at the California Water Service and remained in this private organization for 10 years. Because of his demonstrated skill here and his desire to serve the public, Mr. Von Raesfeld moved on to assume the position of water superintendent for the city of Santa Clara. In this capacity, he modernized the department and its procedures and undertook a very successful program in finding new water sources for the city. From this position, he then became director of public works and utilities for the city. Here, he oversaw the construction of an advanced water-treatment facility and the establishment of a system that will easily supply the future needs of the city of Santa Clara.

During the last 10 years, Don Von Raesfeld has been the city manager of Santa Clara and has added to his long list of accomplishments there. Under him, the industrial base of the city has grown tremendously, supplying jobs for residents and revenue for the city. In fact, the city ranked first among all in the State for industrial growth in 1970. At the same time, the fire and police departments have acquired the newest equipment possible and the personnel in the departments have undergone some of the most up-to-date training to be found anywhere. The emergency forces in the city are able now to meet almost any challenge and in large part this is due to the efforts of Don Von Raesfeld. Federal funds for employing the disadvantaged have been obtained by the city, in large measure thanks to his efforts in constructing the successful programs utilizing the funds. And all of these increases in services have been accomplished with a declining tax rate, now significantly lower than when he took office 10 years ago.

The personal and civic accomplishments of Don Von Raesfeld are tribute to the tremendous determination and integrity of the man. They will remain as models for all Americans to admire and emulate for years to come.

POUGHKEEPSIE, N.Y., HOSPITAL HAS NEW INSTRUMENT FOR CATARACT SURGERY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. FISH. Mr. Speaker, St. Francis Hospital which is located in Poughkeepsie, N.Y., has become the second hospital in the State of New York and the 11th in the entire country to install a surgical instrument that has revolutionized cataract surgery.

I recently had the privilege of visiting St. Francis Hospital and seeing this new surgical instrument, and, I, like so many others within my congressional district, are impressed with this medical advance being brought to our area.

The Cavitron/Kelman Phaco Emulsifier TM dissolves, emulsifies and removes cataracts through an incision just two or three millimeters in size. Performed under high-powered microscopy, the instrument utilizes a sharp-tipped ultrasonic probe which vibrates at 40,000 strokes per second. After the tiny incision is made, the probe is inserted into the chamber separating the cornea from the lens. Once in contact with the lens, the probe is surgically activated and begins dissolving and aspirating the cataract. The operation, performed under general anesthesia, is usually completed within a short period of time. Patients are often able to return to normal activities, in uncomplicated cases, within a few days after surgery. Older methods, while successful, required 4 to 7 days hospital stay and 6 to 12 weeks recuperation.

Cataracts are an affliction of the lens that causes clouded vision and eventual blindness. Cataract surgery involved the removal of the opaque lens, which usually results in a loss of optical clarity. Contact lenses or glasses are then prescribed to correct this loss and to restore sharp vision.

The procedure, developed by Dr. Charles D. Kelman, director of Cataract Research, Manhattan Eye and Ear Hospital in New York and a consultant on the medical staff at St. Francis Hospital, may be performed on approximately 80 percent of adult, juvenile, and congenital cataracts. It requires a surgeon skilled in the Kelman technique, assisted by a specially trained nursing and technical staff.

HOW CONGRESSMAN ELWOOD H. "BUD" HILLIS SERVES THE FIFTH DISTRICT

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BRAY. Mr. Speaker, our respected colleague "BUD" HILLIS was recently the subject of one of the most widely read syndicated columns in the State of Indiana. Following is Hoosier columnist Donald White's "The Hoosier Day" from the Rushville, Ind., Republican of Monday, May 1, 1972:

THE HOOSIER DAY

(By Donald White)

Pilots develop a special awareness of and interest in the environment.

Walter M. Schirra heads an Environmental Advisory agency under contract to advise Indiana on ecological problems. He developed his interest observing the earth from space. Entertainer Arthur Godfrey, an avid aviation enthusiast, has emerged from semi-retirement in the interest of ecology.

I noticed the special interest during an interview with Fifth District Congressman Elwood H. "Bud" Hillis, taped in Washington, D.C. by my sister for the column. Hillis owns and flies his own airplane, with his family still residing in Kokomo. Due to his special interest in flying, he was given an honor by his colleagues seldom entrusted to a freshman. He was made floor manager of a bill to update the regulations of Air Controllers. Members of both parties congratulated him when the vote was overwhelming in favor of the measure.

He said: "I notice in traveling about, going back and forth to Washington each week, that in some places the air and water is a lot cleaner than it is in others. I noticed that Indianapolis has less air pollution than it did a few years ago and White River near the Indianapolis airport looks pretty good when compared with the Ohio River between Morgantown and Zanesville, which I see every week."

Hillis had supported many amendments to make the Water Pollution Control Bill much

stronger prior to passage of the landmark $26.6 billion three-year program. Some of the amendments might be revived during a House-Senate Conference Committee.

He observed: "Some criticize the House bill as not being as strong as the Senate bill but in many regards, I think it was more realistic. It still talks about making the waters of our nation usable for recreational purposes by 1981." The Salamonie reservoir is in Hillis's district and is now usable for recreational purposes, and he wants to see it stay that way.

Several have said that William Ruckelhaus would never be able to satisfy both industry and the people. Hillis was asked about this. He said: "I know Bill personally, and I know that he will do what he thinks is right carrying out the role of the administration to solve the problem so that we reach a reasonable standard say by 1981. At the same time, I don't think that he would ever stand for policies that would completely bankrupt the entire industrial system of this country and do away with jobs or tear up the economy."

Another Hoosier doing a good job in Washington in the opinion of Hillis is Secretary of Agriculture Earl Butz. Hillis said: "I stood up for him when he was first nominated and put personal testimony on the Congressional Record in his behalf when it wasn't the most popular thing to do with some. He has really stood up and told it like it is as far as the family farmer is concerned and proved that he is really interested in the welfare of the small average-size farmer of which there are so many in Indiana. We've come to the point in our development of this country where 12 per cent of the people feed and clothe the other 88 per cent of us, and it's amazing."

He feels that the 12 per cent frequently are passed over on some of the advantages and are not compensated as well for the time they put into their occupation and investment as others in our economy. Butz is trying to place this story before the public.

Prior to Hillis' election to Congress, I had never met him, but knew his father, Glenn R. Hillis well. Glenn was a fraternity brother and we had shared many experiences in our mutual interest in The American Legion. Glenn was the unsuccessful Republican candidate for Governor in 1940.

One of the first things that impressed me about Congressman Hillis was his sincerity. He resigned from his law firm as well as from the boards of banks upon his election. He felt that the electorate was entitled to a full time representation for which it was paying.

As a member of the Indiana General Assembly, he was entitled to back pay under the recent court decision. He refused to file a claim, becoming one of a small handful of legislators who did not take the windfall.

Hillis received the nomination over a crowd of contestants when Richard Roudebush sought the Senate seat rather than reelection. He serves on the Veterans Affairs, Post Office and Civil Service committees.

TRIBUTE TO THE HONORABLE HENRY FRANCO, MAYOR OF UNION CITY, CALIF.

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EDWARDS of California. Mr. Speaker, I would like to take a moment now to pause in recognition of a gentleman who has dedicated many years and his immense talents to the betterment of the lives and government of the people of southern Alameda County.

Mr. Henry Franco, the mayor of Union City, will be honored Saturday, May 12, and the honors are long overdue. Mr. Franco has served Union City in many capacities. As planning commissioner, he was instrumental in the development of the six neighborhood parks which now serve the people of Union City. The large central park and the civic center complex also owe their existence to his foresight and planning. Mayor Franco has served the community as a city councilman, as the vice president of the chamber of commerce, as a member of the Selective Service Board, as a member of the Union City Merchants Association, and as a member of the GI Forum. As an active member of the Tri-City Forum, serving the cities of Fremont, Newark, and Union City, he has been a leader in the kind of careful and thoughtful development of the area that other areas could well envy. His efforts to bring about cohesive development of the entire southern Alameda County area were furthered by his actions as representative to the Alameda County of Mayors Conference last year.

Henry Franco is the kind of citizen and government official that has helped make Union City into the pleasant and vibrant place it is in which to live. I want to take this opportunity to commend Mayor Franco and offer the hope that he will continue to serve Union City in the future as he has done so ably in the past.

FANNIE MAE BUYS FIRST CONVENTIONAL MORTGAGE IN CALIFORNIA

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HOSMER. Mr. Speaker, on April 30, the Los Angeles Times reported another first from the State of California, a purchase for the first time of a conventional mortgage from a California lender. The Long Beach home involved is located in the congressional district I am honored to represent.

In view of the excellent record being compiled by the Nation's thrift, mortgage banking and private mortgage insurance industries and the Federal National Mortgage Association in helping thousands of American families reach their goal of home ownership. I believe the event is noteworthy.

The article follows:

[From the Los Angeles Times, April 30, 1972]

FNMA BUYS FIRST MORTGAGE IN CALIFORNIA

The Federal National Mortgage Assn. has purchased the first conventional mortgage from a California lender in its new, nationwide secondary market operation.

The $21,600 mortgage was written on a $24,000, single-family home at 6722 Espanita St., Long Beach, bought by Mr. and Mrs. Ernest G. Barrios.

The mortgage was purchased from City & Suburban Mortgage Co. of Long Beach. The top 20% of the loan was insured by Investors Mortgage Insurance Co. of Boston through its Newport Beach regional office.

The Emergency Home Finance Act of 1970 granted FNMA authority, for the first time, to buy and sell conventional mortgages in a secondary market operation. FNMA purchased its first mortgage under the program in February.

SEATA RESPONDS

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BEGICH. Mr. Speaker, I have received from the corresponding secretary for the Southeast Alaska Trollers Association a copy of their letter to "The Advocates." The letter was written in response to membership request after the NBC–TV showing of the debate on extending U.S. coastal jurisdiction. This is an important area of concern for Alaskans as Alaskan fisheries are consistently being marauded by foreign fishing fleets.

I would like to include in the RECORD for my colleagues' attention a copy of this perceptive and forceful letter:

[From the Daily Sitka (Alaska) Sentinel, Mar. 22, 1972]

SEATA RESPONDS TO "ADVOCATES" DEBATE

Southeast Alaska Trollers Association at an Executive Board meeting Sunday night released for publication a letter to "The Advocates".

The letter was written in response to membership request after the NBC–TV showing of the debate on extending U.S. coastal jurisdiction.

The breadth of territorial claims to the sea will be one of the principal subjects at the 1973 international Law of the Seas Conference.

Following is the SEATA letter:

Gentlemen:

Our organization, exceeding 350 members from Alaska to Oregon, and by membership request, wish to comment about your program for U.S. Extended Coastal Jurisdiction.

Our type of fishing is principally "hook and line" and chiefly on Pacific salmon. We should not be confused with the trawl (drag) method as we often are. Some of us troll for tuna, and some are diversified trollers, engaging in the long-line bottom fishery for halibut and sablefish, or inshore in the salmon gill net and seine effort. And some, are small-boat fishermen who supplement their income troll fishing in protected waters such as that in the Alaska Alexander Archipeligo.

We realize we are only a small segment of the national fishery, but we find it incomprehensible a program such as yours can be presented without reference to Alaska as "the nation's greatest fishery today"; quoting the National Marine Fisheries Service.

The general public, and far too many congressmen, visualize a fisherman as a squint-eyed individual clad in a so'wester; a little below the norm in literacy, and fiercely independent.

Independent he has been—the near-last of the free enterprise system to be involved in international diplomacy and bureaucratic dictates. He may be squint-eyed, but he is NOT illiterate, and, he has become distrustful of diplomacy.

The fisherman knows he can no longer "just go fishing and forget the world," for when he sailed in the past 15 years, he was face to face with super foreign fleets on his coastal breeding and rearing grounds—grounds systematically drug the year round. And off which American fishermen sometimes

do not fish, partly as a conservation measure, and sometimes by regulation. The excuse the foreigner gives for being there is they "are fishing under-utilized stocks."

Concerned American fishermen can't take much "stock" in that statement when they read, by those purported to know, "that the world fisheries are 70 per cent over-fished", and, by another, that, "the ocean outside the continental shelves are virtual deserts."

The fisherman is distrustful when he hears the term "limited entry" for the simple reason that it is not the American fisherman who has built up, and invaded, these grounds with super fleets—who have made our experts admit to decline of the herring on the Atlantic, the menhaden, and the flounder. It is not they who have caused the decline of ocean perch on the Pacific, the sable fish off Alaska. The American fishing fleet, as also admitted by the experts, is not capable of carrying out that depletion!

Information, such as that declassified and published, from the late Dr. Wilbert Chapman was that, in the 1958 and '60 Law of the Sea negotiations, "the last ditch bargaining material used was FISH" (his emphasis). It was used in an attempt to establish exclusive jurisdiction of the coastal state over the resources of the continental shelf without losing the navigational rights!

What our diplomats did, was trade "fishing rights" for "navigational rights", and the fisherman is not so naive he doesn't know it!—Nor why he now has the foreign fleet to contend with on North American stocks.

Neither are the bulk of American fishermen so naive as not to know that the U.S.-South American "tuna war" is partly involved in the diplomacy for protecting billions of American investments in South American oil, fish, fruit, coffee, rubber and a host of other "programs".

The time has come when the American fisherman, with a good many more Americans think a portion of this largess being strewn around the world, might well be used at home—at least in protecting our resources. By every expert projection, our continental shelves are most important; oil, minerals, and, a protein resource for a burgeoning nation.

Oh yes! the fishermen know that "certain rights" were worked out for exploration on "the shelves"—but not for fish! They also know one of the reasons for the gigantic oil lease sale in Alaska was because many of the foreign recipients of our largess, and diplomatic actions, have forced these companies to come home. Most Americans realize that one of the richest countries on earth has developed a "poor image" and does not justify its balance of deficits (including seafood imports), its under-employed, and its national debt.

If this sound far from fishermen, it is not!

The subsidizing of the American fishing fleet, tax write-offs for oil, the paying of American fishing "fines" from everyone's tax dollars will in no way stop the foreign incursion on our continental shelves. To invest in it we must protect it! As one researcher writes, "by the time we get through 'researching' what damage the Russian and Japanese fleets have done to our continental stocks, they will have left for South American waters, and the fishermen will all be broke."

A statement often heard among fishermen, thinking in terms of conservation, is "you know what happened to the whale!" We DO know what happened to the whale! It was put on the endangered species list.

We fishermen, on both coasts and the National Marine Fisheries Service, know how heavy is this foreign pressure on North American stocks. To cite only one month on Alaska's shelf (Dec. '71) there were 204 Soviet and Japanese vessels. 176 of those were trawlers taking ground fish, ocean perch, flounder, herring and sable fish; all species showing a decline on our coasts, and largely cut of U.S. control. The NMFS estimates (probably conservatively) that the Russian and Japanese take 3 billion pounds of all fish species off Alaska each year.

The Japanese concentration on the last great North American salmon stocks is accomplished by high seas gill net—from which some reports estimate a 70 per cent loss! The Soviets say they take salmon only "incidentally", but one report states they admit to 300,000 salmon (perhaps 3 million pounds) each year, taken "incidentally" in their trawls JUST in the Bering Sea.

All Northwest fishermen continually witness Soviet trawl fleets moving into concentrations of returning salmon. When reporting violations, the trawlers move outside the 12 mile limit, and fishermen know their calls are monitored. In Japanese and Soviet fish schools the English language is a required subject, at least for fishing masters.

To summarize, we see no effective control for protecting bottom habitat, and the stocks who feed and rear therein, without coastal state jurisdiction over its conservation. Neither is there logic to subsidizing American fleets, and limiting unit effort, so long as foreign fleets have relatively free rights on the continental shelf. The andromous Pacific salmon, and of course the warm-water tuna, must be considered. But, for the greatest fishery this nation has today there will be no adequate conservation until coastal states have custody of the continental feeding and rearing grounds—for all its inhabitants; ground and shell fish, salmon, the pelagics, birds, whales and even sea otter and fur seal. These grounds are the world's greatest contributors to a renewable protein resource, and they deserve attention of every North American!

Thank you for your program; we wish we could have participated more fully. And, we hope we've justified our stand—for all Americans!

U.S. FUTURE IN ASIA

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. RHODES. Mr. Speaker, in our concern over our involvement in the war in Vietnam, we quite often forget the long-range importance of this area of the world to our Nation. Most people seem to believe that the "domino theory" of earlier years was not valid, and are therefore inclined to minimize the long-range importance of Southeast Asia. This article by Walt Whitman Rostow, printed in the Los Angeles Times of Friday, April 28, 1972, seems to me to impart a perspective to the future interests in Southeast Asia that deserves to be shared with the Members of the Congress.

The article follows:

THE FUTURE OF THE UNITED STATES IN ASIA

(By W. W. Rostow)

Three of the major events of 1972 have concerned Asia: the internecine struggle on the Indian subcontinent; President Nixon's trip to China; and the massive North Vietnamese invasion of South Vietnam. Each deeply involves the United States; but they came when there is great confusion about our interest in Asia.

The passionate debate over Vietnam has, of course, contributed to this confusion—bringing to American political life a strand of feeling that we should depart Asia and leave its people to their own devices. On the other hand, most Americans understand in their bones that Asia will be more, rather than less, important in our future than it has been in the past; that we simply cannot turn our backs on the part of the world where two-thirds of humanity lives; where the third industrial power in the world is situated; where the 800 million people of China, the 600 million of the Indian subcontinent, and the 300 million of Southeast Asia are rapidly modernizing.

There is an awareness within us that it was from an Asia, moving toward domination by a single power, that the attack on Pearl Harbor came; that China is a nuclear power; and that Japan, India and others in Asia might acquire nuclear weapons if we prove an inattentive or unreliable friend or ally.

But, still, we as a nation lack a consensus on our interest in Asia.

Historically, this lack stems in part from the initial asymmetry between our experiences across the Atlantic and across the Pacific. From the beginnings of our nationhood we were embroiled with the balance of power in Europe. For example, our independence was achieved, the Louisiana Territory and Alaska acquired only because Americans could exploit the conflicts among European powers.

When, in 1917, Britain and British dominance of the Atlantic were threatened by unrestricted German submarine warfare, it was a shock for America to have to throw its weight directly into the European power balance to prevent the hegemony of a single power. Nevertheless, there was continuity; for Americans had known for more than a century that a Europe united under a single power could threaten the United States.

It was different in Asia. Initially, traditional Asia did not represent a threat to America. It was an arena within which more advanced nations could compete for commerce and power; the missionaries, for converts. But starting with the industrialization of Japan and Russia from the mid-1880s, real military potential began to emerge in Asia.

The beginning of modern American policy toward Asia is the line drawn by President Franklin Roosevelt's resistance to the Japanese takeover of southern Indochina in 1940–41, a resistance marked by the cutting off of American trade in scrap metal and oil and the sequestering of Japanese assets in the United States. Here, contrary to every short-run interest in avoiding a war in Asia, President Roosevelt could not bring himself to acquiesce in Japanese hegemony in East Asia. He chose, in effect, to risk direct military confrontation with the major power in Asia.

The experience of World War II underlined to Americans that we could be threatened from Asia, as from Europe, if a single power achieved hegemony in that region.

Starting in 1949, the underlying symmetry in our approaches to Europe and Asia became institutionalized in NATO and in a series of military arrangements stretching from Tokyo and Seoul to Canberra and Wellington. The Presidents and Congress recognized in these pacts that we had an abiding interest in the balance of power in both Europe and Asia.

The debate over Vietnam has shaken that consensus at an unfortunate time. Events in Asia since 1964 have made the achievement of a stable balance of power there more likely than ever before in the past: The intensification of the Sino-Soviet split; the failure of the Peking-Hanoi-Jakarta effort to collapse Southeast Asia in 1965; the more moderate policy in Peking since the failure of the Cultural Revolution; the rising strength of nationalism and the momentum of modernization in South Korea and Southeast Asia; the emergence of a Japan capable of using its resources and political influence to help stabilize the whole region. Working steadily, reliably and purposefully with these forces, the

United States could help give substance to these hopeful joint passages from the Chinese-American communique of Feb. 27, 1972, issued at Shanghai: ". . . the two sides state that . . . neither should seek hegemony in the Asia-Pacific region and each is opposed to efforts by any other country or group of countries to establish such hegemony"; they also support "respect for the sovereignty and territorial integrity of all states, nonaggression . . . noninterference in the affairs of other states . . ."

The consolidation of stability in Asia is endangered by two possibilities.

First, a convulsive change in U.S. policy toward Southeast Asia. Why is Southeast Asia so important in the Asian balance of power? Because its population and resources give it a weight approximately that of Latin America or Africa; because it commands the sea routes of the Southwest Pacific, which are of critical importance to Australia, New Zealand and Japan, as well as the United States; because it commands the eastern Indian Ocean, an area of critical importance to India and Burma, as well as Malaysia and Singapore; because Southeast Asia is a critical buffer zone, if it remains independent separating India and China.

Given these powerful, abiding interests in the independence of Southeast Asia, an American withdrawal of commitment to the area is likely to yield not peace but a larger war than that now proceeding in Indochina.

The second danger lies in the nuclear future of Asia. Here again, American policy may be the critical variable. India and Japan command the technical capacity to produce nuclear weapons. They have refrained from doing so for political and military reasons. One of the most powerful is that a reliable relation to a reliable United States is more advantageous than going it alone. As the history of Sino-Soviet relations since 1957 suggests, a decision to go it alone in nuclear matters can convert allies and friends into near enemies. I do not believe a Japanese decision, for example, to produce nuclear weapons would necessarily yield all the hostility of Sino-Soviet split; but the extraordinarily intimate political and economic ties across the Pacific that have evolved in the past quarter-century and closely related to the fact that the United States is the nuclear guarantor of Japan, just as the American nuclear relation to Western Europe lies at the heart of political and economic cooperation across the North Atlantic. Further nuclear proliferation could fragment those essential stabilizing links and upset the balance of power in both Europe and Asia. An American withdrawal of commitment to Southeast Asia could well bring about that result in Asia, with profound consequences for our relations in every other part of the world.

I believe, therefore that we ought to try to pull ourselves out of the deep and painful grooves of the debate over Vietnam and reexamine our abiding interests in the vital Asia that is emerging. If we do so, I am confident that our commitments in Southeast Asia will be seen as an essential component of our interests and the interests of all who share the objective of a stable and peaceful Asia.

COLLEGE GRADUATES FACE JOB PROBLEMS

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. QUIE. Mr. Speaker, Sylvia Porter has written a short column on the decreasing job opportunities for college graduates which I should like to submit for my colleagues' attention.

Witnesses before the House Education and Labor Committee have pointed out that in the 1980's, 8 out of 10 job opportunities will be for those with less than a college degree.

Also, 8 out of 10 young people do not graduate from college. Over 45 percent of our high school graduates enter college, but only 20 percent graduate.

When, as Mrs. Porter points out, presumably skilled college graduates—particularly engineers, liberal arts graduates, majors in math and statistics, economics and finance—are having difficulties finding a job it means—

That many who do get jobs during this business advance will get them only by bumping others with lesser qualifications.

I believe this to be a sad situation, for we are not only failing to provide job opportunities for the educated and the skilled, we are failing to educate the vast majority of our youngsters for the job opportunities which do exist. We must reorient our educational system to provide not only a comprehensive academic education, but to provide the job skills for the 8 out of 10 jobs in the 1980's which will not require a college degree.

Legislation which I have introduced and incorporated into the omnibus education bill—now in conference—called the Occupational Education Act which will provide incentives for the States to develop better career education programs in their schools.

The news article follows:

GRADUATES FACE JOB RIVALRY

(By Sylvia Porter)

This month and next, about 1 million young men and women will be graduated from U.S. colleges and universities. The vast majority will want to move directly into jobs—although significant numbers will join the Peace Corps or Vista, go on to graduate school or simply take a sabbatical from the world of education for a while.

What are their job prospects?

Still below the job projections made in the late 1960s for this year, but moderately better than they were in catastrophic 1971. Hiring plans are up 11 percent, according to the annual tally of recruiting companies by Dr. Frank S. Endicott, director of placement at Northwestern University.

For engineers with B.S. degrees, though, hiring plans are up only 5 percent and they are actually down 3 percent for graduates with master's degrees. This is an even grimmer picture when viewed, against the background of 1971. Then, on average, companies recruiting on college campuses cut their hiring in half.

Fairly sharp job increases were reported for male college graduates in the fields of accounting, sales-marketing and chemistry. But declines were reported for liberal arts graduates, majors in math and statistics, economics and finance.

Other surveys of the job picture come up with similar findings. The average number of job offers being made by each recruiting company is less than one-third the average that was made in 1967, reports the College Placement Council in Bethlehem, Pa.

Job openings for college graduates with bachelor's degree will be down 2 percent from last year, forecasts the Michigan State University Placement Bureau. At the start of 1972, the unemployment rate for men aged 20 to 24—which includes recent college graduates—was nearly 10 percent, and more than 16 percent for non-whites.

What does it mean? Despite the quickening pace of the economic upswing, hundreds of thousands of college graduates will be searching for jobs which do not exist and which will not be created in the near future.

It means that many who do get jobs during this business advance will get them only by "bumping" others with lesser qualifications—which will hardly add to the general satisfaction of young Americans with our economic society.

It means a shameful waste of our educated manpower at a time when young people with this level of education are deeply needed in all areas of our effort to improve the quality of life.

And it certainly means the U.S. government will be losing out in the collection of huge amounts of additional taxes that these young men and women would be paying if they had jobs paying them appropriate salaries.

Despite the widespread belief that the economic upturn itself would solve the problem—a comment made by many of the employers surveyed by Dr. Endicott—this is not likely unless the expansion becomes dangerously bloomlike. Much sounder would be a head-on attack on unemployment in each of the areas where it is concentrated.

For this category of unemployed, most helpful would be an overhaul of the U.S. Employment Service; an urgently needed matching of job seekers to job vacancies; an increase in the number of higher level and stimulating public service jobs that so desperately need doing.

Meanwhile, to end on a positive note, here are some tips on how to approach a prospective employer:

Write a brief letter to the personnel office of the company, telling why you are interested in working for the company. Enclose a resume and a picture. Request an interview.

Do your homework on the company first, so you are familiar with its products and policies, its general history and outlook. You don't have to boast about your knowledge; it'll show through in your letter and during your interview.

Deal directly with the personnel department. Do not antagonize the people who will be deciding on your employment by attempting to bypass them and to enlist the help of an executive of the company. Similarly, do not ask your professor or dean or college placement officer to intervene unless the company requests recommendations from these sources.

Emphasize the special qualifications you have that separate you from other applicants—fluency in the languages of countries in which the company may have affiliates; a background of travel, social work, civic activities; artistic talents; outstanding abilities in sports, etc.

McGOVERN AN EXTREMIST ON NATIONAL DEFENSE

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SPRINGER. Mr. Speaker, people are beginning to wonder where Senator McGOVERN really stands on the issues now troubling America.

James J. Kilpatrick, in a recent column in the Washington Evening Star, points out that McGOVERN is an extremist on national defense, favoring deep cuts in the strength of our Army, Navy, and Air Force at a time when the Soviet

Union is increasing its nuclear capability.

As the campaign develops, I am sure that the people will want Senator McGovern to explain more fully some of his other far-out positions, particularly on abortion programs, amnesty for draft evaders, legalization of marihuana and schoolbusing. Senator McGovern has barely mentioned his stand on these matters on the campaign trail.

For my colleagues who may have missed Mr. Kilpatrick's column in the Star, I am including it here:

McGOVERN AN EXTREMIST ON NATIONAL DEFENSE

(By James J. Kilpatrick)

Several months ago, not long before the primary in New Hampshire, Sen. George McGovern called a press conference to release a 56-page statement of his views on national defense. Few persons were taking McGovern seriously then. The statement got a fair play in the press; it drew some editorial comment, pro and con; it faded from the news a few days hence.

McGovern went on to startle the experts in New Hampshire; he broke even in Florida; he swept to a solid victory in Wisconsin; and last week in Massachusetts he raced home with 52 percent of the vote. At this writing, he leads the field in terms of committed delegates. A great many persons are taking him seriously now.

The senator's carefully detailed statement on "an alternative national defense posture" thus invites our re-examination. It represents the candidate's considered thinking on an issue of great national importance. This is what McGovern would recommend if he were elected President of the United States.

The Marine Corps now numbers roughly 207,000 men. McGovern would cut its strength to 140,000 by 1975, by reducing its three combat divisions to two.

He would recommend that the Air Force be cut from 753,000 to 476,000. He would reduce the number of interceptors "by slightly more than half." For the time being, he would preserve the Minuteman missile system, but "plans to upgrade Minuteman should be discontinued." Deployment of the Safeguard system "should be halted." Prototype development of the B1 bomber also "should be halted." Development of the F15 "should be ended."

At a time when the Soviet Union is dramatically expanding its naval forces, as President McGovern would reduce the U.S. Navy from 605,000 to 471,000. He would cut the fleet from roughly 700 ships to 341. He has small use for aircraft carriers: He would cut their number to six. He envisions only 130 escort vessels; in this field "no further construction is required." He is doubtful that amphibious assaults ever will be required in the future; he would preserve only enough vessels to serve a single Marine expeditionary force.

The Army has an authorized active force of 942,000 men, McGovern would cut this to 648,000. He recommends a limit of 10 general purpose divisions, down 25 percent from present levels. As part of its NATO commitment, the United States maintains 4⅓ divisions in Europe; McGovern would cut this to two. He would of course withdraw all land and air forces from Indochina. The remaining division in South Korea should also be returned to the United States.

McGovern places the nation's "baseline" defense budget, excluding the costs of Vietnam, at $75.5 billion in the current fiscal year. He would reduce this figure to $54.8 billion by 1975.

In justification for these drastic reductions, the senator makes a number of excellent points. He observes, for example, that the armed forces in 1969 were maintaining about one-fifth more colonels and captains, with a total force of 3.5 million men, than there were at the peak of World War II with a force of over 12 million. He denounces, with great justification, the scandalous waste and bungled defense programs of recent years. He is convinced that his recommendations would produce armed forces "both leaner and tougher than those now in being."

Yet many experienced observers—men who could not possibly be ridiculed as Colonel Blimps or as victims of paranoia—disagree strongly with the basic assumptions that underlie the McGovern recommendations. They see potential danger to the national security that McGovern does not see. They are concerned, in ways that McGovern is not concerned, over the Soviet Union's relentless gains in first-strike nuclear capability.

Is McGovern an extremist as to national defense? In my view, yes. And voters may discover, as the campaign rolls along, that in such other fields as welfare reform, the gentleman from South Dakota is further out yet.

FOREIGN MILITARY ASSISTANCE

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ROUSH. Mr. Speaker, some weeks ago I announced my opposition to the proposed administration budget of more than $2 billion for foreign military assistance. The time comes ever closer when the Congress will be required to vote on this assistance request.

I have not changed my mind a bit on this subject; in fact, almost daily my initial observations are being reconfirmed. In yesterday's Washington Post and again today, articles appeared by Laurence Stern documenting much of what I have said and thought on this subject of foreign military assistance. I include these in the RECORD for the benefit of Members who might not have seen this series:

GUNS AND DIPLOMACY: U.S. ARMS AID UNDER FIRE

(By Laurence Stern)

Military aid has been a cornerstone of American foreign policy for a quarter of a century—starting more than fifty billion dollars ago.

It has provided the guns in the context of a foreign aid philosophy that dispenses both guns and butter to governments whose survival is deemed to be in the interests of American security.

But after years of almost placid acceptance in Congress, military aid has become a subject of major controversy. Its civilian and uniformed advocates feel like embattled men these days.

There are charges of excessive spending and excessive secrecy. The program is under attack for meddling in the internal political processes of client countries. Fears are expressed that military aid in various parts of the world might be a prelude to new Vietnam commitments.

The flow of military aid billions that have become the subject of such controversy began after World War II under President Harry S. Truman and signaled the emergence of the United States as a superpower with imperial responsibilities and global interests.

Those dollars funded the European military coalition, the North Atlantic Treaty Organization, which was formed when Washington regarded as its preminent danger an aggressive and monolithic Soviet bloc.

A modest military aid program in Vietnam during the Eisenhower and Kennedy years was the preliminary commitment to what became a full-scale American war—the most unpopular foreign war in our history.

Through the years Congressional conservatives groused at "hand-outs" of economic aid to far-away lands. By and large liberals and conservatives alike had no complaints with the "guns" component of the foreign aid program. National security has always been easier to merchandise on Capitol Hill than philanthropy, government-to-government style.

And so the cheering has stopped for military aid. Last October the Senate, in an unprecedented action, voted to kill foreign aid. Complaints were as loud against the military programs as they were against straight economic assistance.

Only after extensive legislative surgery did the two programs survive, in separate bills and substantially reduced from the spending level requested by the administration.

One veteran Senate staff official diagnosed the case this way: "There has been a strong trend, especially on the part of the liberals, to regard military assistance more and more as an imperial device. It is a way of having influence over the most delicate part of a foreign government—the way it chooses to spend on its own defense. There has been a definite shift of attitudes here."

Another Congressional expert on military aid said: "The military wants to be able to spread American weapons around the world. Our embassies like to have it available as a form of bargaining power. But more and more members of Congress are coming to realize that it's a hell of a waste of money and much of it is going to countries who are not fighting anyone."

Even Senate Armed Services Committee chairman John Stennis (D-Miss.), no enemy of the military establishment, has gone along with the imposition of ceilings on military aid spending. He also declined last year a private entreaty from the administration to take jurisdiction of military aid which is now on the turf of the Foreign Relations Committee.

PREPOSTEROUS SCANDAL

During the near demolition job on the foreign aid bill last fall, Sen. Frank Church (D-Idaho) said that "the military assistance program has become a preposterous scandal. It should be drastically curtailed, not enlarged." His speech expressed the new *angst* of the liberals who had been voting reflexively for foreign aid through the years in keeping with liberal conventional wisdom.

For the past month the administration has been trying to make its case for a $2.2 billion international military assistance program and avoid a repetition of last year's debacle. The new bill has been pronounced by President Nixon as a cornerstone of the doctrine that bears his name.

As Congress was conducting hearings on the new program and began to scrutinize the administration's fiscal 1973 figures, correspondents of The Washington Post surveyed military aid activities in 12 countries throughout Europe and Asia where the bulk of the money is spent. Here are some of the conclusions drawn from interviews with dozens of American and foreign officials:

In Cambodia, which President Nixon claimed to be "the Nixon Doctrine in its purest form," the Phnom Penh government's efforts to expel the North Vietnamese forces—an effort begun by deposed Prince Norodom Sihanouk—is being severely sapped by incompetent leadership, corruption and narrowly based political rule.

Despite the obligation by Congress of well over $500 million of military and economic aid in the last two years, the military and

economic position of the Lon Nol government is now worse than at the time Sihanouk was ousted in March, 1970.

In Ethiopia, Emperor Haile Selassia's government is using American weapons and training along with Israeli military advisers and West German police equipment, to suppress a rebellion that has been simmering in Ethiopia's Red Sea province of Eritrea since 1962.

The Ethiopian public knows little of this and even the highest ranking U.S. officials in Addis Adaba do not appear to be fully aware of the American involvement in the Eritrean insurgency. A calculated policy of secrecy has, in fact, surrounded a series of commitments which now provide Ethiopia with U.S. grants of more than $12 million a year—80 per cent of all American aid to Africa.

In addition to regular military aid, running at about $60 million a year, Thailand is being paid large, secret subsidies for the services of 8,000 or so Thai "volunteers" in Laos under a joint Defense Department and Central Intelligence Agency program. Thai soldiers have told newsmen that they were assigned to positions in Laos by military superiors, rather than volunteering.

The distinction is that Congress has prohibited U.S. financing of "third country" armed forces in Laos and Thailand. As one top diplomatic official in Vientiane said: "The Thai volunteer thing is worked out in a rather Rube Goldbergish sort of way . . . They are volunteers because of the Fulbright amendment prohibition against our use of regular ground forces."

In the eastern Mediterranean, the prospective U.S. credit sale of 36 high performance F–4 Phantom jet fighters (at nearly $5 million a plane) to Greece has heightened Turkish anxieties over an arms imbalance in the Aegan Sea that would assure Greek military superiority if there is another confrontation over Cyprus. The two American-equipped NATO allies have come close to war over the communally split island twice within the past eight years.

Despite the opposition of top State Department officials with a supposed share in military aid policy-making, the Pentagon now maintains MAAG (Military Assistance Advisory Group) missions in nine West European countries where military aid programs no longer exist. Critics of the MAAG missions in non-assisted countries regard them as costly and needless displays of U.S. military presence. It is an example of the relative power yielded by the two agencies in a program that is supposed to be jointly run.

The Pentagon's uniformed bosses have also successfully resisted efforts by some of the Defense Department's top civilians, including former Deputy Defense Secretary David Packard, to dismantle the costly SOUTHCOM command headquarters in the Canal Zone and transfer its functions to the United States. SOUTHCOM administers Latin American military aid grant programs totaling less than $10 million but is headed by a four-star general, one star higher than the director of the entire program, worldwide.

CONFIDENCE SHAKEN

Behind the closed doors of Congressional mark-up sessions the military aid bill is about to be probed and pared by the House and Senate authorizing committees for foreign aid. There have been strong indications of stormy weather ahead for the measure.

The new military reverses and political disarray in South Vietnam, Laos and Cambodia have further shaken the confidence on Capitol Hill in the long-term benefits of our military commitments in Southeast Asia.

As Rep. Wayne Hays (D-Ohio) snapped at Lt. Gen. George Seignious, director of the Defense Security Assistance Agency, during a House Foreign Affairs Committee hearing.

". . . The administration keeps saying what a huge success the Cambodian venture has been, everybody else seems to think it is a catastrophic failure. How can you justify pouring money in there? . . . Now forgive me, general, if I don't put much confidence in your reports from out there . . ."

MAP BECOMES SAP

In the Pentagon there have been determined efforts to try to merchandise the program in the face of growing Congressional resistance. For reasons that were in part cosmetic, the Military Assistance Program was renamed the Security Assistance Program to lessen the emphasis on the word military. The move also changed the program's ecronymic identity from the familiar MAP to SAP, an alteration that one Pentagon spokesman wryly described as "perhaps unfortunate."

President Nixon has admonished Congress against chopping into his $2.2 billion security assistance bill. In a March 14 message he said severe Congressional budgetary surgery on his fiscal 1972 military aid program went below the levels required to attain his military and foreign policy goals. A repetition of the perforamance this year, said Mr. Nixon, would have "destabilizing effect" on world confidence in the United States.

Nonetheless, on Capitol Hill there are recurrent complaints that foreign military programs are a distant and tangled thicket over which it is difficult to keep watch.

"The government of Thailand did not want it known that the United States was using air bases in that country. The government of Laos did not want it known that the United States was fighting in a major fashion in that country . . . The government of the Philippines did not want it known that the United States was paying a heavy allowance to the Philippine contingent that went to Vietnam.

"Yet in each of these instances, and others could be cited, one secret agreement or activity led to another, until the involvement of the United States was raised to a level of magnitude far greater than originally intended."

So complained the Symington Subcommittee on Security Agreements and Commitments Abroad more than a year ago.

FAMILIAR LAMENT

Such laments run like a refrain through more than two years of Congressional hearings, speeches, press conferences and staff reports dealing with U.S. military aid activities abroad.

Townsend Hoopes, a high-ranking military aid policy maker in the Johnson administration, says that Pentagon advocates of military aid are still operating under prevailing mythology of the Cold War era.

They assume, said Hoopes, that "there is a clearly defined entity called the Free World and that every part of this entity is threatened militarily by an expanding Communism and that the United States should be prepared to defend militarily against every such threat."

"Such a conception," he added, "of course makes life easier for the military planners, but does not accurately reflect the more complicated relationships in the present-day, real world."

NO DAMNED GOOD

"Silly" and "obsolete" were the words used by a former assistant secretary of defense in Lyndon Johnson's Pentagon to describe much of the present military aid program. "Most of the program is no damned good. We had plans in 1968 to end all military assistance in Latin America. There is simply no justification for it.

"If there are some governments that are threatened with insurgencies, it may well be that they deserve to be kicked out."

Among critics of the military aid program the most frequent complaints heard abroad and in Washington were that it is a political insurance policy for unpopular regimes whose survival depends on military power; it distorts the budgetary processes of client countries toward heavier military expenditure; it operates without regard to clear-cut foreign policy objectives.

The administration's strongest brief for the program is that, as Gen. Seignious said in an interview, it "puts teeth in the Nixon Doctrine" and will help to enable "friendly" countries to defend their own security with their own manpower, even at the price of a temporary increase in American costs. (This year's $2.2 billion request exceeds the amount appropriated by Congress for military aid in fiscal 1972 by $700 million.)

Security assistance is a patchquilt international enterprise with clients in 46 countries stretching from Taiwan to Madrid. It gives, sells and loans hundreds of millions of dollars worth of arms to "friendly" governments each year. As an arms supply program it competes with the European weapons industries for clients around the world.

After the 1965 war between India and Pakistan, in which the two armies battered each other with American-supplied weapons, the Soviet Union became the principal arms merchant. Russian weapons poured into India at the rate of more than $100 million a year after the war.

In the 14-day war between India and Pakistan last December American and Russian jets battled each other in the skies over Dacca and an American submarine on loan to Pakistan was sunk by fire from a British aircraft carrier in the Bay of Bengal.

American military aid sends U.S. counter-insurgency advisers to hilltops in Thailand. It provides financing for sale of Phantom jets to Israel. It pays the salaries of Cambodian soldiers with counterpart funds generated by the sale of Iowa wheat under the Food for Peace program.

In Ethiopia, the Azores, Thailand, and Spain military aid is, either in whole or in part, a disguised form of rent paid by the United States in exchange for "rent-free" base facilities.

Although there are nearly four dozen countries in the military assistance program, about 80 per cent of the grant aid would go to four countries under the administration's spending proposals: South Korea, $235 million; Cambodia, $210 million; Turkey, $100 million and Thailand, $60 million.

While the official advocates of the program say their goal is to reduce grant aid in favor of military sales—a position designed to appeal to cost-consciousness on Capitol Hill—the administration is requesting an increase of nearly $300 million in present appropriations.

The Defense Department also wants to raise the ceiling on military grants and sales to Latin America so that American arms could compete more fully with European armaments industries. And in the interests of U.S. worldwide arms competition the Pentagon is strongly endorsing a stretchout in the repayment period for foreign arms customers from 10 to 20 years.

During the current round of Congressional hearings on the administration's new military aid request, Pentagon spokesmen for the program were challenged by Congressional questioners on the political side-effects of the program.

In a House Foreign Affairs Committee executive hearing on March 22, Rep. Donald M. Fraser (D-Minn.) questioned Security Assistance Director Seignious on what the U.S. national interest might be in aiding Cambodia after American troop withdrawal from South Vietnam.

"There is no definable security interest," Seignious replied.

Mr. Fraser: "Then why are we doing it?"

General Seignious: "Because I think there is a national interest in trying to prevent the North Vietnamese from overrunning the entire Indochinese peninsula."

Mr. Fraser: "You say it is in the U.S. in-

terest. Since it is not a security interest, what is it? How do you define it?"

General Seignious: "I would say that it is an international interest that could be called foreign policy; an interest that relates to our desire to see freedom of choice and some form of stability in the entire world . . ."

Mr. Fraser: "General, is freedom of choice in your judgment an important element of U.S. foreign policy?"

General Seignious: "Sir, I would be glad to try to respond to this but I think it is a little beyond my competence to do so."

Even within the administration there are strong differences on military aid activities, such questions as: how much? what kind? where should it go? what objective does it serve?

There are doves, hawks and dawks scattered through Defense and State Department bureaucracies which exercise divided responsibility for the program.

The White House recently nominated Selective Service Director Curtis Tarr as a superheadknocker with the title of coordinator for security assistance and the rank of Undersecretary of State to help give unified guidance to the program and also help sell it on Capitol Hill.

CAMBODIAN EXPERIENCE TURNS SOUR

(By Laurence Stern)

"Cambodia is the Nixon Doctrine in its purest form." Richard M. Nixon, Nov. 15, 1971

"The quarter-billion dollar aid program for Cambodia is, in my opinion, probably the best investment in foreign assistance that the United States has made in my lifetime." Richard M. Nixon, Dec. 10, 1970

The army that marched in sneakers, rode ebulliently to war in Pepsi-Cola trucks and fired Chinese carbines only two years ago seems like a romantic fiction. There are now proper trucks and uniforms and American M-16s.

Nonetheless President Nixon's description of the Cambodian aid program is a piece of hyperbole that has turned bittersweet, if not completely sour.

The Cambodian army, known as FANK (Forces Armee Nationale Khmer), has grown from a poorly equipped and ill-trained militia of 30,000 at the time Prince Norodom Sihanouk was overthrown in 1970 into a poorly led and frequently outfought force that is now, at least on paper, supposed to number 200,000.

Although the figure is still technically classified, the administration is seeking to raise its military aid sights to support a Cambodian army of 220,000, although U.S. military planners envision further expansion of the force.

The United States has been pouring in military supplies at a rate of 5,000 tons a month along the Mekong River from Vietnam and into Pochentong Airport in Phnom Penh. Half of the incoming cargo is ammunition.

More than 50,000 Cambodian troops have undergone training in South Vietnam, Thailand, the United States, Indonesia, Malaysia and elsewhere, knowledgeable U.S. officials in Phnom Penh report.

Since President Nixon spoke the above-quoted words 16 months ago the dollar value of assistance to Cambodia has more than doubled.

However, at least half of Cambodia's land mass and a quarter of its 7 million population now lie beyond the writ of the Lon Nol government, by official intelligence estimates.

GUERRILLA STRENGTH GROWS

The insurgent Khmer Rouge (Red Cambodian) movement has grown from a scattered force of about 2,000 to a wide-spread guerrilla force that one key White House official this week set at 50,000. State Department intelligence estimates of Khmer Rouge strength are 15,000 to 30,000.

The current North Vietnamese offensive demonstrates that the avowed objective of the American "incursions" two years ago and follow-up operations by the South Vietnamese army—the cleaning out of Cambodia's Communist sanctuaries—was short-lived in its effect.

Despite the rapidly rising scale of American weapons, logistic support and tactical air assistance, the Cambodian army failed its most important test of "Cambodianization" when a major offensive thrust along Route 6 last fall turned into a demoralizing rout.

These are not the judgments of amateur war critics or "knee-jerk" dissenters but of professional diplomats and military men whose job it is to know how the Cambodian conflict goes.

For the progress of the war is the test of the realism and efficacy of the military and economic support programs which in this fiscal year reached an obligational level of $341 million from a zero starting point two years ago.

One well-informed U.S. official in Cambodia said the defeat inflicted by counter-attacking North Vietnamese in the Highway 6 operation, known as Chenla II, devastated the Cambodian Army for the 1971-1972 dry season.

REOCCUPATION IS CONCEALED

Before the current Communist offensive into South Vietnam officials were conceding that the North Vietnamese had long reoccupied the eastern sanctuaries which served as the staging grounds for the new offensive probes toward Saigon and into the Mekong Delta.

Corruption, no stranger to the Cambodian military or to the civil government before Sihanouk's downfall, has increased in scale along with the enlarged range of opportunities.

The "phantom battalion" system that is a legacy of the Vietnam war experience, under which senior officers collect and pocket the pay of nonexistent troops claimed to be under their command, has achieved a solid reincarnation in Cambodia.

This has been tacitly recognized in the American assistance command. Last fall, at the direction of Gen. Theodore Metaxis, former head of the U.S. equipment delivery program in Cambodia, hundreds of cameras were distributed to Cambodian commanders for troop verification purposes. Several American surveys were also conducted on a spot basis. The results never surfaced nor, it is said by some observers in Phnom Penh, did the cameras.

"HAVEN'T LOST ANY GROUND"

"What does anyone expect of a ratty-assed, inexperienced little country of seven million?" asked one senior U.S. official with rhetorical fervor. "At least they haven't lost any ground they didn't have in 1970." That was the year the North Vietnamese backed their forces throughout Cambodia following the American and South Vietnamese incursions from the east.

The scope and objectives of the American aid that has poured into Cambodia in the past two years seem to have expanded at a more rapid pace than was implied in President Nixon's April 30, 1970, telecast announcing the American incursions.

". . . We shall do our best to provide small arms and other equipment which the Cambodian army of 40,000 needs and can use for its defense. But the aid we will provide will be limited to the purpose of enabling Cambodia to defend its neutrality—and not for the purpose of making it an active belligerent on one side or the other."

On May 14, 1970, Secretary of State William P. Rogers said the defense of the Cambodian government is not "our primary purpose and that will not be our purpose in the future."

But on March 14, 1972, Rogers told the House Foreign Affairs Committee: "As you know, one of the reasons we have increased the request for Cambodian assistance is that we are anxious to see that the government in Cambodia survives."

With the irresistible momentum that has characterized so much of the American experience in Southeast Asia, the commitment took wings.

MILITARY AID GRANTS

Within 12 days of his April 1970 speech Mr. Nixon signed a presidential determination for $7.9 million in military aid grants to the Phnom Penh government. By June 30, there was another trickle of $1 million. Within a month—$40 million more. By November the President asked Congress for a $255 million supplemental military aid program—$155 million for Cambodia and the rest to repay the program for the emergency Cambodian borrowings.

When Congress enacted the supplemental bill it signaled a new stage in the Cambodian commitment and also touched off an intragovernmental debate over the U.S. military presence there.

Until that point the MEDT (military equipment delivery team) program was funded out of the President's own drawing account and run by ex-Green Beret Jonathan F. Ladd, a military maverick and legendary Vietnam combat advisor. Ladd was sent to Phnom Penh in May of 1970 by presidential National Security Adviser Henry A. Kissinger. His instructions were to provide objective reporting, set up a "primitive" logistics system and keep a low silhouette.

The mission was to his liking because of Ladd's anti-bureaucratic style of operation.

PENTAGON ASSUMES CONTROL

But when the program was funded by Congress it automatically went under the control of the Pentagon and gradually Ladd's influence waned while the military hierarchy in Washington and at Pacific Command headquarters in Honolulu took over.

The tendency from that point onward was toward more Americans, more sophisticated weapons and toward the erection of a typical military assistance bureaucracy in Phnom Penh. (The size of the American government contingent in Cambodia has increased from five in March, 1970, to about 160 today. A limit of 200 Americans has been imposed by Congress.)

An illustrative episode occurred last June when the Joint Chiefs of Staff asked for a U.S. logistics delivery team of 100 Americans in Phnom Penh. At the time Ladd had only 23 technicians working under him. Both Ladd and Ambassador Emory C. Swank protested vehemently. Defense Secretary Melvin R. Laird halved the Joint Chiefs' proposal to 50—still more than doubling the Phnom Penh contingent.

"No, no," Ladd pleaded. "I have functional use for no more than seven men." He got 27.

The size of the MEDT mission now exceeds 115, with less than half the number in Phnom Penh and the rest in Saigon. The new MEDT chief, Gen. John Cleland, who replaced the expansion-minded Metaxis, has put out the word that he will try to reduce the size of the American group and sharply police U.S. "end-use" inspections in the field. The end-use checks are intended to assure that the weapons are being put to the purposes for which they were delivered—and no more.

PRESERVE BUILDING SYMBOLIZES

The most palpable symbol of the American presence and of the Nixon Doctrine in Cambodia is a high-rise "tempo" building behind the enlarged American embassy that houses the MEDT program in Phnom Penh. Resident wags call it, as inevitably they would, Pentagon East.

American voices are heard where they would have been a jarring novelty in 1970. At the poolside of the Phnom (the republicanized Royal) Hotel, once a predominantly French sunbathing preserve, hefty U.S. technicians and officers shout, "Gar-sahn" at confused, scurrying waiters. It is an old page out of the Vietnam war next door.

Economic aid to Cambodia has also followed a well-rutted trail that winds through the earlier aid programs to Vietnam and Laos. The newly established Commodity Import Program for Cambodia is stalled dead center and reflects little attention to the priorities of the country's war-disrupted economy.

It has already become a matter of unfriendly attention on Capitol Hill that in the one-year lifetime of the AID program far more money has been pushed on Phnom Penh than the government has been able to digest.

During the first half of 1971 less than a tenth of the $70 million in economic assistance obligated for Cambodia was used. Nonetheless AID officials in Cambodia asked for another $110 million to finance commodity imports in this fiscal year.

PROGRAM BORN OF HASTE

The economic aid program for Cambodia was hatched in the greatest of haste. AID programmers arbitrarily set the level of the commodity import program, under which the U.S. finances the shipment of essential commodity items to Cambodian importers, at what they believed to be the level of imports before the war broke out in 1970. The guess proved disastrously high. Only a trickle of import applications were filed by the shrewd Chinese traders who form the elite of Indochinese mercantile society.

"It may be that they are unfamiliar with our procedures," conjectured one AID advisor in Cambodia, a theory that brings guffaws of incredulity from more experienced officials.

The Phnom Penh traders and financiers are past masters at dealing with governmental red tape, smuggling, black market operations, currency manipulation and the many other varieties of private enterprise in Southeast Asia.

The more plausible and commonly accepted explanation is that AID underestimated the disruption of the war on consumer demand.

Among the "essential items" approved by AID to underwrite Cambodia's economic survival last year were: 1,700 Italian motor scooters valued at $660,000; more than $100,000 worth of color movie film and other professional movie equipment; radio paraphernalia worth $307,700 to provide broadcasting facilities at the port city of Kompong Som and Battambang. (One U.S. official in Phnom Penh refers acerbically to the project as the "Cambodian Radio Amelioration Program, C-R-A-P."

TRIBUTE TO THE LATE J. EDGAR HOOVER

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. EILBERG. Mr. Speaker, along with all Americans I feel a deep sense of loss with the passing of J. Edgar Hoover. His dedication to the people of this great Nation will be long remembered, for it is no exaggeration to say that wherever and whenever the name of the Federal Bureau of Investigation may be mentioned the image of Mr. Hoover will come to mind.

He took over in 1924 the small bureau, mired in politics at the time, that he built into the respected, and highly successful law-enforcement agency we know today as the FBI. The character of the man is etched on the organization he built—and the record of Mr. Hoover and the Federal Bureau of Investigation are an inspiration to all who believe in the rule of law, and the place it has in our society.

It is impossible to visualize the 1930's in America without bringing to mind the picture of gangland violence, bank robbings, and kidnappings which shocked the public into demanding an end to the wave of crime then on the front pages of every newspaper.

J. Edgar Hoover brought the full resources of the FBI into action. He branded major criminals as "public enemies," and sent his college-trained special agents to work on scores of cases, ranging from the brutal Lindbergh kidnaping to the infamous Dillinger gang. He had started a war on crime that raged as long as there were still criminals at large.

In World War II, the FBI continued its battles on behalf of law and order—but its duties were broadened in scope to include the apprehension of enemy agents attempting acts of sabotage within the United States. And not a single act of successful enemy sabotage was committed within the United States during the war—a record for which the FBI and J. Edgar Hoover could rightfully claim much of the credit.

Now we mourn the passing of this dedicated public servant, and we well realize our loss cannot be measured or expressed solely by words. Perhaps the best tribute that all of us as Americans can pay to the memory of J. Edgar Hoover in death is to reflect upon the principles by which he lived—respect for law, honesty, integrity, fair play, and faith in the Almighty.

ALASKAN WATER BOUNDARIES

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BEGICH. Mr. Speaker, I would like to insert into the RECORD a copy of a resolution passed by the Alaska State Legislature urging the Department of State to revise the provisional charts delineating territorial water boundaries. It is important that this be done because, if allowed to stand these charts will permit further marauding of vital Alaskan fisheries.

ALASKA STATE LEGISLATURE 1972

(House joint resolution No. 85, relating to the provisional action of the United States Department of State delimitation of the territorial sea, contiguous zone and certain internal waters of the United States.)

Be it resolved by the Legislature of the State of Alaska:

Whereas the United States Department of State has provisionally issued charts showing its interpretations of existing legal interpretations to delimit the territorial sea, contiguous zone and certain internal waters of the United States; and

Whereas some waters historically considered as internal waters of the State of Alaska are depicted on these charts as territorial sea or international waters; and

Whereas, if these charts are not revised, foreign vessels may fish with impugnity the boundaries of our country, thereby allowing foreign fishermen to fish closer to Alaskan shores than ever before; and

Whereas, if allowed to stand, the provisional charts would enable the federal government to obtain a disproportionate share of the underseas mineral resources that would be affected under the proposal thereby causing the state to lose possibly millions of dollars of revenue;

Be it resolved by the Alaska Legislature that the United States Department of State is urgently requested to review and revise the provisional charts as they affect Alaska and urgently requests the United States Congress to hold public hearings in Alaska in order to establish lines delineating territorial, internal, contiguous and international water utilizing tradition, custom, and legal interpretations which are consistent with the protection of our fishing areas and the rights of Alaska to our offshore mineral potential;

Copies of this resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable William P. Rogers, Secretary of State; the Honorable Richard Kleindienst, Attorney General Designate; the Honorable Rogers C. B. Morton, Secretary, Department of the Interior; the Honorable J. W. Fulbright, Chairman, Senate Foreign Relations Committee; the Honorable Thomas E. Morgan, Chairman, House Foreign Affairs Committee; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Nick Begich, U.S. Representative, members of the Alaska delegation in Congress.

UNSANITARY FOOD PLANTS

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SYMINGTON. Mr. Speaker, when this century was young, Sinclair Lewis wrote "The Jungle," a book detailing and berating filth in food and meat packing plants. Sadly, the "jungle" still exists according to studies done by "Nader's Raiders" and the Food and Drug Administration in cooperation with the General Accounting Office. Forty percent of the food plants checked were found to be unsanitary. It is estimated that over 1,000 firms have serious sanitary problems. To remedy this deplorable situation, I joined the able chairman of our Public Health and Environment Subcommittee and most of our colleagues on the subcommittee in cosponsoring H.R. 14498, the Food Processing and Inspection Act of 1972.

This bill amends the Federal Food, Drug, and Cosmetic Act to require food processing firms to register with HEW and FDA and provide the Federal Government with a list of the various kinds of foods manufactured, processed, or shipped in interstate commerce. It is felt this registration system will greatly facilitate food inspection programs. Finally, this legislation is intended to protect the public from unfit and adulterated food.

I would call to the attention of my colleagues an excellent account of the FDA-GAO food inspection study. This appeared in the St. Louis Post-Dispatch of April 19, 1972. At this point I insert the article in the RECORD:

FORTY PERCENT OF FOOD PLANTS CHECKED BY FDA ARE DIRTY

WASHINGTON, April 19.— Forty per cent of food processing plants inspected by the Food and Drug Administration are operating under insanitary conditions, the Government Accounting Office said yesterday.

FDA Commissioner Charles C. Edwards, testifying at a House appropriations subcommittee hearing at which the findings were disclosed, said there "is nothing in the report that we (the FDA) were not aware of ourselves."

The General Accounting Office, which conducted the study, asked FDA inspectors to check 97 food processing plants picked at random from among 4500 firms in 21 states for possible violations of the Food, Drug and Cosmetic Act.

The GAO said that 39 plants, or 40 per cent, "were operating under unsanitary conditions and of the 39, there were 23 that were operating under serious insanitary conditions having the potential for causing or having caused product contamination."

"On the basis of the sample we estimate that 40 per cent of the 4500 plants are operating under insanitary conditions, including 1000 with serious unsanitary conditions," the GAO said.

"FDA officials advised GAO that conditions at the plants located in the 21 states would, in their opinion, be representative of conditions at plants nationwide," the report said.

"We cannot cope with the totality of the problem," Edwards told Represestative Jamie L. Whitten (Dem.), Miss., the subcommittee chairman, who disclosed the report.

The GAO, which refused to identify the 97 plants inspected or the 21 states in which they were situated, said that it had found "rodent excreta and urine, cockroach and other insect infestation and nonedible materials in, on or around raw materials, finished products and processing equipment."

In a separate report yesterday the GAO called for a crackdown on criminal diversion of drugs from legal markets.

The agency, the investigative arm of Congress, said the Bureau of Narcotics should do more about the drug problem.

It quoted the narcotics bureau as saying that 90 percent of the dangerous drugs now on the illicit market were diverted from licensed sources such as manufacturers, distributors, doctors and pharmacists.

Although the bureau receives tips from drug manufacturers about unusually large suspicious orders for dangerous drugs, it does not maintain enough records to follow up leads systematically, the GAO said.

In the course of its investigation, the GAO said, it reviewed the activities of state law enforcement agencies in California, New Jersey and New York and found they lacked sufficient personnel to monitor retailers effectively and force corrective action.

The GAO urged the drug industry to improve standards of self-regulation.

CONGRESSMAN JAMES V. STANTON REVIEWS HIS RECORD OF 15 MONTHS IN CONGRESS

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. JAMES V. STANTON. Mr. Speaker, last week at the City Club in Cleveland, Ohio, I issued a statement summing up my activity over the past 15 months as the Representative of Ohio's 20th Congressional District, detailing my position of issues which have come before the Congress in that time, and expressing my plans and expectations for the future. In order that my colleagues and my constituents might be more fully informed on my record, I would now like to insert this statement into the CONGRESSIONAL RECORD.

REMARKS OF CONGRESSMAN JAMES V. STANTON

Members and Guests of the City Club—Ladies and Gentlemen:

I am tremendously pleased to have this opportunity to appear before you to render an accounting of my first 15 months as the Congressman from the 20th District—and to discuss with you what I feel I am accomplishing, and also what I hope to achieve as a Clevelander in the nation's capital.

In the time allotted to me for this presentation, I would like to cover four major areas. First, by way of emphasizing that I am speaking to you as a Clevelander—as one of *you* people, whether you live in the city or suburbs—I will report to you on my performance as a representative of this area and, above all, of the *people* who live and vote here. Second, I will recount for you my record on key roll calls in 1971 and 1972. Third, I will summarize several initiatives I have taken on legislation—since I do believe that a Congressman should be an active advocate on important issues, rather than a passive person who merely responds when his name is called on the roll. Fourth, I would like to give you some idea of what I think the government ought to be doing to transform itself into a more effective instrument for meeting the nation's needs.

I

Now, as to my role as your Representative, I am doing all I can to establish and encourage a continuing person-to-person dialogue with my constituents. Every letter I get is given a prompt and personal reply—and the number of letters has been increasing, from about 150 a week one year ago, to nearly 250 now, and it is still going up. Through a quarterly newsletter and an annual questionnaire addressed to voters, I have been encouraging them to give me their personal views and comments.

I take these letters seriously—and I act on them. When one constituent, a mailman, who had had $800 wrongfully withheld from his pay, asked me to do something about his case, which had been knocking around Washington for 12 years, I introduced a special bill and pushed it first through the House and then the Senate. When another constituent, a woman, wrote me that the Veterans Administration had wrongfully withheld some $260 in educational benefits due her, I got the VA to apologize and to send her a check for the full amount.

When several senior citizens wrote me that the government was threatening to shut down the Social Security office on West 25th Street, I intervened and succeeded in keeping the office open for direct service to people in that vicinity. When the Cleveland Nationalities Services Center wrote to me, urgently requesting suggestions on financing so it could expand its services to the poor, I set up a meeting in my Cleveland office and was able to steer the Center to a source of federal funds.

I have a highly capable staff assisting me on these and other matters—and I might add that, unlike many other Congressmen who load the payroll in Washington, I have assigned half of my staff to the Cleveland office, to make it easier for people to get service, and to get it without having to wait. As a matter of fact, my Washington office, too, functions as an outpost of Cleveland and the suburban communities. When mayors, councilmen and other public officials come to Washington on federal business affecting their areas, they are free to use my office as a base of operations. My Washington staff assists them in setting up appointments, and provides them with secretarial and other services. So far as I am concerned, these officials, having been elected themselves, are the alter egos of the people I represent.

II

Moving on to my voting record, I can summarize it in the usual way by saying that I have voted with my party most of the time, thereby winning high marks from labor and liberal organizations and a low rating from the far right-wing conservatives. But another rating—by the authoritative and impartial Congressional Quarterly—found me supporting the President on 57% of certain key roll calls. I hope, then, that this reflects an open mind on my part and an independent approach to the issues.

I have, as you know, supported all measures to remove our troops from Vietnam, subject only to the safe return of our prisoners. While opposing the President on that issue, I did go along with him on his plan for welfare reform, and I have backed his efforts to obtain revenue sharing for the cities and suburbs. I voted against the Administration's tax program—on the ground that it gave most of the breaks to business, and also because it creates new tax loopholes—such as the plant investment credit—that deprive the government of revenues at a time when the people need *more* programs and *more* service, rather than less. Mr. Nixon's tax program has helped to create a $40 billion deficit—and the administration has nothing to show for it except a 6% unemployment rate. In the days of the smaller Democratic deficits, we at least had people working.

Also, on the economic front, I insisted with other Democrats on giving the President authority to invoke price and wage controls. Mr. Nixon, in turn, insisted he didn't want such authority. But later, as we know, he was glad to have it—and he ended up using it. I wish the results were better, though. His Pay Board has done an excellent job of controlling wages, but his Price Commission, unfortunately, is not as ambitious or as dedicated to its own task.

Also, on another matter affecting the economy, I sponsored and voted for an Accelerated Public Works Act. The President vetoed it—an action which I hope he now regrets, in view of the persistent unemployment we have. At any rate, I have helped revive the bill as a member of the Public Works Committee, and I hope to see it reach the President's desk again.

I voted in favor of legislation to strengthen the fair employment commission—preferring a version with more teeth in it than the bill backed by the Administration. I also lined up with my colleagues in favor of the Constitutional amendment guaranteeing equal rights to women—a proposition which I see as essentially a bread-and-butter issue. This is because many women, nowadays, support or help support whole families, and they deserve an equal break on job openings and promotions.

I have voted to restrict the power of the government to require school busing for the purposes of integration, but on the other hand I have refused to support a move to inject this emotional issue into the U. S. Constitution via a Constitutional amendment.

I have stated on several occasions my intension to support legislation giving a 20% Social Security increase to senior citizens and guaranteeing to every American, regardless of age or financial circumstances, adequate prepaid medical care. I am also on record as favoring sweeping tax reforms to simplify the law and to help convert it into an instrument that favors the poor and the middle class, rather than the well-to-do, who do not really need any special benefits from their government.

III

Now, many of you will recall that when I was campaigning for Congress two years ago, I criticized my opponent because he took credit for helping to enact many laws when, in fact, he had contributed very little, if anything, to the success of these legislative projects. It is easy for a Congressman to add his name as a cosponsor to someone else's bill.

I have done that too, when invited to do so by my colleagues and when I have felt that another name might give an added shove to a worthwhile measure. But I have tried to deliver too on a promise I made two years ago—to submit my own ideas to the Congress in the form of original legislation. This has resulted in time-consuming work for me and my staff, but I feel that the effort has not been wasted. Our goal is, first, to get my bills enacted as they now read, or, failing that, to get the concepts we are advancing incorporated in other legislation that ultimately reaches the President's desk.

I have been able to accomplish some of this through my Committee work. For example, as a member of the Public Works Committee, I helped write the water pollution control legislation that the House approved recently. One of my contributions was a provision authorizing $25 million for experimental projects in Lake Erie and the other Great Lakes. A pollution bill approved earlier by the Senate did not contain such a provision.

However, my interest in doing something creative about the problems confronting the nation is not limited merely to those issues coming before the committees on which I serve. I know from my experience as President of the Cleveland City Council that the people I represent are greatly troubled about crime and lawlessness, and I have been devoting myself to this problem. My innovative Emergency Crime Control Act has achieved nationwide attention, and it is picking up support across the country. The U.S. Conference of Mayors has endorsed the legislation in principle, and it is helping me by lobbying for it. Essentially, this is a plan to redirect federal crimefighting funds to the areas of greatest need—the high crime urban-suburban areas. It is also an attempt to speed the flow of these funds by slashing red tape. This would be accomplished by giving blocks grants to the large metropolitan areas so officials in these jurisdictions can spend the money *as they see fit*, according to priorities determined *locally*. This would relieve our mayors and other local officials of having to file a separate application for each and every project and then waiting interminably for bureaucratic clearance. I hope to see action on this legislation this year. The House leadership has assisted me in obtaining hearings—and this, of course, is the essential first step. Many, many bills are introduced each year, but only a small proportion advance to the hearing stage.

In two other areas relating to crime, I have introduced my own bills in an attempt to reshape legislation now under consideration in the House and Senate. There are several bills pending which would compensate victims of violent crime for medical costs and loss of wages attributable to injuries and/or hospitalization. My bill would have the amount of compensation determined by local U.S. Attorneys rather than a board in Washington or the state capital. I feel that this arrangement would reduce red tape, bring this new program closer to the people, and help assure that most of the dollars spent on the program would be paid out to crime victims, rather than to bureaucrats sitting in a new office. Another section of my bill contains disclosure provisions which would discourage doctors or funeral directors or others from profiteering as a result of the program.

A third crime-related bill introduced by me would authorize payment of a $50,000 death benefit to the survivors of any public safety official killed in the line of duty. My bill is broad enough so that judges and probation and parole officers, as well as prison guards, are included. In addition, the families of firemen would be provided for under my bill. The Administration version of this legislation excludes firemen—on the ground that they are not, by and large, victims of violent crime. I don't know what the Nixon administration means when it says that. We Clevelanders know how wrong the administration is. We know that firemen have been shot at and stoned in Cleveland, and machine gunned in Cincinnati.

I will be introducing shortly—as soon as staff work is completed—a tax reform measure that would help persons laid off from work, or persons in their first year of retirement. Congressman Rostenkowski of Chicago, ranking member of the Ways and Means Committee, is collaborating with me on this measure; he happens to be, in addition, a cosponsor of my Emergency Crime Control Act. This bill would extend the benefits of a device called income averaging to persons who have a bad year financially. The benefit already is available to persons whose income shoots up in a given year, such as authors, movie stars and athletes. Our legislation would add a reverse twist to income averaging, making it available as well to the people who really need it. By averaging their current year's income with higher earnings from previous years, they could show, in effect, that they had overpaid their taxes in the prior years, and they therefore could qualify for a refund in the current year, when their need happens to be great.

IV

I said earlier I would try to give you some idea of what I think has to be done to make the federal government more responsive to the needs of people living in urban-suburban areas. I would say that my thinking in this connection has been inspired not only by my experience in local government but also by the writings of such persons as Alice M. Rivlin, a fellow at the Brookings Institution in Washington and one of the nation's keenest analysts of public policy. In her book "Systematic Thinking for Social Action," published in 1970, she says:

"(There is) a new realism about the capacity of a central government to manage social action programs effectively. There was a time when those who believed in broader commitment to social action pinned their hopes on centralization . . . The last several years have seen a marked shift in the attitude of liberals toward the federal roll . . . I, for one, once thought that the effectiveness of a program like Headstart . . . could be increased by tighter management from Washington . . . This view now seems to me naive and unrealistic. The country is too big and too diverse . . . Since the federal government is good at collecting and handing out money, but inept at administering service programs, then it might make sense to restrict its role in social action mainly to tax collection and check writing and leave the detailed administration of social action programs to smaller units. This view implies cutting out categorical grants-in-aid with detailed guidelines and expenditure controls . . . Lower levels of government would receive funds through revenue sharing or bloc grants for general purposes like education. The last two federal budgets, with their emphasis on . . . revenue sharing, appear to be moving the federal government in this direction."

I think you can see how my Emergency Crime Control Act fits in with this pattern of thinking. Recently, Transportation Secretary Volpe proposed a so-called Single Urban Fund—a program of block grants to cities allowing each city to decide for itself what proportion of federal assistance funds to allocate to freeways, what proportion to mass transit, and so forth. I am on record in favor of such legislation.

It seems to me that this is the direction in which we ought to move. The cities and suburbs have seemingly insurmountable problems. The federal government has tried to help through a spate of Great Society programs. But most of these programs appear to have failed. I think that the time has come to restructure the programs, ceding more discretionary authority to local officials—on the ground that they are close to their communities and therefore have a sharper perception of problems and possible solutions. We should keep working at these problems, trying new ideas and new ways of delivering federal services, in a search for something that works. We haven't yet reached the point where we ought to give up. I, for one, refuse to give up—not until we've explored every possible alternative.

AFL–CIO CHALLENGED TO UPHOLD ITS TRADITION

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. LEGGETT. Mr. Speaker, from its earliest years, organized labor has been a leading force for social justice. It has stood not only for higher wages and better working conditions for its members, but for better education and more equitable justice for all Americans. Labor has played a leading role in the struggle for racial equality, and continues to do so today with its opposition to demagoguery on the busing issue.

But over the years the success of organized labor has made labor part of the Establishment. At a result, in some cases labor has tended to go along with both political administrations.

The most important "go along" issue was the war in Indochina. This was, which does not and never will serve our national interest in the reckless way in which it has been conducted, has wrecked our economy, slaughtered 55,000 of our best young men including the sons of many union members, and has torn our Nation in two or in perhaps even five parts.

Despite this, the AFL–CIO Executive Council has supported the war both under President Johnson and under President Nixon. In doing so, it places itself in disagreement not only with the United Auto Workers but with many of its members.

In the San Francisco Bay area in California, union sentiment strongly opposes the war and favors withdrawal. They do not go along! In a closely reasoned and articulate editorial by editor Felix Rodriquez, Organized Labor, the official publication of the Building and Construction Trades Council of San Francisco, urges George Meany and the AFL–CIO Executive Council to uphold the highest traditions of organized labor by reversing itself and opposing the war as cost ineffective and not currently in our national interest. I insert this editorial, from the April 24, 1972 issue, in the RECORD at this point:

OPEN LETTER TO PRESIDENT GEORGE MEANY AND MEMBERS OF THE EXECUTIVE COUNCIL

This is a most urgent request that you and the AFL–CIO Executive Council reconsider your longstanding support of the Nixon Administration's policy regarding the war in Southeast Asia.

The Nixon Administration has determined it need not, and will not, change the direction of national priorties. Such a change of direction in this torn nation is needed desperately.

In view of the Administration's adamant stand in favor of military victory at all costs, there remains only one power that can push effectively for an immediate change. And that is, for most of the world and the real majority of the American people, for the AFL–CIO Executive Council to announce publicly that further involvement in the war is a mistake. Such decision making by individual Council members is simple, even if it takes some agonizingly human reappraisal.

Of even greater concern than the need to change national priorities is the real danger that further involvement may lead to an incident touching off nuclear devastation.

There are several conclusions, not entirely my own, that should be reached about labor's leadership. If the AFL–CIO Executive Council does not make a move soon, the American electorate will have to wait until the November elections to attempt a change in directions. Nixon's plea may be that the nation is in so deep it cannot be left to amateurs. If labor's leadership has not, by election time, improved its image, we may as well dutifully accept future consequences as conditions of our own making. In the critical election decisions ahead, organized labor cannot afford to isolate itself from the other sectors crying out for change.

It is generally agreed that the war and military spending are to blame for the economic gaps, inflation, unemployment, priorities, and the most critical division within American society since the Civil War. Therefore, it is pointless for consumers to complain about high prices, for workers to complain about frozen wages, for property owners to complain about high taxes, while this nation continues to wage a war nobody wants.

My thinking is this: If I do not now do my tiny bit to warn against the possibility of nuclear war, I would have the consequences on my conscience—if I lived through it. Reconsideration of your action would bring labor into a common, unified political effort, and the world would be deeply indebted to you.

Whether or not most people realize it, or admit it, the AFL–CIO Executive Council has the great power to create a change in national direction and priorities. We pray that you will exercise that power. If the thought of admitting a mistake is repugnant to President Nixon, it should not be so to you.

By declaring now against Nixon's war policies, you would remove much of the distrust of unions held by the general public, and you would gain greater respect from millions of disillusioned American workers. The young would add their voices to yours in your continued struggle to improve living standards of all Americans. With such support, you could stand up on better than even terms on the critical economic issues against the Nixon Administration or any power structure. (Walking off a puppet Wage Board would get public sympathy.)

The conclusions I have reached here are, I am certain, shared by a great majority of workers in the San Francisco Bay Area. EVERYONE of the Labor Councils here have gone on record against continued involvement in the war. After many years as an editor for this newspaper, I have become convinced that most union leaders and the rank and file want out of the war now.

The Labor Councils have acted although there is an understandable reluctance on the part of many officers to contradict the policies of the AFL–CIO Executive Council. If it were not for that reluctance, labor would have forced a disengagement long ago.

And there is the understandable reluctance of the young, who view the war as murderous and senseless leaving them as the real victims, to share the same table with organized labor. Often, the most liberal unionist is ostracized at a youthful political rally. Youth asks unions why they do not propose collective bargaining for peace as effectively as they bargain collectively for working conditions.

Most thoughtful people see no sense in a policy that says that small nations on the other side of the world must not have communism (President Eisenhower said the majority in Vietnam would have voted for it) but instead we must support an absolute dictatorship, without limits in the costs of destruction of humans and resources. Is the preference for a dictatorship over communism there worth the price of tearing this nation apart? If that is the preference, then let's give the president all the help he wants, even if it means Nixon dictatorship.

Fraternally,

FELIX RODRIGUEZ.

IMPACT AID PROGRAM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. DRINAN. Mr. Speaker, I wish to bring to the attention of my colleagues some highly relevant hearings now being conducted by the Labor, Health, Education, and Welfare Subcommittees of the Appropriations Committee, under the chairmanship of our colleague from Pennsylvania, Congressman DANIEL FLOOD. On Tuesday, May 2, Chairman FLOOD's subcommittee examined the U.S. Office of Education's impact aid program and brought to light some shocking weaknesses in the administration's proposed budget for fiscal year 1973 for this important educational program.

Public Laws 81–874 and 81–815 were authorized in 1950 to provide financial assistance to school districts whose tax base was seriously affected by Federal installations or Federal activities. These so-called impacted school districts were unable to absorb the additional cost of providing educational services to the children of Federal employees. Public Law 815 authorized financial assistance for the construction of schools in impacted districts. Public Law 874 authorized maintenance and operating assistance for already existing schools.

Of the two, Public Law 874 is the more important. In 1971, assistance under Public Law 874 amounted to $536 million, and under Public Law 815, $24.3 million. All 50 States and the District of Columbia benefited from Public Law 874, while only 18 States received Public Law 815 funding in 1971.

Yet, for reasons known only to itself, the Nixon administration has never supported the impact aid program. It has consistently requested far less than needed, and it is only through the wisdom of Congress that the final appropriation has been sufficient each year to keep the impact aid program going. Fortunately, during the Nixon years, Congress has each year appropriated more for the impact aid program than the President requested. For fiscal year 1972, the Nixon administration asked for $439 million. Congress appropriated $611 million.

These funds are practically indispensable to the school districts who qualify for assistance under the impact aid program. In my own State of Massachusetts, for example, 215 school districts received impact aid in 1971. A total of $20 million was allocated to Massachusetts, which works out to a substantial $100,000 per impacted school district. This sum is often 50 percent or more of a school district's total budget, a very important factor in the quality of its educational program.

Yet the Nixon administration persists in its attempts to weaken the impact aid program. Its budget request for fiscal year 1973 is $430.9 million—$415 million under Public Law 874 and $15.9 million under Public Law 815. Thus the Nixon request is more than $180 million below last year's funding level, and is even $9 million below last year's totally inadequate budget request.

The Nixon administration proposes to absorb this substantial cut by doing grave damage to the "B" category of Public Law 874 aid. Two different categories of schoolchildren qualify for impact aid: those who live on Federal property with parents employed by the Federal Government—category "A," and those who live on private property with parents employed by the Federal Government on a Federal installation in the same State—category "B." The President proposes to take eligibility away from all children in category "B" except those whose parents are on active military duty. This "civilian exemption" would have the effect of making three-quarters of those children who qualify under category "B" ineligible beginning July 1, 1972—or, in other words, beginning next academic year.

The effect this proposed change would have on the impact aid program is nothing short of devastation. Of the 2,487,000 children who qualified under Public Law 874 in 1971, 2,100,000, or 84.4 percent of the total, were in category "B." Considering that more than 75 percent of these schoolchildren will lose their eligibility if Congress approves the Nixon proposal, one can comprehend how overwhelming this change would be.

Concurrently the Nixon administration proposes another change in the impact aid program. In January a special task force appointed by the President to study the impact aid program recommended that changes be made in the way school districts apply for eligibility grants. As things are now, 28 field program officers visit school districts in

person, evaluate applications, and report their findings to HEW regional offices. The task force recommended that the tried and tested field program officers be eliminated from the application process, and that school districts submit their applications by mail directly to the HEW regional office. The President has proposed that an experimental version of the new procedure be tried in four regional offices in Boston, Kansas City, Dallas, and San Francisco, beginning on July 1.

School district officials have expressed dismay over this experiment, first, because of the morass of paperwork required under this proposal for making application, and second, because the depersonalized nature of the proposed application process can only detract from the effectiveness of the impact aid program.

From these actions and many others during the past 4 years one must inevitably conclude that the Nixon administration is actively seeking to weaken or, at worst, destroy the impact aid program. By consistently requesting less funds than needed, by complicating and depersonalizing the application process, and now by eliminating from eligibility more than 60 percent of the students who now qualify for Public Law 874 aid, the Nixon administration has demonstrated a hostility to this program which educators and school administrators find difficult to explain and impossible to justify.

All these points were made in testimony before Chairman FLOOD'S subcommittee on May 2. Of particular interest to those of us from the New England area was the testimony of Dr. Charles R. Hand of Ayer, Mass. Dr. Hand is superintendent of schools for the communities of Ayer, Shirley, and Boxborough, and is also regional chairman of the Impacted Area Schools Information Service. Dr. Hand and I have been allies on many matters, and his competence and knowledge are highly respected and highly relied on by those in the New England area.

His statement before the Appropriations Subcommittee offers graphic evidence of the damage wrought to New England's school systems by the Nixon administration's proposed changes in the impact aid program. I urge my colleagues to read Dr. Hand's statement, which follows, and to realize that what is true in New England is true in their area of the country as well:

STATEMENT OF DR. CHARLES R. HAND

MAY 2, 1972.

I am Charles R. Hand, superintendent of schools in Ayer, Boxborough, Shirley, and Fort Devens, Massachusetts, as well as being Region 1 Chairman of Impacted Area Schools representing the New England area. I appreciate the opportunity of appearing once again before this distinguished committee.

I am here to urge full funding for the *A* and *B* category under Public Law 874.

In the six states of New England there are approximately 20,000 Category A students and 85,000 B students. Four hundred and forty-nine school districts benefit from PL 874. The breakdown by states is as follows:

	Number of applicants	Approximate A & B entitlement
Connecticut	47	6,000,000
Maine	82	5,000,000
Massachusetts	215	20,000,000
New Hampshire	60	3,000,000
Rhode Island	24	5,500,000
Vermont	21	200,000

New England needs the Public Law 874 funds. It cannot afford to lose the 3B civilian entitlement under the absorption factor as proposed by the administration. Over 60,000 of the 85,000 B students in New England would be classified as civilian.

What are the alternatives if full funding for Public Law 874 is not forthcoming? Unfortunately, what looms as the most prominent alternative is that of lessening the quality of education.

For example, we find a tax structure within the Commonwealth of Massachusetts that provides for less than 20 percent in state contributions for the cost of education being borne by local communities.

I am aware that there is thinking concerned with help for the local taxpayer in the matter of educational financing other than the property tax. But it is likely to be years away as it lays between the thinking and the actual financing. In the meanwhile the communities within the New England states, as in fact, in all of the nation, must find some way to function financially as well as educationally.

For instance, in Maine the 1972 B payment was $1,353,130 whereas the 1973 proposal is for $507,582; in New Hampshire the 1972 figure was $1,304,607 whereas the 1973 proposal is $413,274; in Vermont the 1972 amount was $129,996 whereas the 1973 proposal is for $52,924; in Massachusetts the 1972 figure was in excess of $10 million whereas the 1973 proposal is in excess of $4 million; in Rhode Island the 1972 amount was $1,927,740 whereas the 1973 proposal is $1,394,986; in Connecticut the 1972 payment was $2,318,194 whereas the 1973 proposal is for $783,596. This amounts to a loss to New England of approximately $10 million.

I urge full payment for the 3(b) students, both civilian as well as military, as a means of maintaining the best efforts toward the best education in the public schools of our nation.

THE NIGHT PASTOR

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HALPERN. Mr. Speaker, I would like to pay tribute today to a man who not only aids the poor and oppressed on a daily basis, but who performs his praiseworthy ministry in a way that is calculated to meet the addict, vagrant, or potential thief on his home ground.

The work hours of "Night Pastor" Bruce Wheeler are 10 p.m. to 4 a.m. Father Wheeler serves the ragged stream of humanity that populates Chicago's Rush Street every night. He counsels them, provides them with food or clothing when they are in need, and steers them toward jobs and the hope of rehabilitation.

The large metropolitan centers of America are filled with crime, addiction, hunger, and poverty. It is due to men like Father Wheeler that some modest inroads are being made toward improvement in the lives of our cities' castaways.

Mr. Speaker, I would like to insert an article which appeared in the Sunday, May 7, edition of the Chicago Tribune. This excellent article, written by James Martin, describes the difficult job of Father Bruce Wheeler—a man who spends six hours each day caring for those whom the rest of society has managed to ostracize.

The article follows:

[From the Chicago Tribune, May 7, 1972]

NIGHT PASTOR TENDS HIS FLOCK IN PRIVATE, PUBLIC, AND PUBS

(By James Martin)

If you stand at the intersection of Rush and Oak streets and look up—just behind the revolving neon hamburger which announces Burger Ville to the world, you will see the modestly-stenciled lettering on a soot-blackened window which reads: Night Pastor—10 P.M.-4 A.M.

It is from behind those letters, in a stifling second floor walk-up over the restaurant, that a small man with thinning grey hear [which makes him look older than his 47 years], a habit for cigars [Goldblatt's seconds], and a tough-talking, easy-going manner, headquarters a unique ministry. He is Father Bruce Wheeler, the Night Pastor of Rush Street. And his congregation is the irregular, informal, ever-changing. and amorphous group of society which populates the Rush Street area during the dark hours of the night and early morning.

His parish bears little semblance to the Episcopal church in Prospect Heights he left two years ago to become Night Pastor upon the death of his predecessor, Father Bob Owen. A leased, cramped, and stuffy six room apartment which could use more than a little renovation, it has only one semi-religious painting among several which dot the otherwise bare walls. There is no pulpit because there is no preaching here; instead there is a pool table and a piano. In the background, it is the sound of progressive rock music from an all-night radio station, not a church choir, which provides the liturgical cant. The services provided are social, not soul-saving.

Father Wheeler is a popular and needed figure amidst the night life of Rush Street. Whether in his office at 30 E. Oak St. or on the streets of his parish, the loney people of the night seek him out, some wishing advice, others comfort or consolation, many a little pocket money for a "flop" or a square meal . . . few have elsewhere to go, and none are turned away. Regardless of their race, age, or religion. Loneliness makes no distinctions; nor does Father Wheeler.

This night, as he does five nights a week a few minutes before 10 p.m., Father Wheeler walks briskly up the one flight of stairs to the apartment he calls his church. He is accompanied by three people, regulars, who have been waiting for him in the downstairs lobby. Familiar with him, and his routine, they patiently take seats in one of the rooms while the Night Pastor changes his vestments and checks in with his answering service—conversing amiably with them from the other room as he does so.

Helen, who has been coming here longer than Father Wheeler, looks and dresses like Marie Dressler in "Tugboat Annie." Fervently believing that the government is trying "to get" her, she takes a seat on one of the several worn sofas, her back to the revolving hamburger and the din of Rush Street's merriment, and talks to herself. Eventually, she will move next to Joe, an unshaven and emaciated man of perhaps 50, who, as he sits staring at the floor, carries one shoe in his

hand because his right foot is heavily swathed in bandages. She will tell him, again, of the conspiracy against her, and how the government—probably the CIA—kidnapped her daughter in 1963. The obsequious Joe, however, will not listen hard . . . he will instead quietly attempt to explain his own personal plight, the bandages.

"Burned out," he mumbles partially to the floor, partially to Helen. "Got burned out of my hotel last night." Altho he won't say so, the fire which burned his foot was probably caused by his smoking in bed.

Pierre, the third member of the group, is a 34-year-old retardee who looks and acts 17. His problem is keeping a job and a roof over his head . . . he needs the Night Pastor as a father figure because he doesn't know where his real father might be. Pierre is the first to see Father Wheeler in his office this night. He enters, hesitantly, scratching himself in several places, often looking downward, shifting his weight from one foot to the other.

"Come on Pierre, come on in," says the Night Pastor. "What can I do for you tonight?"

"Well, Father . . . I wondered if you'd be mad at me if I went to D.C."

"What do you want to go there for?" asks Father Wheeler patiently. "Last week you wanted to go to Kansas City. Now why go to Washington? What's there?"

"The President is there," says Pierre looking up. "I'll ask him for a $100 . . . and maybe I can get me a job."

"You can't get a job in Chicago . . . what makes you think you can get one in Washington?"

"My feet hurt," comes the evasive answer after a moment's pause. "I itch. Ain't had a bath in a week and half. . . . Have you got any money? I wanna get me a hotel . . . get a room . . . and a shower."

"When are you going to get a job? That's what you need now, a job."

"I'm flat broke . . ."

"You've been flat broke ever since I've know you, Pierre. When are you going to get a job? Have you been looking for one? You had a chance to do some day labor . . . why didn't you take that? $1.60 an hour is better than nothing, Pierre.'

"Can you give me $6 for a room?" comes the answer from somewhere around Pierre's shoetops.

"No way, Pierre. There's no way I can give you that much money," answers Father Wheeler turning to a side table. "Here's a meal ticket—have you eaten yet tonight?—go downstairs and get some food before they close."

Pierre, not dissatisfied with the conversation [it's typical and therapeutic], silently accepts the ticket and heads downstairs to Burger Ville, where free meals have been arranged thru the Night Pastor. He is still scratching as he leaves.

"Pierre's up here every night," the Pastor explains when he's gone. "There's nothing that can be done with him except to deal with him on a level he can handle. He can't keep a job, and he doesn't try very hard to find any. But he does listen to me . . . and if I keep after him, he knows that I at least expect something in the way of effort from him.

Joe sees Father Wheeler next. His visit is brief. He wants only a little encouragement, money for a flop [$1 from the ministry's petty cash], and a meal ticket. The Pastor provides all three and Joe limps out the door toward the street as Helen, still talking to herself, enters the office. Having gotten most of what she wants to say off her chest already, her talk with the Pastor is also brief.

"Believe me, Father," she says as the Pastor walks her to the door, "there's people up there in high places that don't believe in God. They're the ones trying to get me. Will you pray for me, Father?"

"Well, I certainly will," comes the answer, "but are *you* praying?"

"Oh, I sure am, Father, I sure am . . . got to. Got to pray or they'll get me sure." Her spirits buoyed, Helen, too, heads out into the night. This will prove to be the only instance the Deity is mentioned in the course of the work night.

"I'm not here to push religion as such at these people," says Father Wheeler. "God knows they have enough problems. Consolation, a roof, a meal—the needs of each are too *immediate* for me to do any long-term work here. I can't give them therapy—I don't deal in therapy—but I can counsel them; I can help for a night. And I can let them know I expect something from them. Once in a while I sneak in a few licks for religion, but that's not a major concern.

"These people don't need preaching. They need to know somebody is there in the desperate hours of the night to listen without telling them they have no problems—because to them, the problems are real and very immediate. So one of my major functions is to listen; and when I give counsel, I must shoot straight with them. I say, 'look, don't b.s. me, and I won't b.s. you. Let's be friends and not lie to each other.' Ultimately, they must solve their own problems, whether it's alcoholism, drug addiction, hooking, joblessness, whatever; but when they come to me they're not ready to make a long-term religious commitment. So what do you do? You give them a meal ticket for downstairs and a couple of quarters to rub together and they go away feeling better than when they came in. What you can't do is to tell them to go home and pray and everything will be all right. That means nothing to them."

Within moments there is another ring. This time it is a couple which walks thru the doors. He is a troubled-looking American Indian. She, a young white girl who clutches his arm tightly.

"How are you two, anyway?" is the greeting from the Pastor. "Are you sober, John?"

"Yes," comes the meek answer with a shake of his head.

"How long you been sober . . . how 'bout you, Bessie . . .?"

"Yes," is the second, almost inaudible answer.

"All I can find is dishwashing jobs, Father."

"Well, John, anything helps," comes the reply. "You don't have to take on the rebuilding of the Kennedy Expressway. You have to take whatever work you can get. Then you can build on that. And you've got to keep off the booze. You won't get any good jobs if you're on the booze."

After several more minutes of counsel, with Father Wheeler doing most of the talking, the couple listening, they quietly walk down the hall and out into the night. "He just needs someone to talk to," explains the Night Pastor. "He just got out of the hospital again, and he's drinking too much. Poor John. He has an incredible ability to get hurt. As fast as he can get healthy and get a job, he re-injures himself and lands back in the hospital. It's almost an unconscious desire to remain a cripple."

At approximately midnight, as he does five nights a week, he walks down the stairs to the streets. They too—at least the streets bordered by Chicago Avenue on the south, Division Street on the north, Michigan Avenue on the east, and LaSalle Street on the west—are his parish. For two hours each early morning the Night Pastor walks slowly thru the city's nightlife center stopping now and then to shake a hand, to give a little comfort, to merely acknowledge someone. Occasionally he ducks into one of the many bars, coffee shops, restaurants, or strip joints which dot the area for a little refreshment and conversation. Not much business is really conducted here—it's more advertising than practical assistance which takes place. But at least he is seen, he reasons, and if so desired, anyone can approach him to arrange an office visit [he makes no appointments, but simply encourages people to drop by anytime].

The first to stop him this night, as he walks north toward the swingin' singles haven of the Division Street area, is a black car attendant who just wants to say hello and shake his hand. No problem this night. The Pastor then turns the corner and heads in the direction of The Gap. As he steps into the lobby of the bar, several young people are just leaving and greet him.

"Hi ya, Padre."

"Take it easy, Father."

Father Wheeler acknowledges each greeting, and, looking into the club, decides not to stop for any length of time. It looks quiet tonight. Instead he walks a little farther down Division and steps into the cavernous Mothers. At the door, the gigantic bouncer who oversees the bar's activity greets him, and they have a short, friendly chat before Father Wheeler enters. Sitting at the bar, surrounded by the "swingles of Rush Street" and an overly-loud juke box, he orders up a Cutty and water to go with his umpteenth cigar of the evening.

"You know," he says, referring back to the many people who visit him, "many of these people have latched onto a way of surviving which we find hard to understand. They make things seem a lot worse for themselves than they often are. Pierre, for instance . . . he's really pretty much of a con man. He knows it, and I know it. And no matter how much he complains, he does all right. He's probably got a place all lined up to stay tonight; but he'll try to get a little money out of me if he can. Helen—she's not in any serious trouble. Her rent's paid every month . . . but she's lonely, and she could use some psychiatric help. She won't admit it, so she comes to me and I listen. But they survive. They're a tough bunch of people for the most part . . . and tho they have their share of problems, they have an instinct to survive that most people don't comprehend."

Father Wheeler tosses down the last of his Cutty and ambles back onto the street, joking with the bouncer on the way out. There is not much action on the street tonight. A few couples pass now and then, on their way to the next night spot. Most acknowledge the Night Pastor. Back up Rush, walking south, peering into the many shop windows, nodding to passing individuals, he walks past Mister Kelly's toward the more garish section of go-go and burlesque joints. He is stopped by the hawker outside one, Bourbon Street, who wants him to come in.

"It would be an honor if you'd stop in and say hello to some of the girls, Pastor," he says. "I think a couple of them would like to talk with you."

Father Wheeler is pondering whether or not to enter when a man, who is having trouble walking upright, approaches and, spotting the clerical collar, accosts him verbally.

"Sayyy," he slurs, his eyes slipping shut with every other word, are you a ——— Catholic?"

"No," answers the Night Pastor, whose seven and a half years in the Navy exposed him to almost every type of language and activity, "I'm an Episcopalian."

"Well I'm a ——— Catholic . . . I saw your collar, thought you were too . . ."

"Pastor," interjects the hawker trying his best to ignore the other fellow, "It'd be a privilege to have you come in for a while . . ."

"Sayyy," counters the drunk, "are you the Night Pastor? I heard a you . . . it's pleasure t' meet ya. My name's Al, Father, put 'er there. I'm gonna come and see ya some time, Father."

Father Wheeler, upon the third plea from the hawker, decides to enter the club and heads up the steps. Al has decided to enter with him.

"Is he with you?" asks the hostess at the door.

"Sure, why not?" answers the Night Pastor looking at Al, who is listing severely to his right. The two are led to a table by a pretty, young waitress named Jo-An, who knows the Pastor from earlier talks.

"Nice to see you again, Father," she says. "I've been meaning to come and see you for some time . . . I just haven't gotten around to it."

"Anytime you're ready, Jo-An. I'm always available; just stop by the office."

Another Cutty and water is ordered up along with one for new friend Al, who, altho he is having trouble talking, is doing a good job of blubbering all over everyone else's conversation.

Onstage, under the garish pink lights which give everyone and everything an illusory look, one girl after another, each more bored than the last, is going thru her routine to the uneasy delight of several tables full of young men. Just behind the Pastor's table, a short scuffle breaks out between an unescorted woman and a man at the bar—the girl is asked to leave.

The Pastor shrugs . . . "she was looking for trouble," he says.

Midway thru the fifth girl's act, just as she is yawningly getting down to her pasties, a girl sitting at the table next to Father Wheeler's asks to see him. He excuses himself and joins her for what proves to be a long, troubled discussion of the girl's problems. While he's gone, friend Al leaves—without paying for his drink. The conversation, which is serious, keeps the Night Pastor long past 2 a.m., the time at which he is due back in his office. When he returns to his table, he quickly picks up the tab [including Al's], says goodbye to Jo-An, and walks briskly back to 30 East Oak.

Back in the office it's relatively quiet. The in-office traffic has been heavy the early part of the shift, but the phone has not been ringing much. A pool game sounds good to the Pastor.

As we rack the balls, Rush street is entering that twilight period between closings and re-awakening. People are seeking out all-night diners for ham and eggs and Alka-seltzer on the side. Pedestrian traffic, which never stops completely during the early hours, is picking up again. Upstairs, at the Night Pastory, the telephone is ringing.

"You know," Father Wheeler says when he returns from the phone to pick up his pool cue, "I can generally get a good deal accomplished on the phone. It's surprising how many people will call me from all over Chicago, which means I don't have to limit my services to just this Rush Street area. Many of my regular callers are from the suburbs. I even have one in Kenosha, Wis., who calls every week. Once, I had a guy call me from Miami. I'd never spoken with him before, but it seems he had heard about the Night Pastor from someone, and one night when he was troubled, he called."

Father Wheeler makes one quick sweep of the apartment rooms, picking things up a little, turning off lights, getting it ready for the next work day. It has been a fairly busy night for him, altho the telephone calls were fewer than usual; and as he lights up one last cigar he looks tired.

At 4 a.m., the Night Pastor of Rush Street locks up, walks a few blocks to his Toyota in the early morning light, and drives home.

CENTER FOR DEFENSE INFORMATION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ROSENTHAL. Mr. Speaker, the need for independent sources of information on our defense establishment is familiar to anyone who has ever tried to raise honest questions about that establishment. Members of Congress and even the concerned committees of Congress have difficulty in obtaining information from the Defense Department when DOD judges the request antagonistic or even indifferent to the Pentagon mystique.

This is just one reason why I welcome the establishment of the Center for Defense Information which recently opened its offices on Capitol Hill at 201 Massachusetts Avenue NE. The center, under the able direction of Rear Adm. Gene R. La Rocque, U.S. Navy, retired, will provide a continuing analysis of the defense budget and detailed studies on specific weapons systems. The center will also publish regularly a newsletter. The Defense Monitor, the first issue of which has just appeared.

The Center for Defense Information is also available to congressional offices for individual requests for defense information. I hope it has a long and successful life.

Below is the first edition of the Defense Monitor:

THE SOVIET NAVAL THREAT: REALITY AND ILLUSION

Admiral Thomas H. Moorer, Chairman of the Joint Chiefs of Staff, has told Congress that "a major shift in the naval balance between the United States and the Soviet Union is taking place.

"Unless we accelerate the modernization of our fleet," he told the Senate Armed Services Committee on February 15, 1972, "the Soviets will increasingly challenge our control of the seas in those maritime regions essential to the success of our forward defense strategy, as well as in ocean areas closer to our shores."

On the basis of these arguments, the Defense Department has asked Congress for $9.7 billion in new Navy procurement funds for fiscal 1973, about $1 billion more than in 1972, which was in turn about $1 billion more than in 1971. These funds are part of a Navy's "modernization" program: 42 major combat ships and 21 submarines now under construction or authorized by Congress and more than 60 major surface ships and a new fleet of ballistic missile submarines contemplated (see tables 4 and 5).

The Center for Defense Information has made its own study of the naval balance and has reached the following conclusions:

The balance is heavily in favor of the United States.

The Soviet Union is doing little which would significantly change the balance in the next few years.

There is little evidence to support the request for a large increase in money for ships designed to project US power overseas and to greatly expand US strategic weapons capability.

A LOOK AT THE BALANCE

Defense Department testimony to Congress on the Soviet naval threat stresses such trends as an increase in the number of Soviet major combat surface ships in the last five years (from 185 to 215, including two new helicopter carriers, seven new missile cruisers, 18 new missile destroyers and 36 new escorts). It stresses Russia's numerical advantage in submarines (about 343 Soviet to 138 US), new Soviet anti-ship missiles, and increases in Soviet naval operations in the world's oceans.

But these presentations fail to give a fair picture of the relative strengths of these two navies. The diagrams and data on the following pages give a fair picture. They show that:

1. The Soviet Union has no nuclear-powered combat surface ships and is not reported to be building any. The United States has four and is building seven more.

2. The United States has 14 attack aircraft carriers which carry from 40 to 90 jet aircraft each, used for striking land or sea targets. Two nuclear carriers are under construction. The Soviet Union has no attack carriers and no sea-based fixed-wing aircraft. The Defense Department has asked for funds in 1973 to start building the power plant for a fourth nuclear attack carrier. It also has asked for funds to design a new fleet of at least eight smaller follow-on carriers to be called Sea Control Ships.

3. The United States has two anti-submarine carriers which carry helicopters and fixed-wing anti-submarine aircraft. The Soviets have two anti-submarine carriers which are actually cruisers with large helicopter landing decks. One 35,000-ton ship is under construction in the Soviet Union which may be a carrier or some other type of ship.

4. The United States has seven "assault" helicopter carriers designed to move marines ashore. Five more, twice the size of the existing ones, are under construction. The Soviet Union has no comparable ships.

5. The United States has nine cruisers. The Soviets have 25. But four of the Soviet cruisers are pre-World War Two and are probably being retired. Ten of the Soviet cruisers are smaller than many US destroyers. The US Navy wants to build two 2200-ton prototypes of what would eventually be a cruiser-size hovercraft called a "surface effects ship."

6. Soviet missile-firing destroyers are fewer and smaller than their US counterparts. Congress has already authorized 30 new destroyers (DD963 Spruance Class), which are larger than any destroyers of the Soviet Union. The US Navy is asking for funds for 50 new "patrol frigates" which will be larger than most Soviet destroyers. By the late 1970s all US destroyers and patrol frigates are to be equipped with the new Harpoon surface-to-surface missile.

7. The present US fleet of 41 strategic ballistic missile submarines has 2800 separately targetable warheads.[1] Russia's ballistic missile submarines have about 500 warheads (see Table 1). Also, a greater percentage of the US ballistic missile submarines are on station at a given time than is the case with the Soviet submarines. By 1976, the number of separately targetable US submarine-launched warheads will increase to almost 7000. This figure does not reflect the proposed new UL-MS ballistic missile submarine system which will be the subject of a subsequent edition of *The Defense Monitor*.

8. The Soviets have a fleet of 68 submarines armed with anti-shipping "cruise" missiles. The United States decided in the 1950s not to develop a capability in this area and abandoned its Regulus missile program. Recently, the Pentagon decided to go ahead with development of a new cruise missile for a new attack submarine.

9. The US has more than twice the number of nuclear-powered attack submarines as the Soviet Union. The Russians have 190 diesel attack submarines as compared to 41 for the US, but these are being phased out of both navies. The total number of Soviet at-

[1] To put in context with overall US strategic capability, Secretary Laird gave these comparative figures for nuclear weapons for mid 1972: Total offensive strategic weapons (warheads): US 5700; USSR 2500.

tack submarines has decreased from 430 in 1960 to 283 in 1972, and Admiral Moorer states that he expects this number will continue to decline as newer submarines are introduced at a slower rate than older units are withdrawn. The US is building a new class of nuclear attack submarines (SSN 688 Los Angeles Class).

CONSTRUCTION

Admiral Moorer told Congress: "The rate of modernization in the Soviet surface fleet is expected to accelerate during the next few years."

The Russians are building mainly light cruisers and destroyers. These include Kresta II cruisers, and Krivak and Kashin destroyers. Recently these have been built at a rate of about one per year in each class. Defense Department reports have suggested another "possible" cruiser construction program and a "possible" carrier.

But in view of the US construction program already in progress, Soviet "acceleration" would have to be enormous to make a significant difference in the overall balance.

REGIONAL BALANCES

When talking about a shifting balance, Defense Department witnesses limit themselves to comparing the US and Soviet navies. Yet, many NATO allies have modern effective navies that must be taken into account. When NATO and Warsaw Pact forces are compared the balance clearly favors NATO (see Table 2).

The balance is even more striking when naval forces in the Mediterranean, for example, are examined alone (see Table 3). (Not shown in the table are the more than 50 small patrol boats armed with anti-ship missiles which the Soviet Union has given many of her allies in the area. These boats normally operate relatively near shore.)

OTHER FACTORS

The map on page seven (not reproducible in the Congressional Record) shows that Soviet fleets suffer geographic and climatic handicaps—limitations not faced by the US Navy. Some fleets are partially iced-in during winter. Others can be bottled up in home waters because of narrow passages through which they must travel. These "choke point" also facilitate NATO's monitoring of Soviet fleet movements.

In discussing the US–USSR naval balance, Defense Department witnesses neglect to consider the US Coast Guard—a force which possesses over 50 ocean-going cutters of naval destroyer size, armed with guns and anti-submarine weapons.

CONCLUSIONS

The overall naval balance favors the United States. The Soviet Union is not likely to change this status in the near future.

The naval "balance" argument does not, therefore, justify, by itself, the kind of naval buildup which the Defense Department has under way now or plans in the future. However, Defense Department testimony makes clear that the Navy has other purposes in mind. Admiral Elmo R. Zumwalt, Jr., Chief of Naval Operations, told Congress that the Navy's four "capabilities" are:

"Assured second strike" (This refers to the Polaris-Poseidon fleet retaliating with strategic missiles after a Soviet nuclear attack on the United States.

"Control of sealines and areas".

"Projection of power ashore".

"Overseas presence".

The first "capability" is defensive. In view of the overwhelming second strike capability which the US possesses, the new ULMS program is not needed at this time. The American public deserves a much clearer definition of the other Navy "capabilities": What kind and degree of "control of the seas" has the US decided to pursue? Under what conditions and in what areas of the world will it "project power ashore"? What portion of the present Navy and what portion of the "modernization" program is designed for overseas presence? These are questions which must be publicly asked and answered before additional programs are approved by Congress.

"Every addition to defense expenditure does not automatically increase military security. Because security is based upon moral and economic, as well as purely military strength, a point can be reached at which additional funds for arms, far from bolstering security, weaken it." President Eisenhower.

TABLE 1.—CURRENT BALLISTIC MISSILE SUBMARINE COMPARISON

Type	Number of submarines	Missile type	Missile range	Number of launchers per submarine	Total number of launchers	Number of independent warheads per submarine	Total number of warheads
United States:[1]							
Poseidon	12	Poseidon	2,500 nm	16	192	192	2,304
Polaris	21	A-3	2,500 nm	16	336	16	336
Polaris	8	A-2	1,500 nm	16	128	16	128
Total	41				656		2,768
U.S.S.R.:[2]							
Yankee	26	SS-N-6 (Sawfly)	1,300 nm	16	416	16	416
Hotel II	9	SS-N-5 (Serb)	650 nm	3	27	3	27
Golf II	25	do	do	3	75	3	75
Total	60				518		518

[1] Figures as of June 1972. [2] Figures as of February 1972.

TABLE 2.—MAJOR NAVAL COMBATANT COMPARISON (FIGURES AS OF FEBRUARY 1972)

NATO

	Totals	United States	United Kingdom	France	Canada	Denmark	Netherlands	Italy	Norway	Portugal	Greece	Turkey	West Germany
Attack and ASW carriers	20	16	2	2	0	0	0	0	0	0	0	0	0
Helicopter carriers	12	7	3	2	0	0	0	0	0	0	0	0	0
Cruisers	16	9	3	2	0	0	2	0	0	0	0	0	0
Destroyers and escorts	460	214	76	48	20	2	18	24	5	11	12	10	20
Submarines	259	138	34	20	4	6	5	10	15	4	2	10	11
Total	767	384	118	74	24	8	25	34	20	15	14	20	31

WARSAW PACT

	Totals	U.S.S.R.	Bulgaria	Czechoslovakia	East Germany	Hungary	Poland	Rumania
Attack and ASW carriers	0	0	0	0	0	0	0	0
Helicopter carriers	2	2	0	0	0	0	0	0
Cruisers	25	25	0	0	0	0	0	0
Destroyers and escorts	206	195	2	4	3	0	2	0
Submarines	350	343	2	0	0	0	5	0
Total	583	565	4	4	3	0	7	0

TABLE 3.—MAJOR NAVAL COMBATANTS IN MEDITERRANEAN AREA

	NATO AND U.S. ALLIES					WARSAW PACT AND U.S.S.R. ALLIES					
	Totals	NATO[1]	Spain[2]	Israel	Morocco	Totals	W.P. (U.S.S.R.)[3]	Egypt	Yugoslavia[4]	Albania[4]	Others[5]
Attack and ASW carriers	5	4	1	0	0	0–0	0–0	0	0	0	0
Helicopter carriers	3	3	0	0	0	0–1	0–1	0	0	0	0
Cruisers	3	2	1	0	0	2–4	2–4	0	0	0	0
Destroyers and escorts	106	86	17	2	1	14–17	5–8	7	2	0	0
Attack submarines	47	41	3	3	0	27–32	7–12	12	5	3	0
Totals	164	136	22	5	1	43–54	14–25	19	7	3	0

[1] NATO includes US 6th Fleet; United Kingdom forces normally in the area; one-half of the French Navy; and the naval forces of Italy, Greece, and Turkey.
[2] One-half of the Spanish Navy.
[3] U.S.S.R. totals are normal and highest observed.
[4] Yugoslavia and Albania are included though the political situation with the U.S.S.R. may be strained at the moment.
[5] Others include Syria, Libya, Algeria, Tunisia, and Lebanon.

TABLE 4.—SUMMARY OF MAJOR U.S. COMBATANT SHIPS AUTHORIZED OR PRESENTLY UNDER CONSTRUCTION

2—Nuclear Attack Carriers.
5—Large Amphibious Helicopter Assault Carriers.
5—Large Nuclear Guided Missile Destroyer Leaders.
16—Large All-Purpose Destroyers (DD963 Spruance Class).
14—Large Escorts (DE1052 Knox Class).
12—Large Nuclear Attack Submarines (SSN688 Los Angeles Class).
9—Medium Nuclear Attack Submarines (SSN637 Sturgeon Class).

TABLE 5.—SUMMARY OF MAJOR U.S. COMBATANT SHIPS FISCAL YEAR 1973 REQUESTED

$299 million for long lead items for one additional nuclear attack carrier (CVN-70). (Eventual total program will cost an estimated $951 million.)

$10 million for contract design for a "first buy" of eight new follow-on carriers called Sea Control Ships (SCS). (Eventual total program will cost an estimated $1 billion.)

$50 million for two 2200-ton prototypes of a new major surface combatant called Surface Effect Ship (SES), which will be a large hovercraft. (Eventual total program cost is not available.)

$945 million for advanced development of a new strategic-missile nuclear submarine called Undersea Long-Range Missile System (ULMS). (Eventual total program will cost an estimated $11.2 billion as "presently constituted.")

$612 million for procurement of seven additional all-purpose destroyers of the DD963 Spruance Class. (Eventual total program will cost an estimated $2.7 billion.)

$192 million for the lead ship of a new fifty ship class called Patrol Frigate (PF). (Eventual total program cost is estimated at $2.4 billion.)

$1.05 billion for procurement of six additional nuclear attack submarines of the SSN-688 Los Angeles Class. (Eventual total program will cost an estimated $6.8 billion.)

(All total program cost estimates are based on Department of Defense figures.)

TABLE 6.—UNITED STATES AND U.S.S.R. MAJOR NAVAL COMBATANTS

[Figures as of February 1972]

	United States	U.S.S.R.
Surface:		
Aircraft carriers	16	0
Helicopter carriers	7	2
Cruisers (with missiles)	8	11
Cruisers (without missiles)	1	14
Destroyers and escorts (with missiles)	65	40
Destroyers and escorts (without missiles)	149	155
Surface total	246	222
Submarines:		
Nuclear submarines (with ballistic missiles)	41	[1] 35
Diesel submarines (with ballistic missiles)	0	25
Nuclear attack submarines (with cruise missiles)	0	[1] 40
Diesel attack submarines (with cruise missiles)	0	28
Nuclear attack submarines (without missiles)	56	25
Diesel attack submarines (without missiles)	41	190
Submarine total	138	343
Major naval combatant total	384	565

[1] Estimate.

TABLE 7.—UNITED STATES AND U.S.S.R. MAJOR NAVAL COMBATANTS

[Figures as of February 1972]

UNITED STATES

Number of ships	Class or type	Tonnage	Status	Operational dates
	NUCLEAR AIRCRAFT CARRIERS			
1	Enterprise	75,000	Active	1961.
2	Nimitz	81,000	Under construction	1974–6.
1	Nimitz	81,000	Requested FY 1973, $229 million for long lead items (Est. total cost—$951 million).	
	CONVENTIONAL AIRCRAFT CARRIERS			
4	Kitty Hawk	60,100	Active	1961–8.
4	Forrestal	59,650	do	1955–9.
3	Midway	51,000	do	1945–7.
2	Hancock	32,800	do	1944–50.
2	Essex	32,800	do	1943–5.
8	Sea Control Ship	17,000 (estimated).	Requested fiscal year 1973, $10 million for contract design (estimated total cost—$1 billion).	Late 1970's.
	HELICOPTER CARRIERS			
7	Iwo Jima	17,000	Active	1961–70.
5	Amphibious assault ship.	35,000 (estimate).	Under construction	1973–6.
	NUCLEAR CRUISERS			
1	Long Beach	14,200	Active	1961.
	CONVENTIONAL CRUISERS			
1	Salem	17,000	Active	1949.
3	Albany	13,700	do	1945–6.
4	Cleveland	10,670	do	1944–5.
7	Surface effect ship (hovercraft).	10,000 estimated).	Requested, fiscal year 1973, $50 million for two 2,200 ton prototypes (estimated total cost—not available.)	Late 1970's.
	NUCLEAR DESTROYERS			
5	California	9,000 (estimate)	Under construction	1972–5.
1	Truxton	8,200	Active	1967.
1	Bainbridge	7,600	do	1962.
	CONVENTIONAL DESTROYERS AND ESCORTS			
63	Missile Destroyers	3,370–6,570	Active	1953–67.
30	Spruance [1]	6,000 (estimate)	Under construction	late 1970s.
50	Patrol Frigate	3,400 (estimate)	Requested fiscal year 1973 $192 million for lead ship.	late 1970s.
46	Knox	3,011	Active (14 still under construction).	1971–2.
	(The United States has about 115 additional older destroyers and escorts.)			
	NUCLEAR SUBMARINES WITH BALLISTIC MISSILES			
41	Polaris/Poseidon	5,900–7,320	Active	1959–67.
?	ULMS	16,000 (estimate).	Requested fiscal year 1973 $945 million for advanced development (estimated total cost—$11.2 billion).	Late 1970s.
	DIESEL SUBMARINES WITH BALLISTIC MISSILES			
	None.			
	NUCLEAR ATTACK SUBMARINES WITH CRUISE MISSILES			
	None.			
	(The United States decided not to pursue this weapon system in the late 1950's, but a cruise missile weapon system is presently under development.)			
	DIESEL ATTACK SUBMARINES WITH CRUISE MISSILES			
	None.			
	NUCLEAR ATTACK SUBMARINES			
56	Sturgeon and others	2,317–3,860	Active (more under construction).	1954–?
12	6,000 estimated	Los Angeles	Under construction (6 more requested in fiscal year 1973 budget).	1967–?
	DIESEL ATTACK SUBMARINES			
41	Guppy and others	1,850–2,145	Active (but being deactivated).	1943–59.

[1] The surface-to-surface missile (Harpoon) will be put on these units and almost all other destroyers by the late 1970s. These units are shown because of this fact and their large size.

Note: All total program cost estimates are based on Department of Defense figures.

U.S.S.R.

Number of ships	Class or type	Tonnage	Status	Operational dates
	NUCLEAR AIRCRAFT CARRIERS			
None.				
	CONVENTIONAL AIRCRAFT CARRIERS			
None.				
	HELICOPTER CARRIERS			
2	Moskva [1]	15,000	Active	1967–8.
1	Possible carrier or merchant ship.	35,000 (estimate).	Under construction	late 1970's.
	NUCLEAR CRUISERS			
None.				
	CONVENTIONAL CRUISERS			
10	Sverdlov	15,450	Active	1951–60.
1	Dzerzhinski	15,450	do	1962.
2	Chapaev	11,500	"Probably" being deactivated (old).	1948–50. [2]
1	Missile cruiser	9,000 (estimate)	Under construction	late 1970's.
2	Kirov	8,500	"Probably" being deactivated (old).	1938–44.
	(The following Soviet cruisers are smaller in size than U.S. destroyers.)			
2	Kresta II	6,000	Active	1968-?.
4	Kresta I	5,140	do	1967–8.
4	Kynda	4,800	do	1962–5.
	NUCLEAR DESTROYERS			
None.				
	CONVENTIONAL DESTROYERS AND ESCORTS			
40	Missile destroyers	2,850-5,200	Active	1954-?.
	(The U.S.S.R. has about 155 additional older non-missile destoyers and escorts. Some are being converted to missile ships.)			
	NUCLEAR SUBMARINES WITH BALLISTIC MISSILES			
35	Yankee	7,300	Active	1969-?.
	Hotel II	3,700	do	1961-?.
	DIESEL SUBMARINES WITH BALLISTIC MISSILES			
25	Golf II	2,300	Active	1950–65.
	NUCLEAR ATTACK SUBMARINES WITH CRUISE MISSILES			
40	Echo I+II	5,000	Active	1961–8.
	Charlie	4,000	do	1969–?.
	DIESEL ATTACK SUBMARINES WITH CRUISE MISSILES			
28	Juliett	2,200	Active	1962–7.
	Whiskey	1,200	do	1950–7.
	NUCLEAR ATTACK SUBMARINES			
25	Victor	3,600	Active	1969–?.
	November	3,500	do	1959–65.
	DIESEL ATTACK SUBMARINES			
190	Fox Trot and others	650–2,000	Active (most being deactivated).	1950–67.

[1] Cruiser forward with large ASW helicopter deck aft.
[2] Construction began in 1938.

Note: (Question marks denote continuing construction.)

In addition to the over-all numerical superiority of the US major naval combatant force and its preponderance of strength in ballistic missile capability, the US Navy also enjoys fewer climatic and geographic limitations in its normal fleet operations. The Soviet North and Pacific Fleets are restricted by severe winter weather. The Baltic and Black Sea Fleets can easily be blocked if necessary to prevent them from exiting their home waters into international seas. Also, due to geographic factors, it is easier for NATO to keep the Soviet fleets under surveillance than it is for the Soviets to maintain continuous surveillance of NATO naval operations.

TABLE 8.—UNITED STATES AND U.S.S.R. FLEET OPERATIONAL COMPARISONS

UNITED STATES				U.S.S.R.			
Normal operations	Estimated number of major units	Major facilities	Climatic or geographic limitations	Normal operations	Estimated number of major units	Major facilities	Climatic or geographic limitations
1st Fleet: Extensive training operations in eastern Pacific yearround.	125	San Diego, Long Beach, San Francisco.	None.	Black Sea Fleet: Normal in-area training experience in Black Sea year-round. Extensive deployments to Mediterranean Sea. Infrequent operations in Atlantic or Caribbean Sea.	123	Batumi, Sevastopol, Novorossik (U.S.S.R.).	Narrow exit via Turkish Straits.
7th Fleet: Extensive training operations in Western Pacific yearround. Frequent operations in Sea of Japan and South China Sea. War operations in Gulf of Tonkin and Philippines Sea. Infrequent operations in Indian Ocean. Patrols US Trust Territory of the Pacific Islands.	61	Pear Harbor, Guam, Midway, Japan, Phillippines, Formosa, Vietnam.	Do.	Mediterranean Fleet: Normal operations in Eastern and Central Mediterranean Sea. Extensive time spent at anchorages or in ports. Submarines deploy from North or Baltic Fleets. Most surface combatants deploy from Black Sea Fleet.	21	Egypt	Narrow entrance via Strait of Gibraltar and Turkish Straits.
2d Fleet: Extensive training operations in western Atlantic, Norwegian and North Seas, and in the Caribbean Sea year-round. Annual operations around South America. Deploys to Mediterranean Sea and to the Indian Ocean.	179	Norfolk, Newport, Charleston, Mayport, Key West, New London, Spain, Scotland, Iceland, Cuba, Bermuda, Puerto Rico, Azores.	Do.	Baltic Fleet: Normal in-area training operations in Baltic Sea year-round. Out-of-area operations in North Sea. Infrequent operations in the North Atlantic or Caribbean Sea.	74	Riga, Kaliningrad (U.S.S.R.).	Partial winter freeze in both ports. Narrow exit via The Sound.
6th Fleet: Extensive training operations throughout the Mediterranean Sea year-round. Quarterly deployment of 2–3 destroyers into the Black Sea.	[1] 23	Ports in Italy, Greece, France, Spain, Turkey, Malta.	Narrow exit via Strait of Gibraltar.	North Fleet: Normal in-area training operations in White and Barents Seas during summer months. Out-of-area exercises in Norwegian Sea. Infrequent operations in North Atlantic and Caribbean Sea.	197	Kola, Murmansk Severodvinsk (U.S.S.R.).	Partial winter freeze in all ports.
Middle East Force: Normal training operations in Persian Gulf	2	Bahrein, Diego Garcia (Indian Ocean).	Narrow exit from Persian Gulf via Strait of Hormuz.	Pacific Fleet: Normal in-area training operations in Seas of Japan and Okhotsk. Infrequent out-of-area operations in North and Central Pacific during summer months only. Deployments in the Indian Ocean.	161	Vladivostok, Nakhodka, Petropavlovsk (U.S.S.R.).	Partial winter freeze in all ports. Narrow exits via Kuril Islands and Korea and Tsugaru Straits.
				Indian Ocean detachment: Extensive time spent at anchor in the Socotra Island area, or in Seycnelles and Maldvie Islands. Minor training operations in Arabian Sea.	5	None. Use friendly ports for support.	Narrow entrance via Strait of Malacca. Long distance from Pacific and North Fleets.
				Guinea Patrol: Off west coast of Africa	3	None. Use Conakry, Guinea for support.	None.

[1] Includes two attack carriers and amphibious landing ships with embarked Marine Battalion Landing Team.

THE CENTER FOR DEFENSE INFORMATION

The enormous size and complexity of the military effort in this country has outrun the institutions established for citizen understanding and control of public policy. An informed public opinion on national defense and foreign commitments in lacking in our society.

For these reasons the Center for Defense Information has been established. The Fund for Peace has encouraged and made possible the initiation of this Center. Further funding will be provided by private foundations and interested individuals. The Center will be under absolutely no financial or other obligation to any government, military, industrial or individual special interest.

The Center will concentrate exclusively on analyzing and circulating public information on matters of national defense and over-

seas commitments, as well as scrutinizing our national defense program on a day-to-day basis. Its appraisals will challenge existing assumptions about national defense and provide the basis for rational alternative policies and budgets, to be measured against those of the Department of Defense.

The Center will disseminate its research and information to the broadest public possible through position papers; a journal, *The Defense Monitor*, of which this is the first edition; and material designed for the news and other media. In addition, the Center will respond to requests for information on defense matters. Future editions of *The Defense Monitor* will include analysis of the defense budget, ULMS (Underwater Long-range Missile System), the B-1 Bomber technological superiority, the proposed attack carrier, U.S. forces overseas and military commitments to foreign nations, as well as other topics of vital national and military concern.

The Center and its rapidly developing inventory of information will be a reliable and non-partisan resource for all individuals and groups insisting upon a military that will genuinely defend and strengthen American society not weaken it by overcommitments and waste of resources.

THE STAFF

Rear Admiral Gene R. La Rocque, US Navy (Ret.) *Director*.

Lindsay Mattison, *Assistant Director*.

Donald May, *Assistant Director*.

Sally Anderson, Robert Berman, David Johnson, William Ronasaville, Dean Rudoy, Judith Weiss.

Rear Admiral Gene R. La. Rocque retired from the United States Navy on April 1st, 1972 to become Director of the Center for Defense Information.

He commanded destoyers in the Pacific in World War Two and holds the Bronze Star and Navy Commendation Medal. He commanded a fast carrier task group with the Sixth Fleet, a divsion of destroyers, a cruise and Cruiser-Destroyer Flotilla. He served on the staff of the Naval War College, and more recently, in the Strategic Plans Division of the Joint Chiefs of Staff. Admiral La Rocque recently received the Legion of Merit and left his position as Director of the Inter-American Defense College to direct the Center for Defense Information.

HOUSE OF REPRESENTATIVES—*Tuesday, May 9, 1972*

The House met at 12 o'clock noon.

Dr. Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

Our help is in the name of the Lord, who made heaven and earth.—Psalm 124: 8.

Eternal God, we need Thee in our troubles, for they are many. We are burdened with the perplexities and problems that destroy our peace. In this hour when our world is sobered by fear and uncertainty, we pray not only for our Nation but for all nations.

Grant wisdom to those upon whom rest our Nation's responsibilities. We pray that decisions will be made that will open doors where we thought there was no way out. Help us to do the right thing that will bring peace at last with promise of justice and human decency and freedom. Forgive and overrule our mistakes.

Please, God, meet our needs this day and be to us as to our fathers, our strength, hope, and victory. In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

THE LATE HONORABLE WILLIAM ROBERT WILLIAMS

The SPEAKER. The Chair recognizes the gentleman from New York (Mr. PIRNIE).

Mr. PIRNIE. Mr. Speaker, it is with sorrow that I rise to announce the passing this day of a former Member of this body from the district I now represent, the Honorable William Robert Williams of Cassville, N.Y. Born on August 11, 1884, in Brookfield, N.Y., Mr. Williams spent almost a quarter of a century in public office. During that time he won and held the respect of all who worked with him. He was a rugged, dependable, public servant.

Mr. Williams' public life began in 1935 when he became a member of the assembly of the New York State Legislature. He served his constituents faithfully as assemblyman and in 1943 he was elected to the post of sheriff of Oneida County.

Following 8 years of courageous service to the public in this position, Mr. Williams, in November of 1950, was elected Member of Congress from what was then the 34th District of New York. It was indeed a proud day for his wife and three children when he took his oath of office in Washington, D.C., on January 3, 1951.

A farmer by vocation, Congressman Williams loved nothing better than to spend the days when Congress was not in session at his farm in Cassville, visiting his friends and neighbors. This interest in farming led naturally to a seat on the House Agriculture Committee where he served ably from the 82d through the 85th Congress.

In 1958 he announced that he would not be a candidate for reelection. At age 74, he felt that it was time for a younger man to take over and he gave generous and enthusiastic support to my candidacy to succeed him. At the end of his term he retired to his farm. Sadly, it was only a short time before his loving wife was stricken with a fatal illness. During his last years he has had the loving care of his two daughters, Jane Hurn of Cassville, N.Y., and Helen Pughe of Sauquoit, N.Y.

Congressman Williams never actively sought the glaring spotlight of political acclaim. He left the cheers and jeers to others, contenting himself with playing the supporting role without which this Government of ours simply could not function. His unfailing devotion to the Republican Party continued throughout his life.

He loved his country and served it faithfully. No higher tribute can be paid to any man. I am sure that many Members will join me in extending to his family and friends our deepest sympathy in their loss. We will long remember this strong, yet kindly friend who handled his personal and public relationships with such admirable fidelity.

GENERAL LEAVE

Mr. PIRNIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks in the RECORD on the life, character, and service of our late colleague, William R. Williams.

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

There was no objection.

STRONG OPPOSITION TO NEW ESCALATION

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

Mr. DOW. Mr. Speaker, an inflexible President, unable to accept the failure of his own policies, has brought us to an eyeball confrontation with Soviet Russia. It is not the same as the Cuban crisis. There the right circumstances were on our side. Today, the right of the issue and the circumstances are not all on our side. This is America's tragedy. Led by headstrong leaders, like Nixon, insensitive to the aspirations of peasant peoples around the globe, we have come to this shameful reliance on force alone to gain our purposes.

Nixon has given an ultimatum to the Soviet ships in Haiphong Harbor to leave within 3 days. If blockade was such an easy measure to use, why was it not employed before? There must have been a reason.

President Nixon has always had the idea that Moscow could turn the Vietnam war on and off. So he is throwing a direct challenge at Russia more than North Vietnam. For this misreading of the facts by the President, we may all pay a fearful price.

The President is taking a risk of exterminating our civilization for a shabby purpose. He appears as a pious man, but the fact is that he is leading us down the road of evil where might makes right. To our everlasting grief, we may find that might does not make right.

Acting like a despotic monarch, the President has bypassed the intent of the Constitution, by making this grave decision without consulting the Congress.