QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1187

Mr. ROBERT C. BYRD. Mr. President, I submit an amendment in the second degree to the Church-Case perfecting amendment, No. 1186, which I ask the clerk to report.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an amendment to the Church-Case amendment, No. 1186, in the second degree as follows:

After the word "reaching" insert "cease-fire and".

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have order? I will state the program for tomorrow.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I will state the program for tomorrow, such as I can foresee.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders tomorrow under the standing order there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, and that at the conclusion of that period for the transaction of routine morning business the Chair lay before the Senate the unfinished business.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow would seem to be as follows:

The Senate will convene at 12 o'clock noon. After the two leaders have been recognized under the standing order there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 3526, to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The pending question at that time will be on the adoption of the amendment in the second degree, No. 1187, offered by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) to the Church-Case perfecting amendment No. 1186 to the language in S. 3526 proposed to be stricken by the Stennis amendment No. 1175.

May I inquire of the Chair if my statement is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The Senate should anticipate further debate on the pending question and there possibly could be rollcall votes tomorrow. Of course, tabling motions are in order at almost any time, and rollcall votes could occur thereon. Conference reports, being privileged matters, of course, can be called up at almost any time if and when ready.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 6:26 p.m., the Senate adjourned until tomorrow, Wednesday, May 10, 1972, at 12 noon.

NOMINATION

Executive nomination received by the Senate May 9, 1972:

John Y. Ing, of Hawaii, to be Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1972, vice Elmer T. Klassen, resigned.

EXTENSIONS OF REMARKS

THE LOSS OF LIBERTY IN ROME DURING THE DAYS OF CICERO

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 9, 1972

Mr. HARRY F. BYRD, JR. Mr. President, a recent edition of the Charleston, S.C., News & Courier included an interesting editorial describing the loss of liberty in Rome during the days of Cicero.

The conditions which Cicero attacked would seem to have some parallels in modern America.

I ask unanimous consent that the editorial, entitled "Ancient History," be printed in the Extensions of Remarks.

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

[From the Farmville Herald, April 26, 1972]

ANCIENT HISTORY

One of the few reliable voices of conservatism in North Carolina comes over WRAL-TV. The speaker is Jesse Helms. Recently Mr. Helms was quoting Cicero, who lived a couple of thousand years ago. Sensing that Rome was about to fall on account of corruption in government, Cicero told the Roman Senate:

"We are taxed in our bread and our wine, in our incomes and our investments, on our land and on our property, not only for base creatures who do not deserve the name of man, but for foreign nations, for complacent nations who will bow to us and accept our largess and promise to assist us in the keeping of the peace—these mendicant nations who will destroy us when we show a moment of weakness or when our treasury is becoming bare. We are taxed to maintain legions on their soil . . . We keep them in precarious balance only with our gold . . . They take our very flesh, and they hate and despise us."

The Senators rejected Cicero's warning. Rome decayed. Liberties disappeared. In his second oration, Cicero said:

"I tell you that freedom does not mean the freedom to exploit the law in order to destroy it. It is not freedom which permits the Trojan Horse to be wheeled within the gates. He who espouses tyranny and oppression is against (his country). He who plots against established authority and incites the people to violence is against (his country)."

The Roman Constitution contained a reference to the "general welfare of the people." Cicero warned the Senators not to misinterpret "welfare." Under that phrase "all sorts of excesses can be employed by lusting tyrants to make us all slaves." The politicians of Rome snickered, and proceeded to use the treasury to buy the political support of the masses.

Tiring of such talk, Rome banished Cicero. At the end of his trial, he said:

"You have succeeded against me. Be it as you will. I will depart. For this day's work, Lords, you have encouraged treason and opened the prison doors to free the traitors. A nation can survive its fools . . . But the traitor moves within the gates freely, his sly whispers rustling through all the alleys, heard in the very halls of government itself . . . He rots the soul of a nation; he works secretly and unknown in the night to undermine the (fundamentals of a nation); he infects the body politic so that it can no longer resist."

Rome fell. It was a long time ago. Who cares today?

QUEEN ISABELLA DAY, 1972

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 9, 1972

Mr. HARRY F. BYRD, JR. Mr. President, the Honorable Linwood Holton, Governor of Virginia, recently proclaimed the observance of Queen Isabella Day in honor of the Spanish monarch who was so instrumental in promoting the voyages of discovery to the New World.

This tribute to Queen Isabella was most appropriate. I ask unanimous consent that the text of Governor Holton's proclamation be printed in the Extensions of Remarks.

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

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, Va.

QUEEN ISABELLA DAY 1972

The five hundred and twenty-first anniversary of the birth of Queen Isabella of Castile, wife of Ferdinand of Aragon, will be observed on April 22, 1972.

In honor of this intelligent and resolute Queen, whose support made possible the great discovery of the New World in 1492, April 22 has been designated Queen Isabella Day.

I bring the attention of all Virginians to the significance of the voyage that opened North and South America to settlement and development.

LINWOOD HOLTON,
Governor.

THE DEMOCRATIC COMMITTEE ON COMMITTEES

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mrs. GRIFFITHS. Mr. Speaker, at this time, I would like to insert in the RECORD a letter written by my colleague, the Honorable JULIA BUTLER HANSEN, describing the role and function of the Democratic Committee on Committees. The candid remarks of Congresswoman HANSEN on the process of making committee assignments in the House are a good lesson in politics:

APRIL 13, 1972.

DEAR MISS OSBORNE: Thank you so much for your letter of April 1 to Mr. Bennett, although I don't know what your conversation with him was.

As you are well aware, the House Democratic Committee on Reform and Review last year discussed the Democratic Committee on Committees which is now part of Ways and Means. This was discussed pro and con and suggestions were made that we separate the Committee on Committees from the Committee on Ways and Means, which I admit seems the logical and positive way to do it. However, in politics you are dealing with actual facts and it was not possible to achieve such a radical departure at the last session, and I am not sure when it would be possible because this Ways and Means Committee, which is also the Committee on Committees of the Democratic Members, are all elected by the Democratic Caucus from varying Whip districts. They are an extremely representative group and, as you can readily see from glancing at the membership, they make up all segments of the country with some degree of balance.

We did provide a reform, however, that after a person had written to his or her Whip Member for a place on a committee, the person had another avenue, as indicated by the enclosed recommendations adopted by the Committee. Then all Members who are appointed to committees must be voted on by the Democratic Caucus and they are not voted on carte blanche but any person can be singled out for a vote.

Frankly, I do not believe the Committee is very autocratic. They listen, discuss, and vote. The Member representing a region presents the names of his or her people for committees. Sometimes when there are contesting members for the same spot, there is lively discussion. You would have to get the tenor of this discussion, though, from people like Mr. Mills, Mrs. Griffiths, Mr. Ullman, Mr. Carey, et cetera. Nothing could be more democratic than the procedure they follow for they are elected by the Democratic Caucus, and there is no limit to the number of those candidates for nomination.

I don't think there is any secret discussion about people aspiring to committees but when they discuss personalities I presume they don't broadcast their discussions. It has never seemed good taste in anyone's judgment to discuss fitness or how many support and so on, but on that, again, you would have to go to Mr. Mills or members of that committee.

The committee-making process is the most important single process in Congress for the lowest ranking member can eventually become the chairman of a committee. It is important to Congressional careers, it is important to the Nation, and I feel that the Ways and Means Committee acting as the Committee on Committees has been tremendously responsive in the last three years to membership wishes. It is impossble to satisfy every one of 253 people. Sometimes there are not committee vacancies, and sometimes there are.

And there have been people chosen for certain committees who wanted something else, yet I have lived to see the time that if those people had taken the committee offered them they could have been more influential there than on the committees they chose. I give you an example. When I came to Congress there was no vacancy on Public Works, and I was urged to take Interior. This became a great blessing in disguise because from the Interior Authorizing Committee, after two years' service, I moved to Appropriations Committee and I now head the Appropriations Subcommittee on Interior and Related Agencies. Yet from the standpoint of personal background, desire, seniority and so forth I could have been very miffed about being a member of Interior rather than Public Works. I am so grateful that I had sense and humility enough to take Interior.

There is no process in Government that is perfect because when you are dealing with 253 kings it is not possible to design 253 equal crowns, and that, unfortunately, is what many people in the media think we can do. There are not 253 chairmanships; there are not 253 committees. But for long-range durability and with all its imperfections, I feel that the Committee on Committees does a reasonable job.

One comes to Congress as a neophyte without much experience in Federal affairs. Most candidates for Congress are great speechmakers. In a large proportion of times these Members have no particular background or in-depth knowledge of the day-to-day Federal operations beyond one or two places where they may have acquired some information.

Usually those people coming to Congress for the first time are primarily devoted to keeping themselves in Congress and getting the best committee job that will give them votes. Their coming to Congress is not based upon their prior background knowledge unless that has been an instrument of their political success. The media often overlooks this particular facet. Political jobs are intensely political and this is the very intention of our form of government. Judges which are nonpolitical, supposedly, are set aside in a category but those who are to reflect the opinions of those they represent must understand the questions and ramifications of representation or it ceases to become representative government. The House of Representatives with its two-year term of office is probably the most dedicated to political reality and therefore a Member, in selecting committees, is convinced he or she should serve on a certain committee because "it will be good for my reelection".

My conviction has always been that regardless of where you are called to serve, if you have intelligence and dedication to your Nation, you can do a creditable job. When I served in my State Legislature, it was always necessary for senior members to take some rather obscure committee positions so that the newly-elected members could have a chance to get reelected. I served on committees that looked so uninviting and unimportant that younger members rejected them at once, yet in each instance these so-called unimportant committees proved to be in the end powerful and timely, dealing with immensely intricate subjects as well as giving me a wider knowledge of my State Government.

I am happy to serve on any committee and always will be. I am one of those strange people who believes that my seat in Congress is not as important as my Government is, and the strength of my Nation is more important to me than my individual reelection, but I realize you have to live a few years before you arrive at this philosophical viewpoint.

I think all Members should be thoughtful in requesting their committees and they should evaluate them in the terms of what they can contribute to the National understanding. It is vital to a committee's operation and to the width of congressional scope that knowledgeable people contribute from the wealth of their own understanding and knowledge. The accomplishments of any Congress can be no greater than the total contribution of its Members.

I hope I have answered your questions and I trust that if you care to have any further discussion with me you will please feel free to do so.

Sometimes as I read articles in our media, I am so disappointed at the lack of, shall I say, documentary knowledge on the part of the writer. The Government often ends up being twisted all out of shape not really deliberately but by lack of the writer's plain down-to-earth practical knowledge of what it is like to be an elected official and confronted with the problems of that official. Satisfying the media and the people as well as having the desire to be reelected and including the average individual's personal ambitions require the wisdom and judgement of Solomon and there aren't very many Solomons in the political world. There are far more orators.

Perhaps I have been too frank, but when one has served a great many years in public office, the geatest luxury is frankness rather than purely political answers. At the end of this year I will have completed 35 years of elected public office in a wide variety of times and governmental divisions—municipal, state and federal—so it is with some degree of knowledge and a great understanding as well as a great love for my Colleagues and their problems that I speak.

With my warmest personal regards, I am

Yours most sincerely,

JULIA BUTLER HANSEN, M.C.

NIXON'S FAITH IN NATION AND PEOPLE NEVER WAVERS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

NIXON'S FAITH IN NATION AND PEOPLE NEVER WAVERS

President Nixon arises from his bed every morning to face two certainties: he will be attacked in the "Eastern establishment press" (i.e. the New York Times and the Washington Post); and before the day is gone he will be thoroughly raked over by the

vocal Democratic majority in Congress, all duly reported and commented upon.

This goes on day after day with only occasional lapses. Eight out of 10 newspaper columnists and TV commentators will fill in any embarrassing gaps so that there is a ceaseless din of criticism. And, if by chance there should be a lull, spokesmen of organized labor fill the void.

Measurers of public opinion, however, find that President Nixon is doing fairly well with the public at large, but that reaction can be only faintly sensed in the daily flow of news, comment and political hyperbole.

President Nixon proceeds with doing what he thinks is required, desirable or expedient without respect for the clamor, exasperation, and complaint that he knows will immediately follow.

The two outstanding recent examples are his stated position opposing forced busing of school children and the resumption of large scale bombing in Vietnam.

President Nixon measures the reaction to such actions in entirely different terms than those who turn upon him a torrent of disapproval, which sometimes turns into abuse.

He is not intimidated, nor is he depressed by the overwhelmingly critical atmosphere which surrounds him in Washington. He does not despair, as did Lyndon Johnson, of uniting the American people, nor is he personally hurt as was Johnson by cruel judgments on his character and style.

The "very good year" of 1972, on which he relied, is beginning to materialize. Time has confirmed many of his other judgments. Though he has altered course in rather dramatic ways, the end he has in mind remains in sight. It is in this same mood that he evidently judges with confidence the outcome of renewed military activity, criticized as "brinksmanship."

President Nixon has quite evidently judged that the Soviet Union will not retaliate militarily for the risk to its ships in Haiphong harbor. Nor, he has judged, will China conclude that the air and sea war near her borders endangers Chinese security. An additional factor may be that China's vital interests are not necessarily advanced by a Russian success in Vietnam.

These are critical judgments and it must be conceded they contain elements of risk. The President's confidence in taking such risks was increased by his use of the 6th Fleet in the Mediterranean to warn Russia of the possible consequences of threats to Israel, and a similar but more limited showing of naval force in the India-Pakistan War.

The operation in Vietnam, of course, is of far greater magnitude, but involves the same Nixon finding that the credibility of the use of force becomes necessary under extreme circumstances and when the security of American forces is endangered.

Mr. Nixon is on safest ground when time permits the wisdom of his dramatic moves to be proved out.

In the months between now and the election the wisdom of his action, or lack of it, will become more apparent.

He continually demonstrates, however, that he will take action which is politically risky in the present atmosphere, on the general principle that the rightness of what he does will ultimately be recognized.

This maddens his critics. He knows what they will say and pays no attention to them, either before or after his actions.

For some it is a puzzle to know which is the real world, the clamor of criticism which envelopes President Nixon in Washington, or the calm assuredness of his actions which seek their support elsewhere over the country. On Mr. Nixon's part, there seems to be no doubt.

THE SECOND LOOK AT THE PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ASPIN. Mr. Speaker, I would like to include in the RECORD today another editorial from a distinguished newspaper, the Detroit Free Press, calling for new public hearings on the proposed trans-Alaska pipeline and noting both the economic and environmental advantages of a trans-Canadian route.

The New York Times, the Washington Post, the Christian Science Monitor, the Boston Globe, and now the Detroit Free Press have strongly criticized the Interior Department for not holding public hearings on their final environmental impact statement and for apparently advocating a trans-Alaska pipeline. It is hard to see how the Interior Department will be able to decide in favor of an Alaska pipeline when the weight of logic is so overwhelmingly against it.

Those of my colleagues interested in the Alaska pipeline issue will, I hope, find the Detroit Free Press editorial to be informative. It follows:

[From the Detroit Free Press, May 6, 1972]

SECOND LOOK AT THE PIPELINE

Sen. Robert Griffin was on target in urging the administration to withhold the go-ahead signal for the proposed trans-Alaskan pipeline.

A pipeline carrying oil from the rich north slope will almost certainly be built, but as Mr. Griffin and other Republican senators have noted, evidence now points to a cross-Canada route as the most advantageous, both economically and environmentally.

Oil companies favor the shorter Alaskan route from Prudhoe Bay to the port at Valdez, with ships delivering the oil to West Coast ports. That route would be inexpensive in terms of dollars, but the environmental costs could be astronomical.

A natural gas pipeline is going to be built through Canada anyway, and the same route could be used for oil, reducing the dollar cost to within 30 cents a barrel of that of the Alaskan route.

Some two-thirds of the proposed Alaskan route is through areas of major earthquake zones and, even with planned emergency shutdown procedures, as much as 2.6 million gallons of oil could escape from a pipeline break. And a "minor leak" (less than 31,500 gallons a day) would be practically undetectable, according to Interior Department studies. Some may call that minor, but it could be disastrous to the fragile Arctic environment.

In addition, estimates of accidental discharge at sea run as high as five million gallons per year.

The overland Canadian route would obviously avoid the damage to the marine environment and the chance of pipeline breaks would be greatly reduced, since that route avoids earthquake zones.

Although oil companies are poised and ready to begin work on the pipeline, there is really no hurry. The oil will certainly be needed in the future, but there is time to take a much more thoughtful look at the dangers involved before plunging ahead with what could be an ecological disaster.

PUBLIC BROADCASTING ACT OF 1972

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BROWN of Ohio. Mr. Speaker, in the next week or so the Public Broadcasting Act of 1972 will be before the House for consideration. The Corporation for Public Broadcasting authorization bill, H.R. 13918, calls for spending levels of $65 million in fiscal year 1973 and $90 million in fiscal year 1974. In his budget request for fiscal year 1973 President Nixon included $45 million for public broadcasting—a $10 million increase over fiscal year 1972.

During this past year there has been substantial debate within Congress, the public broadcasting community, the administration, and the press regarding the structure and future Federal funding for public broadcasting. I am sure the discussion will continue when H.R. 13918 comes before the House. Mr. Speaker, I ask consent that this April 29, 1972, article by Bruce E. Thorp from the National Journal, be printed in the RECORD so that my colleagues can get an up-to-date reading on where the public broadcasting issue stands.

The article follows:

MEDIA REPORT/WHITE HOUSE STATIC OVER STRUCTURE, FUNDS KEEPS PUBLIC BROADCASTING PICTURE FUZZY

(By Bruce E. Thorp)

The folks who gave the nation *The Great American Dream Machine* are in trouble with an important viewer.

The viewer is President Nixon, and what he does not like is the way public broadcasting's own dream machine has developed since passage of the Public Broadcasting Act of 1967 (81 Stat. 365).

Mr. NIXON has not spoken personally on the issue; his views are relayed through Clay T. Whitehead, director of the White House Office of Telecommunications Policy. (*For a report on OTP, see Vol. 3, No. 7, p. 338.*)

Whitehead, who is charged with drafting legislation for long-term financing of public programs, has not done so because, he says, public broadcasting is too centralized.

Too much authority for funding and programming is concentrated in the Corporation for Public Broadcasting, a private, nonprofit company set up by the 1967 act, says Whitehead, and too little control has been left to individual stations, which were supposed to be the heart of the system.

Shows offered by the Public Broadcasting Service—the public stations' network—dominate the system according to Whitehead, and public-affairs shows in turn, dominate PBS scheduling.

Whitehead said in a recent interview, "They want to be something different from what anyone thought they were going to be."

Industry leaders dispute Whitehead's charges. They say they have followed the intent of the Carnegie Commission on Educational Television, which recommended federal funding of public broadcasting in 1967, and of Congress.

Whatever imbalance there may be in the system, they argue, comes mainly from inadequate federal financing.

With less money than they anticipated,

CPB officials have used it to develop their network first, putting the money where it will do the most good. As federal funds increase, they say, so will development of local stations and local programming.

The larger philosophic controversy has been focused on a financial conflict over long-term funding for public broadcasting.

The Carnegie Commission originally proposed that the industry be given federal funds outside the annual appropriations process.

But the 1967 Congress left it to future Congresses and Administrations to devise such a plan, and it has not yet been done.

Whitehead says that unless the industry structure is made to conform to what was envisioned, "permanent financing will always be somewhere off in the distant future."

Stymied in its effort to obtain long-term funding, the industry is putting its energies into support of a two-year authorization initiated by Rep. Torbert H. Macdonald, D-Mass., chairman of the House Interstate and Foreign Commerce Subcommittee on Communications and Power.

The bill, HR 13918, has cleared the full Commerce Committee with only two dissents and it could be approved early in May.

In the meantime, both the industry and the Administration have been moving quietly toward changes that may resolve the controversy,

The industry has taken steps to give local stations a greater voice in system funding and programming, which could go far toward satisfying the Administration's complaints.

The Administration has been preparing a list of five persons to be appointed soon by the President to the 15-member CPB board of directors.

Assuming confirmation by Congress, Mr. Nixon would have his first real majority on the board, which presumably would begin to reflect his views.

FUNDING AND POLITICS

The Carnegie Commission proposed that public broadcasting receive its federal money from a special trust fund.

The fund could be fed by an excise tax on new television sets, the commission said, estimating that a 5-per cent levy would produce $100 million a year at a cost of not more than $2.50 a year per set during the useful life of even the most expensive receiver.

The commission argued for permanent funding to insulate public programming from government involvement.

"The commission cannot favor the ordinary budgeting and appropriations procedure followed by the government in providing support from general funds," it said. "We believe those procedures are not consonant with the degree of independence essential to public television."

However, in creating the corporation, Congress purposely omitted a permanent or even long-range funding plan, saying that it needed more study. Since then, the industry has depended on annual appropriations.

The result has been less money than the commission envisioned and a situation that the commission expressly hoped to avoid: political wrangling over public broadcasting.

White House: Whitehead said in an interview that once the current disagreement over industry structure is settled, consideration should be given to funding for at least three years but no more than five.

"But it's not just a question of how many years the authorization is for," he said. "You want to have some kind of a scheme so that, if it's a three-year plan, every three years you don't have to re-fight the battle."

The authorization could be renewed almost automatically, Whitehead said. "It should present no problem, whatever, assuming that they're doing what is reasonably expected."

But, Whitehead emphasized, it is vital to address the important, long-range questions—such as those OTP has raised about industry structure—before a long-range plan is adopted.

Whitehead, speaking for the Administration, said that he opposes permanent funding as "bad public policy."

"I think an institution like the corporation ought to be answerable to the Congress," he said. "They ought not to be harassed and harangued every year; they ought not to be harassed and harangued, period, if they're doing a reasonably good job."

"But I think that being answerable over a period of time for their general performance is good. There ought to be an opportunity to review their broad, over-all performance. How much of what kinds of programs have they had? How useful are they?

"Those kinds of questions are legitimate questions, and the corporation, as long as they're using public funds, ought to have to answer those questions from time to time."

Industry: Members of the public broadcasting industry are torn between the kind of funding plan they would like to see and the kind they think is politically feasible.

Macy—CPB president John W. Macy Jr. said that even a five-year plan probably would require annual appropriations from Congress, and therefore would be no more than "an interim approach."

"I'm still hoping that we can make an effective case for some form of income that is going to be independent of the annual appropriations process," he said.

Macy said it is an executive-branch responsibility to find the right plan.

"The Congress has been looking to the Administration from the time the act was passed in 1967—both the Johnson and the Nixon Administration—for a plan for long-range financing," he said. "Without a plan, we're just half of what was intended."

Harley—William G. Harley, president of the National Association of Educational Broadcasters (NAEB), said few local station executives believe they ever will get permanent funding.

"Three years I think we may be able to get," he said. "And I'm not altogether sure that that would be so bad. The Congress feels it must have an oversight responsibility for the expenditure of public funds, and if the committees involved behave responsibly and do not attempt to delve into operational matters and individual programs, the general-accountability factor is one that we should be perfectly willing to face up to."

Taverner—Donald V. Taverner, president and general manager of station WETA-TV, the public station in Washington, D.C., said there is no way to insulate the industry from government when it must apply for funds annually.

The ideal, he said, would be dedicated funds, independent of the appropriations process. But Taverner, who was president of the National Cable Television Association in 1970 and 1971, said he doubted that public broadcasting ever would escape dependency on Congress.

"I happen to think that insulation from the government is almost impossible," he said. *(For a report on Taverner and the NCTA, see Vol. 3, No. 33, p. 1706.)*

PHILOSOPHIC BATTLE

The argument between the Administration and the industry is over the balance of funding, programming and content control between the public network and local public stations.

It built up privately for nearly a year, during which time Whitehead's OTP and the directors of the corporation tried—and failed—to agree on a bill to be submitted to Congress.

Miami: On Oct. 20, 1971, Whitehead made public OTP's complaints about the industry.

Speech—He told public broadcasters who had gathered in Miami for an annual convention of the NAEB that the Administration opposed the centralization developing in the industry.

"To us, there is evidence that you are becoming affiliates of a centralized, national network," he said.

He said that programming was dominated by the CPB and the PBS, instead of by local stations, as intended by the commission and Congress.

He said that public stations were playing the same rating game that commercial broadcasters play.

"Once you're in the rating game, you want to win," Whitehead said. "You become a supplement to the commercial networks and do their things a bit better in order to attract the audience that wants more quality in program content."

The corporation, he said, was jeopardizing the ability of local stations to serve community needs with local programming by aiming for national impact and putting the goal of permanent financing above all others.

"Do any of you honestly know whether public broadcasting—structured as it is today and moving in the direction it seems to be headed—can ever fulfill the promise envisioned for it or conform to the policy set for it?" he asked. "If it can't, then permanent financing will always be somewhere off in the distant future."

Witherspoon memo—John P. Witherspoon, CPB director of television activities, sent station managers a memorandum Nov. 5 in which he accused Whitehead of having injected politics into public broadcasting.

Quoting Whitehead's comment about permanent financing. Witherspoon said:

"That statement, coming from Dr. Whitehead—a man who has been charged by the President to come up with a long-range financing plan for public broadcasting, and who speaks for the Administration in telecommunications matters—says in straightforward language that until public broadcasting shows signs of becoming what this Administration wants it to be, this Administration will oppose permanent financing....

"Until Miami, CPB could honestly say that our relations with government had been free of political influence in the affairs of public broadcasting."

Goldberg—In a March interview, Henry Goldberg, senior attorney in the OTP general counsel's office, said the Miami speech—which Goldberg said he helped draft—"was not an ultimatum—not at all. If it had not been so widely misunderstood, it would be funny."

The OTP complaint was that the local public broadcasting stations did not know in what direction their system was heading and the language in Whitehead's speech meant that they could not expect to get permanent funding until their direction was better known, Goldberg said.

Whitehead "was not saying anything new," Goldberg said. "What CPB did was to cry 'political foul,' and that, to me, was a copout."

Funding balance: One of the Administration's complaints about public broadcasting is that a small percentage of CPB funds has gone to local stations and the bulk to national programming.

In fiscal 1971, when CPB resources totaled $27.8 million (including $23 million in federal funds), the corporation used 14.1 per cent for community-service grants to local stations. It used 64 per cent for national programming.

In fiscal 1972, when resources have climbed to $39.7 million (including $35 million in fed-

eral funds), CPB is sending 15 per cent to the local stations and is using 71.6 per cent for national programming.

President Macy pledged a year ago that in the future the corporation would give at least 30 per cent of its federal funds to local stations. The CPB's proposed budget for fiscal 1973, when the corporation hopes for total resources of $70 million (with $65 million from the federal government), provides that 28.6 per cent of the total money (and 30.8 per cent of the federal money) will go to local stations and 60 per cent to national programming.

Scalia—Antonin Scalia, general counsel of the OTP, said in an interview that the 1971 and 1972 figures show the "disproportionate investment in national facilities" that has been made since the CPB began.

He said that when he began studies for the OTP a year ago, it was apparent that the trend in public broadcasting was more and more toward national development at the expense of local stations.

"At least it was time to sound the alarm," he said.

Scalia acknowledged that the corporation now seemed to be planning to provide increasing amounts to local stations, but said, "I would think that the emphasis should have come sooner."

To ensure that local stations are given an adequate share of federal funds, he said, the Administration has been trying to include a fixed formula in its proposed funding legislation.

"All we're trying to do is give them a bare minimum," he said.

He noted that Macy's pledge was for an aggregate amount and that there was no guarantee that every station would get enough money.

Scalia said he was against setting a fixed percentage for stations, anyway. As total funds go up, the percentage should go up, he said, because national expenses should level off and the number of local stations should increase.

Rebuttal—Macy said that the disproportionate spending of the past has resulted from the CPB's trying to get the most for its limited money.

"We have not been able to give the stations as much financial support as we would have liked," he said. "It was our belief that the increased (local) funding had to be deferred until we had met the mandate of having the interconnection and providing a broader range of quality programming than had existed prior to the establishment of the corporation."

Program balance: The Administration also is critical of the balance between nationally originated and locally originated programs seen on local stations.

OTP—In an interview, Whitehead amplified the criticism of his Miami speech:

"You've got to have the network," he said. "But nobody foresaw—and, in fact, the legislative history makes it very clear that it was not intended that there be—what is called a fixed-schedule network."

He said the commission and Congress suggested connecting stations so that national programs could be fed to and exchanged among local stations for use as they saw fit.

Whitehead said that last year the CPB and PBS spent $2 million on promotion, much of it to advertise a national, fixed-time program schedule. That "puts tremendous pressure on the local station to carry the network (live)," Whitehead said. "That just was never the intent. It was never intended that there be a monolithic, centrally controlled network."

Industry response—Public broadcasters defend their present practices on two grounds: lack of sufficient funds to use the network differently and the importance of national programing to local stations and to the system.

Hartford N. Gunn, Jr., president of the Public Broadcasting Service, said that two-thirds of the public television stations on the network have neither equipment nor staff to record PBS programs for later showing. One-third have no color-recording machines, he said.

Those local stations, he said, must broadcast national programs live or not at all.

Chalmers H. Marquis, executive vice president of the NAEB, said that stations would need three $100,000 color videotape machines to use the system Whitehead's way—one to record network and local programs, one to play them back for broadcast, and one for backup.

The NAEB's Harley said that national programs have enriched local schedules and helped draw attention to and support for public stations.

"We never really got into the public consciousness until we got into an interconnected system," Harley said.

Marquis defended advertising as an important device in gaining an audience for local as well as national programs.

"Every program has an intended audience," he said. "Unless people know it's on, it's a total waste.

"Getting the word out is the biggest single problem the stations have, aside from just staying alive."

Public-television promotion, he said, is not the same search for a mass audience that is made by commercial television, but an attempt to "hit most of the people in a community once each week."

A 50-per cent "weekly circulation"—in which one-half of the television sets in a market would be tuned at least once to the public station over a week's time—would be very good for most local stations.

The most outspoken defender of the PBS network has been James Day, president of the Educational Broadcasting Corp. in New York City. In that job, he heads station WNET–TV and its affiliated national production center.

Before the PBS was found, Day's National Educational Television (NET) was the prime producer and distributor of national programs for the public television industry.

Day freely admits that the PBS is a centralized network and argues that it should be.

"Originally conceived as a distribution mechanism for programs, it has evolved into a fourth network; we shouldn't be ashamed of that fact," he told the Western Educational Society for Telecommunications in San Francisco on Feb. 28.

"It is absurd to attempt to carry decentralization into that part of the public-television equation that is national programming," he said.

Control: Administration officials say that too much control is exercised by the corporation in funding programs and by the PBS in deciding what shows go on the network.

Public broadcasters deny the charge. They argue that the CPB is not involved in programming and that the PBS is controlled by station managers so that the stations decide what the network offers.

Administration—Scalia, addressing the telecommunications conference in San Francisco on March 1, complained that last year more than 90 per cent of prime-time programming on public television came from six national production centers.

"And even more distressing than the small number of production sources is the apparently growing tendency toward centralization of program decision making by CPB," he said.

In a later interview, Scalia said that corporation and PBS officials play an active role in initiating programs supposedly produced by independent production centers.

"Ask around how often the initiative comes from CPB itself," he suggested. "How often do they say, 'What we need is a program on thus and so'?"

Henry Goldberg of Scalia's office supported the charge.

"I don't think it's fair to say that these are six independent producers and CPB is just giving them money," he said. The system, he said, is "one production entity with six studios."

Industry response—Hartfod Gunn agreed that the PBS plays an active role in coordinating the work of more than 20 producers who supply shows for the network. "It's our job to pull together the program schedule for the stations," he said.

Gunn also admitted that CPB approval of programming is necessary for approval of financing. "They in fact have the purse strings," he said. "PBS decides what should go into the schedule, but the man with the money has the final word."

However, Gunn said, he could not recall a major series that had been turned down by the CPB. "Generally, they approve the programs which we say are required to meet the needs of the system," he said.

Gunn said the PBS is responsive to the ideas of local station personnel. The PBS board of directors is dominated by station managers, he said, and he has constantly tried to give managers more say in what the network does.

John Macy disagreed with the OTP charge that program initiative comes from the top. "Most of the program ideas have been generated by the production centers," he said.

He said the program ideas generally flow up to the corporation for funding and, once produced, go out to the PBS for national distribution.

"In no sense is there a national program determination at a central point," Macy said. "The ideas are coming in from many different points."

James Day holds a view on network program control that falls outside those of both major adversaries.

Day's complaint is not that national programming is too centrally controlled but that the control comes from station managers—who are professional broadcasters—rather than from true public representatives.

He told the San Francisco conference that some way should be found to "place the control and policy of PBS in public hands."

Once that is done, network control over programming should increase, he said.

Local stations, represented by the NAEB, have mixed feelings on the general issue of centralization. Harley said that some views expressed by Whitehead in Miami had long been held by local broadcasters.

"I suppose, in a kind of a simplistic way, the stations feel that the corporation and any spin-off agencies that it creates are to be service agencies for the stations," he said.

"Some of the conflict has come with those who have been in charge of these agencies who tend to look at it from the other way around, as though they were an end to themselves, so to speak, and that the stations were a part of this centralized structure."

Harley said he remembered a press release from either CPB or PBS referring to local stations as "outlets," a term that local public stations detest. He said that the term "affiliates" is hardly better. Stations, which regard themselves as the heart of the system, do not like the term "network," either, Harley said, and prefer to call the station hookup an "interconnection."

But Harley took exception also to the way the OTP has criticized the system and brought the issues out into the public.

"The thing that Mr. Scalia and Mr. Whitehead have refused to recognize is that this is a whole brand-new enterprise," he said "We're just putting the pieces together, and though we may be critical and we're concerned, we're not about to tear the thing down."

ACCOMMODATIONS

Several changes in the structure of public broadcasting have been made or promised in recent weeks. The changes could serve to cool Administration criticism, although industry officials deny that was its purpose.

Generally, the changes will give stations more control in the operation of the system, or in other ways further decentralize decision making and authority.

CPB: The corporation's board of directors, meeting in Anaheim, Calif., March 17 and 18, ordered a series of actions that a CPB information memorandum said was "designed to strengthen and improve the working relationships between noncommercial broadcasting licensees and the board and staff of the corporation."

Budget preparation—The board adopted a formal procedure to assure station managers a voice in preparing the CPB budget and disseminating funds to stations.

A panel of station managers, still to be named, will make budget recommendations to the CPB staff and will review budget proposals before they are submitted to the federal government. After Congress appropriates funds, the panel will review the adopted budget before any funds actually are distributed.

The panel will have an even greater voice in recommending corporation community-service grants to stations.

More meetings—The board also promised that board members would visit local stations more often in the future, would hold two formal meetings a year with station managers and that station managers would attend regular board meetings more often.

PBS: The Public Broadcasting Service, headed by Gunn, also took steps last month to broaden participation in its operations.

Expanded board—The PBS board of directors voted to increase its own membership from 11 to 19. The new board, whose date of formation still is undecided, will have 12 station representatives (compared with six now) and six public members (compared with two now). To present members the president of CPB and the president of the Educational Broadcasting Corp. in New York City, no longer will be on the board.

Evaluation panel—The board also decided to establish a 12-member evaluation panel to review the network's over-all presentation of public-affairs programing. The review will be made periodically, perhaps once a year, of programs already sent to stations. They also will occasionally preview controversial programs.

Ten members will be professional journalists from across the country and two will be public representatives from the PBS board. They will look at public-affairs programming in terms of adequacy, fairness, professionalism and similar qualities.

Coordinator—James C. Lebrer, news director of public television station KERA-TV in Dallas, was named by the board to the new position of public-affairs coordinator. He will seek to avoid duplication of public-affairs programs by the many production centers that offer shows to the network. He also will screen public-affairs programs before distribution.

Standards—Finally, the board adopted a series of journalism standards and guidelines that had been drawn last November by an advisory board headed by Elie Abel, dean of the Columbia University Graduate School of Journalism.

The standards stress fairness, balance, objectivity, technical accuracy and coverage of unorthodox as well as accepted ideas.

Constitution: In a speech to public television executives in Washington on April 4, John Macy called for a "constitutional convention" to help guide the industry.

He saw it as a "series of sessions which would gather the best minds from within our industry to define clearly the organizational structure, forms of governance and priority purposes of public television to guide us through 1977 and beyond."

He said they could be coordinated with separate meetings of a special industry task force to formulate a proposal for long-range financing.

"The need for a 'constitution' . . . has been well demonstrated in this past year." Macy said, "when our internal stresses and strains sometimes reached painful proportions."

Planning, he said, is especially important because of public broadcasting's dependence on federal funds.

"As we receive more and more federal dollars—or maybe I should say before we receive long-range federal financing—we must build a complete case justifying that expenditure of the public's money," he said.

Assessment: Macy's statement sounded much like those that have emanated from the White House in recent months, and it is a sign that the major adversaries in the public broadcasting dispute are moving together.

Lamb—Brian P. Lamb, assistant to the OTP director, said, "We're thinking much more along the same lines than we were six months ago." But he said the OTP still does not feel that the major issues have been resolved.

Macy—Macy maintained that the recent changes had been planned for a long time, and that they are part of an evolution in public broadcasting.

Furthermore, he said, "I think that basically Mr. Whitehead is supportive of public broadcasting. I think the areas of difference are far less than has generally been publicized."

Gunn—The PBS's Gunn said also that his board's recent changes had long been planned and were designed to put controls in the system.

"The public and the Administration have a right to know how the system operates," he said.

Referring to the evaluation panel, he said, "There have got to be people reviewing our activities. We prefer to have it done by professionals rather than by politicians."

Harley—The NAEB's Harley said that the power and importance of local stations had become more appreciated by Congress and the corporation in recent weeks.

"I think this has all been very healthy," he said.

LEGISLATION

Several public broadcast funding bills are before Congress, one of them already headed for the House floor.

The two most important bills were introduced by Democrats shortly after Whitehead's Miami declaration that the Nixon Administration would not soon ask for long-range financing.

Magnuson-Pastore: The first funding bill, S. 2765, was introduced on Oct. 28 by Sens. Warren G. Magnuson, D-Wash., and John O. Pastore, D-R.I. Magnuson is chairman of the Senate Commerce Committee, to which the bill was referred. Pastore is chairman of its Communications Subcommittee.

The bill merely would extend for one year the present authorization for the corporation, which totals $35 million in federal funds. An aide to Pastore said the bill was introduced to force some response from Congress and the Administration.

Without such a bill, the corporation would be left without any spending authority after June 30.

Macdonald bill: A much more ambitious bill was introduced Nov. 16 by Rep. Macdonald.

His original bill, HR 11807—which by now has been modified substantially by committee action and reintroduced as HR 13918—would have extended the authorization of the corporation for five years. Spending levels would have started at $65 million in fiscal 1973 and risen to as much as $160 million by fiscal 1977.

Macdonald introduced his bill after consultation with corporation officials, who considered it a major step toward long-range funding.

The bill contained many of the very features that Whitehead had said the Administration did not want.

Budget request: On Jan. 24, President Nixon committed himself to extending the authorization of the corporation for at least a year. In his budget request for fiscal 1973, he included $45 million for public broadcasting, a $10-million increase over fiscal 1972.

Administration officials have pointed to that increase in requested funds as proof that Mr. Nixon supports the concept of public broadcasting.

Hearings: The House Communications Subcommittee held hearings on public broadcasting on Feb. 1–3. Only Whitehead opposed the Macdonald bill.

Killian—An important witness, from the industry' standpoint, was James R. Killian Jr., who was the chairman of the Carnegie Commission and who now serves as vice chairman of the CPB board of directors.

That experience made Killian uniquely qualified to comment on the Administration charge that public broadcasting had developed in a manner not intended by the commission.

His testimony delighted corporation officials.

"In my view," Killian said, "public broadcasting has moved ahead steadily in the spirit of the Carnegie Commission recommendations and in accord with the wise provisions of the Public Broadcasting Act. . . .

"At all times the corporation has sought to honor the autonomy, independence and diversity of local stations while evolving those guidelines and leadership principles which are its corporate responsibility under the Public Broadcasting Act."

Killian, who is chairman of the corporation for the Massachusetts Institute of Technology, said he was disappointed that Congress has neither funded the corporation at the level the commission had suggested nor established a trust fund.

"It was the view of the Carnegie Commission—and I still strongly support this view—that the trust fund and the corporation are jointly essential to the insulation of public broadcasting from the dangers of political control," he said.

Killian urged the committee to approve HR 11807.

In an interview after the hearings, John Macy said that as long as Killian and others approved of CPB's operations, he was not so concerned about Administration disapproval.

Macy testimony—Macy also urged enactment of the Macdonald bill. He said that while he still favored permanent financing, the bill would be an improvement over the present annual funding.

"I cannot stress enough the importance of public broadcasting's knowing where its next year's dollars will come from," he said.

In addition, he said, "if public broadcasting is to rise to its full potential, it clearly needs to be freed of all potential of outside interference, and this freedom cannot exist in an insecure financial atmosphere."

Burch—Dean Burch, chairman of the Federal Communications Commission, said his agency does not consider itself expert on the funding of public broadcasting.

He said that FCC jurisdiction over the industry does not cover financing but is limited to the same areas as in commercial broadcasting, including licensing of stations and enforcement of the fairness doctrine.

Burch did call for long-term financing for public broadcasting, however, and said the commission supported HR 11807.

Asked by Macdonald whether he or Whitehead spoke for the Nixon Administration on the bill, Burch said that Whitehead was the spokesman.

Whitehead testimony—Whitehead told the subcommittee that the Administration opposed all CPB bills being considered. In specific reference to HR 11807, he complained that the funding was too high and that there was no guarantee that a certain amount of money would pass through the CPB untouched on its way to local stations.

"It would heighten the local stations' sense of autonomy and independence if they had available a stable source of funds of a known quantity, as a matter of statutory right and not CPB discretion," he said.

Whitehead said the Administration favored a one-year extension of CPB's authorization. A bill to achieve that, HR 13007, was introduced Feb. 7 as the Administration bill.

It provides for up to $45 million in funds for fiscal 1973, but requires that $15 million be passed on to local stations by the CPB in accordance with a formula set out by the bill. Each local television station would receive a minimum grant of about $50,000.

CPB position: Spokesmen for the public broadcasting industry, noting the strong bipartisan support given the Macdonald bill so far, said they do not expect the Administration to fight the bill very hard.

"The Administration has more important things to do than fool around with this damn bill," said WETA's Taverner. "I don't think they're going to make an overt effort to oppose this bill."

But industry leaders are not taking the bill's passage for granted. They have been urging station managers and even public broadcasting viewers and listeners to lobby for the bill.

COMMITTEE ACTION

The Macdonald subcommittee and then the full committee approved a bill soon after the hearings ended.

Although HR 13918 pledges dollars over fewer years than the original Macdonald bill, it still was a victory for the broadcasters and a defeat for the Administration.

Provisions: HR 13918 authorizes spending by the corporation of up to $65 million in fiscal 1973 and $90 million in fiscal 1974.

The original Macdonald bill, HR 11807, would have authorized CPB spending for five years, with the first two years at the same levels as those in HR 13918.

Both versions called for appropriations to be placed in a new Public Broadcasting Fund before transfer to the CPB. The fund would have little effect at first, but it could be a step toward the Carnegie Commission's trust fund.

Both versions also contained a requirement that the corporation pass on to local stations at least 30 per cent of the money it receives from the fund. There is no formula, as there is in the Administration bill.

The final committee bill called for a change in the makeup of the CPB board so that five of the 15 members would represent stations. All present members are public representatives.

The final version also called for up to $25 million for facility grants to stations in fiscal 1973—an increase of $10 million over present law. Facilities grants are distributed by the HEW Department.

Revisions: Almost all of the revisions of Macdonald's original bill came in subcommittee executive sessions.

"We went in there very closely divided," Macdonald said. "However, I accepted some amendments from the Republican side which I think didn't do any injustice to the bill."

Asked whether the changes were made to accommodate the Administration, Macdonald said:

"The only compromise was on the period of funding. I had put five years in the first bill because that is what the corporation wanted. But I told them I wasn't going to hold out for five. I held out for three—as strongly as I could."

Because he was concerned that Republican members would damage the bill, he said, he settled for two years.

"But that's the only real compromise," he said. "There was no compromise in the amount of funding. There was no compromise, either, about the composition of the board. It just seems to me that someone should have thought of that a long time ago."

Macdonald said Rep. Clarence J. Brown, R-Ohio, first proposed the change in board membership. (On Feb. 1, Brown had introduced a bill, HR 12808, that would have curtailed the authority of the corporation.)

Rep. Robert O. Tiernan, D-R.I., also endorsed the idea, MacDonald said. (Tiernan, whom public broadcasters consider in ally, had introduced in April a five-year funding plan, H.R. 7443.)

"Brown's amendment started it, Tiernan polished it and, in modesty, I re-polished it and we came out with the thing that you see now, which Brown agreed to," Macdonald said.

"That's a strengthening compromise," he said. "It wasn't a compromise to the Administration. It was a compromise to get in a good idea. I just wish it had been in my original bill."

Votes: The final vote in the subcommittee on March 16 was 8–1, with only Rep. James M. Collins, R-Tex., dissenting. Seven of the eight (Rep. Goodloe E. Byron, D-Md., is the exception) listed themselves as cosponsors of the reported bill, an indication of strong bipartisan support.

The full committee approved the bill with just two minor amendments.

One change, proposed by Rep. James T. Broyhill, R-N.C., would limit annual salaries of CPB officers and staff to executive level 1—Cabinet rank—which now is $60,000. Present officeholders would be exempt, however, so that Macy's $65,000 salary—the only one at CPB above the limit—could continue. Performers and other personnel in the rest of the industry would not be affected.

The other amendment came from Brown. It stipulates that none of the money granted by CPB to local stations under the 30-per cent formula could be used for facilities. That would ensure its use for programming and other operating expenses.

Committee approval came on a voice vote. Macdonald said he heard only one dissent, but when the committee report was issued April 11, Reps. Collins and John G. Schmitz, R-Calif., included dissenting views.

LEGISLATIVE PROSPECTS

With such strong committee support, HR 13918 has an excellent chance of passing the House.

"I'm sure there will be amendments on the floor to weaken it by reducing the money or keeping it to one year," said William E. Duke, public affairs director for CPB. "If I had to bet, though, I'd bet it would come out pretty much as it is now."

Jim Karayn, president and general manager of the National Public Affairs Center for Television (NPACT), said that in the past "the House has always been our difficult place to get legislation—not the Senate."

This year, he said, there seems to be a "backlash" to Administration criticism of public broadcasting that might help the bill in both the House and Senate.

Karayn said he was more confident of getting multi-year funding now than he was two months ago.

Administration: The Nixon Administration still is against the Macdonald bill, even in its revised form.

"We think it ought to be one year," Whitehead said. "Two years would just take away any pressure to come up with a long-range financing plan."

When asked where the pressure was being applied, he said, "It's on Congress, and it's on the Administration, and it's on CPB."

Whitehead explained that his office had two major complaints about the first Macdonald bill that remain valid with the revised version: the funding is too high and there is no minimum guarantee for each individual station.

Macdonald: Rep. Macdonald said that he found it incredible that Whitehead still opposed the bill.

"Is he blind enough not to see that he's in a lost cause?" Macdonald asked. "I don't think they can come out and say they're for it after they've attacked it all over the country. But if they've got any sense—you know, they've had two defeats, subcommittee and full committee, why should they risk a third on the floor?

"I personally, from 18 years experience on the Hill, would be surprised at their political judgment if they choose to fight this bill.

"I have no qualms in saying it will pass the House anyway, whether they oppose it or not."

Senate: There are no signs that public broadcasting has much to worry about in the Senate.

"I have discussed the committee bill with key Members of the Senate, and they have raised no objections," Macdonald said.

If the bill does go over to the Senate—and even if it does not—hearings are certain to be held by the Senate Commerce Subcommittee on Communications, headed by Pastore.

An aide to Pastore, who did not want to be identified, said he expected the Senate committee to wait and see what happens in the House. Although Magnuson and Pastore have their own bill, S. 2765, pending in committee, they would prefer not to hold hearings until the committee could consider a House-passed bill, the aide said.

"If the House fails to go ahead, you may find us moving very rapidly," he said. "But right now, it's foolish for us to go ahead with a hearing on our bill and the Administration bill, when the House has already cleared its own bill through its committee."

The aide said that Magnuson and Pastore "have been chief proponents of public broadcasting since its inception," and that they might very well favor the two-year and other provisions of the House bill. He said they would not take a stand, however, until the bill is before them.

Lobbying: Not wanting to take anything for granted, leaders of the public broadcasting industry have been asking their associates to contact their House and Senate Members to urge passage of the legislation.

Donald Taverner said he has been encouraging his station's board of directors to lobby for the bill. They have unique opportunities to do so because of their location in Washington, he said.

"I've been telling them. 'Don't write to these Senators. Have cocktails with them. Go to parties with them.'"

John Macy told a convention of public television managers in Washington on April 4 that they also should try to get more grassroots support for the industry.

"I continually hear the complaint from our often-tested friends on Capitol Hill that one of their most difficult problems is that Members of Congress rarely hear from the audiences of public broadcasting."

"We must find ways to inform our viewers that this is vital if public broadcasting is

ever going to receive the level of federal support it needs," he said.

New effort—At a closing session of the convention, those attending discussed the possibility of organizing representatives of local-station boards for a new lobbying effort.

Hartford Gunn of PBS said these board members, who usually are prominent community leaders, could form "a blue-chip effort" toward the industry's funding goals.

There was some hesitation about establishing a new, formal organization within the industry, but the station representatives all seemed to agree that their board members could be an important new resource for lobbying.

Macy said the idea would be pursued further with station boards.

Fortune cookie—In what has become a traditional joke between the two men, William Harley of the NAEB handed Macy a Chinese fortune cookie just before the conference closed April 6.

Macy opened it and read its message to the conference:

"It is well to remember that a House united guarantees nothing in the Senate."

THE QUARREL OVER PUBLIC AFFAIRS

Should federal money be used to pay for public-affairs programming on public television?

That question was raised by Clay T. Whitehead, director of the Office of Telecommunications Policy, in an interview broadcast by National Public Radio on Jan. 12 and the subject has been debated ever since.

Whitehead: "There is a real question," Whitehead said, "as to whether public television, particularly I guess really the national federally funded part of public television, should be carrying public affairs and news commentary, and that kind of thing, for several reasons.

"One is the fact that the commercial networks, by and large, do, I think, quite a good job in that area. . . .

"Another consideration is that we have a very strong tradition in this country that the press and the government stay at arm's length, that they keep apart from each other. So that when you're talking about using federal funds to support a journalism activity, it's always going to be a subject of scrutiny."

Broadcaster response: Those remarks, by an official who speaks for the President on telecommunications matters, were enough to disturb public broadcasters more than anything Whitehead already had said about them.

Day—James Day, president of the Educational Broadcasting Corp. (which includes WNET) in New York City, told a meeting of fellow public broadcasters in San Francisco on Feb. 28 that "if we permit Dr. Whitehead to operate on the body of public television and remove its vital organs of news and current affairs and opinion, it will not be worth our time to keep the body alive. . . .

"I find his recommendation that public television not compete with commercial television in the area of news and public affairs so patently ridiculous that it virtually answers itself. When one realizes that commercial television devotes a scant 2 per cent of its prime time to news and public affairs in a country where self-government is dependent upon an informed electorate—whose people when polled cite television as their principal source of information—the only wonder is that the present Administration would permit itself to be identified with such a ridiculous and self-serving position."

Macy—John W. Macy, Jr., president of the Corporation for Public Broadcasting, said in an interview: "We have the obligation to deal with the issues of our time in public broadcasting. This should be done in a form of video and audio journalism that is different and distinctive from that offered by the commercial broadcaster . . . .

"I feel that it was clearly intended that there be public-affairs programming . . . . I feel that this is part of our mission."

Harley—William G. Harley, president of the National Association of Educational Broadcasters, said, "We simply must have (public-affairs programming). It is very important that public broadcasting address itself to matters of great public concern. We're bound to get criticism, but this is the constant price of freedom in a democracy."

Whitehead rebuttal: In an interview, Whitehead said that his remarks were misinterpreted.

"I never questioned whether public affairs ought to be carried on public television," he said. "The only thing I have questioned was the extent to which federal funds ought to be used for public affairs on public television. And I was really thinking only about the controversial political type of public affairs.

"I have just simply raised the point that to the extent you're using federal funds to produce programming that is highly controversial politically, then you've got to expect that you're going to receive attention in the media, and that Congressmen, Senators, and so forth, are going to focus attention on the thing.

"I think that the way to put it is simply that the public television people shouldn't be surprised if they find themselves in the middle of controversy when they do controversial programming."

A GROWING AUDIENCE FOR PUBLIC TV

Public television is becoming more visible every year.

During fiscal 1971, which ended last June 30, the number of regular weekly viewers rose from 33 million to 39 million. The number of weekly viewers—those who tune in to a public station at least once a week—was 24 million two years earlier.

PBS: A major reason for increased viewing has been the national programming offered since 1970 by the Public Broadcasting Service. PBS now serves 219 noncommercial television stations with programs produced by local stations and national production centers, most of which are affiliated with local stations.

Radio: There are more than 500 public radio stations in the United States, mostly on the FM band. Only about one-fourth of them, however, qualify as "full-service" stations, carrying a complete broadcast schedule. Most of the others offer limited services to university campuses.

On April 20, 1971, National Public Radio began operating as the first live national network of public radio stations. At the moment, 135 stations are served by NPR.

CPB: Public radio and television stations are funded by governments, schools and nonprofit organizations at the national, state and local levels. The federal government share of funding is channeled primarily through the Corporation for Public Broadcasting, which was established by Congress in 1967 to assist in the development of public broadcasting in the United States.

The corporation also provides money to the PBS and NPR networks.

The corporation this year has a budget of nearly $40 million, which includes $35 million from federal appropriations. By the end of the fiscal year, CPB expects to have spent $25 million for the production and distribution (through PBS) of national television programs, $3 million for the production and distribution (through NPR) of national radio programs, and $8 million for development and support of local radio and television stations.

The remaining $3 million will be used for administrative expenses for CPB itself, for planning, research and evaluation programs.

Next year's budget level still is unknown because Congress has not acted on CPB appropriations, but the corporation expects to increase its support of local stations by several million dollars.

Controversy: The Nixon Administration does not approve of the way CPB has been channeling funds, and would like to see much more money—as much as one-half of the CPB budget—going to local stations.

So far the Administration complaints have been directed primarily toward the funding of public television, where, of course, the vast majority of the dollars go.

WHITE HOUSE MOTIVES

When the Office of Telecommunications Policy, as a spokesman for the Nixon Administration, began its open criticism of public broadcasting last fall, unattributed references began to appear both in the general and trade press assigning sinister motives to the White House.

The attacks came, the stories said, because the President and his staff react strongly against the views of Sander Vanocur, a former NBC television newsman, who was hired last September as a senior correspondent for the National Public Affairs Center for Television (NPACT).

Or, they said, it was because public broadcasting was beginning to siphon off viewers from commercial stations, which depend so heavily on mass audiences for advertising revenues.

Finally, some Administration critics said that the OTP attacks were aimed at protecting the President's chance for reelection in November, which could be hurt by national, prime-time coverage of political issues on public stations to an extent not even approached by commercial broadcasters.

Industry denial: During extensive interviews over the past two months, however, no public broadcaster would make such an accusation, even on a not-for-attribution basis. John W. Macy Jr., president of the Corporation for Public Broadcasting, went out of his way to avoid making this kind of allegation.

Macy was read the following quotation attributed to an unnamed "prominent public broadcasting figure" in the Feb. 17 issue of *Newsday:* "I am convinced that the White House is determined to eliminate all news and public affairs broadcasting in public TV . . . They believe that national news and public affairs on public television are too independent and too critical to be allowed to continue unmolested."

Macy responded with a laugh and said: "You're not going to get any confirmation of that from me. They've not said that to me, and I don't take what I read in the paper very seriously."

He said that he takes OTP criticism "at face value" and just tries to answer each individual charge as it comes up.

William E. Duke, CPB public affairs director, was asked if he thought the Nixon Administration was out to destroy public broadcasting.

"Sometimes it seems that way to me," he said, laughing. "But I can't believe it." He said the situation is aggravated, however, by the industry's "phenomenal success" and high visibility. "When you're not very successful, you have an easier time of it," he said.

OTP denials: When the question of political motivation was raised with Administration officials, they vehemently denied any such purpose.

Vanocur issue—The thought that Administration criticism is based partly on NPACT's hiring of Vanocur at $85,000 a year is "hogwash," said Antonin Scalia, OTP general counsel. "We were at loggerheads (with the industry) before I even heard of Vanocur."

Commercial competition—Scalia also denied that his office's criticism was based at

all on fears that public broadcasting was taking away audiences from the commercial system. The audience shares of public stations still are small, he said, and may be comprised mostly of people who would not be watching any television if it were not for the public stations.

"I don't think they're a threat at all to advertising-supported television," Scalia said. "It's foolish to think that our position has anything to do with a threat to commercial broadcasting. I've never had a commercial broadcaster express to me a fear of any threat."

Reelection drive—OTP director Clay T. Whitehead was asked to respond to suggestions that the Administration opposes public broadcasting because a highly active and highly visible public television system could be a detriment to President Nixon's reelection.

"I think the best way to respond to that," he said, "is to say, first, that it's not true, and, second, to offer my personal observation that I don't think public television is going to elect or not elect the President in '72. . . . I don't think it's that big a factor."

PUBLIC BROADCASTING AND CONGRESS' INTENT

In developing his arguments that public broadcasting has become too centralized at the expense of station autonomy, Clay T. Whitehead, director of the Administration's Office of Telecommunications Policy, relied heavily on the legislative history of the Public Broadcasting Act of 1967 (81 Stat 365).

Three documents provide most of this history—the final report of the Carnegie Commission on Educational Television, released Jan. 25, 1967; Senate Report 222, issued May 11, 1967; and House Report 572, issued Aug. 21, 1967.

Although these documents stress a need for national leadership and services in public broadcasting, they emphasize more than anything a need for strong local stations. They encourage the development of interconnections to link all stations together, but they call for a network much different from those now operated by commercial broadcasters.

There still is strong disagreement between Whitehead and public broadcasters about whether the intent of the study commission and of Congress actually is being followed, but the excerpts quoted below show what that intent was in the areas of station autonomy, interconnection and public affairs.

STATION AUTONOMY

"The local stations must be the bedrock upon which public television is erected, and the instruments to which all its activities are referred."—Carnegie report

". . . It should be remembered that local stations are the bedrock of this system and as such must be responsive to the needs and desires of the public which they serve. It is not intended, therefore, that these stations be mere conduits for the productions of other stations or other outside sources."

"We wish to state in the strongest terms possible that it is our intention that local stations be absolutely free to determine for themselves what they should or should not broadcast."—Senate report

". . . Local stations shall retain both the opportunity and responsibility for broadcasting programs they feel best serve their communities. Similarly, the local station alone will make the decision whether or not to participate in any interconnection arrangements, be it state, regional or national. . . .

"In the same manner that the bill strives to insulate the corporation (Corporation for Public Broadcasting) from governmental control, the bill provides and the committee intends to see to it that the local educational broadcasting stations conduct their operations without corporation interference or control."—House report

INTERCONNECTION

"Ordinary networking of taped or filmed programs, inseparably linked with the concept of the single signal, appears to the commission to be incompatible in general with the purposes of public television. It presupposes a single audience where public television seeks to serve differentiated audiences. It minimizes the role of the local station where public television, as we see it, is to be as decentralized as the nature of television permits. . . .

"The commission consequently proposes that public television look to interconnection primarily as a device for the distribution of programs. . . . There would be no expectation that the programs would be immediately rebroadcast by the local station (although of course there would be nothing to prevent such use). Instead, the local station manager would be expected to record those programs he might later use, ignoring the rest.

"We wish to make it clear that what we recommend here is an attitude toward interconnection and not a rigid set of procedures. Beyond any doubt, public television must be fully prepared to use live networking when the occasion warrants. . . . What we recommend is simply that the ordinary use of the system be for distribution rather than networking."—Carnegie report.

"Although the fundamental concept of the noncommercial educational broadcasting system envisions strong local stations and hence de-emphasizes networking as we know it in commercial broadcasting, interconnection will play a crucial role. We, therefore, expect that the corporation will develop a policy on interconnection which will reflect its primary purpose of program distribution while also recognizing that occasions will arise where live or simultaneous broadcasting will be warranted."

"The corporation would use the interconnection facilities to distribute and transmit programs at all hours but each station would be required to make its own decision as to what program it accepts and broadcasts and at what time. . . .

"Fears were expressed (in the hearings) that if the corporation was given this authority it would tend to develop a fixed schedule, network-type operation and thus the local station would be placed in a difficult position to control effectively its broadcast schedule."—Senate report.

"Even with respect to live simultaneous broadcasts, local stations will have the absolute discretion to decide if such programs will be carried at the time the corporation has arranged for their transmission, at some other time, or not at all."—House report.

PUBLIC AFFAIRS

"Major theatrical and musical productions, documentaries on subject of national concern or which require a national approach, programs dealing on a national scale with public affairs or with news commentary, are immediately appropriate (for national production centers)."—Carnegie report.

"Particularly in the area of public affairs your committee feels that noncommercial broadcasting is uniquely fitted to offer in-depth coverage and analysis which will lead to a better informed and enlightened public."—Senate report.

THE BEAUTY OF GREAT SMOKY MOUNTAINS NATIONAL PARK

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DUNCAN. Mr. Speaker, once again the magnificant natural beauty displayed in the Great Smoky Mountains National Park is attracting a record number of visitors. Tennessee is blessed by the clear streams and beautiful foliage which abounds in this park. A summer trip to these mountains will be a memorable adventure for the entire family.

Mr. Speaker, I insert the following:

[From the Knoxville Journal, May 4, 1972]

PARK VISITS SOAR

GATLINBURG.—A total of 530,000 persons visited Great Smoky Mountains National Park during April, bringing the total for this year to 1,104,200, park headquarters reported Wednesday.

The total for April is 18 percent over the 447,900 visits reported in April, 1971, and visits this year are 30 per cent greater than the 847,400 recorded during the same period last year.

JOHN LORD O'BRIAN RECALLS HOOVER'S EARLY DAYS

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DULSKI. Mr. Speaker, as our Nation pays deserved tribute to the great public service of J. Edgar Hoover, for nearly a half century head of the Federal Bureau of Investigation, it is interesting to read the nostalgic observations of a distinguished citizen who helped Mr. Hoover obtain his first job with the FBI.

John Lord O'Brian, a Washington attorney who still calls my home city of Buffalo, N.Y., his home, was in the Justice Department when Mr. Hoover entered public service. Mr. O'Brian's own career includes considerable Government service over the years.

His affection and respect for Mr. Hoover is well outlined in an interview with the able Washington correspondent for the Buffalo Courier-Express, Peter C. Andrews. As part of my remarks, I include the text of his May 3 article.

The article follows:

BUFFALONIAN STIRS NOSTALGIA, PAYS TRIBUTE TO FBI CHIEF

(By Peter C. Andrews)

John Lord O'Brian, 97, the man who helped J. Edgar Hoover get his job with the Federal Bureau of Investigation, said "there never was a more faithful public servant" when informed of Hoover's death Tuesday.

"He started with no background at all and built a tremendous organization," said O'Brian who headed the War Emergency Division of the Justice Dept. during World War I when Hoover came to work for the division.

"He was just out of law school (George Washington Law School)—which he had attended at night—and I took him on my staff. It was in the fall of 1917, and I was immediately impressed with the tremendous worker he was. He used to work nights and Sundays, and was not a publicity artist," O'Brian said.

O'Brian, a native of Buffalo, now the senior partner of the Washington law firm of Covington and Burling, is in Buffalo visiting his family here. He was informed of Mr. Hoover's death by phone and expressed great sorrow at the loss of his long-time friend.

CLOSE RELATIONSHIP

"I last saw him a few years ago," said O'Brian, "but we always retained a close relationship. He used to pay me compliments in

the interviews he gave," O'Brian added, although there had been no official relations between them after World War I.

O'Brian said one of Hoover's greatest achievements was that soon after taking over as FBI chief he persuaded Congress to allow him to establish the fingerprinting center which has been invaluable ever since.

Hoover received his appointment to the FBI from Harlan Fisk Stone, President Coolidge's first attorney general, who later became a justice of the U.S. Supreme Court. He was acting on the recommendation of then Secretary of Commerce Herbert C. Hoover, who later became president. The two Hoovers were not related. Secretary Hoover had heard about J. Edgar Hoover through O'Brian.

FBI IN SORRY SHAPE

The FBI was in sorry shape when Hoover was appointed acting director, May 10, 1924. The first two directors, A. Mitchell Palmer and Henry M. Daughterty, had been noted mainly for their "Red Raids," in which they rounded up persons suspected of being undesirable and shipped them out of the country. There existed a lively traffic in pardons and liquor permits. Some FBI agents at that time had criminal records.

The man who directly preceded Hoover, William J. Burns, a well-known private detective, turned the agency into a sort of private police, gathering evidence against enemies of the Harding administration. Burns resigned about the time of the scandals involving the Harding administration.

O'Brian said Hoover's work with the Justice Dept. during his seven years there dealt primarily with the enemy alien registration section, working on sedition and internment cases. This dealt with civil law, as opposed to military law, O'Brien explained. Hoover always retained an active interest in alien activities during his 48-year tenure as FBI head.

Upon his appointment to the FBI, Hoover immediately set about correcting the conditions he found. Within a few months, he had discharged all questionable employees and set about establishing a reputation of integrity for the FBI that has remained untarnished since.

A DRAG?

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ZWACH. Mr. Speaker, one of my favorite newspaper columnists is a farm housewife, Margery Burns, who writes for a number of rural weekly newspapers in our Minnesota Sixth Congressional District.

There is more good commonsense in Mrs. Burns' writing than is usually found in such columns.

A typical example is the column about farm prices which appeared in the April 27 issue and which I hope all of my colleagues read.

Mr. Speaker, I insert Margery's column in the CONGRESSIONAL RECORD so its good sense can be shared by the thousands of people who read the RECORD. The column follows:

A DRAG?

Can you imagine anyone coming out with the ridiculous statement that the government should reduce "inflationary farm price support levels?" Yet that is exactly what Mrs. Abzug, U.S. Representative from New York, came out with the other day when she testified before the Price Commission.

Where in the world did a member of Congress ever get that idea that present price supports are inflationary? And where in the world are the farm lobbyists who should be giving her the right facts about agriculture?

Why hasn't Mrs. Abzug and others like her been given the information that in the past 20 years wages have gone up 340%, business dividends have gone up 300%, while farm prices increased only 7%? And in the past 20 years, U.S. Senators and Congressmen salaries went up 240%; meat cutters wages went up 166%; beef sold for $35 in 1951 and $32 in 1971, while at the supermarket it sold for $78 in 1951 and $104 in 1971. Today it's much higher than that in the supermarkets.

A few weeks ago, the Giant Food, Inc., had ads in newspapers in the east saying "Meat prices are high and from all predictions will remain high. Beef is near the highest level since the end of the Korean War. Why are they so high? It begins at the source: Livestock prices were not and are not now controlled under the present economic program. Less meat is reaching the market. Prices from our suppliers have skyrocketed. Because of all these reasons you will find higher prices on almost all fresh meats. We consumers can help bring prices down. Buy less meat. Use other forms of protein. Buy something else.

That ad was false, but the worst part was that it helped drive down prices for farmers.

Then—in a statement by the same Giant Food Stores to their stockholders, they say, "Financially, Giant achieved record sales in fiscal 1971 of $476.9 million. Costs, however, continued to rise sharply as a result of inflation as evidenced by a labor contract settlement which boosted wages 13%." And, strangely, livestock prices as the "source" of rising costs are never mentioned in this report as the reason for the Giant Foods' higher costs.

Isn't it too bad that some food chains try to put the blame for higher food prices onto the farmers? Probably they used this trick because they know that farmers won't speak up with one voice on anything.

Isn't it too bad too many people in Washington keep trying to force lower prices on farm products? Back in 1963, Paul Goodman, sociologist, wrote, "It is now the settled policy of our government to get seven million more farm folk off the land since they are economically a drag."

Isn't it too bad that people here in Minnesota aren't aware that if farmers get parity prices for their products it would be the same as giving every town a million dollar industry?

Isn't it too bad that all farmers and all rural people don't fight along side each other to put the rural economy back together again?

Farmers a drag?

VIETNAM

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ERLENBORN. Mr. Speaker, President Nixon's critics are likely to overlook the most important part of the President's television speech of Monday evening. The world, I trust, will study carefully the President's proposal to North Vietnam.

In return for the release of our prisoners of war and a cease-fire, he offered to withdraw all our forces from Vietnam in 4 months. He attached no political conditions. This is by far the most generous and most conciliatory offer that has been made.

The mining of North Vietnamese harbors and the destruction of North Vietnamese rail lines is a risky course. I am not happy about it, any more than President Nixon is. I am even less happy, however, about the aggressive activities of the Soviet Union in supplying an abundance of weapons to North Vietnam; and I despise the irresponsibility of Hanoi in its desperation to win militarily.

The Hanoi forces have struck at a time when our troops are almost out of Vietnam. President Nixon's detractors say he should order the remaining 65,000 men home at once.

If the President were to follow their politically inspired advice, there is a great risk that the South Vietnamese Army and Government would collapse. Then our troops—perhaps a third or a half of them—might be massacred by superior numbers of North Vietnamese troops before they could board ships or planes for evacuation.

Hence, whatever reservations I may have about the program upon which the President has decided, I have much greater doubts about the wisdom of the Nation's listening to those who are eager to play politics in a moment of American travail.

MORE ON RACIAL DISCRIMINATION AND LEAA FUNDS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. RANGEL. Mr. Speaker, on March 30 I charged that the Law Enforcement Assistance Administration of the Justice Department had dispersed nearly $1.5 billion—with no strings attached—to State planning agencies and local police departments at a time when some of these very agencies and departments remain the breeding ground for racial discrimination.

I indicated that a major reason for the disrespect for "law and order" found in the black community is that the police themselves are seen using the badge as a weapon for corruption and discrimination. Part of the solution is to hire more black law enforcement officers and to increase minority group representation in the State and local planning agencies where the decisions are made.

I have introduced H.R. 14239, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to require that State planning agencies receiving LEAA funds submit a State affirmative action plan to overcome the effects of past racial discrimination. My bill would also eliminate the current prohibition against racial quotas currently in the LEAA law. Finally, this bill would require the Justice Department to conduct civil rights compliance reviews before a grantee or subgrantee could receive these Federal funds.

Fortunately, groups outside of Con-

gress have been active in their efforts to correct the obvious deficiencies in the current LEAA procedures.

The Lawyers' Committee for Civil Rights under Law has made an exhaustive review of the way LEAA funds are spent. The committee has also been involved in law suits to challenge the systematic exclusion of blacks from police departments and State planning agencies.

Messrs. Raymond Marcin and William Taylor, of the Center for National Policy Review of Catholic University Law School, have recently filed a petition for the adoption of regulations to force LEAA to meet its constitutional obligation to prevent racial discrimination. The petition, filed on behalf of the Leadership Conference on Civil Rights, the Afro-American Patrolmen's League, the National Spanish Speaking Coalition, the NAACP Legal Defense and Educational Fund, Inc., and the Native American Legal Defense and Education Fund, Inc., suggests there be a regulation to prohibit discrimination in the composition of State planning agencies charged with the responsibility of distributing the funds to local departments. The petition also recommends that there be a regulation requiring a civil rights compliance review before a grant be awarded LEAA money. Instead of seeking compliance through a law suit—the speed and success of which depends largely upon the diligence of the Justice Department and the disposition of a particular judge—LEAA should use a more effective and efficient mechanism, administrative proceedings calling for a fund cutoff if compliance cannot be obtained. The petition also calls for a clear delineation of the duties of LEAA's Office of Civil Rights Compliance, with deadlines for the investigation and resolution of complaints received by LEAA of discrimination. State planning agencies should also be required to include provisions in their State plans for affirmative steps to hire more minority personnel. Finally, the petition recommends changes in the regulations to prevent sex discrimination and to alter minimum height requirements which discriminate against other racial and ethnic minorities.

I commend to your attention both the petition for regulatory change submitted by the Leadership Conference on Civil Rights and the preliminary report of the Lawyers' Committee for Civil Rights under Law on civil rights enforcement in the expenditure of LEAA funds:

[Before the U.S. Department of Justice Law Enforcement Assistance Administration, Washington, D.C.]

PETITION FOR REGULATORY CHANGE

Come now the Leadership Conference on Civil Rights, the National Spanish Speaking Coalition, the N.A.A.C.P. Legal Defense and Educational Fund, Inc., the Afro-American Patrolmen's League and the Native American Legal Defense and Education Fund, Inc., and, under the authority of subsection (e) of section 553 of title 5 of the United States Code, petition the above named the Honorable John N. Mitchell, the Honorable Jerris Leonard, the Honorable Richard W. Velde and the Honorable Clarence M. Coster to amend certain regulations of the United States Department of Justice Law Enforcement Assistance Administration and prescribe certain new regulations as more fully set forth below.

Whereas, court and administrative proceedings involving allegations of discrimination in the employment practices of agencies receiving financial assistance directly or indirectly from the United States Department of Justice Law Enforcement Assistance Administration are pending before United States District Courts in Alabama, California, Connecticut, the District of Columbia, Georgia, Massachusetts, Mississippi and Pennsylvania and before state fair employment practices commissions in California, Connecticut, Indiana, Kansas, Massachusetts, Missouri and Pennsylvania, reflecting a national problem of employment discrimination in criminal justice systems; and

Whereas, on or about December 31, 1970, the above named the Honorable John N. Mitchell, the Honorable Richard W. Velde and the Honorable Clarence M. Coster, in recognition of the national problem of employment discrimination in criminal justice systems, prescribed certain regulations purporting to require nondiscrimination and equal employment opportunity within the federal financial grant systems of the United States Department of Justice Law Enforcement Assistance Administration; and

Whereas, the Law Enforcement Assistance Administration has a constitutional duty to assure that the federal funds which it distributes are not used to subsidize racially discriminatory practices, which duty is more fully set forth in the attached memorandum; and,

Whereas, such regulations fail to meet the requirements of the Constitution and laws of the United States and otherwise contain certain deficiencies and inadequacies as more fully set forth in the attached memorandum,

Now, therefore, the above named petitioners respectfully pray that:

(1) A new section be prescribed prohibiting discrimination in the appointment or selection of members of state planning agency, regional planning unit, and local planning or coordinating council boards.

(2) A new section (similar to 41 CFR 60–2.10(d), the pre-award compliance regulation of the Office of Federal Contract Compliance) be prescribed (a) requiring each applicant for federal financial assistance under title I of the Omnibus Crime Control and Safe Streets Act of 1968 or title I of the Omnibus Crime Control Act of 1970 to include in its application such information concerning its employment practices and the employment practices of each of its subgrantees as the Administration may require; (b) providing for a pre-award compliance review of such employment practices by the Administration within six months prior to the award of any grant under the said acts, and (c) requiring a finding of compliance on the part of each such applicant and subgrantee with subpart D of part 42 of title 28 of the Code of Federal Regulations on the basis of such a pre-award compliance review as a condition of eligibility for any such grant.

(3) Subsection (a) of section 42.206 of title 28 of the Code of Federal Regulations be amended to delete the provision prescribing a preference for invocation of judicial as opposed to administrative remedies and to insert in lieu thereof a provision requiring the prompt invocation of administrative funding termination procedures along with appropriate judicial remedies.

(4) A new section be prescribed (a) setting forth the information required to be included in a complaint of employment discrimination, (b) prescribing the duties of the Office of Civil Rights Compliance with respect to the investigation of complaints and (c) prescribing deadlines for completion of the investigation and informal resolution phases of complaint processing.

(5) Section 42.203 be amended by inserting a new provision (similar to 41 CFR 60–2.10, the Affirmative Action Program regulation of the United States Department of Labor) requiring grantees and subgrantees to develop, under LEAA Office of Civil Rights Compliance supervision, and implement affirmative action plans to assure minority group persons full and equal employment opportunities within police court and correction agencies.

(6) A new section (similar to 29 CFR 1606.1, the minimum height regulation contained in the United States Equal Employment Opportunity Commission's National Origin Guidelines) be prescribed prohibiting the granting of any federal financial assistance under the Omnibus Crime Control and Safe Streets Act of 1968 or the Omnibus Crime Control Act of 1970 to any applicant or grantee who uses or any of whose subgrantees use any minimum height requirement for employment eligibility unless the grantee convincingly demonstrates that the requirement is necessary for the performance of the work involved.

(7) Sections 42.201(a) and 42.203 be amended by inserting the word "sex" along with "race, color, creed or national origin."

(8) A new section be prescribed requiring correctional agencies to take steps to assure equal employment opportunities whenever a federally assisted correctional facility is proposed to be located in an area where minority group persons do not reside.

Petitioners further request a hearing and the opportunity to present evidence and oral argument in support of the above petition.

Dated at Washington, D.C. this 9th day of December, 1971.

[Before the U.S. Department of Justice Law Enforcement Assistance Administration, Washington, D.C.]

MEMORANDUM IN SUPPORT OF PETITION FOR REGULATORY CHANGE

INTRODUCTION

The Law Enforcement Assistance Administration of the United States Department of Justice (LEAA) was created by title I of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90–351). Under that Act, LEAA's role was defined as that of a partner with state and local governments to aid them in the reduction of crime and the improvement of the nation's criminal justice system. Under this partnership concept, LEAA provides both financial and technical assistance to aid state and local governments in the improvement and modernization of their entire criminal justice system—police, corrections and courts. (U.S. Code Congressional and Administrative News 1970, vol. 3, p. 5805, 5806.)

Appropriations to LEAA for fiscal years 1969, 1970, 1971 and 1972 totaled $63 million, $268 million, $529 million, and $1.15 billion, respectively. Authorization for fiscal year 1973 is $1.75 billion. (P.L. 91–644, section 7(8)). By far the largest amounts of LEAA's funds are spent on block action grants to states. (LEAA 1970, U.S. Dept. of Justice, p. 2.) Action grants are used for a variety of purposes: To improve training for police and corrections personnel, to purchase new equipment for police, to hire more police personnel, to improve anti-crime patrols and techniques, to develop more effective crime prevention programs, to conduct programs to inform the public on steps they can take to enhance their safety, to improve police-community relations, to improve court systems for speedier and fairer processing of cases and to improve corrections programs for the rehabilitation of inmates. (U.S. Code Congressional and Administrative News 1970, vol. 3, p. 5807.)

Contemporaneously with the creation of LEAA, the National Advisory Commission on Civil Disorders identified deep hostility be-

tween police and ghetto communities as a primary cause of civil disorders and recommended an intensification of efforts to recruit more Negro police personnel, equal employment reviews of police department promotion policies, nondiscriminatory assignments of police personnel and community relating programs and training for police. (Kerner *et al.*, Report of the National Advisory Commission on Civil Disorders; 1968; ch. 11.) Later, in 1969, the United States Commission on Civil Rights found that police departments had discouraged minority persons from joining their ranks by failure to recruit effectively and by permitting unequal treatment on the job, including unequal promotional opportunities, discriminatory job assignments, and harassment by fellow workers. (U.S. Commission on Civil Rights, For All the People . . . By All the People, 1969; p. 120.)

Despite this massive commitment of federal funds in the context of the concerns outlined in the Kerner and Civil Rights Commission reports, LEAA's early activities with respect to its civil rights responsibilities were marked by chaos and paralysis. The Civil Rights Commission reported in October of 1970 that LEAA was, at that time, the only federal agency with a significant Title VI program which did not have an agency civil rights office. In addition, the Commission remarked that LEAA had not yet developed a civil rights compliance reporting system and was blatently understaffed for Title VI responsibilities. (U.S. Commission on Civil Rights, Federal Civil Rights Enforcement Effort, p. 205, 208, 218.) In pointing to LEAA's failure to issue equal employment opportunity regulations (subsequently issued, *infra*), the Commission noted two internal Justice Department memoranda, one from the Civil Rights Division urging the adoption of such regulations and one from the Office of Legal Counsel concluding that LEAA possessed the authority to do so. (*Id.*, p. 189) Reflective of the confusion which seems to have infected LEAA's early civil rights efforts, and possibly accounting for some of the delay in LEAA's issuance of equal employment opportunity regulations, was an inconsistency of opinion within the Justice Department itself as to whether the employment practices of LEAA's grantees and subgrantees were subject to Title VI of the Civil Rights Act of 1964. On July 10, the Office of Legal Counsel concluded that Title VI was inapplicable. (Rehnquist, Proposed LEAA Regulations on Equal Employment Opportunity, p. 5.) But on October 23, 1970, the Office for Title VI stated that LEAA's programs of federal aid were covered by Title VI and focused specifically on discrimination in recruiting, hiring, assignment and promotion of police officers as a main problem. (Ewald, Title VI Enforcement Practices in Major Federal Programs, p. 67.) There is some indication that LEAA's early civil rights paralysis was due to a desire to avoid confrontation with law enforcement agencies. (Sellers, Background Material for the Reluctant Guardians: A Survey of the Enforcement of Federal Civil Rights Law; Collected for the A. Philip Randolph Institute; Dec. 1969; p. 1–66.) For whatever reason, LEAA's equal employment opportunity regulations were not published until December 31, 1970.

LEAA'S EQUAL EMPLOYMENT OPPORTUNITY REGULATIONS

LEAA's equal employment opportunity regulations appear at 28 CFR 42.201 *et seq.* The claimed authority for their issuance is 5. U.S.C. 301 and Section 501 of the Omnibus Crime Control and Safe Streets Act of 1968. Section 301 of Title 5 of the United States Code is a part of the Administrative Procedure Act and authorizes the head of an executive department to prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. Section 501 of the crime control act is LEAA's general rulemaking authority.

The purpose of LEAA's new regulations is stated to be the enforcement of the provisions of the Fourteenth Amendment by eliminating discrimination on the grounds of race, color, creed, or national origin in the employment practices of state agencies or offices receiving financial assistance from LEAA. Covered are the employment practices of planning agencies (though not their composition, see p. 5, *infra*), law enforcement agencies and other agencies or offices of states or units of general local government administering, conducting or participating in any program or activity receiving financial assistance from LEAA. (28 CFR 42.201.) Applicants for LEAA funds are required to provide nondiscrimination assurances and to obtain nondiscrimination assurances from their governmental subgrantees, contractors or subcontractors. (28 CFR 42.204.) Recipients are required to submit compliance reports. (28 CFR 42.205.) Provisions also require periodic compliance reviews and authorize complaints to be filed by any person who believes himself or any specific class of individuals to be subjected to discrimination. (28 CFR 42.107 incorporated by reference in 28 CFR 42.206.) Compliance with the regulations is seen as being obtained by one of two means, termination of or refusal to grant or to continue funding or other means authorized by law, with a clearly stated preference for the latter. (28 CFR 42.206 and 42.108 (c) and (d).) The regulations also contain a prohibition against construing any provision as requiring recipients to adopt percentage ratios, quota systems or other programs to achieve racial balance or to eliminate racial imbalance. (28 CFR 42.203.)

LEAA'S REGULATIONS AND THE RACIAL COMPOSITION OF PLANNING BOARDS

All LEAA planning and block action grants are channeled through state planning agencies. State planning agencies receive and distribute by far the largest portion of LEAA's funds. (See LEAA 1970, ch. 1). Despite the central and significant role played by state planning agencies in LEAA's grant delivery systems, LEAA's regulations contain no provision prohibiting racial discrimination in the board composition of such agencies, and that omission seems to have been intentional.

On October 23, 1970, the Justice Department's Office for Title VI, in a memorandum addressed to Jerris Leonard, then head of the Civil Rights Division and now Administrator of LEAA, advised Mr. Leonard that one of the main problems of racial discrimination in law enforcement agencies receiving federal assistance was lack of representation of minority groups in planning agencies. (Ewald, Title VI Enforcement Practices in Major Federal Programs, p. 67.) Mr. Leonard, in a letter addressed to the Chairman of the Senate's Judiciary Committee declared, in March of 1971, that LEAA's equal employment opportunity regulations were not intended to apply to the appointment or selection of members of state planning agency supervisory boards.

The problem of discrimination in the appointment of selection of members of state planning agency boards is far from speculative. In the summer of 1969, a suit was filed in the United States District Court for the Southern District of Mississippi challenging the makeup of the Mississippi Commission on Law Enforcement and the State Division of Law Enforcement Assistance and containing the serious allegation that racial discrimination in the appointment of those agency boards has resulted in the racially discriminatory allocation of LEAA benefits. The complainants claim that Negroes have been intentionally excluded from the Commission. (*Allen* v. *Mississippi Commission on Law Enforcement* (S.D. Miss. Civil No. 4487).) In his March, 1971 letter to the Chairman of the Senate's Judiciary Committee, LEAA's Administrator indicated that he believed that the questions raised in the *Allen* case were serious ones, but that neither LEAA nor the Civil Rights Division had conducted an investigation of the complaints in the case or discussed with the Governor of Mississippi the racial composition of the state agencies involved in the suit. What LEAA had done, however, since the filing of the *Allen* case, was to entrust to the state agency boards, whose allocations of LEAA funds had been challenged as racially biased in that case, more than two million dollars in grants. (LEAA 1970 Grants and Contracts, p. 1.)

LEAA'S REGULATIONS AND PREAWARD COMPLIANCE REVIEWS

LEAA's equal employment opportunity regulations contain no requirement for preaward compliance reviews, not even for substantial grants. Other federal agencies conduct such reviews. The Office of Federal Contract Compliance, which implements the provisions of Executive Order 11,246 has required pre-award compliance reviews for contracts involving one million dollars or more. (41 CFR 60–1.20(d).)

There are no cogent reasons why, when the federal government exerts its responsibility to avoid subsidizing racially discriminatory practices by means of the pre-award compliance review procedure in the area of contract compliance, it should not employ similar means in the area of grants. Indeed, since a grant is essentially a gift of money, the analogy would seem to apply *a fortiori*. If government agencies are required to conduct pre-award compliance reviews before they can purchase a million dollars worth of goods or services from a contractor, such agencies ought certainly to be similarly required to conduct pre-award compliance reviews before they give a million dollars outright to a grantee.

In 1970 alone, block action grants in excess of one million dollars were given by LEAA to thirty-six state planning agencies and planning grants in excess of one million dollars were given to two state planning agencies. In three additional states the planning and block action grants added together totaled more than one million dollars. (LEAA 1970 grants and contracts, p. 1.) As was pointed out in the introduction, budgetary authorization for LEAA for the fiscal year 1973 reflects a sharp increase, and presages substantial increases in monies available for block action grants.

Indicative of the need for some sort of preaward compliance procedure is a situation involving the Washington, D.C., Metropolitan Police Department. On April 10, 1970, a lawsuit was filed in the United States District Court for the District of Columbia by several Negro members of the Metropolitan Police Department against their employer alleging discrimination in the promotion procedures of the department. *Davis* v. *Washington* (D.D.C. Civil No. 1086–70). On May 1, 1970, LEAA gave more than a million dollars to the District of Columbia Criminal Justice Planning Agency for approximately one thousand additional police officers for the Metropolitan Police Department. (LEAA 1970 grants and contracts, p. 75.)

Similarly, more than two million dollars was given to the Mississippi Division of Law Enforcement Assistance during 1970 while suits were pending contesting the racial composition of the Mississippi Commission on Law Enforcement (the *Allen* case discussed *supra*) and charging the Mississippi Highway Safety Patrol with systematic exclusion of Negroes. (*Morrow* v. *Crisler* (S.D. Miss. Civil No. 4716).) With reference to the

Mississippi Highway Safety Patrol (which, according to the court's findings in the *Morrow* case, has never employed a Negro patrolman throughout its entire history) LEAA's grants during 1969, 1970 and 1971 have totalled more than a quarter of a million dollars, according to a letter from John E. Brown, Grants Manager, Division of Law Enforcement Assistance, Jackson, Mississippi.

There are other pending lawsuits in federal courts charging police departments with employment discrimination: *Allen* v. *Mobile* (S.D. Ala.; March, 1969; Civil No. 5409–69–p). *Castro* v. *Beecher* (D. Mass.; Sept. 1970; Civil No. 70–120–W). *Pennsylvania* v. *O'Neill* (E.D. Pa.; Dec. 1970; Civil No. 70–3500). *Emeryville Citizens* v. *Neary* (N.D. Cal.; May 1970; Civil No. C–71 940–WTS). *Leonard* v. *Columbus* (N.D. Ga.; June 1971; Civil No. 15–14). *Penn* v. *Stumpf*, 308 F.Supp. 1238 (N.D. Cal. 1970). *Cintron* v. *Vaughan* (D. Conn.; Dec. 1969; Civil No. 13,578). In addition many complaints charging police departments, courts or correction agencies with discrimination are presently pending with state fair employment practices commissions: *Coleman* v. *Missouri State Penitentiary* (March, 1970; No. E–3/71–2696; Missouri Commission on Human Rights). *Blanks* v. *St. Louis Metropolitan Police Dept.* (Sept., 1971, No. E–9/71–3092; Missouri Commission on Human Rights). *Selders* v. *Shawnee County* (July, 1971; No. 891–71; Kansas Commission on Civil Rights). *Alonzo* v. *Kansas Law Enforcement Training Center* (June, 1971; No. E64–71W; Kansas Commission on Civil Rights). *Massachusetts Commission Against Discrimination* v. *Massachusetts Dept. of Public Safety* (Nov. 1970; No. 70–258–R/C/NO; Massachusetts Commission Against Discrimination). *Martin* v. *Indiana State Police* (March, 1970; No. 01450; Indiana Civil Rights Commission). *Hunter* v. *Pennsylvania State Police* (Nov., 1969; Pennsylvania Human Relations Commission). *Pennsylvania Human Relations Commission* v. *Penn Hills Police Civil Service Commission* (June, 1971; Pennsylvania Human Relations Commission). *Fuller* v. *Hartford Police Dept.* (Aug., 1969; FEP 102–1; Connecticut Commission on Human Rights and Opportunities). In none of the jurisdictions involved in any of the above complaints has LEAA made any pre-award civil rights compliance review prior to its issuance of grants.

We do not claim that the allegations of any or all of the above named lawsuits or complaints still pending are true or that any of the LEAA grants referred to above were in fact used to subsidize racial discrimination. We do submit that LEAA bears a responsibility to assure that no funds which it distributes are used to finance racially discriminatory practices and that, in giving large sums of money to agencies which have been publicly accused of engaging in racially discriminatory practices without first inquiring into the validity or lack of validity of these accusations, LEAA is not discharging that responsibility. In this context, it is noteworthy that the United States District Court for the Southern District of Mississippi, in its decree of Sept. 29, 1971, enjoining the Mississippi Highway Safety Patrol from continuing its racially discriminatory employment practices, found that since January 1, 1968, 197 persons, all white, have been hired as Mississippi Highway Patrolmen and that since June 1969, the Department of Public Safety and its Highway Safety Patrol, according to exhibits filed in the case, had been the recipients of federal financial assistance in excess of $30,000 for training and other purposes pursuant to the provisions of the Omnibus Crime Control and Safe Street Act of 1968. (*Morrow* v. *Crisler;* Civil No. 4716; Memorandum of Judge Nixon.) Mississippi's Division of Law Enforcement Assistance grants manager however, has acknowledged the amount to be in excess of a quarter of a million dollars. (*Supra*, p. 8.)

LEAA'S REGULATIONS AND THE PREFERENCE FOR JUDICIAL REMEDIES

LEAA's equal employment opportunity regulations contain a clearly stated preference for judicial remedies for racial discrimination:

"[W]here the responsible Department official determines that judicial proceedings (as contemplated by section 42.103(d)) are as likely or more likely to result in compliance than administrative proceedings (as contemplated by section 42.108(c)), he shall invoke the judicial remedy rather than the administrative remedy . . ." (28 CFR 42.206)

Although the wording of the regulation seems to leave open the possibility of "administrative proceedings," i.e. funding cutoffs, under an appropriate set of circumstances, statements by LEAA's administrator have made it clear that the funding cutoff possibility is too remote for serious consideration. In his letter to the Chairman of the Senate's Judiciary Committee, the Administrator stated that he did not believe the Constitution absolutely bars the provision of federal funds to a police agency which failed to provide equal employment opportunity and that he did not favor withholding of funding as a means of enforcing compliance. More significant perhaps than the judicial preference itself is the "rather than" tenor of the regulation, i.e. LEAA's indication that it will consider court proceedings *instead of* funding cut-off proceedings. In this respect, LEAA's regulatory preference for judicial procedures runs counter to the admonition expressed by the United States Commission on Civil Rights with respect to Title VI compliance sanctions:

"(T)he mechanism of judicial enforcement, intended to be used in addition to the administrative procedure leading to fund termination, is currently being used instead of the administration procedure, thus further weakening the force of Title VI." (United States Commission on Civil Rights; Federal Civil Rights Enforcement Effort, 1971, p. 265.)

If a duty exists on the part of the federal government not to subsidize racial discrimination in its funding programs, then certain specific responsibilities arise independent of judicial actions. Once the granting agency becomes convinced that a grantee is practicing racial discrimination, it can no longer, without fault or complicity, renew the grant. Similarly, once a grantee has been adjudicated guilty of practicing racial discrimination, a specific responsibility arises on the part of the granting agency to recover any funds which were used to subsidize the racially discriminatory practices.

LEAA'S REGULATIONS AND THE HANDLING OF COMPLAINTS

LEAA's regulations contain requirements for prompt investigations and attempts at informal resolutions of complaints. (28 CFR 42.107(d) and (d) incorporated by reference in 28 CFR 42.206(a).)

A recent memorandum of an Administration of Justice Specialist within the Community Relations Service of the United States Department of Justice has pointed to some difficulties involving the investigation and informal resolution sections of LEAA's regulations and LEAA's procedures for handling complaints in general. With reference to LEAA's lack of action on a complaint of employment discrimination filed by the Chicago based Afro-American Patrolmen's League against the Chicago Police Department, the memorandum observes:

"LEAA has not articulated standards that would determine racial imbalance in a law enforcement agency, nor has LEAA articulated how it will process civil rights complaints, nor has it formulated the necessary administrative papers which would give some guidance as to what information is expected from a complainant. LEAA has not determined who would make the investigation of a complaint. LEAA has not formulated standards that would require a law enforcement agency to adopt programs that would eliminate discrimination in policies and practices." (Petterson, Memorandum on Afro-American Patrolmen's League Complaint of Discrimination by the Chicago Police Department; August 4, 1971)

Indecision and lack of action in the processing of complaints of employment discrimination, lack of guidance as to what information is expected of a complainant and confusion as to who is to investigate complaints, all can, and predictably will, have a chilling effect on the filing of complaints by persons who have been subjected to employment discrimination. Such defects can be remedied by a clear delineation of responsibilities and a more detailed description of the complaint procedure in the regulations.

LEAA'S REGULATIONS AND AFFIRMATIVE ACTION PLANS

As to Mr. Petterson's concern that LEAA has not articulated standards that would determine racial imbalance in a law enforcement agency, it should be pointed out that LEAA's regulations (28 CFR 42.203) as well as its establishing legislation (42 U.S.C. 3766 (b)) contain provisions prohibiting requiring the adoption of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency. However, the Civil Rights Commission has observed that there is a clear distinction between action to achieve racial balance and action to eliminate overt practices of discrimination in employment. (Federal Civil Rights Enforcement Effort, 1971, p. 189.) LEAA is nowhere prohibited from requiring affirmative action plans to assure minority group persons full and equal employment opportunities. Affirmative action programs involve sets of specific and result-oriented procedures to which an employer commits himself to apply good faith efforts (41 CFR 60–2.10), and need not involve percentage ratios or quota systems. Indeed LEAA's involvement in the affirmative action approach would seem to be mandated in light of such cases as *Morrow* v. *Crisler, supra,* which challenged the failure of a large state police department in a state with a substantial nonwhite population ever in its history to have employed a nonwhite trooper. The U.S. Commission on Civil Rights has long advocated the inclusion of an affirmative action requirement in federal grant systems. (U.S. Commission on Civil Rights, For All The People . . . By All The People; 1969; p. 130).

The Office of State Merit Systems of the United States Department of Health, Education and Welfare has suggested a variety of methods for use by state and municipal governments in structuring affirmative action programs to produce equal employment opportunity for minority persons without reference to percentage ratios, quota systems and the like. (U.S. Dept. of HEW, an Equal Opportunity Program For State And Local Government Employment; July, 1970.)

LEAA'S REGULATION AND MINIMUM HEIGHT REQUIREMENTS

The United States Equal Employment Opportunity Commission has, in its National Origin Guidelines, prohibited employers from using minimum height requirements when they operate to deny a class of persons equal employment opportunities and are not necessary for the performance of the work involved. (29 CFR 1606.1.) As the EEOC does not have jurisdiction over state or municipal employment, its National Origin Guidelines are not applicable to police, court or correction agencies. Recently the Advisory Commission on Intergovernmental Relations, in its report on State-Local Relations in the Criminal Justice System found that:

"Unduly restrictive height and weight qualifications . . . effectively bar many potential recruits—sometimes from specific minority groups—from police service." (Advisory Commission on Intergovernmental Relations. State-Local Relations in the Criminal Justice System: August, 1971; p. 165.)

It is generally conceded that persons of Mexican and Puerto Rican ancestry, American Indians, and persons of Oriental descent are, as classes, shorter in physical stature than Anglo-American. Accordingly, these groups are disproportionately disadvantaged by the imposition of height requirements for public employment. The issue is whether such requirements are necessary for the performance of the work involved. Even a cursory examination of the existing minimum height requirements of the various state and municipal police departments would seem to cast considerable doubt on arguments in favor of the requirement. The United States Marine Corps, for example, is able to function with a minimum height requirement of five feet for standard enlistment. The following breakdown from the State of New Mexico further illustrates the point:

Department and minimum height requirement

State Police, 5'9".
Albuquerque, 5'8".
Santa Fe, 5'7".
Las Cruces, 5'8".
Clovis, None.
Farmington, None.
Gallup, None.
Bernalillo County, 5'7".
Dona Ana County, 5'10".
Santa Fe County, None.
Roswell, 5'7" (5'6" if well developed).
Hobbs, 5'8" (5'6" if well developed).
Carlsbad, 5'8" (5'6" if well developed).
Artesia, 5'7" (5'6" if well developed).

(Memorandum from the Director of the New Mexico Governor's Policy Board for Law Enforcement; January 25, 1971.)

It is difficult to argue that the citizens of Santa Fe County, where there is no minimum height requirement, are receiving less adequate performance from their policemen than the citizens of Dona Ana County, where there is a 5'10" minimum height requirement. And it is clearly irrational that individuals who are 5'7" in height and otherwise qualified can become policemen in Santa Fe, Clovis, Farmington, Gallup, Bernalillo County, Santa Fe County, Roswell, Hobbs, and Artesia, but not in Albuquerque, Las Cruces, Dona Ana County and Carlsbad and not with the State Police.

The New Mexico situation can be viewed as a microcosm of the situation across the nation—a patchwork of agencies with no minimum height requirements, with high minimum height requirements, with flexible minimum height requirements. Such a situation is patently unfair to the many minority group citizens throughout the United States who as a class are shorter in physical stature than Anglo-Americans and whose eligibility to pursue a career in law enforcement consequently depends upon the accident of their residence combined with an inherited physical trait.

Although LEAA was made aware of the discriminatory impact of minimum height requirements as long ago as February of 1971 by the United States Commission on Civil Rights, no response has been formulated as yet.

LEAA'S REGULATIONS AND SEX DISCRIMINATION

LEAA's regulations are intended to eliminate discrimination on account of race, color, creed and national origin. No mention is made as to discrimination on account of sex. If LEAA had invoked Title VI of the Civil Rights Act of 1964 as authority for the issuance of its equal employment opportunity regulations, the omission of the category "sex" would have been understandable, since title VI extends only to discrimination on account of race, color and national origin. LEAA has not invoked Title VI as its authority, however, and has indicated that the purpose of its regulations is to enforce the provisions of the Fourteenth Amendment. (28 CFR 42.201(a).) The Fourteenth Amendment has been held to prohibit discrimination on account of sex. (*Reed* v. *Reed*, 40 Law Week 4013; U.S. Supreme Court, November 22, 1971). The omission by LEAA of the category "sex" is particularly curious when one notes the fact that LEAA enlarged the Title VI list of categories by adding "creed."

Other *federal* protections against sex discrimination in employment in criminal justice systems do not exist. Title VII which prohibits discrimination on account of sex exempts states and their political subdivisions (therefore criminal justice systems) from its coverage and Title VI which potentially covers criminal justice systems does not prohibit discrimination on account of sex.

Some *state* fair employment practices commissions, however, have jurisdiction over both discrimination on account of sex and criminal justice systems. A survey of the pending cases before such state commissions suggests that sex discrimination in state and local criminal justice systems is perceived to be a problem in a number of jurisdictions. *McClanahan* v. *Hartford Police Dept.* (May 1970; FEP–SEX 26–1; Connecticut Commission on Human Rights and Opportunities). *Alston* v. *State Police Dept.* (Sept., 1971; FEP–SEX 44–1; Connecticut Commission on Human Rights and Opportunities). *Verdini* v. *North Branford Police Dept.* (Aug., 1971; FEP–SEX 47–3; Connecticut Commission on Human Rights and Opportunities). *McAllister* v. *Colorado Division of Juvenile Parole* (Colorado Civil Rights Commission). *Anonymous* v. *Massachusetts Correctional Institution* (Aug., 1971; No. 71–EMP–212–C/S; Massachusetts Commission Against Discrimination). *Anonymous* v. *Boston Penal Institution Dept.* (July, 1971; No. 71–EMP–233–C/S; Massachusetts Commission Against Discrimination). *Rouse* v. *Nebraska Commission on Crime and Law Enforcement* (Sept., 1971; Nebraska Equal Opportunity Commission).

LEAA'S REGULATIONS AND CORRECTIONAL FACILITY LOCATIONS

In 1970 the Crime Control Act was amended to authorize LEAA to make construction grants to states for correctional institutions. (P.L. 91–644). Under the amendment, the state's comprehensive plan which is submitted to LEAA must include satisfactory assurances that the state is engaging in "projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities." (*Id.*, sec. 6.) In addition, LEAA has the duty to prescribe, by regulation, basic criteria for correctional facility construction grant applicants. (*Ibid.*)

In the aftermath of the Attica tragedy, one of the factors widely cited as exacerbating tensions is the existence of prison populations that are composed primarily of minority group persons and are supervised by correctional forces that are almost exclusively white. It has been reported that, although 68 percent of the inmate population in the state's correctional institutions is nonwhite (black and Puerto Rican), whites hold 93.8 percent of all staff positions in the correctional system. (New York Times, Sunday, October 24, 1971, p. 74.) The state's correctional facilities are mostly located in rural areas (e.g. Attica, Auburn, Clinton, Elmira, Dannemora, etc.). This is in contrast with New York City's correctional system in which blacks and Puerto Ricans account for nearly half the staff. (*Id.*) Officials of the state correctional department at Albany have explained that the remoteness of many of the state facilities from centers of black population is a primary reason for the dearth of minority group employees. (*Id.*)

The issue then is whether the location of correctional facilities in rural areas is in itself a sufficient excuse for the absence of minority staff, and whether LEAA has an obligation to assure that steps are taken by state officials to deal with this problem. We take no position on whether or not it is sound policy to locate correctional facilities in rural or suburban areas. But we do maintain that one of the problems of any such location is the provision of equal employment opportunities.

The location of institutional facilities, particularly government facilities, has been recognized as having civil rights implications in the area of equal employment opportunities. (S. 1283, the Government Facilities Location Act of 1971, introduced by Senator Ribicoff.) The General Counsel of the United States Equal Employment Opportunity Commission has taken the position that corporate relocations to suburban areas where minority group workers do not reside constitutes a violation of Title VII of the Civil Rights Act of 1964 unless the corporation has taken steps to assure equal employment opportunity. (Hebert, *et al.*; Memorandum to William H. Brown III, Chairman, EEOC, on Employment Discrimination by Relocation of Plant and Corporate Headquarters; July 7, 1971.)

If, as New York state correctional officials have indicated, the locations of correctional facilities pose special problems for the recruitment of minority group employees, and LEAA possesses a statutory responsibility to require correctional agency programs to improve recruitment, then the regulations to implement that responsibility should address the problems associated with correctional facility locations. The United States Court of Appeals for the Fourth Circuit has recently ruled that LEAA *must* consider the environmental impact of a proposed Virginia prison facility before providing funds for its construction (*Ely* v. *Velde* 40 Law Week 2275; Nov. 8, 1971), observing that the provisions of the Safe Streets Act must not be read "so broadly as unnecessarily to undercut solutions adopted by Congress to preserve and protect other societal values, such as the natural and cultural environment." (Quoted from The Washington Post, November 10, 1971.) LEAA should, by regulation, require correctional agencies to take steps to assure equal employment opportunities whenever a federally assisted correctional facility is proposed to be located in an area where minority group persons do not reside.

Examples of appropriate steps to assure equal employment opportunities in such relocations have been provided by EEOC's General Counsel. They include: (1) The institution of special recruiting efforts in the nearest areas of minority residence; (2) the payment of commuting and moving expenses, as well as assistance in the search for housing, and (3) the establishment of goals for minority employment to reflect the proportions of minorities at the original location. (Herbert, *et al.*, Memorandum, *supra*, at p. 13, 14.)

POINTS AND AUTHORITIES

The Law Enforcement Assistance Administration has an affirmative constitutional duty to prevent discrimination by its grantees and subgrantees.

A. That the strictures imposed upon states by virtue of the Equal Protection Clause of the Fourteenth Amendment apply to the federal government by virtue of the Due Process Clause of the Fifth Amendment has not been seriously doubted since *Bolling* v. *Sharpe*, 347 U.S. 497 (1954).

B. The government, whether federal or state, may be held responsible for the discriminatory conduct of others if it has become involved in assisting or supporting the activities of the party which has discriminated. *Cooper* v. *Aaron*, 358 U.S. 1 (1958). *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715 (1961). *Green* v. *Kennedy*, 309 F.Supp.

1127 (D.D.C. 1970), appeal dismissed 398 U.S. 956 (1970). Thus, even though private discriminatory conduct does not ordinarily abridge the Fourteenth Amendment, a constitutional violation is established if ". . . to some significant extent the State in any of its manifestations has been found to have become involved in it." *Burton* v. *Wilmington Parking Authority, supra,* at 722. Similarly, "State support of segregated schools *through any arrangement, management, funds, or property* can not be squared with the [Fourteenth] Amendment's command that no State shall deny to any person within its jurisdiction the equal protection of the laws." *Cooper* v. *Aaron, supra,* at 19. (Emphasis supplied). Even such indirect aid as the granting of a tax exemption for private racially segregated schools is sufficient to meet the test. *Green* v. *Kennedy, supra.*

C. A right of action lies against the Federal government to restrain the government from supporting racially discriminatory practices. *Gautreaux* v. *Romney,* ——— F2d ——— (7th Circuit, September 10, 1971). *Hicks* v. *Weaver,* 302 F.Supp. 619 (E.D. La. 1969). *Green* v. *Kennedy, supra.* Cf. *United States* v. *Frazer,* 317 F.Supp. 1079 (M.D. Ala. 1970). In *Gautreaux* and *Hicks,* HUD was held, under the Due Process Clause of the Fifth Amendment, to be jointly responsible with public housing authorities for the latter's discriminatory practices. The *Frazer* case dealt with racial discrimination in the administration by the State of Alabama of a galaxy of federally financed grant-in-aid programs, including Old Age Assistance, Medical Assistance for the Aged. Aid to Families with Dependent Children, Maternal and Child Health and Cripple Children's Services, Child Welfare Services, Aid to the Blind, Aid to the Permanently and Totally Disabled, Hospital Survey and Construction, Comprehensive Health Planning and Public Health Services, Unemployment Compensation, Work Experience and Training and Civil Defense. In issuing its injunction, the Court observed that—

"The interest of the United States in these federally financed programs is not substantial, rather it is so considerable that the Government, through its duly constituted officials, including the Attorney General of the United States, has a constitutional obligation to eliminate racial discrimination in their operation. Failure on the part of any of these governmental officals to take legal action in the event that racial discrimination does exist would constitute dereliction of official duty." (317 F.Supp. at 1084).

CONCLUSION

The problem of employment discrimination in the criminal justice systems of the nation is widespread. A 1970 Justice Department memorandum focused on the scope of the problem:

"The main problems of racial discrimination in law enforcement agencies receiving federal assistance are lack of representation of minority groups in administrative positions, in planning agencies, and on citizen advisory boards; discrimination in recruiting, hiring, assignment, and promotion of police officers; racially discriminatory policies of providing protection for citizens; racially discriminatory law enforcement practices; and racially discriminatory practices regarding pardons, paroles, and correctional institutions." (Ewald, Title VI Enforcement Practices in Major Federal Programs; October 23, 1970; p. 67.)

Concern for the problem, however, is also becoming widespread and has manifested itself in the formation throughout the country of organizations of minority group policemen, such as Chicago's Afro-American Patrolmen's League, Washington, D.C.'s Brotherhood of Policemen and Citizens, San Francisco's Officers for Justice, Newark's Bronze Shield, Cleveland's Shield Club, Dayton's Black Police Association and the Guardians of New York, Hartford, Pittsburgh, Philadelphia, Indianapolis and Detroit. In the wake of Attica, the Ossining Brotherhood of New York State Correction Officers is making efforts to organize black correction officers through the state. Recently, a National Conference of Minority Police was founded in St. Paul, Minn., and LEAA itself has recently funded a Center for Criminal Justice Agency Organization and Minority Employment Opportunities at Marquette University's Law School.

LEAA's response to the problem, however, has, except for the funding of the Marquette Center, been less than vigorous. Last month, the United States Commission on Civil Rights declared:

Overall, LEAA's civil rights performance has been grossly inadequate. The Office of Civil Rights Compliance continues to be severely understaffed. Moreover, LEAA's compliance program is virtually nonexistent, with the exception of an occasional complaint investigation. The importance of the anticipated issuance of a compliance report form is diminished by the apparent lack of planning on what will be done with this information once collected." (U.S. Commission on Civil Rights, the Federal Civil Rights Enforcement Effort: One Year Later; November, 1971; p. 149.)

It is clear that, one year after their enactment, LEAA's equal employment opportunity regulations are not working. Complaints are not being processed satisfactorily, according to the U.S. Commission on Civil Rights:

"The focus of LEAA's compliance program thus far has been on processing of complaints, but even here LEAA's performance has been inadequate. For example of the 18 complaints LEAA received during the second half of Fiscal Year 1971, which relate to employment or Title VI matters, twelve are still pending. In one case LEAA is awaiting information from a recipient concerning its allocation of funds in order to respond to a complaint it received 5 months earlier." (*Id.* at 146.)

LEAA's compliance review program seems to be in severe disarray:

"LEAA's compliance program has not noticeably improved since this Commission's October 1970 report. LEAA still has not conducted a satisfactory Title VI or equal employment opportunity (EEO) compliance review. At this juncture, LEAA has not even determined precisely what aspects of its programs are covered by Title VI." (*Ibid.*)

Moreover, the Civil Rights Commission is still awaiting LEAA's reply to its August, 1971, communication in which it requested that LEAA conduct a compliance review of a state with a 45 per cent black working age population and a state highway patrol which is less than one per cent black. (See: South Carolina Council on Human Relations, Black Employment in Selected Agencies of South Carolina State Government, May 7, 1971.)

LEAA, which was put in the unique position of funding a national effort to improve the criminal justice system, now finds itself uniquely equipped to influence the employment practices of some 40,000 state and municipal police, court and correction agencies. That its equal employment opportunity regulations be positive, assertive and effective is essential to any effort in this regard.

[Lawyer's Committee for Civil Rights Under Law]

CIVIL RIGHTS ENFORCEMENT

Civil rights enforcement at LEAA, in the words of Roy Wilkins, Chairman of the Leadership Conference on Civil Rights and head of the NAACP, is "a glaring and blatant disregard for the laws of this land." The LEAA enforcement unit, headed by attorney Herbert Rice, is understaffed and underbudgeted.[1] More importantly, LEAA has defined the authority of the unit narrowly and has issued an inadequate set of anti-discrimination regulations that fail to give full force to the mandate of Title VI of the Civil Rights Act of 1964.

LEAA hands out millions of dollars annually to a wide range of criminal justice agencies. These agencies are fast-growing segments of the public service labor market and as such they present significant employment opportunities for minorities. Lax civil rights enforcement has the effect of denying these opportunities. Equally important are the operations and practices of the agencies themselves in dealing with minority individuals and communities. For many minority persons the police are one of the few governmental agencies with which they have constant contact; for others, particularly youth, unfair treatment by courts and corrections agencies is a common experience. The massive federal funding has created an opportunity for federally induced reform that prior to LEAA was lacking. LEAA has the power and the responsibility to make certain that the grantees of federal anticrime funds take steps to correct all forms of discriminatory practices. Unfortunately, the record to date shows that LEAA is not fulfilling this responsibility.

The Problem: (A) *Employment Discrimination: A Growing Job Sector Closed to Minorities.*

Of the three major agencies in the criminal justice system—police, courts and corrections, the only reliable employment figures concern the police. The Bureau of the Census has estimated that in 1970 federal, state and local governments employed approximately 538,000 persons for police protection functions.[2] This represented a 4.7% increase in employment over the previous year, a rate of growth considerably higher than most segments of the public sector.

There are no reliable figures on police hiring discrimination against minority group members. Systematic statistics simply are not kept (and LEAA's statistic section has not allocated any of its $4,600,000 budget to this purpose). Estimates of civil rights groups suggest that nationwide, less than 12% of police force members are black or Spanish-speaking persons.[3] Of this number a very small portion are in management or policy-making positions. Some indication of the extent of racial discrimination in law enforcement agencies is provided by the number of lawsuits and administrative proceedings pending against such agencies. In January 1972 there were at least 15 such proceedings, challenging recruitment, testing, promotion and other practices.

The situation in regard to women is even worse. The Police Foundation has estimated that there are approximately 6,000 policewomen (around 1%) in the United States and that most of these women are hired to do jobs considered traditionally "feminine," such as working with juveniles or female prisoners, typing and clerical work or switchboard duties. Police departments often have quotas for women and/or special entrance requirements, such as higher educational requirements.[4]

Even where police departments have conducted widely publicized campaigns to recruit minorities, the minority staff on the force remains small relative to the overall population of the area being served. In Washington, D.C., 73% of the population is black. After a massive recruitment drive in 1970 which brought in 2,000 police and brought the force to a full authorized staff of 5,100[5] blacks constituted only 37% of the force. Critics—including litigants in a federal dis-

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Footnotes at end of article.

trict court complaint[6]—alleged that discriminatory tests excluded black candidates from consideration for police posts and that out-of-city recruiting was encouraged to counterbalance recruitment in heavily black Washington.[7]

In Chicago in a complaint filed by the Afro-American Patrolmen's League and now under investigation by LEAA, it is alleged that in a city whose population is 33% black, only 17% of the police force is black.[8] The recruitment figures, however, show that future prospects are worse: of the last 600 recruits hired, less than 10% were black.[9] The complaint charges that the Chicago Police Department systematically discriminates in testing, medical examinations and hiring as well as in promotional policies of black and minority group candidates.

In the areas of courts and corrections, there are even fewer accurate figures available. Persistent efforts by journalists have uncovered some indicators. A Washington *Post* reporter estimated that non-whites comprise 40–50% of the nation's prison populations (although only 12.5% of the total population); prison guards, however, are 95% white.[10] The New York *Times* reviewed the New York State prison facilities and determined that 68% of the inmate population was Black and Puerto Rican, but that 93.8% of the total prison staff was white. At Attica State Penitentiary, the scene of a recent tragedy, the inmate population was 85% Black and Puerto Rican, but the staff of 380 officers included only one person somewhat broadly identified as "Black or Spanish-speaking."

As far as the courts are concerned, the National Bar Foundation estimates that of some 20–25,000 judges in the United States, 280, or around 1% are Black. There are no similar nationwide figures for other minorities. Among federal judges, however, as of early 1972 there were 7 women on the bench of a total of 636 judges; only one of these was on a circuit court of appeals.

B. *Agencies of the Criminal Justice System Discriminate Against Minorities.*

A number of studies have documented the fact that minority persons, are processed through the criminal justice system in greater numbers than their percentage of the population. A study of the Boston courts completed by the Lawyers' Committee for Civil Rights in September 1970 showed that although the Black population of that city is only 16.3%, Blacks constituted 53% of the caseload of the city's criminal courts. The predominance of Blacks in the system could be explained by greater criminality among that group. However, figures on the treatment of minorities once they are in the system indicate that the overrepresentation is due, in substantial part, to racial discrimination. Of all those involved in the criminal justice system, minorities tend to receive harsher treatment whether it involves the initial decision to arrest, the decision concerning the charges to be levied, the decision whether to grant or deny bail, the imposition of sentences or the determination to grant probation or parole. For example, in an area where the figures are easy to calculate, the imposition of capital punishment, it has been shown that although Blacks comprise 10% of the population between 1930 and 1966, they accounted for 54.5% of those persons executed for capital crimes.[11] It is, of course, impossible to correlate with exactness the relationship between the composition of the staff of criminal justice agencies and the treatment meted out to minority persons or minority neighborhoods. However, it is clear beyond dispute that white dominated police forces have in the past been unsympathetic to cultural characteristics of the minority populations they serve and consequently deal with minority persons in harsher terms. Similarly, it is evident that the tensions created by corrections facilities located in all white communities and staffed by white guards, inhibit and retard any rehabilitative effect the institutions may have.

LEAA's Role. LEAA has belatedly begun to deal with problems related to employment discrimination. It has not, however, even attempted to face the problem of discriminatory actions in the operations of criminal justice agencies.

The LEAA program was in operation for almost two years before a civil rights compliance office was established. Despite the fact that a number of Presidential Commissions had documented problems of discrimination, LEAA distributed massive sums of money in FY 1969 and FY 1970, particularly to police departments, with no consideration of civil rights problems or issues.

In July 1970, the Office of Legal Counsel of the Department of Justice issued a legal position letter justifying the two years of inaction by declaring that Title VI of the Civil Rights Act of 1964 was not applicable to the employment practices of LEAA grantees and subgrantees.[12] Almost immediately, the U.S. Commission on Civil Rights criticized the letter as an "overly narrow view" of LEAA's authority with respect to employment practices.[13] Specifically, the Commission pointed out that LEAA was "The only Federal agency with a significant Title VI program which does not have an agency civil rights office." A month later, on October 23, 1970, a third opinion—from the Justice Department Office for Title VI, addressed to Jerris Leonard in his capacity as Assistant Attorney General for the Civil Rights Division—argued forcefully, and apparently convincingly, that LEAA programs were covered by Title VI.[14] Regulations were finally issued—two years after the passage of the Safe Streets and Omnibus Crime Control Act—on December 31, 1970.[15]

In November, 1971, the Civil Rights Commission re-examined LEAA's civil rights compliance program and concluded that no substantial progress had been made.[16]

"LEAA's compliance program has not noticeably improved since this Commission's October, 1970 report. LEAA still has not conducted a satisfactory Title VI or equal employment opportunity (EEO) compliance review. At this juncture, LEAA has not even determined precisely what aspects of its program are covered by Title VI."

Although LEAA has emphasized its role in the processing of complaints against grantees, the Commission noted,[17]

"Even here LEAA's performance has been inadequate . . . of the 18 complaints . . . received during the second half of Fiscal Year 1971 . . . 12 are still pending. In one case, LEAA is awaiting information from a recipient concerning its allocation of funds in order to respond to a complaint it received five months earlier."

THE REGULATIONS

The regulations promulgated by LEAA prohibit certain discriminatory employment practices by planning, law enforcement and other agencies administering, conducting or participating in any program receiving LEAA funding, but they echo Sec. 518 of the Omnibus Crime Control and Safe Streets Act in declaring that—

"Nothing contained in this subpart shall be construed as requiring any such agency or office to adopt a percentage ratio, quota system or other program to achieve racial balance or to eliminate racial imbalance."

Grantees must provide assurances that they will comply with the nondiscrimination regulations, and must submit compliance reports. LEAA is required to make periodic compliance reviews and receive complaints of discrimination. LEAA has the power to terminate or refuse a grant, or to continue funding and use a judicial remedy; the regulations state a clear preference for the judicial remedy.

The LEAA regulations have been challenged as deficient by Catholic University's Center for National Policy Review[18] for the following reasons:

1. The regulations contain no provision prohibiting racial discrimination in the composition of the boards that formulate policy and make fund distribution decisions for the state planning agencies. The absence of minority representation in planning agencies was raised in the October 1970 Ewald memorandum, and in a suit challenging the composition of the Mississippi Commission on Law Enforcement . . . proceedings for a finding of discrimination.

* * * * *

LEAA has taken the position that pre-award reviews and possible grant denials based thereon, would interrupt law enforcement activities. This is doubtful since LEAA contributions represent only a small percentage of overall criminal justice expenditures. Further, there is less interruption from withholding a new grant initially than from a court order to suspend funding once a program is underway. LEAA sees no difficulty in giving financial support to police departments, courts or correctional institutions while litigation is pending challenging such agencies with employment discrimination.

3. Although the regulations appear to allow both fund cutoffs and judicial remedies in instances of discrimination, both Leonard and Herbert Rice have made it clear their distaste for fund cutoffs. Rice told us that "fund cutoffs hurt everyone—Blacks included." Mr. Rice felt that in most cases, agencies did not "intend" to discriminate, and that the real problems that faced his office were contained in "antiquated" personnel forms and tests. He told us that "cultural bias may be quite innocent" in job testing, and that his office would be most useful in providing "technical assistance" to reform first through persuasion, then through lawsuits. He would continue to offer "technical assistance" during the course of the suit. And, of course, no fund cutoff would occur except as a part of a court at the end of the litigation. The most important goal is "to keep LEAA money flowing to the grantee to fight crime in the streets."

4. Although the regulations contain requirements for prompt investigations and attempts at informal resolutions of complaints, LEAA has issued no guidance to complainants as to what information they must or should produce. Commenting on this situation, the Justice Department Community Relations Service said: [19]

"LEAA has not articulated standards that would determine racial imbalance in a law enforcement agency, nor has LEAA articulated how it will proces civil rights complaints, nor has it formulated the necessary administrative papers which would give some guidance as to what information is expected from a complainant."

5. Although section 518 of the Safe Streets Act prohibits a percentage ratio or quota system requirement with regard to minority hiring, there are other methods available for eliminating racial discrimination, such as affirmative action plans, that are not required by the regulations. The Center for National Policy Review pointed out that "[a]affirmative action programs involve sets of specific, result-oriented procedures to which an employer commits himself to apply good faith efforts (41 CRF 60-2.10), and need not involve percentage ratios or quota systems." As a model, they referred to the non-quota or ratio method for insuring equal employment opportunity, suggested to state and municipal governments by HEW in July 1970.[20]

LEAA's interpretation of Sec. 518 necessarily places a heavy enforcement burden on private litigants—instead of the government. In our interview with Jerris Leonard, he suggested that Sec. 518 of the Safe Streets Act bars any affirmative action to eliminate

Footnotes at end of article.

discrimination by grantees. Leonard called Sec. 518 "very debilitating" to civil rights enforcement and suggested that some private civil rights organization challenge its constitutionality. He would not, however, ask Congress to remove the debilitating language from the law.

6. The regulations do not prohibit employers from using minimum height requirements. Such requirements tend to discriminate against persons of Oriental, Mexican and Puerto Rican ancestry.

7. The regulations do not prohibit sex discrimination.[21]

THE STAFF AND ITS OPERATIONS

A. Staff—LEAA has made only minimal attempts to establish an effective and adequate civil rights compliance staff to process complaints. The civil rights compliance office presently has four authorized professional positions. Three additional professionals have been temporarily assigned to it; next years' budget requests four more slots. Although Leonard and Rice state that the limited staff constrains their enforcement ability, they are unwilling to request more than the four new positions because they are "not sure it would do any good." Most LEAA grant funding functions are being absorbed by beefed-up regional offices, but none of the regional offices will have a civil rights compliance officer out of a staff of approximately 26 persons. Instead, the national office will rely on reports filed by the LEAA audit staff, who in turn, will review the work of state auditors. The civil rights compliance office will, therefore, be dealing with data three levels from its source, collected by an overworked auditor whose primary concerns are fiscal.[22]

The chief compliance officer is an attorney who formerly was in (non-civil rights related) private practice; his attitude toward compliance problems and his appreciation of the various forms of discrimination is sometimes naive. For example, Rice told an NAACP representative[23] that it was very difficult to get agencies of state and local government to adopt nondiscriminatory hiring policies because "you are asking them to do something they have never had to do." The NAACP representative called this an "exhumed version of the community opposition theory which was a prevalent excuse several yeras ago for school districts that did not want to desegregate."

The Office of Civil Rights Compliance, at Mr. Leonard's direction, has taken steps to increase minority hiring within the LEAA offices themselves. Leonard has established a quota for all federal and regional offices, he has instructed them to reach one-third minority staffing. Reports from most of the regions indicate that this level is being met, although in a number of regions, minority hiring appears to be limited to lower level positions.[24]

B. Administrative Action to Reduce Discrimination—To improve minority police recruitment, the LEAA has given Marquette University a $390,000 two-year grant from Institute funds to provide technical assistance to state and local law enforcement agencies in recruiting minorities. The Marquette grant provides assistance only at the request of the police department or on the order of a court. To date, the Institute has assisted 11 "major police or civil service" departments. The executive director of the project, Stanley Vanagumas, indicated that requests from police departments had been slow in coming but that in any case, the center's level of funding dictated limited involvement.[25] In some cases, departments requested assistance because of the threat of lawsuits; in other cases, he felt, they did so because it was "good public relations," or "commonsense." Mr. Vangumas felt it was too early to see if the center's advice has actually improved minority hiring conditions.

A $300,000 fifteen-month grant has been given to the Urban League, from the Office of Civil Rights' Compliance Technical Assistance budget. The grant will be operational April 1, 1972, will be used to encourage minority recruitment in two police departments and one correctional agency. Although the locations of these agencies had not been selected as of the date of this report, Rice indicated that they would be chosen from among the eight "Special Impact" cities. The remaining funds from the civil rights compliance office technical assistance budget will be spread among a number of projects, including financing a three-man panel that has been designated to investigate the charges of the Afro-American Patrolman's Leagues against the Chicago Police Department. (see p. 4–5 *supra*.)

Beyond these three efforts, the primary focus of the Office has been the drafting of a compliance form for grantee police departments. Failure to file the form will be an act of "non-compliance" but will not affect the flow of LEAA funds. Leonard and Rice believe that compliance forms will be promptly completed and returned. When the police compliance form is completed [as of the date of this report, the form was still in draft], Rice will begin work on the corrections/courts grantee form. Grantees will be required to file on alternate years because, "if everyone filed each year, there would be a hell of a lot of forms to look at."

The information will be data processed.[26] No decision has been reached concurring the use of the data once processed Rice says that data processing should produce compliance generalizations and "exception" reports, so that LEAA knows where the most difficult problems are. Its further value will be "the publicity thing, i.e., to impress on the grantee that he should do more. Mr. Rice thinks that the data will have to be examined before they decide more precisely what to do with it. In any event, neither Leonard nor Rice plan to use the data as a basis for pre-award grantee reviews. Rice believes he has "had good luck in resolving disputes in an amicable way" and believes that discrimination problems can be resolved in most cases by discussion. He believes that if compliance data shows that a state "looks bad" he can convince them to change. Complaints against intransigent grantees will be referred to the Justice Department's Civil Rights Division for suit.

C. Court Action—Despite LEAA's "preference" for judicial remedies, it has to date taken part (through the Civil Rights Division) in only four cases, all of them brought by private organizations.[27] In each case, its role has been a limited one. In one of these, the Alabama Highway Patrol case, the Department intervened at the order of District Court Judge Frank Johnson. How the Department came to intervene in the other cases is a matter of some conjecture.

CONCLUSIONS

The Civil Rights Commission recommended that programs subject to Title VI have the certain minimum compliance activities. LEAA does not meet these minimum standards. Specifically, LEAA does not conduct systematic on-site reviews of recipients civil rights compliance progress; LEAA has conducted short training sessions for federal auditors but has not provided them with written comprehensive guidelines for compliance reviews; LEAA does not conduct—and has expressed an intention never to conduct—preapproval compliance reviews of any sort; LEAA has not set specific limits on the time permitted for voluntary compliance, and will not use fund-cutoff as a tool of its civil rights compliance effort. Finally, LEAA insists on using litigation as a substitute for fund termination proceedings, rather than as a mechanism to effect such proceedings. LEAA has set in motion a system of reporting systems to collect data on racial and ethnic participation in recipient's programs; however, the system will not be even partially functional until this summer—four years after the program was created.

In terms of administrative set-up, as well, LEAA fails to meet the Civil Rights Commission standards. The Compliance Office now reports directly to the Administrator, Mr. Leonard,[28] but its chief officer is at a grade level—GS–15—which is below that of LEAA program administrators. As the Civil Rights Commission pointed out: [29]

"While the effectiveness of an agency civil rights director is not necessarily a function of his grade, more often than not, his or her ability to deal with program people on an equal basis is affected by this."

The Civil Rights Commission felt that the compliance officer must participate fully in key agency policy decisions. At LEAA, the Office of Civil Rights Compliance is somewhat cutoff from LEAA policy making. For example, the Director was not involved in Leonard's significant decision to require ⅓ minority hiring. Nor has he or his staff had a discernible impact on other aspects of the program such as the Institute of Law Enforcement and Criminal Justice. The Institute has funded virtually no research on the discriminatory treatment of minorities by police agencies, the courts or corrections institutions despite the great need for such research.

The Commission also noted in 1970 that most agencies with major Title VI programs had decentralized compliance enforcement to the agencies' field offices. Only LEAA and the Veterans Administration continue with centralized operations in which compliance activities are conducted by headquarters personnel. Although the commission noted some advantages to centralization it also pointed out the danger that in a centralized situation, the Title VI staff would not be "sufficiently knowledgeable about the programs and that liaison with program administrators would be jeopardized." Because LEAA's movement to regionalization has been quite recent, judgments about the effect on civil rights compliance may be premature; nevertheless, we note the discrepancy between the rhetoric justifying regionalization and LEAA's decision to keep civil rights compliance functions centralized in Washington.

LEAA has made some limited attempts to deal with employment discrimination. It has not yet begun to deal with the difficult problems of discriminatory treatment of Blacks and minorities by the criminal justice system.[30]

FOOTNOTES

[1] For FY 1972 it has a salaries and administrative costs budget of $148,784 and a technical assistance budget of $690,450.

[2] US Dept. of Commerce, Bureau of the Census, Public Employment in 1970, GE 70 No.).

[3] Faced with inadequate statistics, the Kerner Commission chose to examine minority employment in 28 selected police departments. They found that 7,046 of 80,621 police were nonwhite or around 9%. (Kerner Commission, 1968, at p. 169.) In the same departments, the Commission compared the percentage of nonwhite officers to nonwhite population in the city, and the number of nonwhite sergeants, lieutenants, and captains to officers. Nonwhites were decidedly underrepresented in all these categories.

[4] The Police Foundation also found that if women attend the same police academy as do policemen, they are often encouraged to skip physical training classes, or to skip class to type letters or documents. Some depart-

ments do not allow women to take promotional examinations, or to take them only when a "women's" position opens up. They are often not provided uniforms—a situation that policewomen feel not only causes them to be excluded from certain police activities, but also causes them embarrassment for example when they are publicly seen with uniformed policemen who are accused of "fooling around on the job." (p. 30 report). [The source of these materials is *Women in Policing*, by Catherine H. Milton, Police Foundation Publication] The Washington, D.C. Police Department, under a Police Foundation grant, is shortly going to assign women to patrols, and compare their performance to those of men doing the same job in order to determine whether any differences in fact exist. The authors of this study suggested that sex discrimination would also be found in the courts, in prosecutors offices, and in most correctional occupations.

[5] 1,954 officers were appointed; at the end of this drive, the Washington force was at its full authorized strength for the first time since World War II.

[6] Davis v. Washington, D.C. D.C. Cir. Ct. No 1086–70.

[7] As of August 13, 1971, black officers in Washington were:

Rank:	Black	Other
Chief		1
Asst Chief		3
Dept Chief	2	5
2nd Specs	2	20
Captains	6	32
Lts	13	114
Sergs	54	375
Dept Sergs	5	37
Detect	5	29
Plain Clo	141	169
Dsk Sergs	7	55

[8] A partial list of federal and state proceedings charging police departments with employment discrimination compiled by the Center for National Policy Review includes: Allen v. Mobile (S.D. Ala, March 1969; Civil No. 5409–69–p). Castro v. Beecher; Pennsylvania v. O'Neill (E.D. Pa.; Dec. 1970; Civil No. 70–3500). Emmeryville Citizens v. Neary (N.D. Cal.; May 1970; Civil No. C–71 940–WTS). Leonard v. Columbus (N.D. Ga.; June 1971; Civil No. 15–14). Penn v. Stumpf, 308 F. Supp. 1238 (N.S. Cal. 1070). Cintron v. Vaughan (D. Conn.; Dec. 1969; Civil No. 13, 578). Complaints charging police departments, courts or correction agencies with discrimination presently pending with state fair employment practices commissions include: Colemann v. Missouri State Penitentiary (March, 1970; No. E–3/71–2696; Missouri Commission on Human Rights). Blanks v. St. Louis Metropolitan Police Dept. (Sept., 1971, No. E–9/71–3092; Missouri Commission on Human Rights). Selders v. Shawnee County (July, 1971; No. 891–71; Kansas Commission on Civil Rights). Alonzo v. Kansas Law Enforcement Training Center (June, 1971; No. E64–71W; Kansas Commission on Civil Rights). Massachusetts Commission Against Discrimination v. Massachusetts Dept. of Public Safety (Nov. 1970; No. 80–258–R/C/No; Massachusetts Commission Against Discrimination). Martin v. Indiana State Police (March, 1970; No. 01450; Indiana Civil Rights Commission). Hunter v. Pennsylvania State Police (Nov., 1969; Pennsylvania Human Relations Commission). Pennsylvania Human Relations Commission v. Penn Hills Police Civil Service Commission (June, 1971; Pennsylvania Human Relations Commission). Fuller v. Hartfort Police Dept. (Aug., 1969; FEB 102–1; Connecticut Commission on Human Rights and Opportunities).

[9] As of date of the complaint [June 16, 1971] Blacks were significantly underrepresented in upper echelon department positions:

	Total	Blacks
Exempt rank positions*	78	7
Captains	94	1
Lieutenants	299	13
Investigators	1,222	97
Youth officers	226	46
Sergeants	1,335	126
Women	89	15

*Positions above rank of captain, appointed by Superintendent of Police; the Complaint alleges that none of the Blacks in this category influence or make policy.

[10] Ben H. Bagdekion, Washington Post, *The Drive for Inmates*, Report 2/5/72, p. 1.

[11] In Florida, for example, during 1930–1966, 285 men were found guilty of rape; of these 133 were white men. Less than 5% of the whites received the death penalty. Of the 152 convicted men who were Black, however, 35% received the death penalty. For example, Blacks who lived in the Bedford-Stuyvesant community expressed their dissatisfaction with the effectiveness of local law enforcement efforts, to the 1967 Crime Commission. They testified that the tensions between the police and the community are a result, in part, of police toleration of narcotics traffic in the ghetto, the small number of Black patrolmen stationed in Black neighborhoods, inefficient handling of emergencies by local precincts, lack of respect toward Black citizens, and inadequate levels of patrol of Black neighborhoods. Other citizens substantiated these findings, see for example, *Philip H. Ennis, Field Surveys II, Criminal Victimization in the United States: A Report of National Survey*, The National Opinion Research Center, University of Chicago, May, 1967.

[12] William H. Rehnquist, Proposed LEAA Regulations on Equal Employment Opportunity, Memorandum to Richard W. Velde and Clarence M. Coster, July 10, 1970.

[13] Federal Civil Rights Enforcement Effort, A Report of the United States Commission on Civil Rights, 1970, at p. 576 (hereinatfter Civil Rights Commission Report, 1970.)

[14] Thomas R. Ewald, Title VI Enforcement Practices in Major Federal Programs: Memorandum to Jerris Leonard, Oct. 23, 1970.

[15] 28 CFR 42.201, *et seq.*

[16] The Federal Civil Rights Enforcement Efforts: one year later, November 1971, the US Civil Rights Commission, p. 146.

[17] The Federal Civil Rights Enforcement Efforts: one year later, November 1971, the US Civil Rights Commission. p. 146.

[18] In late 1971, the Center filed an administrative appeal from LEAA, requesting a redraft of the regulations to meet the requirements of Title VI.

[19] Patterson, Memorandum of Afro-American Patrolmen's League Complaint of Discrimination by the Chicago Police Department, August 4, 1971.

[20] U.S. Department of HEW, an Equal Opportunity Program for State and Local Government Employment; July, 1970.

[21] Ray Marcin of the Center for National Policy Review informed us on Thursday, February 24, 1972 that Rice had agreed to outlaw sex discrimination through the EO regulations, and to use guidelines to ban minimum height regulations.

[22] The compliance office has conducted two day-and-a-half training sessions for the national audit staff and plans training courses for state auditors. The GAO and others have pointed out that a 38-man audit staff is inadequate to do proper fiscal audits for a program the size of LEAA.

[23] Letter of Phyllis McClure to Mr. John Buggs, Acting Director, U.S. Civil Rights Commission, November 18, 1971.

[24] On January 4, 1972, LEAA had a total of 188 employees with classifications GS–13 or higher. See the Block Grant Programs of the Law Enforcement Assistance Administration, Part 2, Hearings of the Legal and Monetary Affairs Subcommittee of the House Committee on Government Operations, October 5–7, 1971, at p. 711. Of this number, there were eight Black employees at a GS–13 level or above and only one Spanish-speaking and one Indian employee at that level.

[25] Several small city departments have requested assistance. The Center feels its resources are too limited to fill the requests but hopes eventually to put out a manual for such cities.

[26] No data is expected until "at least" next summer (1972).

[27] The Civil Rights Commission reported: "The Justice Department intervened (sic) in May of 1971 long after the suits were initiated (in July and September of 1970) as a result of a great amount of external pressure put on the Department to take some action against the discriminatory employment practices of law enforcement agencies. The Federal Civil Rights Enforcement Effort: One Year Later. The United States Commission on Civil Rights, November 1971, at p. 147.

[28] Formerly, the Compliance officer reported to the General Counsel.

[29] November, 1971 report at 145.

[30] The NAACP representative who interview Rice concluded:

"It was clear from my interview that not only was the agency way behind in even establishing mechanisms for civil rights compliance but that more importantly that agency's conception of the substantive standards for civil rights is appaling." (McClure Letter)

DISCRIMINATION AGAINST THE MENTALLY ILL

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. WALDIE. Mr. Speaker, almost 10 percent of the American population is touched by the tragedy of mental illness.

Yet despite this pervasive problem, which has never been fully considered or attacked by the American Government, recent plans for comprehensive health care completely omit any plan for treatment of the mentally ill.

I have favored the development of National systems of health delivery programs as a matter of right for all national citizens.

The mentally ill are entitled, and may be in greater need, of the same right—the right to acquire decent, effective medical attention without risking exorbitant financial loss.

The following correpsondence and article comes from Mr. Irving Chase, president of the National Association for Mental Health, Inc. The article was printed in a recent bulletin of the association.

Both statements effectively make the case for greater congressional consideration for the mentally ill.

The items follow:

THE NATIONAL ASSOCIATION FOR MENTAL HEALTH, INC.,
Arlington, Va., April 28, 1972.

The Honorable JEROME R. WALDIE,
Cannon House Office Building,
Washington, D.C.

DEAR MR. WALDIE: The National Association for Mental Health, with over one million members, is most alarmed that intentionally or inadvertently mental illness provisions are

excluded or nearly so, in many models of proposed National Health Insurance legislation, including that of the Administration. Why are the mentally ill systematically discriminated against in National Health Insurance? The common answer rests only on myth; i.e., the claim that mental illness coverage is too costly. The facts are that insurance for mental illness is *not* costly. The attached studies of this subject all substantiate that mental health illness in health insurance coverage does not create excessive charges against health insurance programs.

We very much appreciated your support of our organization's continuing advocacy on behalf of the Community Mental Health Centers Program. In particular, your quick and effective response to our alert last December concerning National Institute of Mental Health funds frozen by the Administration stands as a clear example of the degree of commitment which Members of Congress have toward improving the lot of the mentally ill.

Once again, the National Association for Mental Health is requesting your active involvement and support in the single most important crisis in the battle against mental illness in this nation. For the consequences of continued discrimination against mental illness in National Health Insurance will ultimately affect the lives of 20 million Americans and their families.

What do we urge? We urge you to write to us, indicating your support for the inclusion in National Health Insurance of coverage for all of the services given in community mental health centers. We will make your position known to Members of Congress who have introduced (or are planning to introduce) National Health Insurance legislation and to the general public.

We look forward to hearing from you.

Sincerely,

IRVING H. CHASE,
President.

Enclosure.

A MODERN MYTH: INCLUDING COVERAGE FOR MENTAL ILLNESS IN INSURANCE PLANS CAUSES RATES TO SKYROCKET

(Taken from testimony given by Irving H. Chase, president, National Association for Mental Health, before the House Ways and Means Committee on November 2, 1971)

Myths die hard, Mr. Chairman, and I would like to talk briefly today about a modern myth, which, while not yet dead, is beginning to show evidence of terminal illness. I am speaking of the long-held belief that including coverage for mental illness in insurance plans causes rates to soar. It is an important myth, and its influence is readily seen in proposals for National Health Insurance. It is a dangerous myth. It's leading those who introduce legislation for National Health Insurance to omit coverage for mental illness entirely or to limit it sharply.

INTENT OF THE TESTIMONY

Mr. Chairman, the intent of this testimony is to give information regarding the following: 1) insurance for mental illness is *not* costly; 2) community mental health centers are effectively treating mental illness; 3) the focus of any program of National Health Insurance should be to facilitate the development of community mental health centers.

MENTAL ILLNESS IS INSURABLE

The Health Insurance Plan (HIP) of Greater New York has analyzed its experience in providing outpatient and inpatient psychiatric treatment—with no upper limit on the number of services and with no cost to the patient—to the more than 60,000 subscribers in its Jamaica Medical Group.[1] During a three-year period, the average annual utilization for psychiatric consultation was 11.4 per 1,000 or 1.1%. The rate for those who had consultation plus at least one treatment visit was 8.3 per 1,000 or .8%. During the demonstration project, 949 patients were accepted for treatment and 16,264 mental health services were provided. Of those services, 88% were individual services to patients alone or to patients with members of their families, 11% were group health therapy services, and 1% were psychological testing.

The above figures indicating modest utilization of mental health services under HIP coincide very closely with figures reported by Group Health Insurance of New York and for the United Automobile Workers program. Group Health Insurance recorded a utilization of 7.5 per 1,000 for adults age 20 and over during the period of their study, while the first year utilization of the United Automobile Workers was 6.6 per 1,000. The 88% figure for individual therapy reported by the Health Insurance Plan nearly coincides with a 93% figure reported by Group Health Insurance and a 91% figure reported by the United Automobile Workers.

Basing their actuarial assumptions on the experience during service to the demonstration project, the Health Insurance Plan has established a premium rate for mental health services of $.90 per month for a one person family, $1.80 per month for a two person family, and $2.70 for a family of three or more persons. This averages about $7.50 per person per year when the distribution of family size is considered. For this premium, and without additional charge, individual, family, and group therapy is provided in one of three HIP Mental Health Service offices with no upper limit set on the number of treatment services. Hospital treatment is also provided as well as drugs prescribed in the course of therapy.[2]

The above rates are based on the following assumptions, all of which are high when compared to the studies just described: 1) the average annual utilization rate will reach a level of between 1½ to 2% per year; 2) the average number of services will be about 15 services per year for each patient treated; 3) group therapy services will constitute about 10% of all mental health services provided; 4) the proportion of inpatient mental health services will increase from about the 4% found in the demonstration project to about 10%.

In a recent study of insurance for mental illness by the American Psychiatric Association, it was found that about 80% of those people who have insurance for *physical* health care also have insurance for *mental* health care. While recognizing that mental illness coverage is often meager, this should lay to rest once and for all the question of whether insurance coverage for mental illness is feasible. How could it not be feasible when it is so widespread? [3]

COMMUNITY MENTAL HEALTH CENTERS—A VIABLE APPROACH TO THE TREATMENT OF MENTAL ILLNESS

The Community Mental Health Centers Act of 1963 provided federal matching monies for the development of mental health centers, which are mandated to provide five basic services including inpatient, outpatient, partial hospitalization, education-consultation, and emergency services to population areas not less than 75,000 nor more than 200,000 residents.

The Act was amended most recently in 1970 when it was broadened and extended to June 30, 1973.

In 1969, one out of ten patient-care episodes in mental health facilities in the United States took place in community mental health centers. At that time, there were 205 community mental health centers in operation, making services available to approximately 10% of the United States population. At the present time, there are 452 funded centers; when in full operation these centers will make services available to approximately one-fifth of the population.

Though many factors influence change in the utilization of mental health services, the introduction of community mental health centers has been one of several significant factors in the remarkable decrease in recent years in the resident population of state mental hospitals. The decrease in resident population between 1969 and 1970 was the largest to date, a drop of 35,000 patients, or 10%. In a recent sample of centers, about half reported they were effecting a decline in the use of the state mental hospital serving their catchment areas. This was in spite of the fact that when centers first begin operation, they have a pronounced case-finding effect. Before they have adequate resources to provide treatment services, they tend to increase temporarily admissions to state hospitals. The areas in which state mental hospital admissions continue to grow are alcoholism and drug addiction, where practices of law enforcement have large influence. However, it's important to note that community mental health centers are beginning to serve significant numbers of alcoholics and drug abusers. In 1969, 7% (18,000) of total admissions to community mental health centers were alcoholics, and 2% (4,500) were drug addicts.

NATIONAL HEALTH INSURANCE SHOULD FACILITATE THE DEVELOPMENT OF COMMUNITY MENTAL HEALTH CENTERS

Mr. Chairman, I want to make one point very clear Enactment of "National Health Insurance" presents at once an opportunity and a threat, for, depending on its terms, it can act as a powerful stimulant to the development of comprehensive community mental health centers, or it can result in their economic starvation. Stimulation of growth will result if compensation for treatment in these settings is given favorable terms. Starvation will occur if a National Health Insurance program is adopted with little or no mental health coverage, followed by withdrawal of existing federal financing of comprehensive community mental health centers.

CONCLUSION

From the foregoing, it is abundantly clear that: 1) services given in community mental health centers can be covered by insurance at a very modest cost; 2) mental health centers have already demonstrated their value as an indispensable community resource for the treatment of mental illness.

Myths die hard, and misinformation, once accepted as fact, is difficult to dispel. The attitudes and practices used by those holding prejudice against the mentally ill are well-known. Those people, however, are not the real obstacle in the struggle to assure the inclusion of mental health provisions in National Health Insurance programs. The true enemy is the widespread acceptance of misinformation and adherence to myths about the cost of insurance for mental illness held by many sincere and concerned citizens and public officials. Our organization is pledged to bring the facts before the public and our elected officials, so that they may judge the case on its merits.

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[1] Fink, R.: "Financing Outpatient Mental Health Care Through Psychiatric Insurance," Mental Hygiene, April 1971, Volume 55, No. 2.

[2] Ibid

[3] Myers, Evelyn S., Coordinator, Psychiatric Care Insurance Coverage, American Psychiatric Association: "Coverage of Mental Disorders Under Insurance Plans," September 24, 1971.

REACTIONS TO COMMUNIST INVASION

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHERLE. Mr. Speaker, since the North Vietnamese brutally invaded South Vietnam over a month ago, and President Nixon took the necessary measures to both protect American lives and prevent a Communist takeover of that country, there have been some strange reactions. Instead of denouncing the Communist invasion, some in this country have expressed their outrage at President Nixon.

The moral myopia of at least two of these bizarre reactions is interestingly recorded in a story this week in the Republican National Committee's weekly publication, Monday.

For those who are interested, I insert the article into the RECORD:

THE MASSACHUSETTS LEGISLATURE, EIGHT COLLEGE PRESIDENTS AND THE NORTH VIETNAMESE INVASION: DARKNESS AT THE END OF THE TUNNEL-VISION

Since the massive North Vietnamese invasion of South Vietnam over a month ago and President Nixon's firm response to the Communist aggression, there have been some peculiar reactions. A couple of the more myopic and close-minded responses to this series of events in Southeast Asia are a resolution passed by the Democrat-controlled Massachusetts State Legislature and a statement signed by the Presidents of eight Ivy League institutions of higher learning.

The resolution adopted by the Massachusetts legislature calls on the U.S. Congress to adopt legislation setting a date for complete U.S. withdrawal from Southeast Asia. The resolution, among other things, condemns "the most recent stepped-up bombing of the people and territory of North Vietnam" calling it a "dangerous escalation" of the U.S. role in Indochina. No mention is made of the North Vietnamese invasion of South Vietnam.

PRESIDENTS IGNORE INVASION

The statement signed by the Presidents of Brown, Columbia, Cornell, Dartmouth, Harvard, Massachusetts Institute of Technology, Pennsylvania, Yale and Princeton, deplores "the bombing of North Vietnam and its civilian population" and calls for American withdrawal from "this brutal war."

The Presidents voice their support for Americans of all ages to find "non-violent, constructive outlets" for the expression of their views but they specifically "do not condone coercive actions by individuals or groups seeking to impose their particular convictions or concerns on others." The Presidents say nothing about the coercive actions of the North Vietnamese in their attempt to impose, by military force, their convictions and concerns on the South Vietnamese.

In an attempt to try and find out what it is about the North Vietnamese invasion of South Vietnam that makes it so unremarkable, *Monday* spoke with Massachusetts State Sen. Jack Backman, who drafted the resolution passed by the legislature, and Princeton President Robert Goheen.

WHY IS INVASION IGNORED?

Why is there no mention of the North Vietnamese invasion of South Vietnam in your resolution? *Monday* asked Sen. Backman. "I don't need to, uh—I don't need to, uh—uh, give you any—you know—." replied Backman. Why was the invasion ignored? *Monday* persisted. Backman explained that the war has been going on for a long time, has never been legally declared, and that he has filed his own brief against it in court. Besides, he continued, since the invasion took place 10–15–20 years ago "you can't really talk about an invasion of last week." What we are really talking about, he said, is a "civil war conflagaration (sic)."

Do you consider what North Vietnam did to South Vietnam an invasion? *Monday* asked. "I only talk about the resolution as we put it. We're for immediate withdrawal from South Vietnam—I don't know if it was an invasion." At this point *Monday* read Sen. Backman Webster's Third New International Dictionary definition of invasion.*

Why was the invasion ignored? *Monday* tried again. "Look, if you want me to submit a statement I'd be happy to. The resolution speaks for itself," Backman said. How would you characterize North Vietnam's sending three divisions across the DMZ into South Vietnam? *Monday* asked hoping that perhaps a rephrasing of the question might expedite matters.

VIETNAM IN INDOCHINA

"I conceive of the Vietnam conflict as involving a nation in Indochina," Blackman explained. "One where we (yes, we) have inappropriately intervened, a place where we (yes, we) have caused deaths of over 50,000 Americans and over 1,000,000 inhabitants of this unfortunate country."

But what about the invasion? *Monday* asked.

"It's part of a continuing conflict in Vietnam, that unfortunate nation."

Do you deplore what North Vietnam has done?

"I deplore the war that is going on."

And so it went for some 20 minutes with Sen. Backman concluding with a challenge by Sen. Backman to *Monday* to come to Boston and debate "and let the public decide."

PRINCETON PRESIDENT GOHEEN

Princeton President Robert Goheen was a little more responsive but only slightly so.

Why was the North Vietnamese invasion of South Vietnam neither mentioned nor alluded to in your statement? *Monday* asked.

"We were not concerned with the invasion as such but rather the continuing U.S. involvement in the war which to us is self-defeating and wrong," he replied.

How ingenuous is it to deplore U.S. bombing of North Vietnam without at least addressing yourself to the reasons for such actions?

DUCKS QUESTION

Goheen ducked the question and again asserted his own opposition to the U.S. role in Vietnam.

Did the subject of the North Vietnamese invasion come up at all in your conference call with the seven other university presidents?

Saying he was not certain, Goheen replied: "Yes, it did—as I recall—but it did not take any great amount of our time."

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*A hostile entrance or armed attack on the property or territory of another for conquest or plunder; an attack on a person; assault; an inroad of any kind; as an entry into or establishment in an area not previously occupied; the introduction or spread of something hurtful or pernicious; a penetration or occupation by an outside force or agency; encroachment, intrusion.

MINING HAIPHONG HARBOR

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOB WILSON. Mr. Speaker, every military leader serving on the Joint Chiefs of Staff over the past 7 years has recommended all or part of the action announced by President Nixon yesterday. If this action had been taken a few years ago, Vietnam would be only a memory.

A prophetic statement by one of our respected military leaders, Adm. U. S. Grant Sharp, was made a few days ago. I include as a portion of my remarks the report on Admiral Sharp's speech as carried in the San Diego Evening Tribune on April 22, 1972:

RUSS WOULD ONLY PROTEST IF UNITED STATES MINED HAIPHONG, SAYS RETIRED PACIFIC CHIEF

(By Robert Dietrich)

The Soviet Union would make a major protest if the United States carried out plans to mine Haiphong harbor but would not intervene in the Vietnam war, the former U.S. commander in the Pacific predicted yesterday.

Adm. U. S. Grant Sharp, USN, ret., who directed all U.S. forces involved in the war from 1964 to 1968, said in an interview here, "I always favored a mining operation."

Sharp was at a San Diego Navy League council luncheon to introduce a recently released Soviet film documentary on Russian military capabilities.

I don't see the Soviet Union intervening at all, even if North Vietnam was on the verge of a military collapse," he said.

"I think the Russians would have a somewhat stronger reaction to our mining the harbor now than in 1965 when I proposed it.

"They would have thought little of it then. After all, they consider mining a great capability of their's."

Defense Department officials said earlier this week that mining was under consideration despite the number of Soviet and other third-nation ships that use the harbor.

Sharp said mining the harbor to seal off seaborne war supplies was an authorized act of war under international law.

"Mining is much simpler than a blockade," he said. "We talked about blockading in 1965, but felt the Gulf of Tonkin could become a trap for our ships."

Former president Lyndon B. Johnson would not authorize the mining or blockade plans drawn up by Sharp and his staff.

Sharp recalled that the U.S. Navy mined Haiphong early in World War II, effectively stopping Japanese use of the harbor for the rest of the war.

The admiral said his plans to knock out North Vietnam by massive air and naval attacks on Hanoi's war-making facilities were also curtailed by Johnson.

"I think President Nixon was very courageous in authorizing the recent air raids on Hanoi and Haiphong," Sharp said. "I hope he doesn't stop there."

Sharp said North Vietnamese power plants, communications lines, warehouses, and factories must be hit continuously.

"If Hanoi wants us to stop the bombing, all they have to do is stop their aggression in South Vietnam. It's as simple as that."

The Russian military documentary, entitled "I Serve the Soviet Union," was based on a Soviet military exercise held in Octo-

ber 1967 to mark the 50th anniversary of the Russian Revolution.

In this introduction, Sharp said that 1967 war game was the largest ever held anywhere.

It showed Soviet hardware such as naval antiship missile, heavy tanks that swim underwater and other weapons systems that have not yet come into Western arsenals.

"We very badly need to convince Congress that we need to modernize our own forces if we are not to be totally surpassed by the Soviets," Sharp told the Navy Leaguers.

FINANCIAL CRISIS IN HIGHER EDUCATION

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SHOUP. Mr. Speaker, Dr. Norman E. Taylor, research director for the University of Montana foundation program, Missoula, Mont. presented the following paper at a recent national conference.

May I recommend to my colleagues that they reflect on his most valid points as we debate the many forms of Federal assistance to Higher Education that come before us.

SPONSORED PROGRAMS' CONTRIBUTION TO THE FINANCIAL CRISIS IN HIGHER EDUCATION

Last winter in a talk before a group of state legislators and businessmen, I started my remarks by saying:

As everyone knows, when a grant is awarded to the (University of Montana), it is given to a particular professor; the overhead money is comparable to a profit (and parenthetically should be made available immediately to finance a football stadium or returned to taxpayers as an offset to property taxes); and the salary payments to individual researchers from grant monies are paid as extra compensation.

Nearly everyone "knows" these statements are true. Of course, all of them are false. It is unfortunately the case (for those who are persuaded otherwise) that neither the tenacity of one's beliefs nor the frequency of their assertion can alter the facts. As a famous American humorist and philosopher once said: "The problem with most people is not ignorance, rather that so much of what they know just isn't so."

The prevalence of the opinions cited can be illustrated again from the lead paragraph of a news story published last August (in the Missoulian):

"The day after the announcement I started getting calls from real estate brokers, car salesmen and boat dealers. At first I couldn't figure it out," said a University of Montana professor.

The announcement was a press release indicating that he had received a grant of $100,000 from a federal agency to do research.

"Then it dawned on me," he continued. "People actually thought that money was mine to spend."

To keep the record straight (in Montana), all research and training grants or contracts with any sponsor are made *by* the institution, not the individual who may have written the proposal. Second, faculty opinion to the contrary, overhead is not a simple markup over total costs. Sponsors, and especially the federal agencies, may be flawed in different respects but they are not careless. The indirect cost rate is agreed to by the federal auditors and in fact set by them in most instances. Third, salary payments to investigators provided by grants are paid in lieu of state compensation, unless the individual is not under contract.

WHAT IS THE PROBLEM?

On many, if not most, campuses sponsored program activity is partly responsible for the financial crunch in higher education—not a solution to it.

Let me illustrate some ways in which institutions, either directly or indirectly, find their scarce resources committed (or worse, unintentionally diverted) to sponsored programs in actual support expenses:

1. Certain sponsors require cost sharing (ex., National Science Foundation, Department of Health, Education, and Welfare).

2. Many programs, especially training grants, require matching cost participation by the grantee (ranging from token to dominant support).

3. Some projects require maintenance of effort (i.e., no reduction of the institution's rate of support as long as the program is funded), no matter what legislatures or development officers may have done to your budget.

4. Some grants involve a commitment to continue programs well into the future, after the sponsor withdraws his support.

5. Indirect cost reimbursement rates are lower than actual expenditures; with a perfect management information and accounting system one could obtain full reimbursement for general institutional expenses. Since most instiutions do not enjoy this status, to some degree then our imperfections amount to a subsidy of the federal government or other sponsor.

6. Typically, budget support for higher education responds slowly, if at all, to the demands of externally-funded projects. Yet, new or expanded programs require teaching and research space and they attract students with an associated need for dormitory and dining room service, and so forth. The causal relationship is seldom made explicit.

7. If sponsored program participation is simply added to the duties of the faculty they may be exploited to the detriment of the instructional program. But, if new staff are authorized they must be provided office and laboratory space, general supplies and equipment support, secretarial service, and so on, beyond what is funded by the grant.

8. Many predictable grant support expenses are *not* authorized by the sponsor's guidelines. These may include equipment, travel, library acquisitions, publications, renovation, construction, equipment installation and operating costs. When they are essential to the project, they must be charged to departmental budgets or to the physical plant or some other account.

9. Pre- and post-grant expenditures are frequently crucial to a project yet they do not occur during the period of the grant and are not allowable as charges against it. Examples of these are recruiting, travel, consulting and proposal writing expenses; similarly, the costs of surveys, duplication, and evaluation after the project has been terminated are other examples.

SOME HAZARDS OF GRANTSMANSHIP

Embarrassing and costly situations that may develop can be illustrated by the following:

1. One institution, as a consequence of its eagerness to gain visibility by identifying with a prestigious research activity, acquired (as a by-product when sponsor support ceased) three tenured faculty members. The multi-year project required the employment of three associate professors. They were overlooked when the time for AAUP tenure notice expired. On termination of the grant the college had three costly professors on its payroll with no approved degree or curriculum to absorb their teaching skills.

2. Another college was happy to receive a grant for the acquisition of a very sophisticated piece of laboratory equipment. After installation it was discovered that a $12,000-a-year technician was needed for its operation.

3. Administrators are quick to discover that faculty members, however brilliant in their own disciplines, cannot always be relied upon for counsel in other matters. The kind of professor I am referring to is perhaps not unlike the individual described in this quotation (from a student evaluation in the Boston University 1971 Course Evaluation Book):

"The lectures were complicated by the fact that Professor X had trouble communicating. To his credit, however, an overwhelming majority of the respondents (41% of the class) felt that Professor X was adequately prepared and did allow time for questions. Despite his preparation, his lectures were considered from horrible to fair. Fortunately, however, he never had much of an audience to bore. As a matter of fact, the only time there was any type of showing was during the exams. [Professor X] was hired too late and too mediocre. Some men are born mediocre, some men achieve mediocrity, and some men have mediocrity thrust upon them. With Professor X it has been all three. Even among men lacking all distinction he inevitably stands out as a man lacking more distinction than all the rest, and people who meet him are always impressed by how unimpressive he is."

I suppose every campus has a Professor X or two. He is the one who, in negotiation with sponsors and having to pare expenditures to meet the funds available, blithely (and improperly) agrees to strike indirect costs from the budget as not being a real expense. He is also the one who proudly announces to the administration and the press how he has mesmerized a donor and is to receive for his department a computerized widget. The following week he sends the president a budget request for $50,000. He needs hard-wiring to the computer, a 440-volt line, a re-engineered floor to carry the weight, air conditioning, and lead shields for radiation protection. This is the first mention of these considerations.

4. On the other hand, there are also certain hazards in relationships with grantor personnel. The federal grant administrator can be too cooperative; he wants you to succeed and he wants to be helpful. But, he cannot speak for the auditors who are "going by the book." The institution itself must be responsible for understanding and administering the guidelines of the agency. Your friendly contact in Washington may be quite willing to approve the exception that you request. If he does, be certain it is in writing and in advance. When the expenditure is questioned under audit and disallowed two years later, you discover that your friend is now a consultant to the Peace Corps in Chile. No one else remembers the conversation.

PLAYING THE GAME, OR 2 PLUS 2 EQUALS 3

It is commonly accepted that there are two basic categories of costs incurred when sponsored programs are initiated—direct and indirect costs. Direct costs normally would include: salaries, fringe benefits, consumable supplies, equipment and facilities, renovation and construction, travel, publication, and similar items.

Indirect costs (i.e., those not readily identifiable with a particular research or training program) might include: general university expenses, central and departmental administrative expenses, research administration, library, and the physical plant operating and maintenance expenses. Indirect cost rates on a given campus vary according to the function (research vs. training), the location (on or off campus) and by virtue of special negotiated agreements.

However, there are at least two other cost categories that institutions have chosen to ignore that can be just as important as the ones cited. The first is opportunity costs, i.e., the lost values of those functions that are less well supported or foregone because university resources are pledged to support sponsored programs. They are overlooked because they are arbitrary and abstract.

The second additional category is the real costs that are incurred in addition to direct and indirect costs that are seldom calculated by research administrators. These are the costs of faculty time (and the frustration) in writing proposals that do not get funded and the price paid for the diversion and fragmentation of collegial goals. These are evidenced by student disenchantment with poorly prepared and delivered lectures, and the unavailability of faculty for counseling and by faculty unrest when grantsmen are given merit for shallow, pedestrian, sponsored program participation. Regents and legislators and taxpayers are unhappy when they perceive muddled or contradictory aspirations and activities inconsistent with the university's own proclaimed goals and talents.

Higher education reaps a harvest of discontent when it fails to define its mission and to be discriminating, instead opting for any project that will pump new dollars into administrative coffers (the fund-raiser syndrome).

It is a sad truth that when you enter into a partnership with the federal government, you inevitably discover that it has 51 percent of the voting rights. Administrative effort is frittered away in the supervision of projects, from department chairmen all the way to the president of the institution. Faculty resources are dissipated in reconciling time and effort reports to federal requirements. Staff time is endlessly preoccupied with exist interviews, responses to disallowances and exceptions, reviewing costs with auditors, and in locating equipment and acquiring title to it.

Supervisory talents are spread thin in maintaining records to justify indirect costs, in providing transactions evidence for the audit trail, and in preparing and explaining policy manuals in endless meetings and missionary efforts for the enlightenment of the faculty. There are real costs for inefficiency, crowding, complexity and in controlling "the great program director," who answers only to God. And these are *internal* matters which are fairly straightforward to cope with.

In addition there are numerous exogenous variables which are seldom predictable and to which one can only react. Such factors include the imposition of a ceiling on expenditures by a sponsor, changes in the annual rate of support for a program, seemingly campricious cancellation of traditional activities and the addition of new programs. These costs are reflected in personnel turnover, hundreds of dollars spent for newsletters and reference materials to keep up with changes, graduate student drop-outs for lack of support, and dislocations caused by frequent space reassignment and equipment relocation.

The cynics among you will recall Murphy's Law which states that: If something can go wrong, it will. I would like to add a corollary which might be conveniently (and modestly) referred to as Taylor's Quantification Equation (of Murphy's Law). It could be expressed thus:

$$DEG+IC=n\cdot TPC/n+1$$

Here, DEG means direct expenses of the grant; IC stands for indirect costs; and, TPC signifies total project costs. One can see that TPC will always exceed the value of DEG and IC. For the inexperienced or inefficient administration a possible value for n could be less than five; for the sophisticated institution n could be quite large, possibly over twenty-five (bearing in mind our full-cost discussion).

WHY PLAY THE GAME?

The answer is easy and direct. The benefits are greater than the costs. The academic professional in many disciplines is trained and motivated and may even be required to do research. More and better research is possible from sponsor support.

The dedicated teacher is anxious to improve his techniques, to innovate, and to share his experience and knowledge with a wider audience. More and better teaching is possible from sponsor support.

The pressures to take higher education to the community are understood and accepted by facilities. Many are eager to participate in decisionmaking and problem-solving process. More and better public service is possible from sponsor support.

Externally financed research is a major source of support for graduate programs. It provides for graduate student employment. Research is part of the learning process for students and faculty alike. It can give breadth and depth and discipline to the mind.

For many universities any respectable research effort must be financed from nonappropriated sources. Often one cannot attract a desired faculty member without a positive research environment.

Sponsored programs do purchase equipment and supplies which are available for instructional uses when contracts are completed. They can provide summer employment for faculty which often is not guaranteed, with no drain on state or local dollars. They often pay for travel to national meetings which otherwise would not be attended or would require institutional funds. They can purchase library resources and cover the high page costs of prestige publications.

In summary then, participation in sponsored programs is justified when the activities undertaken are consistent with the institution's goals and functions, when the opportunity costs are considered and deemed acceptable, and when the magnitude of other real costs (which determine the value of n in the equation) are both anticipated and reasonable.

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MANKIND: ABLE CUSTODIAN OF WILDLIFE?

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. WHITEHURST. Mr. Speaker, four articles in separate sections of the Thursday, May 4, 1972, edition of the Washington Post, reveal the need for animal protection legislation. Indeed, the callous, inhumane treatment inflicted on helpless animals is one of the international tragedies of our time. The suffering caused by man is not necessarily intentional. The extinction of species and other mishandling of wildlife can be a side effect from other efforts, such as removing habitat for lumber, housing developments, or manufacturing.

There are examples, however, when the intent of man has been to apply his intellect and technology to the deliberate extinction of a species.

These two actions, unwitting inhumane treatment resulting from the housekeeping activities of man, and intended, direct cruelty through the application of knowledge, are well stated in the four articles printed at this point in the RECORD. The articles follow:

A CHILLING INDICTMENT OF WILDLIFE LOSS

(By Robert Barkdoll)

Out of a House Appropriations subcommittee has come a chilling indictment of man's inhumanity to fish, fowl and his fellow mammals.

It all started when the subcommittee, after hearing of the threat to the California condor, now reduced to a flock of 60 birds, asked the Interior Department for a report on those wildlife forms that have disappeared in the past 100 years or so.

The report called the roll of more than 50 species that once flourished on America's share of the planet and are now gone. And over and over again the cause of death was given as:

"Indiscriminate killing . . . overhunting . . . destruction of forest habitat . . . alteration of environment by modern man."

The committee learned of the threat to the California condor from Dr. Joseph P. Linduska, acting director of the Bureau of Sport Fisheries and Wildlife. His brief testimony on the condor's "extremely critical" situation summed up the fate that has overtaken many of the new-extinct species.

The condor is confined largely to the Sespe Condor Sanctuary in Los Padres National Forest. Near the sanctuary's nesting and feeding grounds is in 1,880-acre corridor known as the Hopper Ranch, now owned by land speculators.

"There has been talk of developing it as farmettes and even a motorcycle club has talked about going in there and using it," Linduska said.

"If there is one thing condors will not tolerate it is human intrusion and particularly the type of disturbance that would go with this sort of activity."

"Should the type of development mentioned occur on Hopper Ranch the condors would indeed be in sad shape."

What he meant was that the condors would be in the same shape as the plains wolf, the sea mink, the Labrador duck, the deepwater cisco of the Great Lakes, or any of the other species his agency found extinct.

Here is the way the agency reported on the fate of some of the extinct mammals, birds and fishes:

Badlands bighorn, North and South Dakota. Extinct in 1910. Reason—overhunting.

Caribbean monk seal. Caribbean and Gulf of Mexico. Probably extinct in early 1950. Reason—indiscriminate killing.

Plains wolf. Great Plains. Probably extinct in 1926. Reason—eliminated to protect livestock.

Mauge's parakeet. Puerto Rico. Extinct about 1892. Reason—destruction of forest habitat.

Lanai thrush. Lanai Island, Hawaii. Extinct in 1931. Reason—alteration of environment by modern man, probable avian disease from introduced birds and spread by introduced mosquitoes. Predation by introduced rats, cats, and mongooses hypothetical.

AMERICA'S WAR ON MOUNTAIN LIONS

(By Lewis Regenstein)

The mountain lion—*Felis concolor*—is the largest cat in North America. Known as pumas, cougars, and panthers, they once had the widest distribution of any mammal in the western hemisphere and perhaps the world, ranging throughout North and South

America. Now, only pitifully small remnant populations survive in the United States, mainly in the west; and these are rapidly and intentionally being wiped out.

One of the mountain lion's most famous characteristics is its eerie mating "screams." Histories of early American communities record complaints of the residents being kept awake at night by these shrieks; and Theodore Roosevelt commented that "certainly, no man could listen to a stranger and wilder sound."

Like coyotes and other predatory animals, mountain lions are extremely valuable in maintaining nature's law of natural selection and the survival of the fittest. In preying on deer and elk, lions fed primarily on the lame, the weak, and the old, thus keeping the herds healthy. They also keep the deer and elk on the move during winter, thereby reducing overgrazing and the resultant heavier death toll by starvation. The lion's concurrent diet of rats, mice, rabbits, and even grasshoppers and other insects and rodents also plays an important role in nature's balance.

The mountain lion was once abundant throughout the eastern United States, yet it has now been almost completely extirpated from this region. But recent and increasingly frequent sightings of the eastern cougar—until recently considered extinct outside of Florida—have led the U.S. Department of Interior to consider giving nominal protection to the animal by changing its official status to "endangered."

At the same time, the Interior Department's Division of Wildlife Services is continuing its relentless pursuit of the western cougar, which is already reduced to dangerously low levels and may itself soon be threatened with extinction. The killing of the lions by federal agents is done at the behest of western sheep and cattle ranchers, who claim to suffer rare but occasional livestock losses from predative lions. Because of the blame imputed to a few individual animals, the wrath of a powerful government agency has been brought to bear on an entire species.

The lion's decline is in part demonstrated by the greatly reduced numbers of lions that Interior is able each year to poison, trap, gas, shoot, or otherwise kill. In 1963, for example, about 300 lions were killed and tabulated by Departmental agents. No one knows how many were poisoned, wandered off to die in remote areas, and were never found. By 1970, the toll had dropped to less than half: only 121 were killed and recovered; and last year, Interior claimed credit for only 80 lions. In its defense, the Department claims—with some justification—that the reduced "body count" also results from a recently adopted requirement that written justification be given for each lion killed; but there is no argument over the fact that the killing will continue.

Interior's recent and widely praised decision to curtail the poisoning on public lands of such predatory animals as coyotes, eagles, and bears will not appreciably diminish the pressure on the mountain lion, since most are "taken" by traps and hunters using dog teams. An Interior Department press release of March 22, 1972, quotes unnamed Departmental officials as "emphasizing" that "control of predators on the nation's *federally owned lands* (emphasis added) is continuing . . . trapping, shooting, and denning (destroying the young in their dens) are still being carried out by the Fish and Wildlife Service and state, local, and private cooperators." No mention was made of the fact that a trap commonly used in such operations is the steel-jaw, leg-hold trap. Animals languish in these devices for days at a time; and the pain is so acute that the victim will often chew off its own leg in order to escape.

The removal of cougar bounties and the animal's elevation to "game" status in most western states has been nailed as an important step forward in conserving the species. However, the lions are now being wiped out not by bounty hunters but by "sportsmen." Using dogs they chase exhaust, and tree the lion, after which it is shot by the brave hunter. In 1970, for example, in the state of Washington alone, hunters shot 300 lions, a toll amounting to over one-fourth of the state's estimated population of 1,100 lions. The annual "trophy harvest" in Arizona exceeds 200 animals.

With a mere 4,000-6,500 mountain lions at most officially estimated to remain in the continental United States, it is obvious that time is quickly running out on this magnificent creature.

No alarm bell will ring when the last mountain lion is shot or trapped to death. As with the blue whale, the species will quietly, undramatically disappear into oblivion.

It is difficult to understand why our government has declared war on the mountain lion. There do not appear to be more than one or two—if any—verifiable cases of lions attacking humans. Indeed, lions are so shy that they are seldom seen even in areas where remnant populations exist. They do, however, manifest an odd curiosity toward man. They frequent campsights and follow hikers, circling around them or climbing a ledge to watch them pass below. Author Edward Abbey, writing in Life magazine, tells of an incident in which a park ranger encountered a mountain lion lying on a trail and tried to coax it toward him. Before being scared away by the sudden appearance of other men, the lion seemed to respond and hesitatingly approached the ranger. "Apparently," writes Abbey, "they bear no malice toward us."

Dog Pelt Coats To Be Made

Pretoria, South Africa, May 3.—Van de Sandt de Villiers Smit, who caused an uproar recently by his plans to make fur coats out of dog pelts, said today he is considering exporting dogs for slaughter to avoid proposed legislation.

The government has promised legislation banning the slaughter of dogs for commercial purposes.

"If the government does pass the legislation, then I will simply do as I have promised—ki'i the dogs outside South Africa, and then bring the skin back," Smit said.

Animals' Deaths To Be Probed

Milan, May 3.—Magistrates said today they are investigating the deaths of 21 animals left without care at Linate Airport during a long holiday weekend.

The district attorney's office said it was checking if there was a case for charges of cruelty to animals. Investigators said the dead animals included two leopards, 12 mynah birds, four owls and three hawks. They were part of a shipment of animals imported from Thailand by the owner of a miniature zoo located in a Milan subway station.

The animals arrived Saturday and were held for two days in a deposit at Linate Airport, waiting for a veterinarian to check their health and clear them for import. The veterinarian failed ot show up, investigators said, because his contract did not require him to work during the long weekend, which included Sunday and May Day.

These articles are four more instances of the need for animal protection legislation. Congress can be of great help, even internationally, through passage of legislation currently pending in the House of Representatives. Permit me to briefly outline some of these bills.

H.R. 14648 extends Federal law relating to the care and treatment of animals and birds in pet stores and zoos, and increases protection of animals in transit. It sets minimum standards for pet shops and zoos wherever interstate commerce is involved, and increases coverage of the Animal Welfare Act so that more animals can benefit from effective measures to stop abuse and neglect. Hobby breeders of cats and dogs are excluded. The bill has been referred to the Committee on Agriculture.

H.R. 14316, the omnibus animal protection bill, has three sections. Title I creates in the Treasury a fund for endangered wildlife—FEW—to be financed through sale of a sportsman stamp to those hunting, trapping, or fishing on land controlled by the Federal Government. Moneys would be divided between the Federal Government and the States to carry out protection programs for endangered or threatened species of wildlife. Title II broadens protection of the national emblem law to include hawks, owls, and other raptors including the condor, unconditionally prohibiting their slaughter. Title III prohibits importing any species of wildlife threatened with extinction. It also forbids taking any animal by inhumane methods. Specifically barred is skinning alive, and the use of steel-jaw traps. The bill has been referred to the Merchant Marine and Fisheries Committee.

H.R. 12096 requires the Secretary of the Interior to make a comprehensive study of the timber wolf. The study recommendations and suggested legislation is due January 1, 1976. The study would investigate the wolf's distribution, migration, population, effects of hunting, disease, pesticides, and food shortages on the animal. The information would be used to develop conservation measures for the wolf. The bill has been referred to the Merchant Marine and Fisheries Committee.

H.R. 12095 calls for a comprehensive study of mammals in the northern regions of the United States and adjacent high seas to be made by the Department of the Interior, due January 1, 1976. Animals to be studied are the polar bear, seal, walrus, sea otter, and related species. Information gathered would lead to adequate conservation measures and humane treatment for the mammals.

H.R. 9200 would bring common carriers of animals and transportation terminals under the Animal Welfare Act. It would govern the transport of animals to prevent loss, injury, and death suffered during shipment, and require that animals be accounted for at all times by the transporter. The bill has been referred to the Committee on Interstate and Foreign Commerce.

H.R. 7077 amends the Horse Protection Act to include bovine animals, protecting all bovine and equine animals from "soring" for performance purposes. The bill has been referred to the Committee on Interstate and Foreign Commerce.

H.R. 6803 creates a National Zoological and Aquarium Corporation to regulate standards for zoos and aquariums across the Nation. A national accreditation established by the corporation would insure the safety and well being of animals in captivity. The corporation would also financially aid zoos and aquariums to meet its standards, award grants to

facilitate needed construction of animal buildings or structures, and establish training programs for professional staffs. The bill has been referred to the Committee on House Administration.

House Concurrent Resolution 296 authorizes the Federal Government to take steps determining if new research methods can be developed to eliminate the direct or indirect use of animals in its research projects. The bill has been referred to the Committee on Science and Astronautics.

In the international field several areas of humane treatment can be improved through congressional action.

House Joint Resolution 1179 calls for a moratorium on killing polar bears by establishing a treaty with the Soviet Union, Canada, Denmark, Norway, and other interested nations. The bill has been referred to the Committee on Foreign Affairs.

House Concurrent Resolution 232 asks the United Nations to establish international humane standards for animals. It urged the U.N. to initiate establishing an international criteria for determining endangered species of wildlife, a list of endangered species, and international standards for the treatment of animals in transit or other captivity. The bill has been referred to the Committee on Foreign Affairs.

House Concurrent Resolution 77 authorizes establishing a international convention between the United States, Canada, Japan, and Russia to regulate the harvesting of fur seals in the Bering Sea. The present method of taking the seals is by brutally clubbing the animals to death. The bill has been referred to the Committee on Merchant Marine and Fisheries.

Mr. Speaker all of this legislation is urgently needed. Animals cannot speak for themselves to express their misery or cruelties inflicted upon them, but there are eloquent spokesmen for them, as reflected in nearly daily articles in newspapers, and information in magazines, newsletters, and broadcast media, who show us the inhumanity of man. I want to encourage them all to renew their efforts. Much has been accomplished to protect animals and conserve wildlife, but so much more remains to be done.

All the legislation above, while needed, is only in a proposed status. Wildlife cannot speak for it, only man can do that. Only man can insure wildlife survival. Accepting the responsibility or not, he is its caretaker. What kind has he been? More importantly, what manner of caretaker will he become?

"DELTA QUEEN"

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. HUNGATE. Mr. Speaker, I know many Members will be interested in the continuing life and times of the 1928 river vessel, the *Delta Queen*, which continues to operate thanks to this Congress' granting her an exemption from regulations and safety standards. The following Associated Press story appeared in the May 6–7, 1972, St. Louis Globe-Democrat:

CINCINNATI.—The riverboat Delta Queen was ordered seized just before noon today by federal authorities on a suit by a Cleveland firm that claims Green Lines, Inc., owes it $85,000 for installation of sewage equipment.

U.S. District Court Judge David S. Porter ordered the U.S. marshal to "arrest" the riverboat and its captain and hold them for a hearing June 5.

The action was taken after a suit was filed by Seapax, Inc., of Cleveland. The firm claims it installed antipollution equipment of the Delta Queen at New Orleans between December, 1971, and May, 1972, and has received no payment.

The suit asked the court to order the ship condemned and sold for payment of the $85,000.

Donald M. Horn, U.S. marshal for the Southern District of Ohio, and Deputy Marshal Eugene Smith were sent to board the boat.

It had just been welcomed home by Ohio Gov. John J. Gilligan, U.S. Sen. Robert Taft, Jr. and other dignitaries.

Taft had planned to ride the Queen to the Kentucky Derby at Louisville. The boat was to return Sunday night to begin its first cruise of the season to New Orleans on Monday.

Perhaps, in the interest of nostalgia, the Congress will wish to appropriate $85,000 to release the *Delta Queen* from Federal custody.

I would, of course, oppose such an appropriation as I opposed an exemption of this vessel from the safety regulations required of all other ships.

The apparent failure to pay for necessary antipollution sewage equipment is more interesting in view of the testimony given this Congress on September 27, 1967, by an official of the company:

Q. Has the operation of the *Delta Queen* been profitable?

Mr. MUSTER. During the past 5 or 6 years it has been increasingly profitable each year and is operating now very successfully.

Our projections show that the *Delta Queen* successor can operate break even at about 60 percent of capacity. It may be even a little lower than that. We may be able to get it down to about 55 percent. On that basis, if we were to operate, as we are now, at about 92 to 95 percent—really it is just a shame how much money we could make.

In the months intervening, before we are besieged for another extension to exempt her from safety laws, I urge my colleagues to study the hearings.

I have followed the boat's career and will offer further articles to highlight just how much of the *Delta Queen*'s operation is nostalgic and how much is bilge water.

THE U.S. CHAMBER OF COMMERCE ON OUR SERIOUS FISCAL SITUATION

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. MAHON. Mr. Speaker, my attention has been called to a statement by the U.S. Chamber of Commerce in regard to the serious fiscal situation facing this country. It is imperative that we get our fiscal house in better order. The statement is quite provocative and should be widely read. It follows:

STATEMENT BY THE CHAMBER OF COMMERCE OF THE UNITED STATES

The cost of government is literally eating the country out of house and home. In 1970, Americans spent $14 billion more for government than for food, shelter, clothing and new cars combined.

Isn't it scary that the cost of government increased by 67% from 1958 to 1971? That's almost twice as much as the cost of consumer items. Uncontrolled Federal spending looms as a continuing threat to the economy. The inevitable results are government deficits, inflation, increased taxes.

What to do? We suggest to the President and Congress—put government on a strict diet. Set up strict spending guidelines. Exercise strict controls on the Federal budget. As a start, we recommend five reforms:

PROJECT ALL MAJOR SPENDING OVER A 5-YEAR PERIOD

Show total costs as well as detailed spending. Such projections should list separately both actual spending and spending that has been authorized but not yet spent. Then Congress and the taxpayers will have a yardstick for measuring new and continuing programs. The costs of new programs initiated in the 1960's incerased 300% during the first five years. If the taxpayer knows the future costs, he will think twice about the true worth of the program.

EVALUATE ALL SPENDING PROGRAMS AT LEAST ONCE EVERY 3 YEARS

Determine their need and effectiveness and see what costs can be eliminated. This is zero-based budegting, which means that an appropriation for a program must be justified from scratch. If needed it should be reenacted. If not, eliminated. As it stands now, almost $175 billion of the proposed $247 billion budget for Fiscal 1973 would be spent automatically—about $2,650 per family.

PILOT TEST EVERY PROPOSED MAJOR FEDERAL PROGRAM

See if it will work before full-scale operations are funded. If it works, then and only then should Congress put it into nationwide operation. This procedure will avoid many expensive projects that look good on paper but don't solve the problem. As Senator Abraham Ribicoff said in urging that the proposed Family Assistance Plan be pilot-tested: "Right now we have 168 programs at a cost of $31 billion to alleviate poverty, and we've got more poverty in this country than we had last year."

DESIGNATE A JOINT CONGRESSIONAL COMMITTEE TO EVALUATE THE FEDERAL BUDGET IN TERMS OF PRIORITIES

Today no committee is responsible for the total budget picture. The Federal budget is a thing of bits and pieces—a scrambled multibillion dollar jigsaw puzzle. Each committee has a favorite piece and tries to squeeze it in somehow. No committee evaluates the budget in terms of balancing tax receipts and expenditures. Excess costs are simply added to the national debt. A total review by one committee, to be made public, could help balance the budget.

SUBJECT SPECIAL FEDERAL PROGRAMS, SUCH AS SOCIAL SECURITY, MEDICARE AND HIGHWAYS TO THE DISCIPLINE OF CONTROLLED SPENDING JUST AS OTHER TAX-SUPPORTED PROGRAMS ARE

There are over 800 trust funds, which do not come under the annual appropriations review. An annual look might change priorities substantialy as times change.

These five points can bring the budgetary process under control. Until the American

public insists on steps like these, election results will be meaningless. What's needed is millions of Americans talking to their friends, neighbors, colleagues and public officials about ways to bring spending under control.

For further background write to: The Chamber of Commerce of the United States, Washington, D.C. 20006.

OPPOSITION TO FAIR LABOR STANDARDS ACT

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. QUIE. Mr. Speaker, the House of Representatives will be voting on H.R. 7130, amendments to the Fair Labor Standards Act, later this week. Title III of this bill contains some extensive trade policy provisions to which I am opposed. I would like to call to the attention of my colleagues the serious effects this legislation could have on our entire foreign economic policy. Today, I received a letter from Secretary Laird outlining the opposition of the Department of Defense. The Education and Labor Committee has also received letters from the Departments of State and Commerce and the Office of the Special Trade Representative, voicing strong opposition. I am inserting these letters for the benefit of other Members.

SECRETARY OF DEFENSE,
Washington, D.C., May 8, 1972.

Hon. ALBERT H. QUIE,
House of Representatives,
Washington, D.C.

DEAR MR. QUIE: Reference is made to H.R. 7130, 92d Congress, a bill "To amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that Act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes."

The Department of Defense is particularly concerned with Title III of the bill entitled, "Relief for Domestic Institutions and Employees Injured by Increased Imports from Low-Wage Areas." Section 30(c) of Title III would delete subsection (e) of 29 U.S.C. 204 and substitute therefor new subsections (e) and (f). Subsection (f) would provide that contracts over $10,000 to be performed outside any State for goods, supplies, articles or equipment to be used within a State, shall require that persons employed under the contract be employed on terms and conditions which are "not substantially less favorable" to such persons than those which would be required under the Fair Labor Standards Act if the contract were to be performed within a State. The contractor must also make reports and keep such records as will enable the Government to assure that he complies with such requirements.

Under Section 301(c) of the bill, Defense contracts apparently would require overseas suppliers to pay wages "not substantially less" than wages required to be paid in the United States under the Fair Labor Standards Act. Aside from the ambiguity inherent in this requirement, we are apprehensive that the effect of such a requirement could be to foreclose the Department of Defense from access to most foreign sources where wage rates tend to be substantially less than in the United States. The percent of our supplies which are bought from overseas sources is very small in relation to that which we purchase domestically. There are, however, some requirements which cannot be obtained from domestic sources, and it is essential that the way be left open to those sources unhampered by preclusive contractual requirements. These include:

Items which are not available in the U.S. such as certain new technology items, e.g., the British developed HARRIER aircraft. The DoD does not intend to duplicate the expense of developing such new technology items when they are available from a foreign source, and are suitable for U.S. defense needs. Also, the DoD frequently needs to buy one or more copies of a weapons system or subsystem for testing in the U.S.

In any logistic situation, there is always the need to have authority available to buy from any source in an emergency, whether a full scale national emergency or a one-time natural catastrophe. However, the bill does not provide for these contingencies.

For a number of years, the DoD has been selling military equipment to its allies in the interests of the common defense. In recent years these sales have been running at approximately $2–$3 billion. Frequently, countries who are willing to procure several hundreds of millions of dollars of U.S. defense equipment insist upon and are provided limited and selective opportunities to bid on U.S. defense procurements on a competitive basis. While these offsetting procurements may increase in the near future due to various undertakings which have been and are being negotiated with allies of the U.S., they will continue to represent no more than about 1% of the value of annual U.S. foreign military sales, or about $25 million annually.

Various steps have been taken during and since World War II to coordinate U.S.-Canada economic efforts in the mutual defense of the North American continent. These steps involve greater integration of military production, standardization of military equipment, dispersal of production facilities, and availability of supplemental sources of supply.

During the Vietnam War, Canada provided DoD with many urgent requirements, including certain electrical and navigational equipment and supplies. Over a 12-year period, the U.S. has procured approximately $2.8 billion worth of supplies from Canada. Over 100 Canadian suppliers have executed agreements to provide certain critical defense items in the event of an emergency. The bill would prevent DoD from obtaining these supplies from Canada under this long-standing program.

The purpose of Section 301(c) is apparently to prevent the displacement of U.S. workers and the disruption of working conditions among U.S. industries by foreign firms which extend to their workers lower wage rates and less favorable benefits than those available to U.S. workers under the Fair Labor Standards Act. However, under the bill, contracts with foreign firms would have to contain the requirements of new subsection (f) under Section 301(c) of this bill even if no U.S. firms or workers would otherwise be affected by the procurement. The only effect of this requirement in some cases, therefore, would be to hamper severly the procurement of necessary defense materials without corresponding benefit to domestic labor.

Also, compliance by foreign contractors with other United States statutorily required conditions of employment, such as child labor laws and overtime laws, may well be required under this section. These U.S. labor laws may well conflict with those in foreign countries.

It should be noted that, through the Buy American Act, and our implementing regulations, the Department of Defense already extends a significant favorable advantage to domestic sources relative to foreign sources. This advantage generally takes the form of adding a 50% price differential to foreign bids for evaluation purposes. In addition, other statutory provisions such as the "Berry Amendment", a provision of the annual Department of Defense Appropriations Act, precludes the purchase by this department of certain foreign produced supplies except under very limited circumstances.

Authority is already provided under the Trade Expansion Act of 1962 for an investigation of a situation wherein it is alleged that national security interests may be adversely affected because of imports. The Office of Emergency Preparedness is responsible for such investigation and for obtaining appropriate advice from all Executive Agencies, including the Department of Labor. Recommendations for possible Presidential action are made as a result of this investigation.

There is substantial doubt as to the enforceability of the requirements of new subsection (f) under Section 301(c) of H.R. 7130. There is no means to compel compliance by a foreign firm with the pertinent provisions of the contract, once it is awarded. Presumably, the only sanction would be contract termination. This, of course, can be a most undesirable sanction because of the delay and cost which results in re-procuring from another source. Also, it is not clear whether under this bill it would be sufficient for procuring offices to rely on the foreign contractor's representation of compliance, or whether an investigation, evaluation and verification procedure would have to be established. If the latter, the administrative burden in terms of cost and time could be quite heavy, and result in long delays in procurement of vital defense supplies.

In short, Section 301(c) of the bill would create serious problems in defense procurement, and it is doubtful that it would benefit U.S. labor or industry to any appreciable degree with respect to defense procurement. In fact, this department is of the view that this legislation could result in retaliatory measures by other countries to substantially reduce purchases of U.S. military equipment, thereby adversely affecting hundreds of thousands of U.S. jobs, and increasing the unfavorable U.S. balance of payments. Furthermore, such a broad measure could invite retaliatory measures by foreign governments against U.S. firms engaged in commercial export enterprises, thereby adversely affecting the health, efficiency and well-being of U.S. workers.

In addition to the aforesaid objections to the provisions of Title III of H.R. 7130, it appears that this bill would have substantial effect on the cost of Department of Defense nonappropriated fund activities by raising their costs of operation by many millions of dollars. This could run counter to current efforts to make military service more attractive so as to enable an end to the draft.

Thus, for the reasons stated above, the Department of Defense is strongly opposed to the enactment of Title III of H.R. 7130.

Similar letters are being sent to Congressmen Carl Albert, Albert H. Quie, Gerald R. Ford, Carl D. Perkins, H. Allen Smith, and William M. Colmer.

Sincerely,

M. R. LAIRD.

MAY 12, 1971.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Department of State has been informed that legislation, namely H.R. 7130, has been introduced for the purpose of amending the Fair Labor Standards Act of 1938 and has been referred to the Committee on Education and Labor for consideration. One of the amendments, embodied in Title III of the bill, would empower the President to increase duties or impose quotas whenever he found, on the basis of an investigation and report by the

Secretary of Labor, that United States workers and the economic welfare of communities were being adversely affected by imports of articles produced in foreign countries under working conditions and wages below those specified in the Fair Labor Standards Act. A second amendment, also in Title III would require foreign manufacturers to comply with the Fair Labor Standards Act in supplying goods for public use.

The Department of State recommends against enactment of legislation, such as Title III of H.R. 7130, inasmuch as the tariff adjustment and other adjustment assistance provisions of the Trade Expansion Act of 1962 already prescribe a procedure which can be evoked to provide relief to domestic industries, firms and workers from severely injurious import competition. Moreover, this Department considers that any modification of tariff concession negotiated under the trade agreements legislation should be made in a manner consistent with the standards and procedures established by Title III of the Trade Expansion Act of 1962.

In brief, the Trade Expansion Act procedures require the Tariff Commission, upon the application of an industry, firm or group of workers, to conduct an investigation, including a public hearing, to determine whether a rise in imports attribute in major part to trade agreement concessions, is causing or threatening serious injury. In making its determination the Commission must take into account all relevant economic factors, including the idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment, and report its findings to the President. Upon an affirmative finding of the Commission, the President is empowered to impose additional restrictions on imports and provide special assistance to effected firms and workers.

Moreover, the Trade Expansion Act procedures make provision for the effective representation of the interests of American wage earners. Any certified or recognized union may petition the Commission to institute an investigation and may submit briefs or testify in public hearings before the Commission. Wage earners also have full opportunity to present their views to the Secretary of Labor and other members of the Trade Expansion Act Advisory Committee which advises the President regarding all aspects of trade policy, importantly including reports to him by the Tariff Commission under the tariff adjustment and other adjustment assistance provisions of the Trade Expansion Act.

In addition, other existing legislation, including Section 22 of the Agricultural Adjustment Act, the Antidumping Act of 1921, and Section 303—the countervailing duty provision—of the Tariff Act of 1930 prescribe complementary procedures which can be evoked to curtail injurious imports.

The proposed amendment seems to be based on the premise that labor cost differentials should be equalized to afford relief to domestic industries, firms, and workers. However, the fact that labor costs are lower in other countries does not necessarily mean that imports from them are harmful. Labor costs are only one of several elements which enter into the price of an article and price is not the only factor affecting sales. For example, the price of raw materials, fuel, power, capital and credit, the skill of workers and management and the efficiency of manufacturing facilities all have important effects. In addition to price, such other factors as financing arrangements, delivery, freight costs, quality, packaging, channels of distribution, consumer preference and product service have an important bearing on sales of foreign made articles. If labor costs were the principal determinant of a country's competitive position, low wage articles could always undersell high wage articles in international trade. Yet, despite the fact that United States industry pays the highest wage rates in the world, the United States is the world's largest exporter, shipping nearly $42 billion worth of goods produced in all sectors of the American economy abroad in 1970, much of it to countries where wages are substantially lower.

Since American labor standards are considerably higher than in most foreign countries, the proposed amendment seems to envisage large scale restrictive action against imports. Any reduction in United States imports on such a scale would inevitably invite retaliatory restrictions by the affected foreign countries. Reduced imports would be followed by lower American exports and many jobs among the more than two million United States workers producing for export would be jeopardized. The United States balance of payments would be weakened. The net effect of the amendment would be to damage the American economy and United States foreign economic relations.

Although the proposed amendment does not single out any particular articles and does not allude to any specific supplying country, the export products of the less developed countries—located in all parts of the globe and constituting the great majority of free nations—would probably be affected. The less developed countries must expand their foreign exchange earnings through increased trade if their economies are to become viable without indefinite recourse to foreign aid. The United States has taken a leading role in encouraging other developed countries to reduce barriers to imports from less developed countries. The proposed amendment would be interpreted by the developing countries as restricting rather than expanding their access to one of their important markets.

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

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

DEPARTMENT OF COMMERCE,
Washington, D.C., May 17, 1971.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: These comments are submitted for your consideration with respect to title III of H.R. 7130, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that Act to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes.

In essence, title III would authorize the President to take appropriate action against foreign goods when the Secretary of Labor, after investigation and hearings, finds that imports are causing or substantially contributing to serious impairment, or threat of impairment, to the health, efficiency, and general well-being of any group of workers in the United States, and the economic welfare of the communities in which they are employed.

The Department of Commerce does not favor enactment of title III of H.R. 7130.

The actions of the United States takes to restrict its imports directly influence the policies of other countries toward U.S. exports, particularly with regard to retaliatory measures. This is an important consideration recognized in section 4(e) of the Fair Labor Standards Act which provides for studies of employment effects of foreign trade. Some three million U.S. jobs depend upon exports. Therefore, any restrictive action with regard to imports must be considered in the context of overall U.S. trade policy and procedures for dealing with the general problem of import competition.

The Department believes that the problem of foreign import competition and the effects of such competition on labor, the communities in which affected firms are located, and domestic trade can be better handled in the framework of existing legislation and procedures.

Under the provisions of title III of the Trade Expansion Act of 1962, escape clause relief to domestic industries in the form of increased tariffs or other import restrictions is available following a Tariff Commission investigation, as is adjustment assistance to firms and groups of workers found to be seriously injured by imports. For example, imports of certain types of sheet glass, pianos, and rugs are currently subject to temporary escape clause rates of duty. Several firms producing shoes, pianos, glass, and barber chairs have been certified as eligible to apply for adjustment assistance. In numerous cases over the past year, the President has certified workers injured by imports as eligible to apply for adjustment assistant. Additional avenues of relief to U.S. firms and workers are contained in other laws, such as section 204 of the Agricultural Act of 1956, the Antidumping Act of 1921, and various provisions of the Tariff Act of 1930.

The President has requested two comprehensive studies to examine in depth the complex issues involved in import competition, one by the Tariff Commission and the other by the Commission on International Trade and Investment Policy. The findings of these studies would provide a more solid basis for any further legislative action which may be needed with respect to the objectives envisaged in title III.

Title III of H.R. 7130 would also levy certain requirements on contractors manufacturing or furnishing materials, supplies, articles or equipment in the case of a contract to which the U.S. is a party or under which payment is to be made from Federal grants, loans, or loan guarantees. Presumably, these requirements would preclude the acquisition of goods made outside any State with the use of labor paid less than U.S. minimum wages. There are substantial difficulties inherent in measuring wages, benefits, and conditions. In addition, in many cases imposing the requirements of title III might be construed as raising a non-tariff barrier which would invite retaliation. Such action would also be inconsistent with current U.S. efforts to obtain reduction or removal of such barriers to trade on a worldwide basis.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Sincerely,

WILLIAM N. LETSON,
General Counsel.

OFFICE OF THE SPECIAL
REPRESENTATIVE FOR
TRADE NEGOTIATIONS,
Washington, D.C., May 12, 1971.

Hon. CARL D. PERKINS,
Chairman, Education and Labor Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that H.R. 7130, a bill "To amend the Fair Labor Standards Act of 1938," is being considered by your Committee. Among other things, the bill would amend Title III of that Act to provide new authority to restrict imports into the United States. In view of the foreign trade policy questions raised by those amendments, we ask that the Committee consider the comments of this Office as set forth in this letter. As indicated, those comments are limited to that section of H.R. 7130 which would amend Title III of the Fair Labor Standards Act.

The proposed amendment in section 301(c) of Title III would add a subsection (e) which would give the President new, additional authority to restrict imports. This authority could be exercised when the Secretary of Labor finds that the economic welfare of a group of workers or the community in which they are employed is seriously impaired or threatened in whole or in part by competition from foreign goods produced under labor conditions inferior to those established for U.S. workers by the Fair Labor Standards Act.

This amendment is objectionable on several grounds. Under existing legislation, the President already has broad powers to curtail imports to safeguard the interests of American companies and labor. Examples of such authority include the Trade Expansion Act (Sections 232, 351 and 352), the Antidumping Act of 1921, the Agricultural Act of 1956 (section 204), and the Tariff Act of 1930 Sections 303, 307 and 337). The Administration is on record in favor of liberalization of some of the existing safeguard provisions. It has either initiated or supported specific proposals which would benefit American workers both directly and indirectly, but without the adverse effects that would follow in the wake of the restrictions proposed in H.R. 7130.

Only a small fraction of the world's labor force outside the United States enjoys wages and working conditions equal to the minima of the Fair Labor Standards Act. The proposed amendments could therefore lead to sharp restrictions on a broad range of our imports. The stimulus that would be then given to inflationary pressures is clear.

Such restrictions as are proposed in Title III of H.R. 7130 could also adversely affect our exports. Other countries might well take counter-measures against U.S. exports in the face of what they could consider to be an unreasonable U.S. action. In addition, our exports could suffer due to loss of purchasing power by countries whose export sales to the United States were restricted. Reduced production for export would eliminate jobs in American industry and agriculture, and jeopardize efforts to improve our balance of payments. The net impact on U.S. economy could be substantially adverse.

Title III of H.R. 7130, moreover, focuses entirely on comparative labor standards as the determinant of our competitive position in international trade. This emphasis greatly oversimplifies any competitive situation. For example, many of our leading exports originate in industries whose workers earn well above the average U.S. wage. Lower wage and labor standards are not necessarily the principal determinant of success. Sound management, the skill of production workers, adequacy of capital and credit or prices of raw materials and fuel are also important factors. Nor is price always the sole consideration in a purchaser's choice among suppliers. Quality, advanced technology, service, transportation charges or consumer preferences, often outweigh price.

Another serious set of difficulties would arise in attempting to administer this amendment. Would the restrictions it authorizes, for example, be imposed only on imports from the country or countries found to have lower labor standards? If so, this would involve a major departure from the most-favored-nation principle and could lead to wholesale violations of our international commitments to provide, in general, equal customs treatment to imports.

The problems of fair and reasonable administration would be further compounded if we attempted to vary the degree of restriction in proportion to the estimated gap between U.S. standards and those in the different supplying countries. The largest penalties would then fall on the poorer countries, frustrating not only their development plans but also key elements of our own foreign policy objectives. On the other hand, if restrictions were levied uniformly on all imports, they would penalize countries with higher labor standards.

The investigation required by the Secretary of Labor under Title III of H.R. 7130 would pose major factual, as well as administrative problems. The requirement that he make international comparisons of wage rates and benefits involves such problems as determining the appropriate monetary conversion factors to use. Compensation practices abroad, moreover, often are rooted in social as well as economic systems quite different from ours. The required comparisons would, therefore, also have to consider many other relevant differences—in taxation, government services, and fringe benefits provided by employers. Much of this information is not now available in the detail required. Its acquisition would necessitate sizeable budgetary supplements.

Section 301(c) of H.R. 7130 would further amend Section 4 of the Fair Labor Standards statute by adding a new subsection (f) which would impose restrictions on government procurement and on any procurement financed in whole or in part by Federal funds. It would require that employment under any such contract performed outside of a State shall be on terms and conditions not substantially less favorable than the Act requires within the State. It further requires that, wherever a contract is in excess of $10,000, the individual contractor be held responsible for compliance with these conditions.

These amendments are objectionable on several grounds. They would drastically modify existing rules and regulations on direct government procurement—conditions which have been established by the Congress and implemented in very detailed and carefully drafted regulations by Executive Branch agencies. They should not be now amended without a full and thorough examination of their effects and implications.

Second, the proposals go beyond existing regulations and extend the new requirements to contracts made by others, including private parties, under which payment is to be made in whole or in part from Federal grants, loans, or insured or guaranteed loans. This extension would constitute an enormous broadening of the scope of existing procurement regulations and would affect a vast number of programs and activities without full understanding of the consequences. At the least, extension of these restrictive requirements could be expected to disrupt all such activities and would in all probability increase their budgetary costs.

Third, the provision that each individual contractor be responsible for compliance in each activity involving more than $10,000 is an onerous one. It would require each contractor to ascertain the conditions under which any materials are prepared or any manufacturing conducted in a foreign country and to compare them with the conditions which prevail here for similar products. Although the Bill's language is not specific, it would also appear to include any components incorporated in a finished product. These conditions are clearly beyond the reasonable capabilities of any individual contractor. Moreover, Federal agencies would be faced with difficult, if not impossible, administrative responsibilities in insuring that their contractors had actually complied with the proposed provisions.

Finally, by imposing new obstacles to procurement by Federal agencies and by expanding their coverage, the amendment would seriously undermine the current international efforts to reach a code of fair and equitable public procurement practices. One important purpose of this effort is to insure that U.S. exporters have the opportunity to compete for public procurement in other countries on the same basis as do their foreign competitors. To add a series of additional, restrictive requirements to the terms and conditions of public procurement in the United States, especially requirements whose scope and effects are as broad and imprecise as those proposed, would erect a serious obstacle to this effort.

For the foregoing reasons, this Office is strongly opposed to the proposed amendments to Title III of the Fair Labor Standards Act.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

CARL J. GILBERT,
Special Representative.

THE HUMAN VALUE OF WORK—WILLARD WIRTZ ON MANPOWER POLICY

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. O'HARA. Mr. Speaker, in mid-March, the Department of Labor held a meeting commemorating the 10th anniversary of the enactment of the Manpower Development and Training Act. As is always the case wherever and whenever he speaks, one of the outstanding addresses at that conference was delivered by the Honorable Willard Wirtz, a great former Secretary of Labor, and one of the real fathers of MDTA. I insert Willard Wirtz' eloquent and thoughtful remarks at this point in the RECORD:

REMARKS BY WILLARD WIRTZ

Mr. Secretary, Commissioner Marland, Mac Lovell, Ladies and Gentlemen: The Committee has asked particularly that these remarks include something about the beginnings of the Manpower program. Wanting to oblige, I have refreshed my recollection from the Book of Genesis. I recall it roughly as follows:

We said in the beginning, let there be full employment, and there was full employment. And we saw that this was good, and the evening and the morning were the first day.

Then the economists said, let there be a firmament in the midst of the waters so that there will be no inflation, and let the firmament divide the waters which are under 4% unemployment. And so we called the 4% firmament full employment, yea even though it meant 3 million people "looking for work and unable to find it." But we saw that this was good, and the evening and the morning were the second day.

Then we said, let the hard core unemployed be gathered together into one place and let them be trained in a Concentrated Employment Program, which was thereafter called Job Opportunities in the Business Sector because it permitted an acronym. (Laughter.) And we saw that was good, and the evening and the morning were the third day.

Then we said, let there be lights in the firmament, and we turned on two lights: a newer light which we called the Manpower Administration to rule over the day, and an older light which we called the Employment Service to rule over the night. (Laughter.) And we saw that that was good; well, pretty good. And the evening and the morning were the fourth day.

Then we decided that three lights would be better than two, and there was created the

Office of Economic Opportunity. And we declared war on poverty. And that was the evening and the morning of the fifth day. So on the sixth day we rested, having put in our forty hour week. We had started something we didn't know how to finish, and there were even some to claim that we had started something we didn't know how to beginnish. (Laughter.)

Thus endeth the reading from the Book of Genesis. There will be readings this evening from the Book of Job. (Laughter.) And tomorrow morning, Revelations. (Laughter.)

I'm glad you took it that way. I had worried about treating too lightly some things that are important to so many people in this room, and to so many others who aren't here and whom we now hardly think of in connection with this program. I think of course of John Kennedy, of Arthur Goldberg—of their contribution to the architecture of this program—and Joe Clark, and Elmer Holland, and the others on the Hill; and of a great many people in this room. That history is best treated lightly, because it would be hard to treat it seriously. Yet you know how much it means to a great many of us, and you know how much it means to me.

One other historical footnote may also seem more self-deprecatory than the circumstances warrant, and yet it releates to what I have in mind to say.

The American College Dictionary has this definition of Manpower: "1. The power supplied by the physical exertion of man or men. 2. A unit assumed to be equal to the rate at which a man can do mechanical work, community taken as one-tenth horsepower."

So far as I can recall, none among those "present at the creation" even had a dim sense of our double-barreled baptismal blunder. It wasn't simply that we chose a name which engraved for all time on the record our porcine male chauvinism. More than that, we took as the name for this program a word, "Manpower," which by deriving directly from "Horsepower" perpetuates the emphasis on the behalf that labor is a unit of production.

As I try to think back over those ten years and ahead to the next ten, to think either of those things which gave great satisfaction or of those things which could have been done differently or can be done differently in the future, I'm impressed with the realization that they all relate to the other half of the truth—which is that work is an essential human value.

I don't know whether it is so in itself. I suppose that a "work ethic" apart from a rational "life ethic" would be, the Puritans to the contrary notwithstanding, only whatever it takes to inspire working as effectively as a tenth of a horse. And yet Work . . . doing something . . . however we want to put it . . . is, probably, along with Love and with Learning, among the essential human values. I'm not enough of a philosopher to understand this. I only know that I associate whatever professional satisfactions there may have been with the fact of having tried terribly hard and being very tired at the time. I think it is true that Work . . . doing . . . is as important a piece of business as there is in the composition or whatever this is we call life.

It is a fair appraisal of the first decade of the Manpower policy that it did produce a greatly increased consciousness of the human value of work. What had been before essentially a feeder system of labor into the economy, which took both the supply and the demand as given, has at least started to become instead an instrument for serving the human purpose of work. We have come very close in these ten years to establishing at least the elemental principle that there is a human right to the opportunity to work and that this includes a right to be prepared for work. If there aren't jobs, we now say there had better be. If there isn't preparation, we say there had better be. To a very considerable degree, in these ten years, the individual rather than the labor market has become the given. That's quite a ten years' work.

But if anybody thinks that this program has gone as far as it is going to go in this direction, he or she better get out of the way before he or she gets run over.

There has been an initiative taken in these ten years which has a momentum about it which is still only half, probably less than half, realized. The authentic tradition of the Manpower policy has become that the human values in work as a life function do have priority over the economic interests in labor as a unit of production. The dictionary definition to the contrary notwithstanding, "Manpower" has become in these ten years not a shorthand expression for one tenth part of horsepower, but rather a shorthand expression for the power of man and woman to do and thereby to be.

Rhetoric? I don't mean it that way. I mean it rather as a statement of a tough, uncompromising position on issues as basic and important as any before the country today.

About, for example, what we mean by "full employment."

There are two issues here. One is whether when we say full employment, we mean full employment or whether we mean full employment minus whatever degree of unemployment somebody says is necessary to keep an uncontrolled economy on a level keel.

The parlaying through two administrations of the economists' Phillips Curve and the politicians' euphemism about "cooling off the economy" would be enjoined by the Federal Trade Commission if it were used in the advertising on a patent medicine that ought to be labeled "Poison," or at least "Horsepower Policy." (Applause.)

I didn't hear much, frankly, about full employment this morning. It is time for the architects, the people in this room, to make it plain that when we say "full employment," there is no fine print, that what we mean by "full employment" is the full employment of every single person who wants to work and is able to do it, and that that includes everybody. None of this business about accepting 5% unemployment . . . or 4%.

If there has to be 2% "frictional" unemployment to cover people moving at any particular time from one job to another, all right. But anything above that is our fault, and something which we ought to correct. It is time to reassert the belief in full employment.

This country is getting dangerously close to a view that unemployment is a price of peace, of technological advancement, and of economic stabilization. We can't afford that nonsense as part of the exercise of the responsibility of leadership. It needs to be said plainly that if war . . . not just a war, but war . . . were stopped completely, and if we were then simply to undertake to give the people of this country the education and the health which we can provide, if we were simply to undertake to clean up our air and our water, if we were simply to replace the cobwebs of concrete which are choking the cities of this country with the urban transit systems which represent the minimum of ecological sense . . . if we were to do just those things, we would have a manpower shortage in this country. People need to be reassured about that.

This would unquestionably present some other problems. I don't suppose there can be full employment in the sense we are talking about it here, without different priorities. Or without more planning. I'm not sure that there can be this degree of full employment without discipline which goes beyond self-discipline. It probably means paying more taxes instead of higher prices. It may very well mean giving up our competition with Russia in the stratospheric pole vaulting event. It may mean deciding to put some different things first. This may not be congenial political doctrine. But this country is ready to face whatever issues arise from putting full employment in the first place instead of someplace else on down the line.

The other full employment issue is whether we mean full employment in the horsepower or in the human power sense. I make the point, I hope with Jim Hodgson's indulgence, by drawing unduly on expired authority.

I announce here this noon, on the third Thursday of the month, that the national unemployment rate, adjusted not according to the changing seasons but according to the underlying ideals of civilization, is 57%. We just dropped the decimal point.

I regret that there will be no opportunity to explain this at a press conference. (Laughter.) But as you have perhaps suspected, what I have done is simply to take as the base for employment or unemployment the full potential of the human race. I suspect that 57% figure for the under-use and non-use of the human potential is low, that if we could define employment and under-employment according to what is inside of us and what we *could* do, the unemployment rate is more than 57%.

Some other changes will be covered in subsequent announcements. I have requested the Commissioner of the BHS, that's the Bureau of Human Statistics . . . what's one more change among friends (Laughter) . . . to investigate a problem which has been bothering some of us for some time. The Commissioner tells me that he has been troubled, too . . . since a visit the other day by two women. One is the mother of five children, the other the wife of a Secretary of Labor. They wanted to know, just as a matter of information, how what women do from day to day . . . and 15 hours a day . . . is counted in the employment statistics. The Commissioner had to go through the exercise of explaining to them that the only employment which is counted is that which is brokered through what is still quaintly called "the labor market." This means of course that it leaves out what all of the unliberated women in the country are doing. The Commissioner's two guests didn't find that explanation wholly satisfactory.

Those of use who have the largest reason to be proud of that particular indicator, who have put so much of ourselves into making it the instrument it is, are in the best position to say to the country that there ought to be another *social* indicator which goes along with it.

The real development of full employment in any "human power" instead of "horsepower" sense depends upon the establishment of social indicators which, while not so precise as the economic indicators, will fulfill a comparable function. Indeed, if I could pass a single law, I suppose it would be that one which languishes up there on the Hill right now, S. 5, in the last two sessions of the Congress, the Full Opportunity and National Goals and Priorities Act. You always know that if something of this sort can be reduced to an acronym which sounds like a breakfast food, it *is* a breakfast food. This isn't that kind of bill. This is the bill Senator Mondale has tried so hard to push. It would establish a Council of Social Advisers with authority and responsibility comparable to that of the Council of Economic Advisers, and a joint Senate-House committee with responsibility comparable in the social area to that of the Joint Economic Committee. Two administrations now have done a shameful job of sabotaging that particular piece of legislation.

You wonder what it is in the chemistry of democracy, or in the genes of the press, that means we all get so excited about whether a piece of alleged autobiographical manuscript

was fake or real, or even about the relationships of corporations with government, but that virtually no attention is paid to the travails of something as important as S. 5. I can't say too strongly how essential it seems to me to the idea of a "human power" program, that social indicators be developed as fully as the circumstances permit.

I want to mention only briefly another testing in this second decade of the meaning and mettle of a "human power" policy. Under Secretary Veneman raised the point this morning. It has to do with the control of technology, with the relationship of machine and man.

I guess I think the single most authentic prophesy in the history of American social, political, and economic thought was Thorstein Veblen's prediction, 80 years ago, that the one problem which would probably present the critical testing of a free democracy would be society's control over what he then called "scientific invention." This seems to me as near the heart today of Manpower policy in a "human power" sense as any matter could be. Advancing technology . . . "automation" . . . means more jobs, not fewer jobs. But the new jobs are different from the ones the machines replace, and probably in other plants, other areas. At the end of this first decade of manpower policy, the displacement of people by machines is still left largely to the forces of the marketplace, and to a collective bargaining procedure which can't handle this situation because the problem arises within a particular bargaining jurisdiction, but the answer lies someplace else.

I would wish that when we consider the problem of the prevention of crippling nationwide strikes we could also address the basic problem which causes most of those strikes, which has to do with the replacement of people by machines.

If there were more time I would like to propose a Technological Displacement Act, which would recognize that this problem must be met through action as a community, and that it cannot be met effectively through collective bargaining alone. If we are going to provide a tax incentive to manufacturers for putting in what will usually be labor-saving equipment, we could properly require the use of half of the gains from the change to buy up the job rights of the people who are displaced and to support a national training program to give them access to new jobs.

Another provision of a Technological Displacement Act would create a National Leave of Absence Program under which every member of the work force would be entitled as a matter of right to a two-year leave of absence at whatever point he or she wants to take it during his or her working career. The two-year leave of absence would be paid for at 75 to 100% of the individual's current earning rate. It would be used to go back and pick up education or training, whatever that individual wants to do with it. A system very much like this was adopted in 1969 in Germany and last year in France. It makes good sense. Instead of simply paying out unemployment benefits, there are payments from the unemployment insurance fund to permit somebody whose job is about to be taken by a machine to go back and take the training for some other job which is coming up. We need something of that sort.

We need, too, the Technology Assessment Act, which the House did pass last Fall, and which would provide for some kind of assessment of the implications of new technological development.

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To have stood away for a while, from any operational responsibility for the Manpower program, so that this first decade can be viewed in perspective, is to realize increasingly what could be only partially sensed in the midst of its administration: which is that a rational Manpower policy will have to develop as part of a broader Manpower-Education policy.

Education and Work are . . . or ought to be . . . reciprocal life functions. It seems almost certain that the decade now opening will be characterized by the recognition that a Manpower policy designed to serve both the needs of the economic system for the right kind of Labor and the needs of the individual for meaningful work will be closely inter-related with Educational policy.

Take the glaring, incriminating fact, properly emphasized in the new Manpower Report which has been distributed here today, of a 16-to-19 year old unemployment rate of 17% . . . with a rate more than double that among those at the triple "disadvantage" of being young, female, and black. This most acute and serious of all unemployment problems won't be met unless and until it is recognized as at least fully as much an "educational" as a "manpower" problem.

I question, frankly but without wanting under the circumstances of this occasion to argue the point, the efficacy of meeting this situation by establishing "a special lower youth minimum wage to help overcome employers' reluctance to hire inexperienced young workers." That doesn't seem to me to go to the heart of it—but rather to compound the mistake we make by having a lower minimum wage for people in "sheltered work shops," when they are the ones who need an adequate minimum wage the most.

I agree, incidentally, with Vivian Henderson's suggestion this morning that we are letting this phrase . . . "disadvantaged" . . . lead us off into some wrong answers. This is true in the case of physically and mentally handicapped workers. It is true in the case of the disabled veterans—for whom, so far, we have come up with answers which may salve our conscience a little but which don't satisfy either our obligations or the maimed young men's needs. It is true when . . . as Vivian was suggesting . . . we use "disadvantaged" as a euphemism to help us out of recognizing that the people we are talking about are those who are black or are Chicanos and as such the victims of the fallout of discrimination and bigotry. And it is true if we misconceive of the million-and-a-quarter unemployed 16-to-19 year olds as being at a disadvantage which a lower minimum wage alone would cure—which is not, I recognize, what the Manpower Report says.

The general youth unemployment situation clearly warrants emergency measures, although emergency measures too often become excuses for not doing something more basic.

There ought to be a Youth Service Act—without the "Selective." There ought to be a Service Board in every community, a board to which young people could go to talk with someone about what they are going to do next. We don't realize the extent to which, almost suddenly, the function of the family has virtually disappeared as far as the employment guidance function is concerned. We don't realize the implication of the fact that many young people named Miller, or Miner, or Mason, or Carpenter, or Cartwright, or Baker, or Barber, or Smith, or Shepherd, or Sawyer or Fowler, or Farmer—their names reflecting the fact that the whole training placement and employment process used to be within the family—will now have four or five different jobs during their own lifetimes and will enter employment through a totally impersonal process. It would help make up for that disappearance of this family function if there were youth service boards, career development boards, whatever you want to call them, in every community in the country.

There ought to be, too, a National Service Act, not just to meet the needs of those we presently call "disadvantaged" but for all of those young people for whom more school is not the right answer at the particular moment. There is apparently no disagreement about this as a matter of principle, but only a concern about the costs. Let's declaim, before it's gone, half of that Viet Nam peace dividend and put it into a national service program.

But that would be only one possible piece of an Education-Work policy. I know, incidentally, and respect fully, the argument that the roots of unemployment, particularly youth unemployment, reach way down through institutionalized education and beneath it into what is happening in the family structure and in the society in general. Recognizing that, though, let me simply suggest some of the items on an agenda of relating education to work, and work to education—with what would seem to me clear promise of improved effectiveness.

I suppose *Serrano vs. Priest* is the most important single Manpower decision in the past ten or twenty years. That's the decision in California which provides, in effect, that every child is entitled to an equality of education as far as the financing of it is concerned.

Commissioner Marland has referred to the concept of Career Education which is being developed in the Office of Education. It seems to me to make total and complete good sense to find out more than we now know about what people are going to be doing, and then to use that information in one way or another in the educational system. Under Secretary Veneman talked this morning about our getting away from the elitism which led to the training of all children for a college experience most of them wouldn't ever have and which some of them don't want and wouldn't use. The leaders of American education are attempting to reshape Education in the light of a further appreciation of "Manpower" policy and needs. We whose particular responsibility is "Manpower" should be responding to that in the most affirmative way.

Dr. Evans spoke briefly this morning about the "work-study" and "cooperative education" programs. He was so kind as to mention The Manpower Institute. We are trying there to develop what we are calling an "Education-Experience-Exchange" concept, with the thought that there are various ways of inter-relating the education and work experiences and that a variety of options ought to be developed and afforded on as effective a basis as possible. We will be claiming no patents, for this is increasingly familiar territory; and yet there is obviously, so far, more rhetoric than machinery.

The community college development is obviously important here, and only the limitations of time excuse my not going further into that.

I guess I think that the "continuing education" concept represents the single most fertile, promising, and so far virtually undeveloped frontier of Manpower-Education policy.

It seems to me unlikely that the essential "participatory" element in a democratic society could be preserved much longer if we were to continue to proceed on the fallacious assumption that people can learn enough by way of formal education or institutionalized education at the start of life to get us all the rest of the way on through. With

knowledge expanding at the rate it is, there is as much reason for compulsory education for people at age 45 as there used to be for children at ages 6 to 16. It can't be very long before we recognize that with knowledge expanding this fast, we have simply got to make arrangements for a constant renewal of education . . . fitting education in with experience . . . abandoning this ridiculous idea we have grown up on, and some of us are now growing old on, that life is to be divided into three time traps: education, work, and then retirement. That doesn't make sense.

How about two years' compulsory education for every woman at the time she reaches 40 or her youngest child goes off to college? Sure, that's just bargaining. Let's settle on two years of *free* education at about that time in life. And then let's go on to talk about what it would mean to the whole work process, and the whole education process . . . to the *life* process . . . if everybody were to be entitled to "sabbaticals" of one kind or another here and there along the line.

I have said too much to be discreet, too little to be persuasive; but my time is up. Nothing said here has been intended as critical. I have said a good many times in the last three years that one Secretary of Labor at a time is enough—which is a qualitative as well as a quantitative judgment. And if anything said this noon has sounded critical you will know that I know that it involves something I had a chance at and didn't do anything about.

Just one note in conclusion. If anything said here seems to suggest any conflict between an emphasis on the human quality of the Manpower program and its economic quality, let me make it completely clear that I see no such conflict. If our objective were solely to devise those means by which we could improve the labor feeder system as far as the economy is concerned, we would properly concentrate most of all on seeing to it that people are in the jobs they want to be in and are qualified to fill. The most effective Manpower program . . . in straight economic terms . . . will be one which includes the purpose of achieving the largest possible meaningfulness as far as the human being is concerned.

The superior opportunity of those of us in the Manpower program is to make it the authentic tradition of Manpower policy that the whole truth is that while Labor is an essential element of production, Work is an essential human value.

VIETNAM

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. METCALFE. Mr. Speaker, two steps which the President announced last evening in his speech to the Nation on Vietnam have far greater international consequences than anything done so far in this war.

No administration before this has mined the entrance to North Vietnamese ports. This action was rejected once by Mr. Nixon as being too provocative. It was also rejected by President Johnson during his administration. The possibility of confrontation with the Soviet Union has increased with this act; and further, the order which the President gave to "cut off to the maximum extent possible" rail, and all other communications, raises the risk of a confrontation with China.

Several weeks ago this administration, which had led the American people to believe that the war was finally winding down, intensified the bombing over Vietnam, thereby indicating that the policy of Vietnamization was a failure.

Now, not only does this administration continue this intensified bombing of the North, but it goes further and pursues a course of action which increases the risk of a possible international confrontation.

I regret that the President has pursued this course and further, I condemn it because of the possibility of confrontation with the Soviet Union in an area which is not vital to the interest of the United States.

I support the President in his stated policy of total withdrawal; but he has been saying this for 3 years, and we are still there, still fighting, now mining. I do not support these latest actions of the President.

I think that the President might better accomplish our total withdrawal if he would accept the offer that the Secretary General of the United Nations made on April 24, and that, is to use his office for negotiation of the Vietnam conflict.

A. PHILLIP RANDOLPH HONORED

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. HALPERN. Mr. Speaker, a great American was recently honored by the AFL–CIO. The president emeritus of the Sleeping Car Porters, Mr. A. Phillip Randolph was presented with the Murray-Green Award for Public Service. I was quite impressed by the presentation made by Mr. Todd Duncan at the awards dinner, and I wanted to share the article, "I See A World," published in the AFL–CIO News, with my colleagues and the American public. The activities and public service performed by Mr. Randolph should be commended and applauded by every American. Not only am I proud to insert this presentation in the RECORD but I sincerely hope he receives further thanks from a grateful union membership. Mr. Randolph has set an example for participation within the democratic system which should be emulated by every political and economic leader in this country. His farsightedness and courage are examples of the dedication of union members everywhere.

The article follows:

[From the AFL–CIO News, Apr. 22, 1972]

RANDOLPH RETAINS HIS VISION OF FREEDOM, EQUALITY, PEACE

At the dinner marking the presentation of the Murray-Green Award to A. Phillip Randolph, Todd Duncan, famed actor and singer, read to the audience from Randolph's own writings and speeches. This is a part of Duncan's reading:

"I see a world where thrones have crumbled and kings are dust, where the aristocracy of idleness have perished from the earth. I see a world without a slave. Man at last is free. Nature's forces have by science been enslaved—lightning and light, wind and wave, frost and flame, and all the subtle forces of earth and air are the tireless toilers of the human race.

"I see a world at peace, adorned with all forms of art with music's myriad voices thrilled, while lips are rich with words of truth and love. I see a world where no exile sighs, no prisoner mourns, where work and worth go hand in hand, where the poor girl trying to make bread with a needle, the needle which has been called the asp for the breast of the poor, is not driven to the desperate choice of crime or death, of suicide or shame.

"I see a world without the beggar's outstretched palm, the miser's heartless stony stare, the livid lips of lies, the cruel eyes of scorn, the piteous wail of want.

"I see a race happy and fair, devoid of disease of flesh or brain, married harmony of form and function, and as I look, life lengthens, joy deepens, and over all in the great dome, shines the eternal star of human hope."

Thus, more than 30 years ago, tonight's honoree—A. Phillip Randolph—outlined his vision of a world of equality, freedom and peace.

Throughout his long career, when others exhorted the Negro to revolution, revolt and separatism, Randolph called for reform within America's democratic system:

"One must always remember that the progress made by the American Negro has been accomplished within the framework of democratic institutions. Such tools as freedom of speech, press, and assembly are powerful and necessary weapons to a people plagued by continuous Jim Crow practices. Neither fascism on the right nor communism on the left can offer to the Negro any hope of economic, political or social freedom. . . .

"Democracy with all its illnesses offers the only real source for adjusting the political, economic, and social problems of an oppressed people.

"Admittedly very incomplete and with maladjustments all around us, the job is big. But the task is not hopeless. It is rather encouraging. To those of us who have dedicated our lives to the unfinished work of democracy there can be no more noble undertaking."

A. Phillip Randolph spoke most eloquently, however, of the need to strengthen the historic Negro-labor alliance he helped to forge.

Speaking to his fellow delegates at the 1963 AFL–CIO convention, he said:

"Let each of us individually and unequivocally embrace the Negro's struggle for freedom, and the labor movement will rise to its full moral stature. Let us do this, and when labor's rights are threatened, you will see an outpouring of black Americans into the streets in defense of those rights, as they have taken to the streets in defense of their own rights.

"Let us so implement this resolution that the day will come and not be far off when the white steelworkers of Birmingham will take the hands of black children in the crusade to redeem the South.

"Let us so implement this resolution that the mill workers of Danville will join the struggle for civil rights in that beleaguered city—so that white unemployed miners in West Virginia and Tennessee will march arm-in-arm with their black brothers to transform their bleak hills into flourishing countrysides.

"In the last analysis, my brothers and sisters, the essence of trade unionism is social uplift. The labor movement traditionally has been the only haven for the dispossessed, the despised, the neglected, the downtrodden, and the poor. We must pledge our lives to the social revolution which will bring all of them into labor's crusading fold—into the pale of dignity and economic well-being.

"This is labor's ultimate faith. This is the basis of labor's program. This is the challenge before us. This is the task to which we must now rededicate ourselves."

Looking back over a long and dynamic career, Randolph told the guests at his 80th birthday celebration:

"In my life I have tried to abide by the principles of democracy, nonviolence and integration, but there are some today, particularly among our black youth, who would question the validity of these principles in our on-going struggle. I urge them to reconsider their position and to engage with me in a reaffirmation of these fundamental principles. We must reject confrontation, and together reaffirm the necessity for democratic means of political protest. We must reject violence, and together reaffirm the power and the wisdom of nonviolence. And we must reject racial separatism and together, with the conviction that one day our nation can cease to be divided within itself, reaffirm our abiding faith in integration. We cannot reject these principles without also denying ourselves the possibility of freedom.

"Salvation for the Negro masses must come from within. Freedom is never granted; it is won. Justice is never given; it is exacted. But in our struggle we must draw for strength upon something that far transcends the boundaries of race. We must draw upon the capacity of human beings to act with humanity towards one another. We must draw upon the human potential for kindness and decency. And we must have faith that this society, divided by race and by class, and subject to profound social pressures, can one day become a nation of equals, and banish white racism and black racism and anti-semitism to the limbo of oblivion from which they shall never emerge."

The voice, as you've heard, is mine, but the words are the words of A. Phillip Randolph. They are the words of hope, and like Phil, they belong to all Americans.

UNION BRIDGE CELEBRATES CENTENNIAL

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BYRON. Mr. Speaker, May 12, 13, and 14, the town of Union Bridge in Carroll County, Md., will celebrate its 100th birthday. This event will commemorate the receipt of its charter from the Maryland General Assembly in 1872.

The celebration will begin with a colorful parade on May 12. On May 13, a house and garden tour, antique sale, and flea market will be held. For May 14 a band concert and speeches are scheduled. The celebration will close on Sunday with a community musicale.

Union Bridge is a quiet lovely town that has a most distinguished history. I would like to add my voice to those who are proud of Union Bridge's achievements and to wish all a happy and successful celebration.

THE GREAT YOUTH MARATHON

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. FRASER. Mr. Speaker, Carl T. Rowan and David M. Mazie are both former Minneapolitans, familiar with the city I represent here in the House. In the May 1972 Reader's Digest an article they wrote originally for the Christian Herald appeared in condensed form.

During May the Young World Development Division of the American Freedom From Hunger Foundation will sponsor over 200 "Walks for Development" in U.S. cities. As Rowan and Mazie point out:

These are not anti-establishment demonstrations. Rather, they are for something: to dramatize the issues of poverty and underdevelopment, and to raise money to help get at the causes of these conditions.

Mr. Speaker, I am pleased that the 1971 Minneapolis Walk was featured in the article I place in the RECORD.

My constituents responded to the need for money and for understanding last year as they responded again this year—with vigor and enthusiasm. Over 45,000 walked this past weekend in Minneapolis. We need these walks for both reasons—money and understanding—and I know there will be again this year wide congressional support for them.

In addition to the Mazie-Rowan article I also place in the RECORD a brochure, "Development? It's Why We Are Walking" by Joe Kimmins, education director of the American Freedom From Hunger Foundation.

[From the Reader's Digest, May 1972]

THE GREAT YOUTH MARATHON

(By Carl T. Rowan and David M. Mazie)

She trudged along the parkway, shoulders drooping, each step taken as gingerly as if it were on a bed of nails. A gray sweatshirt was tied around her slender waist, and a pair of dirty sneakers dangled around her neck under blond pigtails. Miles ahead and behind, thousands of other young people tramped along the streets and parkways of Minneapolis and St. Paul, Minn. A few were limping; some had plopped down to rest or to examine blistered toes.

As the barefoot blonde and two friends hobbled past one stalled group, a boy called out, "Two miles to go. You gonna make it?" The girl winced a little with the next step, but her green eyes brightened, and she nodded confidently. "Sure we will. It hurts, but it feels good."

Millions of young people are experiencing that same bittersweet feeling now as they march in "Walks for Development" the world over. These are not anti-Establishment demonstrations. Rather, they are for something: to dramatize the issues of poverty and underdevelopment, and to raise money to help get at the causes of those conditions.

Walks for Development are not new. They go back to the early 1960s, when the U.N. Food and Agriculture Organization (FAO) appealed to European students to help raise money to fight world hunger. The students came up with an off-beat idea: a long hike over a preset route, for which each participant would get sponsors to pledge money from a few cents to a few dollars for every mile he walked.

The technique reached the United States in 1968 under the auspices of the Young World Development (YWD) division of the American Freedom from Hunger Foundation, Inc., a private nonprofit group backed by business, labor and agriculture leaders. Some 3500 persons took part in a "hunger hike" in Fargo, N.D., and Moorhead, Minn., raising nearly $24,000. During the next two years, 195 U.S. Walks for Development earned $3 million.

Other organizations were quick to adopt the idea. Teen leagues, environmental bodies, associations for the mentally retarded, the March of Dimes, the hospital ship SS. *Hope* and other groups now sponsor similar walks. But the biggest is YWD's Walks for Development.

Last year, on the second weekend in May, YWD hikers set out in 212 U.S. cities and towns and in 40 foreign nations. Through sunshine and driving rain, they covered 25- to 40-mile routes in small bands (50 people and one dog took part in Maquoketa, Iowa) and giant ones (105,000 in Buffalo, N.Y., 210,000 in the Chicago area). Ten members of one family participated in Idaho Falls, Idaho. One youngster navigated his course on stilts; another, with a broken ankle, on crutches. Several crippled persons "hiked" in wheelchairs, and in De Kalb, Ill., a blind man walked the entire route with his Seeing Eye dog.

The ambassador of Upper Volta walked in Knoxville, Tenn., in appreciation of that hike's contribution to a water-well project in his country. Edward Akufo-Addo, then president of Ghana, led marchers in his nation. Pope Paul VI greeted 80,000 Italian hikers in St. Peter's Square. Villagers from a town in northern Italy that had been damaged by an earthquake came to Rome to walk and repay what others had done for them in their time of need. All totaled, some 640,000 persons hiked in the United States, and an estimated three million overseas. Americans logged more than 12 million miles, and raised more than $4 million.

In Minneapolis, on Walk Sunday, some 35,000 participants began to pour into Parade Stadium at sunrise. Most were teen-age, white, middle-class. But there were also blacks, Indians and Mexican-Americans. Over the thump of a rock band, they shouted greetings and compared walk cards, which recorded the sponsors (usually friends, relatives and businessmen) that each hiker had obtained. The cards also provided a map of the 31-mile walk route and listed the nine checkpoints where they would be validated. "I signed up everybody in the neighborhood—got 37 sponsors," boasted one boy. "I'm worth $2.60 a mile," a friend countered.

A dozen or so teen-agers near the speakers' stand were beaming happily as the throng poured into the Minneapolis streets. They were the core of the hundreds of young volunteers who had put the walk together. A few adult advisers helped, and the Freedom from Hunger Foundation offered guidelines, but for the most part this walk was the kids' own production. Making the participants aware of the crucial challenges in the world and the need to do something about them is a part of the whole experience. "I learned more working these few months than I would have in a year of school," said Lisa Young, the 18-year-old walk chairman. Lisa hiked in the first Twin Cities Walk in 1969, and through it discovered that poverty was not something confined to Harlem or India. "We've got it right here in Minnesota and the Twin Cities—migrant-worker camps, bad housing and hungry people. It really hit me hard." So she volunteered to work on the next walk, and was named chairman for 1971.

At first the walkers filled the Minneapolis four- and six-lanes streets from curb to curb. But, as the day wore on, the river of marchers narrowed to a stream that wound

along the sidewalks and parkways from Minneapolis to St. Paul and back to Minneapolis. A logistics committee had selected the route, making certain it passed through poor as well as plush areas, and arranging for trash containers along the way. Scores of persons on the route opened their hearts and houses. A newspaper columnist set up the "Irving Avenue Footbath"—a dented washtub filled with cold water. Other homeowners put out signs inviting the marchers to "come in and use the bathroom or call home." At the various checkpoints, members of church circles, the League of Women Voters and other organizations passed out sandwiches and cold drinks. Red Cross workers patched up blisters. Hikers who were byond repair or too tired to go on waited for "toe trucks"—cars cruising the route to take them to Loring Park, the end of the walk.

Among the happiest walkers were a group of Catholic sisters marching beneath a banner that read "Project Discovery," "Discovery," a community-run, experimental elementary-school system sponsored by six inner-city St. Paul parishes, was one of the ten projects chosen to share the nearly $250,000 collected from the Twin Cities Walk.

All proceeds from Walk for Development are divided three ways. Fifteen percent goes to the American Freedom from Hunger Foundation for educational activities and administrative expenses. The rest is split equally between domestic and international anti-poverty projects, with each local walk organization choosing its own beneficiaries. Programs that benefit from YWD hikes around the country include the International Institute of Rural Reconstruction, CARE, Partners of the Alliance (an organization working to relieve poverty in Latin America); domestic projects for migrant workers, Indians, blacks and other minorities; and day-care centers and neighborhood health clinics.

There is more to a Walk for Development than raising money, however. As vital a goal is the arousing of public concern for the pervasive hunger and poverty of the world and their relationship to illiteracy, disease and unemployment. Michael McCoy, an 18-year-old Minneapolis high-school senior when he was U.S. youth chairman for the 1971 walks, puts it this way: "Contributing to poverty projects is good, but charity does little to eliminate the causes of poverty. What is really needed is a long-term program to inform American people that it is in their immediate national interest for social and economic justice to be more widespread around the world."

The walks have become a catalyst for a variety of educational and community programs. In Madison, Buffalo, Minneapolis and several other cities, high-school curricula now include segments on international development. A full-scale course was started at the University of Minnesota. The Freedom from Hunger Foundation furnishes booklets, films, recording and other resource material, and local groups organize workshops, church and club discussions and "development libraries."[1]

In the Twin Cities last May, 3000 walkers crossed the finish line by 6 p.m. That number had swelled to 10,000 four hours later. At 10:30, cars were sent out to round up those still out walking, many of whom pleaded to be allowed to finish. Strangers a dozen hours before had become "sole brothers," united by blisters and a common cause.

Watching proudly at the finish was Lisa Young. The cold and sore throat that she had been fighting for a week had caught up with her around the 12-mile point. She had a temperature of 101° and a voice that was reduced to a squeak. But the tears in her eyes as she hugged friends and croaked a cheer for each new arrival were tears of happiness.

She was not the only one deeply moved by what was happening. Police assigned to Loring Park found themselves caught up in the spirit. One 25-year veteran took $15 out of his pocket and bought hamburgers for hungry youngsters who were waiting for rides home. And Capt. Rollo Mudge, watching the stragglers troop in—footsore, weary, but proud—declared: "With all the stuff we hear about today's kids, you see this bunch, breaking their backs, and there isn't one I can say I don't love. I don't think there's one I've ever had trouble with, but even if there were, I'd pat him on the back now. We can quit worrying when kids do what they did today."

[1] For additional information, write to the American Freedom from Hunger Foundation, Inc., 1717 H St., N.W., Washington, D.C. 20006.

DEVELOPMENT?—IT'S WHY WE'RE WALKING

(By Joe Kimmins, education director, American Freedom from Hunger Foundation)

Students take courses in it. Government agencies around the world carry the word in their titles. The U.N. has named two decades for it. People, millions of them around the world, "walk" for it. It is said to be something that will occur someday, and something that is happening now. Some nations are described as having achieved it. Some critics say that a commitment to it is a first step toward military involvement—yet it has been called "a new name for peace." So, what is it? What is development?

All the talk about "development" has something to do with a general suspicion that it has become uncertain that human society will survive. And this threat to survival, this sense of gathering apocalypse, is no longer founded, necessarily, on a fear of atomic war. Instead, we have become afraid that we will be destroyed in peacetime—that we will rot if we don't explode.

There are so many contradictions in the world of the 1970's. There is abundant wealth, yet the poor are with us in unprecedented numbers, up to two-thirds of humanity. More people are better fed, yet there are more hungry and malnourished than ever before in man's experience. The world has never had so many goods, so much productivity—nor so much unemployment around the world. People who live in hovels, never to leave the slums they were born in, can see TV images of their fellow men walking on the surface of the moon. Our cities climb the skies—while they decay and go bankrupt at the same time. Even the President of the United States, richest of all lands, was moved to complain that *"never has a nation seemed to have had more and enjoyed it less."*

Yet, despite the despair that comes from contemplating these insanities, there is reason for hope. Man can move faster, communicate farther, and produce more efficiently than he ever had reason to dream. Computerized technology holds out the promise that drudgery need exist no longer. The United Nations has held together for twenty-five years. The possibilities for massive famine are greatly reduced. Racism, while hardly addressed sufficiently as a worldwide issue, is at least acknowledged. Imperialism is unpopular. Even economic growth for its own sake is at last being questioned as a valid national objective. As Buckminster Fuller has said, *". . . if you can go to the moon and under the arctic ice, you can make the world work."*

MAKING THE WORLD WORK IS THE STUFF OF DEVELOPMENT

Three great fears persist to plague mankind, and to restrain whatever sense of optimism there is. The rich still unfulfilled even in material abundance are nevertheless afraid that they will lose it or have it taken away. The poor, although unsure of the rewards of material wealth, nevertheless fear that they will never have it, and thus be denied the chance to decide for themselves if they *want* to keep it. And rich and poor alike, the common men, fear that their international political leadership is playing an increasingly irrelevant game of power politics that can save nothing but destroy everything.

Men are afraid that the future holds only more of the past. That trends will not, cannot, be changed. That there is but one future, and that the shape of it is out of the control of man. That the world is bungling along, inevitably, irresistibly, inexorably, toward no specific goal at all.

Yet, there is absolutely no reason why the future cannot become exactly what we want it to be. The world's wealth can be shared more equitably among earth's people. Men and women can work in dignity, at what they want to do. People everywhere can feel a part of their society, responsible for their own governance, free to choose their own way of life. Man can live in harmony with nature. Governments can co-exist and cooperate; nations can live in peace. That is one dream of the future. There is no reason why it cannot be fulfilled.

GIVING A DESIRABLE SHAPE TO THE FUTURE, AND GETTING THERE, IS THE STUFF OF DEVELOPMENT

Then there are the young. Some of them fear that today is as bad as possible, tomorrow will be worse, and there is nothing left to do but to give up, drop out. They have lost hope.

Others dream of an alternative future, different from that which extrapolates from the recent past—but they have decided that it will only come about when the current, intolerable, unworkable reality is destroyed. They have lost trust.

RESTORING HOPE AND TRUST IS THE STUFF OF DEVELOPMENT

But restoring trust, restoring hope—these do not happen without a workable dream. Shaping the future, and getting there, will not come about without making tough decisions. Making the world work requires that *people* work—hard. These requirements must be met if "development" is to become a living process with visible results—and not remain a game of definitions played by macroeconomists and technobureaucrats.

Development is too important a process to be left to "development experts." In their fascination with economic growth—their rhetoric of concern for the common man notwithstanding—and in their obeisance to a conventional wisdom derived from experience with highly productive, industrialized economies, their vision of the future has become far too narrow and too self-defeating to be allowed to dominate. Many of these professionals have forgotten, and others actually exacerbate, the worst of the obscenities and injustices that disfigure the world.

Defining development, committing nations to its goals, and fulfilling its concepts with authentic progress in the interest of the common man, must become the work of dedicated citizens everywhere. The world is in too sad a shape to allow otherwise.

If committed citizens will dedicate themselves to fulfilling these responsibilities—to dream a livable future, to make the decisions necessary to get there, and to work to acomplish it—then development becomes the most honored concept, the noblest profession, of mankind.

This is what the Walk for Development is all about. We seek to rally those who intend to make it impossible for the world to die for lack of an undefined dream, for a lack of courage to make the decisions we must, or for selfishness that prevents us from living together.

Development is the new word for peace.

THESE ARE THE ISSUES OF DEVELOPMENT—A CHECKLIST FOR THE SEVENTIES

Development is not so much a word seeking definition, as it is a process whose re-

sults determine the shape of the future, and a challenge to be fulfilled by action and commitment. Development is change for the benefit of human life and society. It is a revolution of hope, in the spirit of possibility.

What is possible to achieve in the 1970's? What can we, the human race, achieve in this decade towards the goal of global development?

We can reduce military expenditures.

These are currently rising faster than the world's population or the Gross World Product. The decay of the world's large cities, the pollution of our environment, the inadequacies of the world's schools, housing, medical care, and transportation and communications systems compel us to stop this waste. Money alone—diverted from unproductive military arms production—will not cure the world's ills; but without money we cannot develop human society to its potential.

We can assure an adequate income for every family and for every nation, through an equitable distribution of work opportunities and world trade. Families require income for adequate food, clothing, shelter, and education. Nations require income to build the institutions necessary to provide a decent life for their people. A rational distribution of world trade—allowing a fair share of world production to all nations—would contribute as much to realizing these needs as any other single step. The opportunities exist now to take this step—which would be an authentic "great leap" for mankind.

We can feed the world's population.

One of the world's most intolerable insanities is the prevalence of overeating as a health problem for some affluent nations while most of mankind suffers protein and caloric malnutrition. Two billion people are hungry or malnourished—an estimated 12-15 million Americans among them. To provide a minimally sound diet for the current world population requires the immediate doubling of world food production. The technology and resources exist to do it.

We can come to live at ease with—and be enriched by—our own and the world's diversity of people and cultures.

Basic to many of the divisions between peoples and nations is fear of people, practices, and values that are different from our own. What we come to value properly, we cannot fear. Welcoming—rejoicing in—adverse styles of life, thought and social organization can evolve a global set of values under which the rich are free to contribute to development without extracting cultural pollution as the price of their help, and the poor are aware that they bring currency of great value to their transactions with the world. Openness to individual, cultural, racial, and national diversity can draw us closer together in the knowledge of our human likeness.

The world's education systems have much of the responsibility for creating cultural values and for shaping the form and content of human communication. They must respond to the challenge of development with new standards for the education process, welding traditional intellectual components with human and emotional ones in order that students may acquire a strong sense of personal and social responsibility required to build a better world.

We can reverse the degradation of the house of man; earth and its environment.

Preserving the environment is an international challenge for which the affluent nations have prime responsibility, just as they do for having threatened to destroy it in their headlong rush toward industrialization and urbanization. Unless we cease environmental destruction and degradation—especially as perpetuated by the affluent nations—global development will become a pointless dream. We can reduce growth of the world's demands upon nonrenewable resources, harness population growth where it is excessive. and show stricter care for nature's delicate ecological balance—and we must.

This is not an exhaustive list of development issues, but rather is intended to suggest what kinds of opportunities for action exist now which, it taken, will increase the chances for the survival of human society. Man needs a sense of hope to remain noble. To address these development issues—to seek global development—will give him that hope. I will give Man a future.

THE MAN BEHIND AGNEW

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. VAN DEERLIN. Mr. Speaker, Patrick J. Buchanan, a special assistant to President Nixon, is credited with some of the pithier phrases used by our Vice President in lambasting the press.

To say the least, Mr. Buchanan, a former newspaperman, has some remarkable ideas about the role of journalism in our society. To him, reporters were somehow closer to the people in the good old preguild days when their pay and benefits left something to be desired. At the same time, Mr. Buchanan, feels that even though news media emoluments have improved, the more conservative young people are likely to opt for careers in business in order to "make themselves a great big bundle of money." That says something about youthful idealism.

Mr. Buchanan also believes in "antitrust type action" to make network news departments straighten up and fly right—an intrusion that would be beyond anything suggested by even so dauntless a critic as Mr. AGNEW.

This White House aide is so outspoken, in fact, that perhaps the public interest would be served if speeches in which he had taken a hand were labeled as such—just so we would know what we were getting.

Mr. Buchanan unburdened himself last week on "Thirty Minutes With—," an interview program sponsored by the National Public Affairs Center for Television. The transcript of the program follows:

THIRTY MINUTES WITH—

Guest: Patrick J. Buchanan, Special Assistant to the President.

Interviewer: Elizabeth Drew.

ANNOUNCER. *Thirty Minutes With* . . . Patrick J. Buchanan, Special Assistant to the President, and Elizabeth Drew.

Mrs. DREW. Mr. Buchanan, you're not only a speech writer for the President, but you prepare the summaries of the news for him. How would you characterize how the press is handling let's say what's currently going on in Vietnam?

Mr. BUCHANAN. Well, at the present time, with the situation really ambiguous, and the South Vietnamese in difficult straits, I think they're doing a fairly accurate job right now. I can't say that however for the initial press coverage of the invasion. It seemed to me frankly that some of the reporters up along the DMZ were really declaring a defeat for the ARVN before one had really occurred.

They were declaring a defeat frankly, before Hanoi declared a victory. So, but I think at the present time——

Mrs. DREW. What do you mean they declared a defeat, what did they say?

Mr. BUCHANAN. Well in the descriptions——

Mrs. DREW. I didn't see that.

Mr. BUCHANAN. Well in the descriptions of the enemy offensive, here's what the enemy had. Was using something like a most massive artillery barrage of war, massive cross DMZ invasion with armor and artillery, new Soviet tanks larger than anything we've given the South Vietnamese in armor. And quite naturally, under this kind of invasion, you would fall back from the fire base. And this was being portrayed in the media at that time as a major disastrous defeat for the South Vietnamese, which at that time it was not.

Mrs. DREW. Why do you think they did it?

Mr. BUCHANAN. Well I think, I think there's some validity to the allegation that so many reporters have—a number of reporters are against the war, they're in the war zone. A number of them have predicted defeat and disaster for so long, that these tend to become in their own minds, self fulfilling prophesies. So that when the attack occurred, this was the way they reacted.

I think a similar situation, if you go back to the Tet Offensive, which Don Oberdorfer described in his book, "Tet," which was an excellent book. That was in effect a military disaster of major proportions for the North Vietnamese. Their entire Viet Cong infrastructure was almost destroyed.

Subsequent to that offensive of course, their activity at the Viet Cong level really subsided, and we were given a good deal more time for the ARVN to build up. But, psychologically in the United States, it was portrayed as a disaster, it was used in the media, and with some degree of legitimacy I suppose to——

Mrs. DREW. And you don't, you don't think it was?

Mr. BUCHANAN. As a military, no the——

Mrs. DREW. For the North Vietnamese.

Mr. BUCHANAN. Oh, the Tet Offense was a military disaster.

Mrs. DREW. For the North Vietnamese. How are they doing so well now then, if that was such a disaster?

Mr. BUCHANAN. Well see, the entire Tet Offensive was used—was the Viet Cong, which was the local communist infrastructure. Which raised up in the cities, exposed itself, presumably to take control of South Vietnam at that time. And within a month and a half it was utterly destroyed. Now this was their whole guerrilla base.

What you have now is not a guerrilla war, you have a conventional war with the North Vietnamese. Twelve of their 13 divisions are outside of their country, 10 of them are in South Vietnam, one is heading into South Vietnam, one of them is being pulled out of Laos presently, and presumably to be moved into South Vietnam.

You've got a conventional invasion on the part of the North Vietnamese now, along the line of the North Korean invasion of the South.

TREND OF THE TIMES

Mrs. DREW. Let's go back to the reporters you were talking about. You said that they have a kind of self fulfilling prophesy.

Mr. BUCHANAN. Uh-huh.

Mrs. DREW. Why, why would they do that. Why would they have any stake in giving the bad side of events?

Mr. BUCHANAN. Well I think the—it has a great deal to do with the trend of the times. Within the intellectual community, the Vietnam War subsequent to '64 and '65, has become first an object of controversy. And then, for a number of members of the media, the object of contempt.

And they feel, and a number of them said, that it's an immoral war. Others of them

have said there's nothing over here worth fighting for. And this has had its influence on some of the younger journalists, a lot of whom are sent over into the Vietnam war zone.

I mean you can watch—I remember in the Laotian Offensive, one particular reporter, rather than discussing the offensive and how it was doing itself, spent most of his time taking photographs of refugees who were being taken out of the war zone, and following them to where they were being taken care of.

And focuses on these things tend to have a really debilitating affect on the American public, whose support is essential for the war.

Mrs. DREW. Do you think that the current focus on the refugees and the flights from the northern part of South Vietnam are accurate reflections of what's happening?

Mr. BUCHANAN. I think the present situation, from what you've seen and from everything you've seen and hear, there are major military reversals taken by the South Vietnamese, in Quangtri and those areas. And yeah, I would think that would tend to be an accurate reflection of what the situation is now.

Mrs. DREW. Are there any other areas or issues in which you think the press has been unfair, or inaccurate in its treatment?

Mr. BUCHANAN. Well, I would hesitate to use unfair, because that's a judgment as to their motivation. And I would hestitate to use inaccurate because a thing can be accurate without being complete. I would tend to use——

Mrs. DREW. All right, you use your term.

Mr. BUCHANAN. —bias.

Mrs. DREW. Bias.

Mr. BUCHANAN. Take for example the situation on busing. I think you'll find that if you took a poll of the American people, that 90 percent, or 85 percent, or 80 percent of the American people were opposed to busing to achieve a racial balance. The Administration is opposed to that. And yet when the President—

Mrs. DREW. So are most of the courts, aren't they. They aren't ordering busing—well, we won't get into the details of court orders—

Mr. BUCHANAN. Well we can get into that, but it makes a legitimate point—

Mrs. DREW. Yeah.

Mr. BUCHANAN. Right after the President's speech, they had some commentators on one of the networks. And they were expressing their hostility to the President's idea, and one of them said point blank this is not constitutional. And the media shows that they show on busing, they tend to go out and try to show how busing works, and there's a great emphasis on that. And I think there's an alienation of the—again, not to use everyone in the media, but much of the media, from the point of view of the American people, and from of course the policies of the Nixon Administration.

INSTANT ANALYSIS

Mrs. DREW. Well do you think the media should not have commentators on after the President speaks?

Mr. BUCHANAN. No, let—oh, after the President speaks? In my judgment, instant analysis, what the Vice President referred to as instant analysis, should be stopped. When the President delivers a speech such as he did the other night on Vietnam, he's taken a great deal of time and put it into the text. He's said precisely what he wants to say. He appeals not only to the reason, but to the emotions of the American people. And he leaves an effect with the American people, and as President he's got the right to do that.

But just as soon as the President's off, to have someone come on the air and say, well there's nothing new in this, let's recap what he said, and let's go into an analysis on what all this means. To me, I think they're infringing on the prerogatives of the President to lead the American people.

Now those three commentators on CBS for example, came on right after the President's address on Vietnam. If they had come on, if instead of trying to piggyback on the President's address—there was a report right after the President concluded which said, CBS commentators will have an analysis in a half hour, then they wouldn't have had any audience. No one would have paid any attention to them. But they piggybacked behind the President's address to try to reconstruct in their words, which the President made perfectly clear in his own words, and to me this is the problem. And I don't think it should go on, frankly.

Mrs. DREW. When do you think the analysis is proper?

Mr. BUCHANAN. Of a speech?

Mrs. DREW. Um-hum.

Mr. BUCHANAN. Well, in a speech where the President's making a direct appeal to the American people to try and unite them behind their policies, in my judgment he's got a right to do that.

Mrs. DREW. I don't think anybody is arguing he doesn't.

Mr. BUCHANAN. What I say is that these instant analyses, and like they did after the November 3rd, 1969 speech. To bring on a hostile witness like Mr. Harriman and have him try to discredit what the President said immediately, that's unfair and that's illegitimate. If they said the President's concluded his address, at 11 o'clock tonight we'll have our analysis, and let the American people have a chance to let it sink in what the President said, and how the President expressed himself. Let them decide for themselves, they're fairly intelligent people.

They don't need Mr. Sevareid or Mr. Rather or Mr. Mudd, or some of the others, to tell them precisely what the President said or what it all means.

Mrs. DREW. So you wouldn't mind if the analysts came on later without getting a free ride off the Presidents audience—

Mr. BUCHANAN. Not in the least. And when they come on, as long as there's balance, that's right.

FEWER NEWS CONFERENCES

Mrs. DREW. Now, the President can come on the air just about any time he wants and—

Mr. BUCHANAN. Rightly so.

Mrs. DREW. —and President Nixon has used this privilege more than any of his predecessors. But he doesn't have press conferences. Why shouldn't he be subject to questioning by the press on the part of what he is doing?

Mr. BUCHANAN. Well let's, I don't—my judgment is, it's the President's decision himself, frankly.

Mrs. DREW. Yeah. Well I just wondered your——

Mr. BUCHANAN. As a former journalist, when the President comes in he makes a determination, I think, of what are his best methods of communicating with the American people. As you say, the President goes on prime time probably more than some other presidents, to directly address them. Maybe the times demand that.

Mrs. DREW. More than any.

Mr. BUCHANAN. Maybe the times demand that. He's had a number of press conferences, a number of televised press conferences. Not as many as Johnson or Kennedy, but I think the choice of how and where he communicates with the American people is the President's business. And no constitutional rights of the American people—I mean of the press are violated by his not holding any——

Mrs. DREW. No, I don't——

Mr. BUCHANAN. Quota of press conferences.

Mrs. DREW. I don't think anybody's saying that either.

Mr. BUCHANAN. And——

Mrs. DREW. They would just like an opportunity to ask him questions.

Mr. BUCHANAN. Well, I mean I think that desire's legitimate on their part, but I don't think that desire creates any imperative on the part of the President to hold press conferences with any particular regularity.

Mrs. DREW. Do you think there's a general problem of bias on the part of the press?

Mr. BUCHANAN. Yes, I do.

Mrs. DREW. Why?

Mr. BUCHANAN. Well——

Mrs. DREW. Why do you think the bias is there?

Mr. BUCHANAN. Well, there's a number of theories or arguments. I think one reason is the nature and the character of the individual that comes into journalism today. About say 30 or 40 years ago, the kind of person that would go into newspaper work, before the Guild and everything, it provided adequate income.

Generally it was someone right out of the community who shared the values and sentiments of the broad base of the American people. But now, with the pay that is in journalism—which is very good frankly, even far better than it was when I started 10 years ago—the kind of young fellow that's attracted into journalism—first of all he feels a desire, he's sort of a world changer. Secondly, he's got the kind of pay and the kind of prerogatives and privileges and in the media, that are far above what the average citizen gets. Third, he's probably better educated.

He comes out of the colleges and universities, and increasingly out of the better colleges and universities, and he tends to develop I think, a mind set of those types of individuals. And they share certain biases, just as conservatives like myself would share certain biases.

WHY SO FEW CONSERVATIVES?

Mrs. DREW. Why aren't there more conservative journalists?

Mr. BUCHANAN. Well, conservatives, mainly—frankly I think they tend to take their, they take America as basically a good country. It doesn't need a great deal of change in their judgment. And the thing they'd like to be doing, most of them who are talented and intelligent, they move into areas like business and finance and things like that. And they make themselves a great bundle of money and they're very successful in those areas.

But younger people who tend to be liberals, show up in your journalism schools. I know at Columbia when I was there, there must have been three or four out of a class of about 80, who were conservatives I would say. And there's probably one or two left.

Mrs. DREW. Well what you're really saying, Mr. Buchanan, is that the people who go into journalism are not professional. I mean everybody has biases, or opinions would be another word for that I suppose. So the question is whether they're able to do their job in a professional manner. In other words, not have these opinions show up in what they do.

I'd like to sort this out with you a little further.

Mr. BUCHANAN. Sure.

Mrs. DREW—because, as you know there are two functions. The columnist and commentators. We put them in a box and say that's opinion. And then there are the reporters. Do you think that the reporters, the ones that you watch covering the President, are not professional?

Mr. BUCHANAN. No, no I wouldn't say that at all. I would say the majority of them are liberal, but I wouldn't even, in terms of the White House Press Corps, I wouldn't say they weren't objective. I don't want to name names, but I know reporters that covered us in campaigns in '68 for example, who I know are personally liberals. They'll sit down and argue with you late at night, they'll argue about issues and they'll dis-

agree with you 100 percent down the line. But you don't get that reading their copy.

And there's a number of reporters who—objectivity, despite what Mr. Brinkley said, is possible on the part of journalists. But at the same time I think even the journalists themselves are recognizing, and at the AP Conference they talked about advocacy journalism. And some of the critics of the biases in the media, like Teddy White and Irving Kristol for example, and Ken Crawford, and people like this, are within the media themselves. And they agree that there's a problem with advocacy journalism, especially among younger reporters who are puting in their own opinions more and more in the news columns.

Mrs. DREW. Well let's get back to the coverage of the President, which is your department. Do you think the coverage of the President is biased?

Mr. BUCHANAN. Well, I wouldn't say, I wouldn't make a blanket statement like that. I would say that if you take, by and large you can make a general statement about two networks, two major news magazines, and the two major newspapers in the country. The coverage of his Administration is biased.

Mrs. DREW. The papers being the—

Mr. BUCHANAN. Post and the Times.

Mrs. DREW. Post and the Times. The networks being—

Mr. BUCHANAN. Okay, we'll let that go.

Mrs. DREW. CBS and NBC, I would guess from the speeches of officials of that.

Mr. BUCHANAN. I would think so, um-hum.

Mrs. DREW. ABC is not?

Mr. BUCHANAN. Well I would think, I think ABC, in my judgment, makes a much more conscientious effort to present some sort of balance. It's seen in their commentary; they've got Harry Reasoner and Howard K. Smith, who very often disagree with one another.

But on NBC you've got Brinkley's Journal, which is not pro Administration exactly. You've got Eric Sevareid, and neither of them—

Mrs. DREW. He's CBS, but anyway.

Mr. BUCHANAN. He's CBS. I say, you've got one on CBS and one on NBC, and nobody comes on after—

Mrs. DREW. And the reporters from those networks and those newspapers who cover the President are biased?

Mr. BUCHANAN. No. You're saying "cover the President" now.

Mrs. DREW. Yeah, I'm talking about White House——

Mr. BUCHANAN. I'm talking about the coverage of the Administration, coverage of the entire Administration.

Mrs. DREW. All right, yes. Okay.

Mr. BUCHANAN. They're biased in the sense—not that they're necessarily out to hatchet the President and not be objective, but in terms of the questions they ask, the issues they're concerned with, the reports they present, they tend to have a liberal bias. They tend to—

AN EXAMPLE OF BIAS

Mrs. DREW. Can you give me examples of what they do, like that's in their copy, let's say, of a bias?

Mr. BUCHANAN. Sure, let's—let's—let's take an example of the President's one Presidential Press Conference where there seemed to be—they claimed to have the President on the rope. Now what was the question they were asking? It was one month after the so-called May Day demonstrations when the kids were going to shut down the city and the police wrapped them up and took them all out to Kennedy Stadium there and—

Mrs. DREW. And other places, yeah.

Mr. BUCHANAN. And incarcerated them for the evening. Now this was a month after the story was over, and the question got down to a point on whether they should have had arrest cards made out for each of them on which—in which event the police said, well we couldn't. They'd have closed down the city, they'd have been successful, so we had to herd them, you know.

But the—at the President's press conference this was one time four straight questions were asked of the President and yelled, you don't think their Constitutional rights were violated? And four straight—and frankly it was—the performance was embarrassing, I felt, for the national press corps. And yet look at what the question was.

Now you take—let's say if the President cut OEO appropriations in half or if he doubled them, now if the President went out and said, well we're going to double OEO appropriations this year, well let's see, well you know, there would be no real pressing concern on the President doing this, you know. Where's it going, where's the money going wrong.

But if he cut it and he went out there and that Washington press corps or even the White House press corps, Mr. Ziegler would be on the ropes for about 45 minutes. Why is he doing this, Ron? That's the predisposition on the part of the National press corps in my judgment, many of them, to support action on the part of the federal government—centralized action, spending of funds to get rid of poverty. And that's a—it's a liberal bias now.

Mrs. DREW. Does it show up in what they write?

Mr. BUCHANAN. I don't think you can help but have it show up in what someone writes. Now if I'm as a conservative going to go see an anti-war demonstration, for example, then I'm going to have certain biases. I'm going to be looking out and seeing if there's any provocation of the police, say, before the police use their clubs, et cetera.

And a liberal might say, well these are—these are basically—go with the viewpoint these are basically idealistic young kids out here who are demonstrating against the war.

And I might say, well I'd like to find out who's funding this, see, so we would go with different biases and we would write different stories. And all I would want to see on the networks, frankly, is—no one wants to take Mr. Sevareid off the air. But what I would like to see is maybe some instant analysis of what he had to say, or maybe the next night someone come on after Mr. Brinkley's been on and say, well what David Brinkley said here is ridiculous because these are the facts and figures, and he was wrong on this.

Or put Mr. Buckley, William F. Buckley, on one night and Eric Sevareid the next. And I think if the networks seriously don't soon make a conscientious effort to move conservatives and people with a viewpoint of Middle America, so to speak, as they have moved blacks on to the networks, then you're going to find increasing alienation from Middle America and increasing disposition to do something about it.

Mrs. DREW. Who would do something about it?

Mr. BUCHANAN. Well, look at it this way. It's—what you have is a—in effect, people of a single point of view who have controlled, in effect, decision-making power over the news and information—the ideas and information that one half the American people receive. Half the American people say they get their primary sources of news and information in network television from Washington and abroad.

Now, that to me is far more a fact—that an ideological monopoly might be determining what goes on as news and ideas—is of far more concern to me, frankly, in a democracy than whether, say, General Motors is making all my automobiles. Because the ideas and information you get in a democratic society is the basis for your decision-making.

Mrs. DREW. Well, what could be done about this?

Mr. BUCHANAN. Well, I think that—that those two networks mentioned, the major networks, should make, as they have for blacks, make a conscientious effort to get on newsmen and to get on commentators who have—if—if—if Brinkley says that objectivity is impossible, then damnit, let's have ourselves someone with a conservative bias to match Mr. Brinkley's liberal bias.

ANTI-TRUST APPROACH

Mrs. DREW. Yeah, and—but you said—what I wanted to pick you up on is you said that if they don't do it, somethign would—should be done about it. What could be done about it by whom, outside their own actions?

Mr. BUCHANAN. Well, my own view is I think—this is a personal view—is that a monopoly like this of a group of people with a—a single point of view and a single political ideology, who tend to continually freeze out opposing points of view and opposing information, that you're going to find something done in the area of anti-trust type action, I would think.

Mrs. DREW. On—on television news?

Mr. BUCHANAN. It would take a—well, on—on the networks I would think.

Mrs. DREW. Uh-huh.

Mr. BUCHANAN. But here's the thing. There's nothing—there's nothing going on now. There's not a program or plan for that now, but what I would suggest to the networks, although they may not think it's true, that they're—they're moving into a position now much like Mr. Carnegie and his—when he had his coal mines and his steel mills combined. And he said, well you're trying to interfere with my right to make money, just as Mr. Sevareid and the others say we're trying to interfere with the people's right to know. Now that's nonsense. But I think they're moving into a point where the American people are going to make demands, demands that could be reflected in legislative action.

Mrs. DREW. Now what—what would it be, though? You—the Government has filed anti-trust suits against the networks for——

Mr. BUCHANAN. Well that's just testing out the theory, that's all.

Mrs. DREW. For entertaining—making—producing programs, as well as showing them. But what kind of legislation or anti-trust action could there be to deal with what you perceive to be this problem?

Mr. BUCHANAN. Well, I don't think there's—under the present situation I don't think there's anything. I mean there's—I don't think there's any anti-trust legislation which deals with ideological or monopoly of ideas.

Mrs. DREW. So there'd have to be some legislation?

Mr. BUCHANAN. But you see, I mean, here's the thing. Television is—is something new. It would have to be something different and something advanced.

Mrs. DREW. Uh-huh.

Mr. BUCHANAN. But it seems to me that—that the overriding imperative is that the—that the American people get a balanced representation of viewpoints and that their news come—not come—their primary news source not come primarily from one—one point of view.

Mrs. DREW. So we'd have to—you'd have some new kinds——

Mr. BUCHANAN. You'd have to have some new kinds—

Mrs. DREW. Of legislation, and it would cover that.

Mr. BUCHANAN. And some new thoughts, but I—I think I'd be looking for it myself, although I'm sure the Administration is not right now.

Mrs. DREW. Not as of this time.

Mr. BUCHANAN. Maybe I'm a—

PULITZER AWARDS ANNOY

Mrs. DREW. Are you, by the way, disturbed that the Times got the Pulitzer Prize for—

Mr. BUCHANAN. Well——

Mrs. DREW. Printing the Pentagon Papers and Jack Anderson got it for printing the Pakistan Papers?

Mr. BUCHANAN. Well, let me say as a—I'm a graduate of the Columbia School of Journalism, which gave out the awards for those two Pulitzer Prizes, and I think it's appalling that they gave them to the New York Times and Jack Anderson. What kind of lesson is that, really, for young journalists right now? What's he told to do?

What he's told to do, in effect, is—is if you can get a hold of some secret documents, if you can seduce some miserable government employee to give you an NSC security memorandum and then you run it on your—in your column, you can get a Pulitzer Prize.

Now what did—now what did Jack Anderson do to get that Pultizer Prize? Conceivably Jack Anderson could have opened his mail one morning and someone—bureaucrat out there to, say, to undercut the Administration's policy in Asia, or to undercut Dr. Kissinger personally for whatever motive. Anyhow someone who violated his trust sent this—could have conceivably sent this along to Jack Anderson, and he could have picked it out of his mail and run it in his column. Now does that entitle him to a Pulitzer Prize? That's not what they used to be given for.

And so I think, as I say, I think the—the Columbia—the awards were—those two awards were atrocious.

Mrs. DREW. The—your former supervisor I guess he was, Mr. James Keough, has written a book.

Mr. BUCHANAN. Oh, yeah.

Mrs. DREW. And he talked about—he quoted George Washington as saying that the press perpetrated outrages on common decency. I've—ever since I've been in Washington I've—

Mr. BUCHANAN. Uh-huh.

Mrs. DREW. Never seen a White House that liked the press it got. So what's—what's new about all this?

Mr. BUCHANAN. Well I mean—I think you wouldn't use the term like and dislike.

Mrs. DREW. Felt that it was covered in the manner it would like to be covered.

Mr. BUCHANAN. Well let me say—if you talk to some of these—I say if you talk, you have to—you can't make—and if I have, I didn't mean to—make blanket judgments on every individual in the White House press corps and the National press corps and the like. You can talk about increasing tendencies, I think, is legitimate. But as for like and dislike, some of the press guys—I'm an ex-journalist myself. And as far as personal company is concerned, there—there——

Mrs. DREW. No, I meant coverage.

Mr. BUCHANAN. These are——

Mrs. DREW. I wasn't talking about you like them that much, or drink with them.

Mr. BUCHANAN. You mean the problems of coverage? I think what we got now is something that moves really——

Mrs. DREW. Because of the——

Mrs. BUCHANAN. That moves beyond because of the—you know——

Mrs. DREW. Yeah.

Mr. BUCHANAN. The adversary culture and the like. Yeah. I think it's something that really moves beyond. Here's—for awhile what you had was the party press, you know, papers belong to parties. That was bad. Then you had yellow journalism, but there's a period in between that when—when—when I think when the American press was really more in its heyday.

THE PRESIDENT'S DAILY DIGEST

Mrs. DREW. I wanted to ask you—we don't have too much time left.

Mr. BUCHANAN. Uh-huh.

Mrs. DREW. These news summaries—summaries of the news coverage that you prepared for the President. Without getting the details of how many clips you clipped—

Mr. BUCHANAN. I don't blame you.

Mrs. DREW. Well it would take longer than we have. What do these tell him about the coverage?

Mr. BUCHANAN. Well, what they tell him basically because of the tremendous variety of magazines and newspapers and things we get, it gives him a view of what the journalists are saying all over the country—

Mrs. DREW. Do you describe the stories or—oh, excuse me.

Mr. BUCHANAN. On format, style—You both describe and you take direct quotes and—

Mrs. DREW. Would you say that X wrote an unfair story about it or—

Mr. BUCHANAN. No, no, no. If you get a story—here's the thing. The only place where you can—where you tend to—to say that—reflect what it was is a place where you can't pick out the quotes or—is frankly on television, television news.

Mrs. DREW. Uh-huh.

Mr. BUCHANAN. If you have—let's say we have I. F. Stone's Weekly or we used to, or New York Review of Books or—on the left, and Battle Line on the right and these other things, what you do is you tend to say we were, you know, the Administration is really getting raked over the coals by X, and then you give them a few samples.

Mrs. DREW. Uh-huh.

Mr. BUCHANAN. And condense that down. And the purpose of the whole thing is the President when he came in—he didn't want to get all his news and information, frankly, out of what he read in the Washington papers, or what he saw on the networks. And so he said, listen, we'll set up a news summary, and we want to get—I want to know what they're saying in Texas, what they're saying in Arizona, what they're saying in the state of Washington. I want to know what all their magazines are saying. Not just Time and Newsweek, but publications on the left, conservative publications on the right, and—

Mrs. DREW. But of a television news show you would say—you say you do have to characterize the presentation. What might you tell him that they say?

Mr. BUCHANAN. Well, see, the thing is—well you would say it's—for example all three networks, you know. All three networks led tonight with eight minutes of—

Mrs. DREW. All three other networks.

Mr. BUCHANAN. Sorry. All three networks, major networks—we incidentally cover those other shows. We tape them and then what comes in the day.

Mrs. DREW. Is somebody watching us?

Mr. BUCHANAN. They will be, I think, if this goes on at night, it'll probably be taped and then someone'll write a report on it tomorrow. And if I do badly, then I'll talk to them.

But here's—

Mrs. DREW. You get a right of rebuttal that we don't.

Mr. BUCHANAN. Huh? No, no, I'm just—I'm just jesting. They write the report up. But go ahead.

Mrs. DREW. You were going to tell me how—how you might describe a television news—

Mr. BUCHANAN. Well you'd let him know the—major thing he would need to know is what the public's going to be thinking is a lot of television's going to put on the air. Now you take last night. I saw some footage from this British journalist at UPI—

Mrs. DREW. Yes.

Mr. BUCHANAN. And it was really dramatic footage and—

Mrs. DREW. Yes.

Mr. BUCHANAN. I understand it was on one of the networks.

Mrs. DREW. CBS.

Mr. BUCHANAN. So we would lead then, as we did in this morning's news summary which I sent over to the President and marked it myself. We had something like seven pages single space on Vietnam leading in with the networks, the amount of time they would give, the impact this was making, the kind of footage that's on, you know.

Mrs. DREW. You're giving judgments, too, though, aren't you? That this is—

Mr. BUCHANAN. Well not necess- —I mean there's—there's an element of judgment—

Mrs. DREW. Yeah.

Mr. BUCHANAN. In handling TV. Less so—

Mrs. DREW. Yeah.

Mr. BUCHANAN. When you can merely simply take a quote out of Time and put it in there.

Mrs. DREW. Uh-huh.

Mr. BUCHANAN. But you're saying, you know, the situation from television looks extremely gray. You see troops, you say—you might take that example. You see troops riding along packed on trucks retreating. It appears to be a somewhat disorderly retreat. The wounded are left lying by the side of the road. And say this is the—this is frankly what's going on the air. And then you if you make the judgment column, what's the impression of it.

Mrs. DREW. What does the President read in newspapers, magazines, books?

Mr. BUCHANAN. Well his books, he gets books from a variety of sources. Bill Safire is one of them. I think I would be another. Pat Moynihan used to be another.

He has what we call weekend reading, which is we take articles which are in length and depth out of things like Commentary and the magazines like that. We'll take and mark these up if they're particularly interesting or important articles like the—you know the New Republic piece by Bikel a couple of years ago on desegregation. It was really a—it was a seminal piece and we marked that up and got it in to the President. We did—these come out of mainly thought journals like Commentary, sometimes National Review and New Republic. The editorial pages of the Wall Street Journal often has a—

Mrs. DREW. Thank you, Mr. Buchanan. We have run out of time.

Mr. BUCHANAN. Uh-huh.

Mrs. DREW. Thank you very much.

Mr. BUCHANAN. Okay.

CAPT. JAMES B. WHITE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. YOUNG of Florida. Mr. Speaker, the city council of the city of St. Petersburg, Fla., on April 20, adopted a resolution expressing concern over the fate of Capt. James B. White, who has been missing in action in Southeast Asia since November 24, 1969, and who is the brother of Ed White, one of three astronauts who lost their lives when their Apollo capsule fatally exploded on the launch pad.

It should be pointed out that through this resolution, Captain White has been chosen as a symbol representing concern for all prisoners of war and men missing in action in Southeast Asia, and I would, therefore, like to bring to the attention of my colleagues the sincere concern felt for the plight of these men and their

families by the citizens of the largest city in my congressional district. The resolution follows:

[No. 72-202]

A RESOLUTION RELATING TO PRISONERS OF WAR AND MEN MISSING IN ACTION IN SOUTHEAST ASIA; ADOPTING JAMES B. WHITE, MISSING IN ACTION

Whereas, Many men of the United States Armed Forces have become prisoners of war or are listed as missing in action in Southeast Asia while fighting to protect the basic freedoms of their nation and the free world; and

Whereas, These men have fought for their country in the highest ideal of courage and patriotism; and

Whereas, There currently exists and has existed in the past an inhumane treatment of these Prisoners of War and their families, causing unbearable suffering and hardship; and

Whereas, This treatment is in violation not only of every standard of human decency but also in violation of the Geneva Convention; and

Whereas, Those responsible must know that the United States and the Free World abhor such violations; and

Whereas, We know that individualized efforts for some of these brave men have proven successful in obtaining information pertaining to their well-being;

Now, therefore, be it resolved by the City Council of the City of St. Petersburg, Florida, that the City of St. Petersburg does adopt James B. White, missing in action, and does urge all residents and businesses of this city to use all means at their disposal to secure information regarding the well being of this brave American, and to assist his family who has waited so long to know his fate.

Adopted at a regular session of the City Council held on the 20th day of April, 1972.

MARGINAL WORKERS AND THE MINIMUM WAGE

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHERLE. Mr. Speaker, an enlightening editorial which appeared recently in the Nevada (Nevada, Iowa) Journal illustrates the devastating effect that a 25-percent increase in the minimum wage could have on the employment of students, handicapped, older workers, partially employed, and others who might choose to work part time. I urge my colleagues to take the time to read this editorial.

IT AIN'T ALL GOOD

There's a bill in Congress now for the raising of the minimum wage from $1.60 to $2.

At first glance, the measure might appear to be realistic. Inflation has certainly made it impossible for anyone to sustain a family on $1.60 an hour.

Such a move would be welcomed, too, by people who are now in the lower pay brackets. Raising the minimum wage to $2 per hour would result in a quick pay increase for those below $2 now and would almost certainly have an eventual effect on all other wages.

That, in fact, is one of the arguments that opponents of the bill raise against it—that the $2 raise is inflationary and will spiral all wages and then all prices, becoming self-defeating.

Surveys of small business across the United States indicate that moving the wage to $2 will force many businesses to totally eliminate jobs they offer today.

There is a great deal of marginal labor force in this country—students, part-time help, handicapped, older people partially employed, and others, who might choose to work at jobs that are not of the full-time breadwinning variety.

And, whether or not you believe in women's lib, the hike in minimum wage will affect women most of all—for women make up the greater part of the nation's part-time or piecework labor force.

In the end it will be students, women and the handicapped who will be most affected.

The DECA organization of students employed as part of their school training, is encouraging citizens to write to their Congressmen and urge that they vote against this bill.

THE RED OFFENSIVE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following editorial:

THE RED OFFENSIVE

Sen. George McGovern apparently is the first to meet the hopes of the North Vietnamese Communists by declaring that the new Red offensive proves the Vietnamization program is a failure and that the war "is a hopeless venture."

It is exactly this kind of reaction from America's liberals which has encouraged the Communists to continue their slaughter, and to persist in their war.

America's liberals, notably the men of most influence, members of the Senate, have some brutally frank talk coming to them.

They have hampered the war effort unceasingly; they have done nothing to help end it. They are in large measure responsible for the loss of South Vietnamese territory just south of the Demilitarized Zone for which thousands of Americans, three years ago bled, suffered and died.

Yet, the pressure was put on the President, and the American people by the militant so-called "peace" groups, the parlor pinks and the American Reds, to withdraw all American forces, and even, incredibly, to tell the world, and the enemy, just when Americans would be withdrawn, so that they in fact would be at the mercy of the enemy.

Last Summer, Mr. Nixon replied to these critics. He said then that it would endanger American forces to tell the enemy withdrawal dates.

Mr. Nixon said at that time there was fear the Communists would launch a heavy offensive just as American strength grew weak. He said the plans had called for a gradual withdrawal of American forces over several years, to give the South Vietnamese Army time to train and become more capable of defending the country.

But, the radicals and the liberal senators persisted.

The liberal senators have had a major role in pressuring the administration to give full information on withdrawal of U.S. forces.

Well, much of that information has been given. The withdrawal has been speeded up beyond the good judgment of the government.

And, today, the Reds are moving their invasion deep into South Vietnam. They are justifying all the charges made against Hanoi and the invasion gives the lie to every American liberal who has chosen to denounce his country and stand with the enemy in the torture of South Vietnam.

The enemy offensive probably is aimed at influencing American liberal opinion, an effort to convince this country we must settle only on the enemy's terms.

If the Communists win this maneuver, the Red flag may be on the march throughout the world within the next few years.

The U.S. made our first official peace offer to Hanoi in July, 1965. Repeated offers have been made since. All have been rejected or ignored. As Mr. Nixon said, the North Vietnamese used the Paris peace talks only for propaganda while we were seeking peace.

The Reds want this country to betray South Vietnam. They know that such a craven act would not only throw Southeast Asia to the Communists, but it would destroy the honor, the power and the strength of the United States by a destruction of morale unequaled in American history.

THE BIRTHDAY OF HARRY S. TRUMAN

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BEGICH. Mr. Speaker, yesterday, May 8, 1972, represented the 88th birthday of Harry S. Truman, 33d President of the United States. A man of humble beginnings, President Truman proved the credibility of the "American dream" by reaching the pinnacle of power.

His Presidency, spawned in a time of crisis, Harry Truman responded with a responsible, compassionate foreign policy. The Marshall plan, the point four program, and the Truman doctrine were all directed at the preservation of a free society through foreign aid and development rather than military action. Never before or since has an American President met a desperate world need with such effective means as to restore security and stability to the free world.

Reaching the age of 88 is a milestone in any man's life. For some it means complete inactivity, but Harry Truman remains abreast of political issues and maintains a voracious interest in national and international affairs.

In tribute to Mr. Truman, I would like to wish many more very happy birthdays, and insert an article by Harry F. Rosenthal of the Associated Press, which appeared in the May 7 edition of the Washington Sunday Star:

TRUMAN AT 88: BOUND TO HIS HOME AND BOOKS

(By Harry F. Rosenthal)

INDEPENDENCE, MO.—He is an old man now without the privileges of other old men.

The park bench in the sun, the small talk with others of his time and memories are denied Harry S. Truman. Nearly 20 years out of the White House, he is revered as Mr. President, but restricted as Mr. Citizen.

He knew it would come. "I still don't feel like a completely private citizen and I don't suppose I ever will," he said once. "It's still almost impossible to do as other people do, even though I've tried. You can't always be as you want to be after you've been under those bright lights."

Tomorrow, another birthday, his 88th.

His friends will gather, as they always do

at the Hotel Muehlebach to lunch, to praise, and to light candles on heart-shaped petits-fours.

For the seventh straight year they'll raise glasses of sherry in toast to an empty, high-backed leather chair. Truman, the man who always loved cronies, comaraderie and good conversation is too feeble to be there.

Age has built a wall around Truman, isolating him from his friends, making him a prisoner of his house.

His appearance is a shock to those who remember his ebullient good health as president. He looks drawn and thin, pitifully frail. His false teeth give him trouble and slur his speech. His eyes, always weak, look enormous behind thick lenses. He hears badly.

"But his mind is clear as crystal," said H. Roe Bartle, a former Kansas City mayor and one of the few friends who see him regularly. "He keeps abreast of the times, rarely reminisces. He wants to talk about what happened yesterday and what may happen tomorrow."

Others confide that he has mental lapses, that he "overreacts like a crotchety old goat"—not unusual for a man Truman's age. But they hasten to stress the amount of reading he does and his awareness and interest in the world today.

"YOU SEE THAT CHICKEN-HAWK FACE"

"On every current event he's got an opinion of what we ought to do and why we ought to do it," Bartle said. "He talks about legislation before the Congress. He'll get down to little minute things. He never calls a man by name like you and I do. For instance, Hubert Humphrey. He'll say 'Sen. Hubert Humphrey, the former vice president.' He always gives the title. It is always an indication of respect for the title that he holds."

Thomas Hart Benton, the distinguished artist, painted Truman's portrait last year. "The old man looks better as an old man than he did as a young man," said Benton, himself 83. "You get that fat off of him and you see that chicken-hawk face and also his sensitivity. You would never think of Harry Truman as being sensitive, but he is—when he's not fat and bothered with all the defenses a politician has to put up with. You didn't ever see the real man, you saw only the mask."

But Truman's sister, Mary Jane, said a little sadly: "I don't know. He doesn't look a thing like he used to. He always had a full face and always looked so well. He takes a miserable picture now, he's so thin. And he's always taken such a nice picture."

The Benton portrait, standing on an easel in the lobby of the Harry S. Truman presidential library, dismayed employes at first. It shows a white-haired old man engrossed in a book held in gnarled, arthritic fingers. The shirt collar and suit are loose. About all that's familiar is the hawk nose, made more prominent by the lines in Truman's face. Like all Benton paintings, it's scrupulously detailed.

"He's a skull now," said Benton. "You can see the man without the jowls and the fat. He has no need now to put on an act, any kind of public act. So he relaxes now. He's a very interesting old man."

The association between the artist and Truman began in 1960 when Benton painted "Independence and the Opening of the West," a 495-square foot mural, in the lobby of the library. "We got to be pretty good friends," Benton said. "This is an amazing thing for an artist and a politician. Harry Truman and I are two men who can sit in a room alone and drink a glass of whisky and feel at ease. You know what I mean? Now there is no other politician I can do that with—none of them."

Benton had tried to paint Truman in 1963, when the former president still went to the library daily—something he hasn't done since 1965. Truman posed willingly, Benton said, but "I was constantly interfered with by office workers. The women wanted him to look like Clark Gable and the politicians . . ." Benton's hands went up in exasperation. "I finally told him, 'I can't do this,' and he let me off the hook. Then last year we got to talking about that effort. We were laughing about that and I said, 'Hell, why not try again?' and he said why not. So I did this painting and I'm glad I waited because it's more interesting."

The artist made four trips to the Truman home for sketches, then painted in his garage-studio in Kansas City. "Mrs. Truman saw it and said, 'That's him,'" says Benton. "What the hell more do you want?" Does Truman like it? "Bess does," Benton replies. "That's enough."

The things that please Bess have always been enough for Truman. She was his childhood sweetheart, the aristocratic athlete whom the bookish farm boy Truman wooed and won; she was the only girl he ever dated and loved; she was his secretary in the Senate; she was his unobtrusive confidante and supporter when he was president. Now 87 herself, still doing most of the shopping, cooking and housework, she is with him constantly, zealously guarding his privacy.

"I don't think she likes to leave Harry too much," said Mary Jane Truman. "There's always somebody on hand, but at his age, you know, he might get up and fall. There has to be somebody in the house."

Privately, some of their friends say she protects him too much, keeping away people who might brighten his days. But they respect her wishes and the calling list is small.

"I think they're lonely," said one friend. "Truman is a crony man and there are no more cronies." And another friend: "There's no question he's got to be protected at every moment. Lonely? Undoubtedly. I would hate to be in his position. He's used to people and contacts in the world." And Mary Jane, with sisterly concern: "Even our family doesn't go as often. I think it's better not to."

SENATOR GRAVEL PAYS A VISIT

Charles Hipsh, the president of a Kansas City bank, is a weekly visitor, along with his brother, Sam. "He's never expressed loneliness," Charles Hipsh said. "He always seems to welcome you with open arms when you come there. And Mrs. Truman—she makes you feel like you're the president instead of visiting the president."

Says Bartle: "The president has good days and he has bad days. If it's a bad day and I want to bring somebody out, * * * there faster than any 300-pound guy you ever saw."

Recently Bartle and Sen. Mike Gravel, D-Alaska, shared a speaker's platform. Gravel said he had always wanted to meet Truman. With only a few minutes' notice to the Trumans, Bartle took him to Independence. "We walked in and Mr. Truman, with a twinkle in his eyes, said, 'Yep, I'll tell you, you've been a good senator,'" Bartle recounted. "And he knew the legislation Gravel had voted for, where he had not cast his ballot and where he'd been negative. Well, it overwhelmed me. Now why should a man who is 87 years old study the records of senators so he knew what he voted for and what he voted against?"

Gravel also had something to tell Truman. In the '50s, when the expresident was visiting New York, Gravel was studying at Columbia University and driving a cab part-time. "You were taking your morning walk," he told Truman. "I drove very slowly, up to the curb and stuck my hand up and said, 'Good Morning, Mr. President, it's good to see you.' And you turned to me and said, 'Young man, you look good to me, just make something of yourself.'" After the visit, Gravel commented: "I never forgot. He was just as friendly to me when I was just a cab driver. He didn't know then that I would be a senator from Alaska."

The story illustrates a facet of Truman that his sister probably knows best. "Harry has always been down to earth, being president never changed him any," she said. "As Mama said, just be in the key of B-natural, and that's what all of us have always been. We didn't pretend anything we were not. He had experienced enough; he knew what people were up against."

Miss Truman is a gentle lady you instinctively call Miss Mary Jane. She'll be 88 in August. "I'm younger than Harry," she said demurely. She never married and lives alone in a small brick house in Grandview, not far from the old Truman farm, now the site of a large, undistinguished shopping center called Truman Corners. She still drives her own car and often makes the 30-minute trip to visit her brother. His visits to her, when the weather is nice, are probably the longest trips Truman makes these days.

"I dont think anyone ever had two better brothers than I had," said Miss Mary Jane. "I think he married later than he would have because he thought he'd have to look after Mama and me."

Her living room is filled with pictures of Harry, their brother Vivian, who died in 1965; and her mother, who lived to be nearly 95. She talked of their childhood.

"The boys both had diphtheria and I was sent to grandmother's so I didn't have it. Harry was paralyzed for almost a year. He had started to school and was in the second grade, or maybe the third. I wheeled him around in my baby buggy for close to a year. I remember Mama telling about how it happened. We were at the dinner table and he took a drink of milk and it all come out of his mouth. His tongue was paralyzed. They went after the doctor, who said he'd been expecting it because Harry was so weak. That's the way it started that he read so much."

A HEAVY READER FROM AGE 14

Truman learned to read when he was about 4. "From then on I read everything I could get my hands on," he wrote once, "histories and encyclopedias, and everything else. Before I was 12 I had read everything Mark Twain had published up to that time." The home library on the Truman farm was thought to be the largest private collection in town.

The reading habit begun young and nurtured through life has served Truman well in his old age. Bartle who reads 300 books a year says he is overwhelmed with the books Truman has in his home.

"In the field of history" said Bartle, "I think he's the best read man I've ever known. He can tell you every war that was fought, who the generals were and where the decisive battles took place. It can overwhelm people to realize that this man has retained his memory, that he does have knowledge and he's always right."

From the reading room of the 105-year-old Truman home—it was built by Bess's grandfather—he can look out on busy 15th Street, renamed Truman Road, the main highway to Kansas City 15 miles west. In it is the huge chair shown in Benton's painting. Bookshelves are floor-to-ceiling on three sides and over the window of the fourth.

And even that's not enough to satiate his reading appetite. On many a day, the Trumans' light green Chrysler will pull out of the driveway on the North Delaware Street side of the house. Truman, clasping a cane between his knees, will be in the front passenger seat next to retired police Lt. Mike Westwood. Mrs. Truman is in back.

With a Secret Service car discreetly behind, they'll drive the few blocks to the Independence Public Library, where Mrs. Truman gathers an armload of books. The well-stocked, well-patronized library has rows of shelves filled with publications of the Daugh-

ters of the American Revolution, but on a recent day, only four books on Truman, including his two volumes of memoirs. The only reminder that this library is in a former president's home town is a small picture, high on one wall, showing Truman bending down to listen to his aged mother.

THE BUSING QUESTION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DERWINSKI. Mr. Speaker, the Chicago Tribune's perspective page of April 13 carried an article by Martin Mayer, the author of "Where, When, and Why, Social Studies in American Schools" from which this article was excerpted.

Mr. Speaker, since the busing question remains before us and is, in fact, a major concern of citizens throughout the country, I feel that this article is very pertinent and I insert it into the RECORD:

BUSING: THE SHAM OF INSTANT EQUALITY

(By Martin Mayer)

When I was chairman of a New York City local school board a few years ago, our district had a busing project that brought children in the lower grades from their East Harlem homes to the greater achievements of Yorkville.

It was a small, complicated project, involving joint PTAs for the sending and receiving schools, new academic programs to short-circuit teachers' beliefs about what children should be able to do at this level, a little rigging of the test scores reported to the teachers.

The project did some good—not much, but some—and except for a handful of sophisticated Puerto Rican parents who hated to see the best black pupils go out of their schools [the Puerto Ricans wouldn't bus] it was popular in East Harlem.

Nevertheless, after one board meeting I was approached by a politically oriented caucus, not so much angry as nasty, demanding an end to asymmetry. Fortunately, they phrased their position in a way that invited a snappy answer: "Why," they demanded, "is it always our children that ride the bus?" I said, "because they're disadvantaged. One of their disadvantages is that they ride the bus."

I report as a matter of fact that in my remaining two years as a local board chairman neither the argument nor the demand was heard again. Truth hurts; but it answers real questions.

THE CASE FOR BUSING

The case for busing children to schools that their parents and the world at large believe to be better schools is an overwhelmingly strong case. The case for busing children to schools that their parents and the world at large believe to be poorer schools is an extremely weak case.

There is some reason to believe, on the basis of the Coleman Report, that the children of low-income, ill-educated parents will on the average do somewhat better in school if they are exposed to the more invigorating air of classrooms dominated by the children of higher-income, better-educated parents. The same report gives evidence [much less frequently cited] that children from more fortunate homes will on the average do worse in school if they are a minority group in classrooms where the air is that of the slums.

Even elected legislatures cannot change this fundament of social existence—and do not try, because in the process of writing law legislators typically look forward to the probable effects of what they do.

The notion that courts can write such laws and make them stick should not be entertained for a minute by anyone seriously interested in improving society. Judges have neither the resources nor the habits of mind to predict intelligently the results of their decisions; they are hired and trained to look backward, toward the facts of a given case.

SERRANO VERSUS PRIEST

A recent issue of the Office of Economic Opportunity magazine Opportunity featured an article on the legal service office that fought and won the case of Serrano vs. Priest, which held that the financing of schools by local property taxes was unconstitutional because it deprived residents of poorer districts of equal educational opportunities.

The lawyer in charge of the case speculated that it might turn the whole country around—it parents could not hope that by working hard and making money and moving to the suburbs they could do something special for the future of their children, then they might stay in the cities and stop being racists.

But the difference between successful and unsuccessful schools is not usually money—in fact, the equalization of educational expenditures thruout New York State would reduce the per-pupil budget in New York City. And even if Serrano vs. Priest were responsive to the real problems, the idea that so fundamental a drive as the desire to give one's children, a better break can be frustrated by a court decision—or, indeed, should be frustrated in a healthy society—is ultimately not only proposterous but [if I may say so without offense] childish.

We have lived thru an extraordinarily dispiriting decade in education. A great deal that in the Kennedy days we had believed could be done quickly now seems long, dreary years away. The failure of university administrations to think thru the nature and extent of their resources has loaded higher education with a burden of transparent fakery that has made at least secret Jensenists of most faculty and of more students than anybody cares to admit.

Of the remedies proposed in the early 1960s, only two remain plausible: full-time institutional control of students from educationally hostile neighborhoods [i.e., boarding school, or, in later life, the Army: Project 100,000, little noticed, has educated more dropouts than all the school systems put together]; and tutorial assistance [by nonprofessionals, paraprofessionals or older students; each-one-teach-one produces better measurable results than group instruction in the hands of any but the best teachers].

IMPACT OF HEAD START

The educational impact of Head Start has been invisible; the educational impact of community control, bilingualism, and race pride, has been fairly consistently negative, the educational impact of integration has been fairly consistently positive, but minor. Even in the best integrated situations, the difference in academic achievement between the middle-class white eighth-grader and the black welfare eighth-grader is likely to be three years, and such gaps cannot be concealed.

The brief period in which blacks felt themselves honestly equal to whites is coming to an end all over the country, in self-resegregation and despair, largely because of the stress placed on education. The horror is perceived by radicals, who seek to exercise it by abandoning schools altogether. The educators themselves, reviving their Uriah Heep attitudes of 20 years ago, ask again whether it's really so important that all children learn to read.

Much of this seems to me genuinely tragic. There is no reason to believe that we cannot, in segregated or integrated situations, bring much more of the low-income population to a level of reasonable competence in reading—if we remember competence is our target.

And there is every reason to believe that the slum child who does not go to school, or does not have demands made upon him there, will be doomed to a disastrous life in this or any other society. It is the tone of the school, not the simple physical presence of middle-class children that must be credited with the gains Coleman found from integration. Since the late 1960s, we have been sacrificing that tone everywhere, with appalling results.

NEED BETTER TESTS

We need tests that measure more aspects of human ability than are now measured by our intelligence, aptitude, and achievement tests. On the social front, we need ways to insure that middle-class blacks get the rewards of having made it, and we need maximum feasible opportunity for upward mobility in occupation, residence, and education.

But the best that can be given is opportunity; the burden will continue to rest on the Negro community, because there is no way to transfer it. Governments cannot legislate and courts cannot mandate results. It may well be, as I had occasion to observe a decade ago, that the benefits of major educational effort can be gathered only by the children of those who participate in the effort; but the effort is worth making.

The lawsuits and committee reports and books calling for instant equality must be seen for what they are: attempts to avoid making the effort. To the extent that they also seek to punish society for not doing what cannot be done even with effort—and there is a great deal of purely punitive purpose behind much of what the activist lawyers are attempting—they will be fearfully counterproductive. They already are.

REGULATING THE DISPOSAL OF WASTES RESULTING FROM HIGHWAY CONSTRUCTION

HON. CHARLES W. SANDMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SANDMAN. Mr. Speaker, with my distinguished colleague from Delaware (Mr. DU PONT) I am today introducing legislation designed to regulate the disposal of wastes resulting from highway construction.

This bill has a necessarily narrow, but essential, purpose as I am particularly concerned when such wastes are disposed of by dumping them into the oceans or our Nation's navigable waters.

The legislation, an amendment to the Federal-Aid Highway Act, would require the consent of the Governor of a State potentially affected by the dumping of said wastes in the State's waters or adjacent to the State's waters.

Without that consent, no Federal payment could be made under the Federal-Aid Highway Act for the highway construction work.

I ask our distinguished colleagues in the House to support this legislation. Similar language is being introduced in the other body by the two distinguished Senators from Delaware; the Honorable J. CALEB BOGGS and the Honorable WILLIAM V. ROTH.

Full text of the legislation follows:

A bill to amend the Federal-Aid Highway Act, 23 U.S.C. 121 and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 121 of Title 23 of the United States Code is amended to add a new subsection (f) as follows:

"(f) No payment shall be made under this chapter for that part of the cost of construction related to the production or transportation of any materials to be deposited or discharged into the navigable waters of the United States, the waters of the contiguous zone, or the oceans unless such deposit or discharge has been approved by the Governor of the State (1) in which the navigable waters where such deposit or discharge will occur, or (2) contiguous with that portion of the waters of the contiguous zone or the ocean where such deposit or discharge will occur. This requirement shall be supplementary to any requirements under the Federal Water Pollution Control Act, as amended, or the Marine Protection Act, as amended."

SWIFT ENACTMENT NEEDED

The need for swift enactment of this legislation, Mr. Speaker, is obvious. And a current situation that has potentially disastrous consequences for the New Jersey and Delaware seashore resorts is the perfect example for this need.

Ten days ago, I received an anonymous telephone call designed to alert me to an obscure legal advertisement for bids by the procurement department of the city of Philadelphia.

The bids, to have been received 1 week ago today, were for removal of some 2 million cubic yards of sewage sludge from several stagnant lagoons located in the right-of-way of Interstate Highway 95 in southwest Philadelphia.

I immediately contacted Philadelphia Water Commissioner Carmen Guarino for details. He confirmed that "disposal at sea" was one of three acceptable options for disposing of the sludge, according to the specifications for bids.

Naturally, I issued a statement condemning the plan and announced I would fight it with public pressure and both in Congress and in U.S. District Court, where I have had to appeal twice on similar occasions to prevent ocean dumping of pollutants from Pennsylvania.

Philadelphia Mayor Frank Rizzo, Gov. Milton Shapp and others were urged to intervene.

Tuesday morning, the city procurement office withdrew the offer for bids pending "further study of possible pollution problems."

INITIAL SKIRMISH WON

We had won an initial skirmish merely by being alert and courtesy of an anonymous tip, but the need for disposal of the sludge remains and it is known that they have still got their eye on the ocean off my home at Cape May.

I am extremely distressed that we face another entire summer of ocean dumping. The reason is no secret; the House-Senate conferees have failed for over 4 months to iron out differences between the two versions of the Marine Protection Act which will regulate and eventually eliminate ocean dumping—H.R. 9227.

This is an inexcusable delay, Mr. Speaker. No jurisdictional dispute is so important as to deserve such an intolerable delay. I urge that the conferees make an extra effort toward agreement as it is my congressional district most seriously threatened by the ugly practice of ocean dumping.

The legislation I have introduced today should be enacted in addition to the Marine Protection Act, which has already overwhelmingly passed both Houses of Congress but remains stuck in the conference.

This additional restraint on the ocean disposal of highway construction wastes needs to be taken up promptly to be effective on the Philadelphia sludge case, now at hand.

As background, Mr. Speaker, I ask that four brief news accounts of this case be inserted in the RECORD. The articles follow:

[From the Philadelphia Inquirer, May 1, 1972]

SANDMAN WARNS PHILADELPHIA AGAINST BARGING SLUDGE

(By Tom Madden)

Rep. Charles W. Sandman Jr. (R., N.J.) said Sunday he plans to block Philadelphia from dumping sewage sludge in the lower Delaware Bay.

He said the city is planning to receive bids for disposal of 2 million cubic yards of sludge. It now stands in seven lagoons near Philadelphia's Southwest sewage treatment works. It must be disposed of because the lagoons are in the right-of-way of Interstate Highway I–95, now under construction.

The city's Procurement Department had planned to receive bids Tuesday for disposal of the sludge but postponed the bidding because of questions about specifications.

Procurement Commissioner Otto R. Winter said, "We're going to take another look at specifications because we didn't know whether they were clear enough."

Winter said he did not know where the sludge eventually will be dumped, but that it probably will go out to sea. Sludge disposal, he said, "has always been put out to bid."

Sandman says the successful bidder would be given options of barging the sludge to sea or disposing of it through incineration or some form of land disposal.

"I don't care what they do with it, so long as it isn't dumped in the Delaware Bay or the Atlantic Ocean near the New Jersey resort beaches," he said.

Sandman obtained court restraining orders twice last year to stop similar ocean dumpings. He said he will do so again, if necessary.

Ocean dumping of pollutants is still legal. A Sandman bill to ban the practice has been passed in both houses of Congress but is tied up in a joint conference committee.

The committee has been unable to iron out differences during meetings for four months.

Sandman is urging elimination of the ocean dumping option in messages to Mayor Frank Rizzo, Gov. Milton Shapp, the Pennsylvania Department of Transportation, and the Federal Environmental Protection Agency.

[From the City Press, May 2, 1972]

PHILADELPHIA EXPECTED TO REJECT SLUDGE BIDS

CAPE MAY.—Rep. Charles W. Sandman, Jr. said Monday he believes there is a "50–50 chance" the city of Philadelphia will not accept bids today involving barging of two million cubic yards of sewage sludge to sea.

The Philadelphia Procurement Department is scheduled to open bids today for disposal of the sludge by one of four means: incineration, land disposal, use as fertilizer or barging to sea for possible dumping 12 miles off the coast here.

The sludge now stands in seven lagoons near Philadelphia's southwest sewage treatment works and must be disposed of because the lagoons are in the right-of-way of Interstate I–95, now under construction.

Sandman said he will seek a court injunction if necessary to prevent the sludge from being dumped off the coast.

However, since the possibility of dumping the sludge was made known, Sandman said, pressure from him and others has made Philadelphia reconsider the option of ocean disposal. He said the city probably "won't be hasty about issuing the bids and we have reason to believe there's a good chance that the option will be eliminated."

Sandman said he sent telegrams to Mayor Frank Rizzo, Gov. Milton Shapp, the Pennsylvania Department of Transportation and the U.S. Environmental Protection Agency, "urging elimination of the ocean dumping option."

According to Sandman, "The intent of Congress to stop ocean dumping is clear," even if it has so far failed to enact a law against it.

He said an ocean dumping bill he sponsored last year has been in joint House-Senate Conference Committee for the last four months.

Last year Sandman twice secured restraining orders in U.S. District Court to stop similar ocean dumping operations. Sandman said he is prepared to file suit this week to prevent the Philadelphia sludge from being dumped in the ocean.

Last year, 122 million gallons of sludge from Philadelphia, Camden and Bridgeton were dumped about 12 miles southeast of Cape May.

Sandman urged those concerned about the dumping to write Mayor Rizzo or Gov. Shapp

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[From the Millville Daily, May 2, 1972]

FIGHTS PLANS TO DUMP SLUDGE

Congressman Charles W. Sandman (2nd, NJ) is organizing his forces once again to fight plans by Pennsylvania sources to pollute the Atlantic Ocean near here again.

This time, it's some 2 million cubic yards of sewage sludge from Philadelphia that Sandman doesn't want dumped in the ocean.

On Tuesday (May 2nd) bids for disposing of the sludge are scheduled to be received by the City Procurement Department.

The sludge now stands in seven lagoons near Philadelphia's Southwest sewage treatment works and has to be disposed of because the lagoons lay in the right-of-way of Interstate Highway (I–95) now under construction.

Congressman Sandman revealed here Saturday that the successful bidder thus is being given three options of how to dispose of the sludge: by barging it to sea; by incineration; or by some land disposal means.

Sandman says he doesn't care what is done with the sludge as long as it isn't dumped in the waters of the Delaware Bay or the Atlantic Ocean near the New Jersey resort beaches.

Ocean dumping of pollutants still may not be illegal even though a bill Sandman proposed to ban the practice has passed both houses of Congress overwhelmingly. A House-Senate Conference Committee has been unable to iron out differences during meetings over the past four months.

The Congressman contends that the intent of Congress to stop ocean pollution is clear. Therefore, he says, the ocean dumping option of the sludge disposal contract should be cancelled.

[From the Evening Bulletin, May 3, 1972]

BIDS CANCELED FOR DUMPING SLUDGE AT SEA

The city yesterday canceled bids on contracts to remove 400,000 gallons of sludge to make way for construction of the Delaware Expressway in Southwest Philadelphia.

Managing Director Hillel S. Levinson or-

dered the action so that "further study could be made of possible pollution problems."

The sludge, in lagoons near the Southwest Water Pollution Control plant at 80th st. and Penrose ave. was to have been shipped by barge 12 miles off the South Jersey coast and dumped.

RESIDENTS OPPOSED

Protests were raised by some Jersey shore residents, particularly U.S. Rep. Charles W. Sandman, Jr. (R-2d Dist) who feared the sludge may pollute off-shore areas and possibly the beaches.

The lagoons are to be emptied at the state's expense, although Philadelphia will do the work.

Carmen Guarino, water commissioner, said the "digested sludge" should pose no problem to the ocean environment. About half of it is sand and the remainder is inorganic matter, he said.

USE AS FERTILIZER

"If we could dry it (the sludge), it could be used as humus for fertilizing gardens," Guarino said, "But we have no outlet to make fertilizer of it."

Fels Institute and Jefferson Hospital have conducted studies of the ocean dumping area and a preliminary report shows no adverse environmental effects, Guarino said. The city currently barges and dumps sludge at the site twice a week.

"For 10 years we've been barging sludge to sea," Guarino said.

COSTLY PROCESS

If the 400,000 gallons can't be dumped, the city will have to find alternative methods to dispose of it. All other ways are more costly than dumping it at sea, Guarino said.

"Barging it is about one-third the cost of any other method," he said. "We could burn it in incinerators, but we would have to build incinerators and we would still have the cost of disposing of the ashes.

Levinson said new bids would be asked once the city reviews the pollution situation.

NATIONAL ENERGY

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ROSTENKOWSKI. Mr. Speaker, national energy crises have become such an expected part of each summer that we have invented a new word to describe them—brownouts. Once again our Nation's largest metropolitan areas can look forward to crucial power shortages this summer. These shortages are not easily solved, especially under present conditions. While so many people clamor for results, we have yet to develop a truly comprehensive policy toward the production of power. An editorial in the Christian Science Monitor of May 8 will illustrate my point.

The article follows:

FOR A NATIONAL ENERGY POLICY

Another summer of brownouts is already predicted for the United States. Chicago, Miami, and New York are likely to be hardest hit during the long hot spells as some 45 new generating plants have been delayed in coming into service for various reasons, including challenges by environmentalists.

Part of this continuing energy crisis springs from the astronomical growth in demand: the United States, with one-sixteenth of the world's population, now consumes one-third of the available energy. Demand has doubled in the last 20 years, and is expected to double again every 10 years until the year 2000.

The energy crunch highlights the lack of a national energy policy. The United States is one of the few countries that does not place overall responsibility for fuels and energy with a single agency. Instead, 61 federal agencies, commissions, and committees of Congress have their fingers in the energy pie.

Fuel policies abound, often with conflicting ends. The price of natural gas has been artificially depressed, stimulating demand while discouraging further exploration; nuclear power research has been fostered while development of other energy technologists and synthetic fuel lags; fuel consumption rather than conservation has been encouraged, forcing greater and greater imports of oil; wasteful uses of premium, clean fuels have been allowed; and environmental goals are drawn up which conflict with meeting energy demands.

Not that there isn't widespread recognition of the need for a comprehensive national energy policy. Indeed there has been a rare agreement amongst members of the White House, Congress, the federal agencies, energy producers, and even environmental and consumer groups.

Despite this accord, each group tends to begin its own investigation into the nature of the energy crisis. Positive, coordinated action toward legislation is likely to be months, even years away.

One hopeful sign was President Nixon's proposal in the 1971 State of the Union message to reorganize the 12 executive departments into eight, including a single Department of Natural Resources. This would pull together many of the fuel functions sequestered away in various Washington offices. But little headway has been made since the original proposal. A Ford Foundation study, just announced, should help put the energy policy issue into focus.

Whatever policy finally emerges, it is likely to contain some of the recommendations now being proffered by authorities in the field:

These sources of supply should be built upon healthy and diable domestic fuel industries, but where these supplies are not sufficient, diverse foreign sources should be developed so as not to jeopardize national security.

Free open-market competition should be allowed between the various energy sources, and where possible, regional disparities in cost and supply should be eliminated.

The paramount development of domestic energy resources, including Alaska and the outer continental shelf, should be conducted with maximum environmental protection.

National policy should work to provide the country with an adequate supply of energy for both short- and long-term needs at the lowest costs possible.

All nonessential energy consumption should be discouraged.

Large-scale commitments for research and development of new technologies are required to meet future energy requirements.

It is to be hoped that not too many more summers will pass with their usual brownouts, fuel shortages, and yet another spate of studies, before the federal government steps in to forge what is already clearly necessary—a national energy policy.

BLACK POWDER

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DINGELL. Mr. Speaker, title XI of the Organized Crime Control Act of 1970, Public Law 91-452, which the Congress persuaded itself was sorely needed to curb domestic bombings, has been a colossal failure. I voted against the passage of that law, and our experience with that legislation has largely justified my doubts.

It has not appreciably inhibited bombings, if only because powerful explosives are easily concocted from everyday, commonly available materials such as garden fertilizers.

Rather, the principal effect of title XI has been to make it extremely difficult for persons who shoot antique muzzle-loading muskets in such colorful events as the famed North-South skirmish to obtain sufficient quantities of highly refined grades of black powder.

Serious shortages caused by the act's arbitrary limitations on sale and transportation of black powder to very small quantities have threatened the very survival of this traditional sport in which thousands of persons participate. Particularly vexatious is the failure to make any meaningful distinction between bulk blasting powders unsuitable for use in antique firearms, and the expensive, uniformly granulated powders these old guns require.

It is ironic that the shooting grades of black powder—indeed, even crude homemade black powder unsuitable for firearms—are rarely used by domestic terrorists.

I insert at this point in the RECORD two tables prepared from reports compiled by the International Association of Chiefs of Police, showing that more than 96 percent of the bombs discovered by law enforcement authorities in the United States in a recent 18-month period used explosives other than black powder, and that, in a State-by-State breakdown, many States reported no black-powder bombs at all.

The tables follow:

A STATISTICAL SUMMARY OF BOMBINGS AND BOMB DEVICE FILLERS USED BY BOMBERS IN THE UNITED STATES

	Number	Percent
Bombings in the United States for the period of July 1, 1970–June 30, 1971:[1]		
Total number of bomb devices (all types)	2,352	100.0
Total number of black powder devices (homemade and commercial sporting)	96	4.1
Total number of devices employing materials other than black powder	2,256	95.9
Bombings in the United States for the period of July 1, 1971–Dec. 31, 1971:[2]		
Total number of bomb devices (all types)	1,489	100.0
Total number of black powder devices (homemade and commercial sporting)	53	3.55
Total number of devices employing materials other than black powder	1,436	96.45
Bombings in the United States for the period of July 1, 1970–Dec. 31, 1971:[3]		
Total number of bomb devices (all types)	3,841	100.0
Total number of black powder devices (homemade and commercial sporting)	149	3.87
Total number of devices employing materials other than black powder	3,692	96.13

[1] Morton, Jane P., and Persinger, Gary S., "Bombing in the United States: July 1970–June 1971," International Association of Chiefs of Police Research Division. Gaithersburg, Md.

[2] "December 1971 Summary Report on Bombing in the United States," International Association of Chiefs of Police Research Division. Gaithersburg, Md.

[3] Sources Nos. 1 and 2, combined to give totals for an 18-month period.

A "state by state" summary of blackpowder used for bomb device fillers by bombers in the United States during the period of July 1, 1970 through December 31, 1971 [1]

Alabama	1	Nebraska	0
Alaska	0	Nevada	0
Arizona	15	New Hampshire	0
Arkansas	0	New Jersey	5
California	46	New Mexico	0
Colorado	2	New York	5
Connecticut	2	North Carolina	1
Delaware	0	North Dakota	0
Florida	5	Ohio	6
Georgia	2	Oklahoma	0
Hawaii	1	Oregon	1
Idaho	1	Pennsylvania	4
Illinois	14	Rhode Island	0
Indiana	3	South Carolina	0
Iowa	0	South Dakota	0
Kansas	5	Tennessee	0
Kentucky	0	Texas	2
Louisiana	2	Utah	0
Maine	0	Vermont	0
Maryland	3	Virginia	2
Massachusetts	1	Washington	1
Michigan	8	West Virginia	0
Minnesota	4	Wisconsin	0
Mississippi	0	Wyoming	0
Missouri	7	Washington, D.C.	0
Montana	0		

[1] International Association of Chiefs of Police Research Division, Gaithersburg, Maryland.

The total number of devices employing blackpowder for a bomb filler is 149 for the eighteen month period of July 1, 1970 through December 31, 1971.

AN AMERICAN EMPEROR

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOLAND. Mr. Speaker, President Nixon's new tactical approach to the Vietnam war—mining North Vietnam's harbors, "interdicting" any Soviet ships that might dare the mine fields, bombing the railways and supply routes that thread out of China into North Vietnam—risks a direct confrontation with the Soviet Union. Nixon, in effect, has thrown down the gauntlet, defying the Soviet Union to challenge his will. It is an exercise in brinksmanship wholly unparalleled in the history of the Vietnam war. It could conceivably lead to nuclear war, even more conceivably to the introduction of Chinese or Soviet "volunteers" into the conflict. And all the minor triumphs of American diplomacy over the past decade—the SALT talks, the European detente, the rapprochement with China, the summit conference still gamely scheduled for later this month—could vanish before our eyes.

No one—Mr. Nixon himself is hardly an exception here—can deny the manifest peril of his actions.

I want to emphasize, Mr. Speaker, that this decision was not thrust upon President Nixon as part of the legacy bequeathed him by his predecessors in the White House. It was Mr. Nixon's decision and his decision alone. Both Presidents Kennedy and Johnson, themselves confronted with what military leaders earnestly called the "necessity" of quarantining North Vietnam, dismissed it as too dangerous—indeed, as a flirtation with disaster.

What I find particularly unsettling—in fact, what I find almost incredible—is that President Nixon took a step of such magnitude without consulting the Congress. Tom Wicker, writing in today's New York Times, points out that—

> When Mr. Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of *noblesse oblige* as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well known that these officials more nearly ratify than form Presidential judgments.
>
> Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create?

Wicker argues, even more chillingly, that President could unleash our nuclear arsenal:

> Sensible or not, he [President Nixon] *could* order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Inch by inch, bit by bit, the Congress has surrendered its legitimate constitutional role in shaping foreign policy and in overseeing the Armed Forces, giving the White House what is akin to carte blanche in such vital matters.

As you know, Mr. Speaker, I have introduced legislation to restore the Congress authority—legislation substantively identical to the Javits bill already passed by the Senate.

Like everyone else in this Chamber, I pray that President Nixon's decision will ultimately lead to the cease-fire and withdrawal he cited in his television address last night.

I pray that the principal rationale behind his decision is to shield the garrison force of 60,000 American troops still lingering on in South Vietnam, rather than to salvage the tattered remains of the "Vietnamization" program.

But, Mr. Speaker, whatever the results of his decision, it is clear that the Congress must reassert its right to take part in key policy decisions of such monumental significance.

The White House must never again shun the elected representative of the American people.

For the benefit of my colleagues, I put in the RECORD the full text of Mr. Wicker's column:

AN AMERICAN EMPEROR

(By Tom Wicker)

"No One Knows," said the headline in The New York Times, "What He Might Do." And indeed, no one, including Secretary of State William Rogers, summoned home from Europe for a National Security Council meeting, could know what President Nixon might decide upon as antidote in the current crisis in South Vietnam. The press has described admiringly the range of explosive options open to him; members of his Administration had been hinting darkly of the terrible vengeance this unchecked Caesar might choose to wreak upon something abstract known only as "Hanoi" or "the enemy"; but the decision to mine North Vietnamese harbors was Richard Nixon's and Richard Nixon's alone.

And when Mr. Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of noblesse oblige as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well-known that these officials more nearly ratify than form Presidential judgments.

Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create? Is that what the Constitution means, when it says that the President shall be Commander in Chief of the Armed Forces?

As to the first question, there seems little doubt that the answer is yes. Just last year, for instance, Congress passed an amendment to the Military Procurement Authorization bill which declared it to be the policy of the United States to bring to an end "at the earliest practicable date" all military operations in Indochina, subject only to the release of all American prisoners of war.

What was President Nixon's reply to that? Upon signing the measure on Nov. 17, he declared flatly that the amendment was "without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to an end." It would not change his policies, he said, and in fact "legislative actions such as this hinder rather than assist in the search for a negotiated settlement."

Such high-handedness is not unique to Richard Nixon. The greatest of Presidents, Abraham Lincoln, interpreted the Presidential "war powers" so broadly that he repeatedly overrode both Congressional wishes and military advice; and since his actions saved the union, history generally accounts him strong and wise for having done so. But Lincoln was literally waging war for national survival, in a situation in which there was no precedent for anything that has followed—least of all a deliberate act of Presidential policy such as Vietnam.

Mr. Nixon, in contrast, now relies almost exclusively upon the Commander in Chief's power to protect the lives of American soldiers as constitutional justification for whatever he might choose to do in Southeast Asia; yet, it is arguable that American soldiers are in jeopardy primarily because Mr. Nixon's own policies have kept them in Vietnam. So the mere act of putting troops into a place, or keeping them there, which is in itself a Presidential decision, becomes the Presidential justification for any other Presidential action he may choose to take.

Mr. Nixon has not, for example, resorted to the use of nuclear weapons in Southeast Asia; nevertheless, mining the North Vietnamese harbors risks nuclear confrontation with the Soviet Union. This was not inevitable, but the President's choice. Sensible or not, he could order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Since the authors of the Constitution could not foresee the nuclear era, they could have had no intent to lavish upon the President that degree of power; indeed, almost every other line of the document they produced suggests the extent to which they mistrusted unchecked power, whether vested in an executive or in a people's assembly.

Richard Nixon need not be psychoanalyzed

or even mistrusted in order to perceive that that mistrust was well founded; for as he went on the air last night, it was terrifyingly true that no one knew what the President would do, that no immediate means of influencing his judgment was at hand, that no real way existed to stop him from following some apocalyptic course. He was in that moment as true an emperor as ever existed and scarcely more accountable; a people who wanted peace could still be given war at his dictate; and what good would it do to vote him out of office six months from now if the world were an ash, or "the enemy" had been obliterated in his honor?

SENATOR McGOVERN'S PROPOSALS FOR ECONOMIC REFORM

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. KASTENMEIER. Mr. Speaker, Senator GEORGE MCGOVERN, alone among all the presidential candidates, has proposed specific reforms for the Nation's economic system. In doing so, he also has challenged the present administration's contention that further improvements in our tax structure are impossible, and Senator MCGOVERN has developed programs designed to obtain greater equity in our Federal tax system.

Hobart Rowen, the distinguished economist who writes for the Washington Post, recently analyzed the MCGOVERN economic proposals, and I wish to direct the attention of my colleagues to the Rowen article which appeared in the May 7, 1972, Washington Post.

The article follows:

MCGOVERN TAX PROGRAM: STRONG MEDICINE

(By Hobart Rowen)

Sen. George McGovern has raised some hackles as well as eyebrows with proposals for a wholesale reform of the tax system that would also result in a massive "re-distribution" of income.

For some, like Republican economist Pierre Rinfret, the McGovern program "is really socialism." If McGovern gets in, Rinfret told a Chamber of Commerce session here last week, "you ain't seen nothing yet." Rinfret claimed that McGovern aide Frank Mankiewicz had said "the government will do all the investing" if private incentive is dried up by higher taxes on business.

The Rinfret rhetoric aside, there can be little doubt that McGovern's thorough-going income-redistribution proposals have been worrying many people, now that he is a leading presidential contender.

The "Establishment" Democratic economists, for example, think he's gone too far. "It's only campaign talk—I hope," says a noted economist of the Kennedy-Johnson era. He fears that McGovern's proposed corporate tax changes "would crack the stock market wide open."

There are three major elements in the McGovern tax reform program which have been reported only sketchily in campaign speeches, but which are outlined (more as goals than detailed proposals) in a McGovern statement placed in the Congressional Record on April 7:

1. Because the corporate tax structure has been eroded, through bonanzas like the investment credit, McGovern would raise another $9 billion in corporate taxes this year and ultimately, $17 billion annually beginning in 1973.

2. Instead of plugging one individual tax loophole at a time, he would put on an effective minimum tax. (In 1969, 20,000 persons earning more than $20,000 each paid no taxes, including 56 making $1 million or more.)

3. He would adopt the "negative income tax" idea to replace welfare payments, placing further tax burdens on those earning over $12,000 to provide "income grants" to those earning less.

The latter provision is the most controversial of the three basic elements of the McGovern program, because it would be designed to "re-distribute" about $43 billion a year from the richer to the poor. And in combination with the other proposals, it is strong medicine, probably too strong.

Yet, it deserves careful analysis, because there is increasing evidence that the gap between the rich and the poor in this country is getting bigger, rather than smaller. Establishment Democrats who have been making noises about tax reform all these years should argue with the details—even the reasonability—of parts of the program, but not the over-all thrust and objective.

In respect to corporate taxes, many of the best academic tax-reformers would much rather see a good capital gains tax (tax capital gains at ordinary rates when transferred as gifts or at death), leaving the corporate tax structure pretty much alone (plugging depletion loopholes and such, of course).

But McGovern would "end the dismantling of the corporation income tax" by restoring the rate to 52 percent from 48 per cent, and cancelling depreciation allowances and investment credits given to business since 1960. (This is in stark contrast to President Nixon's astonishing statement at the Connally ranch last Sunday that "I strongly favor not only the present depreciation rate but going even further than that, so we can get our plants and equipment more effective.")

On the personal tax side, McGovern would by-pass specific loopholes, and tackle the various tax shelters in toto by a clever formula: over $50,000, an individual would have to pay 75 per cent of the rate which would have applied if he didn't have the benefits of loopholes.

For example, suppose an individual had $25,000 in tax-free income over a $50,000 salary. Under existing tax laws, he would escape about $14,000 in taxes on that $25,000—taxes he would pay if the $25,000 income were all taxable, say in salary.

McGovern's proposal would recapture 75 per cent of the $14,000—or about $10,000 of it.

In respect to inheritance taxes, McGovern would allow an heir to keep only 23 per cent of estates valued over $500,000 (but there would be somewhat more liberal treatment when the estate contains a wholly-owned proprietorship). This would be a drastic increase: the present 77 per cent rate doesn't begin until $10 million.

But in addition, McGovern promised, if elected, to submit to Congress a "negative income tax" plan, to substitute for the present welfare program. Every man, woman and child would get $1,000 annually from the government. The tax system would be set with something like $12,000 as the "break-even" point for a family of four. Those at or below the poverty level would keep all of the government grant; between $4,000 and $12,000, taxes would eat away increasing amounts of the grant. Over $12,000, higher taxes would take back all of the grants—and then some.

The exact arithmetic is still vague and even contradictory, but McGovern in the statement inserted in the April 7 Congressional Record speaks approvingly of one version proposed by Prof. James Tobin of Yale that would take $43.1 billion from those above the $12,000 income level, and redistribute $14.1 billion to those in the poverty ranks, and $29 billion to those between poverty and $12,000.

Actually, the tax rates set out by McGovern in the Record would not be high enough to shift that much income. The combination of the tough minimum tax, plus the tax rates needed to support the $1,000 grants would clobber high-middle and upper income families.

McGovern has already dropped his original notion of taxing inheritances over $500,000 at 100 per cent. The whole program needs further modification, and as the senator himself has said, ideas on the negative income tax "require full examination by the best economic talent available."

To devise a good "income maintenance" plan is tricky: the cost must be acceptable, the poor must get enough out of it, and the non-poor must not get so much that there is a strong disincentive to work.

The full implication of the McGovern tax reform program are probably not well understood in the well-to-do suburbs where he has had great voter appeal. What the senator is proposing is not just a "soak the very rich" program, but to raise the taxes of great numbers of families with moderate incomes.

The minimum income tax he proposes would hit hard at those who make $50,000 and over each year—the wealthiest 400,000 or so out of 76,000,000 taxpayers. But the "minimum income grant" will bite progressively hard at those over the $12,000 level.

There is no doubt that McGovern's economic re-distribution program, like his defense-reduction and education-support programs are radical. This is not said in a pejorative way. Where Nixon has stressed an economic trickle-down theory, with tax benefits slanted to business, McGovern has moved sharply the other way, not only to narrow the gap between the rich and the poor, but to enhance the strength of public investment at the expense of the big corporations.

Had Nixon not pushed tax cuts for business, and then talked of a national sales tax under the guise of the "value-added-tax" formula, a radical tax program to redistribute the wealth wouldn't have had the political clout that both Governor Wallace and McGovern have found that it has.

Since McGovern has made redistribution of income a real issue in this campaign, it is interesting to note the observation of a very nonradical banker-accountant, Tilford Gaines, that some method of re-distributing income is necessary because today's affluent society fails to create enough jobs for everybody.

Gaines, senior vice president and economist of the Manufacturers Hanover Trust Co. in New York, in his April bank letter, shows that jobless rates in recent years would have been much higher except for two circumstances: more young people are staying in school for longer periods; and more adults are receiving public assistance.

The fact seems to be that manpower requirements of our high-powered society are being steadily reduced. Gaines cites Norbert Wiener's conclusion back in the '40s that "the major problem for the United States would become one of determining how to distribute our production among workers and nonworkers rather than the old economic problem of how to produce enough to satisfy needs and wants . . ."

"The final conclusion that suggests itself is that the rapid growth of people receiving welfare assistance in recent years is not a temporary problem or one that is likely to be solved. It is, instead, a reflection of the prospect that concerned Prof. Wiener, namely, that in an economy that does not create enough jobs, it is necessary to find ways to redistribute income to those who are not needed."

McGovern's tax redistribution pitch, therefore, makes a good deal of economic sense,

even if some of the details are yet to be fully defined and explored. Some changes are necessary, because not everyone in the middle-income brackets is a "fat cat." But the program is an attempt to come to grips with a problem that this society must face: how to shift some of its wealth, peaceably, from the more affluent to the less affluent. During the campaign it will be called socialistic and worse, and McGovern the politician will settle for less than McGovern the reformer is demanding. The handwriting for change is on the wall.

PRESIDENT NIXON'S RECKLESS ESCALATION OF VIETNAM WAR

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BINGHAM. Mr. Speaker, President Nixon's drastic and reckless escalation of the Indochina war is the act of a dictator who is no longer willing to abide by the Constitution of the United States. As such, it is a devastating blow to the American tripartite system of government.

The Members of Congress will overwhelmingly affirm that the President should have consulted with the Congress before taking steps that not only risk a far wider more devastating war, but will isolate the United States in the world as never before. Such prior consultation with the Congress before new acts of war are launched has been demanded by every segment of the Congress, including those who have supported the war in Vietnam.

Only yesterday, concerned by the President's recall of Secretary Rogers from Europe, I urge Mr. Nixon in the strongest terms to consult with the Congress—at least with the Foreign Relations and Foreign Affairs Committees—before initiating any new escalation.

Why did the President fail to consult with the Congress in this situation? He had ample time to do so and there was no need for secrecy. The answer, I believe, is clear: He failed to consult with the Congress because he knew he would not have had the approval of the Congress for the steps he wanted to take.

Now he has sought to present the Congress and the American people with an accomplished fact and to plead for support. He might have had the right to do this if the decision had been reached openly, in the American manner, and with the approval of the majority of the Congress. But he has no right to make this plea under the circumstances. Since he failed to consult the Congress, he cannot expect congressional support. Perhaps he will have it from some members of his own party, for he has put them on the spot. But the overwhelming majority of the Democrats and at least some Republicans will, I am sure, refuse to go along.

When President Johnson first ordered attacks on the North, he at least had the authority of the Tonkin Gulf resolution. And Mr. Johnson, even in the darkest hours of the 1967 Tet offensive, never embarked on the dangerous measures Mr. Nixon has now undertaken.

Today, the Tonkin Gulf resolution has been repealed and Mr. Nixon's action has no color of authority. His excuse is that the escalation is necessary to protect the 60,000 American troops who remain in Vietnam. Yet the President admitted in the same address that the 60,000 could be withdrawn safely if they were withdrawn promptly. So the excuse falls to the ground.

What, then, are the real reasons for the President's actions, actions that seem to pass the bounds of all reason?

First of all, he seems stubbornly determined to try to protect the discredited regime of President Thieu. He says we must not let our friends down. But how far is it reasonable to attempt to preserve "our friends" when the results of the recent fighting show how little popular support the Thieu regime really has? The highly trained South Vietnamese troops, well armed with American weapons and protected by overwhelming American airpower, nevertheless collapsed before the numerically inferior North Vietnamese forces.

Mr. Nixon's demeanor in his address last night suggested another, and even less worthy motive for his action: sheer anger—anger at the North Vietnamese for making a shambles of his much vaunted Vietnamization program, anger at the North Vietnamese for not accepting his peace proposals, anger at the Soviets for supporting their allies as we have supported ours, anger at the prospect of being the first American President to lose a war.

If only Mr. Nixon could rise above his personal feelings of frustration and hurt pride and rise to the heights that General De Gaulle did when he realized the French could not succeed in Algeria. De Gaulle gained stature by accepting defeat in Algeria, he did not lose stature. And the basic force that confronted France in Algeria and confronts the United States in Vietnam is the same: the overwhelming, unstoppable force of nationalism.

The most absurd aspect of the President's new position is that North Vietnam is now the only "enemy." No longer can he say as L. B. J. used to do, that the real threat is Communist China, and that if we do not stop the aggression of international communism now, we will be fighting on the beaches of Hawaii and California before long—and Nixon no longer even attempts to say that. Only Hanoi is the villain, and Hanoi is to be cruelly punished for trying to free the Vietnamese people from foreign domination. And at what a cost.

We cannot yet know the full measure of the cost. But we know it will be high—even in terms of Mr. Nixon's own dreams of improved relations with China and the Soviet Union—and it may indeed be catastrophic.

The Congress must find a way to stop this insane escalation of a hated war before it is too late. Since the President has seen fit to ignore the expressed desires of the Congress, the Congress must use what power it has, the power of the purse: the funds must be cut off.

Impeachment might also be a possibility. But in this dark hour of our Nation's history and much as I deplore the presence of Richard Nixon in the White House, I do not want to see SPIRO AGNEW in his place.

SENATOR GRAVEL ATTACKS SECRECY IN GOVERNMENT, URGES CONGRESS TO EXERCISE ITS LEGITIMATE POWER AS A CO-EQUAL BRANCH

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. MOORHEAD. Mr. Speaker, hearings by the Foreign Operations and Government Information Subcommittee on Government secrecy and the security classification system last Wednesday, May 3, produced a most eloquent and succinct statement on the broad dimensions of the problem of excessive government secrecy that has been the hallmark of the Nixon administration.

The statement, emphasizing the threat of secrecy to our representative system of government, was presented by the distinguished Senator from Alaska (Mr. GRAVEL), who has been in the forefront in the fight against secrecy-minded Executive bureaucrats.

So that all Members may be fully informed on this vital issue, I include at this point the text of Senator MIKE GRAVEL's remarks and excerpts from the colloquy of the hearing transcript.

The material follows:

HEARING TRANSCRIPT

Mr. MOORHEAD. Our next witness is the very able and outstanding Senator from Alaska, Mike Gravel.

Senator Gravel has been in the forefront in the flight against government secrecy in connection with the Pentagon Papers last summer and currently with the so-called Kissinger Papers involving the 1969 review memorandum of the National Security Council on the Vietnam War.

We are very pleased to have you with us here this afternoon, Senator.

You may proceed, sir.

TESTIMONY OF THE HON. MIKE GRAVEL, A UNITED STATES SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. Mr. Chairman, you are certainly no more pleased than I am, because I consider it an honor to come before this Committee. I think that this is the only Committee in the entire Congress that has faced up to this problem which I have now come to believe and feel very deeply is the most important problem facing our democracy today. I think the cocoon of secrecy that we have woven over the years, particularly since the Second World War, is what has permitted us to go into Vietnam, permitted us to waste not only our blood, our young people, but also to waste our economic fiber. To what degree I don't think we will ever know. I think only history can judge that.

I personally feel that our democracy is under assault, assault in a very unique way and in a very evolutionary way, and unless we can turn the tide we will lose the system of government we presently enjoy. And the single item that will be responsible for this loss of government, this great experiment at self-government here in the United States, will be secrecy itself and nothing more, noth-

ing more complex than that, because secrecy is anathema to democracy. It is that fundamental.

You can't ask people to go vote—and in our society the person who votes is supposed to be the final word—when secrecy prevails. It is a government of the people, by the people, for the people, so they have to give the final word. Quite obviously they can't vote intelligently or exercise their franchise with any efficacy if they don't know what they are voting about, and that depends upon the amount of knowledge they have.

Now, if that knowledge is spoon fed to them so they will arrive at preconceived conclusions, then obviously you develop a type of government that becomes first an autocracy and from there a dictatorship.

When I read the Pentagon Papers I came to a very different conclusion than has normally been reported in the press. The conclusion I came to was that Harry Truman, who I admire greatly, Dwight Eisenhower, the great paternal figure of our society, Jack Kennedy, Lyndon Johnson and Richard Nixon, all of these Presidents who were party to the mistake of Vietnam, were not evil men, they were the best that our society could produce.

But I have asked what went wrong, and the Pentagon Papers are a classic in pointing out what went wrong. All of these great men were human beings and subject to the cliche we all know, and that is that power corrupts, and absolute power corrupts absolutely, regardless of the quality of the individual, whether good or bad. And that is exactly what happened, and it is the story of the Pentagon Papers and decision making over the last 25 years with respect to our participation in Southeast Asia.

American people were not privy to the decision-making process and what information they were privy to was digested and spoon fed to them so they would reach a preconceived conclusion.

Obviously we can't survive following that course in the foreign affairs area. We have other areas of our society that are in similar danger. The energy area is also shrouded in the cocoon of secrecy with respect to the peaceful use of the atom. This is wrong.

We see a broad cynicism and a frustration in the American people that at this point in history knows no bounds. The only way to bring these people into participation is to inform them and let them share, share in the decision-making process.

How can they agree or disagree with the President if they don't know what he is doing? How can they agree or disagree with me as a Senator or you as a Congressman if they don't know what we are doing? If we can do something shrouded under the cloak of secrecy then they can't give their approbation or disapprobation.

Mr. Chairman, there are generally two arguments made for the need of secrecy. One is that we need secrecy to conduct our foreign policy and, two, we need secrecy to conduct our activities relating to our national defense.

Taking the latter matter first. The Congress in its wisdom saw fit to pass the Freedom of Information Act in 1966. In fact it was a distinguished member of the House who carried the day for that legislation, Congressman Moss. That legislation had one exclusion and it is tragic that that exclusion was accepted and tolerated by the Congress. Because what it said was: It is important for you Americans to know what goes on in the Interior Department, Commerce Department, FCC, CAB, but when it comes to knowing something about activities related to our defense, you have no right to know about that, it is too important for you to find out about.

What greater paternalism can exist than for an elected official to say that this is too important for you to know what is going on—we will tell you what is going on, you trust us.

Of course, that is exactly the situation we have had in our defense posture since the Second World War, and it is only in the last three years we have had any criticism at all of the untold wealth that has been spent on that defense posture.

We have spent over a trillion dollars since the Second World War with little or no criticism from the Congress and no criticism at all from the American public, who are supposed to be the beneficiaries of this trillion dollars which has been spent.

Well, I submit that the very old cliche of Clemenceau in the First World War that war was too serious a matter to be left in the hands of generals and admirals should be altered to say that the survival of mankind, because of our technological ability to destroy, is too serious a matter to be left in the hands of the elected politicians. And I consider myself an elected politician, so I do not say that with decision. I simply say it with the recognition of the fact I am a human being and I can err, and one of the things that stops me from erring is the discipline forced upon me by my constituents when they know what I am doing. I think that is a vital principle that we have to adhere to.

There is some need for secrecy. There is a need for secrecy in what we call order of battle information, OB.

If I as a member of Congress, on the floor of the Senate or in a speech in a committee, were to release the schedule of the picket duty of our Polaris submarines in the Pacific, I think that would be treasonous, because I think any normal person would realize that would place us in a danger. It doesn't take a four star general to realize that would be treasonous, that would be wrong. But the decision to order that submarine to unload its payload on some target in the Soviet Union is a political decision, and that is a decision that should not be made in secret, and that is a decision that should be made in dialogue with and under the scrutiny of the American people because it will involve the lives of every single American if that decision is made.

So there is the uniqueness of the activities related to national defense. At one level, at a lower level, we need secrecy: but at a higher level we should not have secrecy because that involves the implementation of much of the information that is held secret.

That, in my opinion, suffices with respect to the argument on national defense.

With respect to the argument on foreign policy, if the President of the United States, as he has done, travels to Peking, I think it is proper and will always be that way that his discussions will be private. Privacy has to be respected in the individual case; it involves our personal freedom, and it has to be respected.

Privacy is needed. And so Richard Nixon was entitled to as much privacy as anybody in talking with Mao Tse-tung and Chou En-lai, but if he arrived at an agreement that binds this country to anything, that agreement should be made public because it involves public policy. It should be made public for the very simple reason that we have to be able to say "Mr. President, we either agree or disagree." If we don't know the deal that was cut or agreement made, how can we agree or disagree? We have no way of doing this.

When it comes to the exercise of foreign policy, our ambassadors and the President are entitled to their normal privacy as individuals, but if they make an agreement that binds this government it should be open to public scrutiny.

Mr. Moorhead. That is what the Founding Fathers intended when they required treaty ratification by the other body.

Senator Gravel. No question at all. In fact our Founding Fathers even underscored it more heavily than that. They instituted the Congress as the adversary to the executive. They were afraid of the state. The pattern of development at that point in history would have been a parliamentary system, but they feared a parliamentary system because they feared the legislative arm would succumb to the executive arm. So they set up adversaries.

Forces have since taken over our society, have taken over both the executive and the Congress, and we have succumbed to the executive in any case, and we no longer act as adversaries.

I have been fighting this battle in the Senate with respect to our duty as legislators, and in most cases I think that is a secondary duty. Our first duty as elected officials is to be a conduit of information to the people who elect us. How can they meet their responsibilities without being informed? We have that job.

The members of the Fourth Estate, the press, have this job, but we have it equally as much as they do.

The other facet of the foreign policy argument is that we need secrecy because some of the countries we are dealing with do not want their people to know what is going on. I take a very simple view, and that is if my country, the leadership of my country, is cutting a deal with the leadership of another country, and that other country doesn't want its people to know what is going on, then I don't think my country should be cutting those kinds of deals with those kinds of people. I believe in self determination, and a lot of Americans have died for this principle of self determination for other nations, and if the people in this country can't have the right of self determination to approve or disapprove what their leaders are doing, then I don't think we should be making secret deals with those leaders. I think if we would change our foreign policy and didn't do that we would have an interesting occurrence; many of our present friends in the world—most of them outside of Western Europe—are dictators. The reason why we clutch these dictators to our bosom is because it is so easy to make secret deals with them.

They offer stability that many of the nations in the Third World do not offer, and I think if we would adhere to the principle in our foreign policy of not tolerating secrets, we would see our nation revector its foreign policy and attach itself to the countries we should be attaching ourselves to, to the democracies.

I could go through many examples of what has happened with secrecy. I think the most insulting, and one that was approved by the courts, was the recent Amchitka case where we detonated a five megaton bomb in Alaska. What the Defense Department and the AEC did was really a conspiracy of the vilest sorts. They took the environmental statements that had nothing to do with detonation of the bomb, and took a folder like this and put the environmental statements in between the folder and closed the folder and marked it secret and said, "We can't give it to you."

How idiotic to expect that the environmental consequences to my state have anything to do with the national defense posture. It was an insult.

What was even more insulting was that 35 members of the Congress had the guts to go to court and sue to get this material and were denied it. Members of the House of Representatives, who control the lifeblood of the AEC, were not permitted to see what the AEC was doing. In other words, the House could turn around and vote the funds out of existence and these people wouldn't live. They voted the funds and asked them what is going on and they can't be told what is going on.

To what depths have we fallen in this democracy that we in the Congress sit back like school children until somebody tells us what to do?

I have just released these papers, NSSM–1, to my colleagues. I have received a number

of letters from my colleagues saying they don't want to read it. In fact one senator from a very large state sent me back a note saying, As soon as I opened this up I immediately saw it was classified information, I closed it and I am sending it back to you, Mike, because I won't read it until somebody gives me the authority to read it.

What is that senator saying? That senator is saying there must be somebody up on high that tells us what we are supposed to do.

Congressman Moorhead, you and I and all of the members of the House and all of the members of the Senate, together with the President and the Vice President, are the people who are supposed to run this country. Everybody else is appointed as a result of our power. So if some members of the Senate feel that they have no authority to inform themselves, think to what level they have elevated this classification of documents—to the point of worship, to the point that they have abandoned their total authority to somebody who has a rubber stamp, who has an ink pad and puts a stamp on a piece of paper. How totally tragic.

If that were the case, when I was 23 years old I had more power than you, sir, and than I hold today, because when I was 23 years old I was a top secret control officer in a counter-intelligence corps, I had safes full of classified documents and I classified documents top secret. According to some senators they wouldn't be able to read my material. I would have been more powerful at 23 years old as a bright, spanking, bushy-eyed Second Lieutenant than I am today as a U.S. Senator. And that is exactly where a good number of my colleagues in the Senate stand today.

Cowering under the fear, thinking that some smart person or some idiot hidden somewhere in the crevices of our bureaucratic system can tell them what they can or cannot read. It is idiotic. In fact, it is shameful, and we should cry over it, because this nation has had a policy that has gone wild, that has cost us human lives and cost us our wealth. And the reason why it has gone wrong is that the people have not had a grip on it. And I think what you have been working for, and what I have been working for, is to return the government to the people. We are not saying this as a cliche. We are proposing a concrete method of how to do it, and that is to rip down the shroud of secrecy, let the people in, let them see what is going on in their government.

It may be uncomfortable for you and me on occasion, but I am willing to risk that discomfiture for the great decision making that will take place. The people in this country won't be right 100 percent of the time, and that is why a lot of leaders say we can't trust the people. They might make a mistake. I would rather trust to the mistakes of the people than trust to the mistakes of the elected leadership of the country, because we have seen those mistakes, and we have seen what happened. I think we have to go back to the people.

Mr. Chairman, I have gone afield from my prepared statement and I would like to ask that it be inserted in the record at this point. I close by underscoring the fact that when we tolerate secrecy we abrogate the most important check and balance of our system, the check and balance that was brought to us by the genius of our Founding Fathers. Our Founding Fathers weren't all that great. They didn't have the perspicacity and intelligence to recognize the existence of women or black people. But they did have the great sensitivity to recognize the abuse of power, and they were able to define the use of power and protect from the excesses of power, and this they did by setting up checks and balances.

I think our task is to return to that system of checks and balances, and the best way of all is, of course, to let the people share in our democratic process.

Thank you, Mr. Chairman.

Mr. MOORHEAD. Thank you. I am also rather glad that you departed from it because I think that the statement we have just heard is not only the most eloquent that has been presented to this Subcommittee, it is the most eloquent that I have heard in any Committee or any place I have heard statements made.

I think really the people of Alaska are very fortunate to have you as their Senator speaking up for their rights and I think that the people of our country are very fortunate to have you as the champion of the people's right to know. I just can't tell you how much I appreciate your statement, sir.

Senator GRAVEL. Thank you, Mr. Chairman.

Mr. MOORHEAD. I do believe that we are getting away from the fundamental proposition of Abraham Lincoln, that of government of, by and for the people. If the people don't have information about what their government is doing in their name, it can't be government of the people; if the people don't have information it can't be government by the people, and pretty soon it isn't going to be government for the people. So that you are hitting right on target and I certainly congratulate you on this statement.

Most of our hearings this week have been on the subject of classification. Later, we are going to get into the subject of Executive privilege. In your prepared statement you say if the excesses of government classification are outlandish, the abuses of Executive privilege are outrageous. Then you point out that they act without the discipline of Congressional review, the benefit of Congressional advice, or the need for legislative enforcement.

Do you have any other comments or personal experiences on this subject that you would like to share with the Subcommittee?

Senator GRAVEL. I think the experience of all of us is very extensive with respect to Dr. Kissinger, who is essentially operating as the Secretary of State in the conduct of foreign affairs the Congress as a result of this is prevented from making inquiries into the activities of foreign policy, and there is no question there is a propensity on the part of the Chief Executive to exercise foreign policy from his perspective.

I would only hope that Chief Executives, and that hasn't been the pattern in the past, would recognize the benefit to foreign policy to go through the painful criticism generated by the Congress and by specialists throughout the country, both in and out of the academic community. But all of that is precluded when we can't even in our official constitutional roles ask questions to the people who are doing it; we can't ask the President and we can't ask the people who are effecting it for the President.

Mr. MOORHEAD. Even in the field of settlement of antitrust cases we seem to have the Justice Department out of the picture and the White House handling it.

Senator GRAVEL. It is an unbelievable practice, and I think that certainly the Executive is most at fault. I think we in the Congress are partially at fault ourselves. I think it is part of human nature that when you become part of the establishment, which we are, you find easy ways to protect your actions. One of them, of course, is an extensive view of our privacy or Executive privilege, but the Chief Executive abuses it most particularly in the conduct of foreign affairs.

Mr. MOORHEAD. There have been an exchange of letters between Presidents Kennedy, Johnson and Nixon with my able predecessor in the Chair, Congressman John E. Moss of California. I would like to submit these letters to you for your thoughts. Sometime you may want to provide for the hearing record. Your thoughts as to whether these letters would form a basis for some legislative action which the Congress might take, as suggested in your testimony, to codify or legislate the idea of Executive privilege.

Senator GRAVEL. I would be happy to study these letters with you, and I am sure they will add to my knowledge. I deeply appreciate it.

Mr. MOORHEAD. I was intrigued by your reference to the famous Lord Acton quotation that "power corrupts and absolute power corrupts absolutely." That is the situation today. We don't have shared powers—shared by the Executive with the Congress, and shared with the people. I think if Executive power were shared with the Congress it would end up being shared by the people because the Congress, particularly Members on our side of the Capitol, have to be very close to the people or we will no longer be their representatives in Congress.

Senator GRAVEL. Well, because of our role as conduits of information, that is one of the reasons why the Executive doesn't give information to the members of Congress: they don't trust us. We are considered blabber mouths, and we are, and we are supposed to be.

That is, our task is to inform our constituents so that we can either seek answers or seek the benefits of their criticism, and, of course, that is the reason why the Congress has been insulted by the Executive. They know what should be done and they obviously know what the people should be told.

We see this in many activities of government. The PR approach.

I will give you one example which I felt was very difficult to criticize. I was invited to a military briefing in Colorado by the Air Force. They were inviting 10 or 20 of the leading citizens of Fairbanks, Alaska. Now, Fairbanks, Alaska is way up there and they were taking them down, flying them down, living very luxuriously, and briefing them on the threat to this nation. Since when is a General, one or four stars, I don't care since when is he in charge of briefing citizens in this country as to what the Communist threats are? That is our job. His job is to follow our orders as we put forth the policy for the defense of this country. His job is not to define what the threat is to this country. We are able to do that. But that is not what goes on. Millions of dollars are being spent in PR fashion for the military to instruct civilian elements of our communities as to what the threat is. So I get a letter from one of my constituents asking me, Senator Gravel, why weren't you there to get briefed by this General. What he told us was really great stuff. We have got a real problem in this world with the communists.

Senator GRAVEL. Can you imagine any group of Senators getting together, Congressman, and calling over a General so the General can tell us what the skinny is on how we are threatened by the Communists?

That is the scenario that develops, and I think there are reasons for great concern. That trip cost a lot of money. I don't begrudge constituents in Alaska taking a great trip from Fairbanks to Colorado. I would love to fund the money to have them all from Alaska move around the United States, but if we are talking about the number of dollars that we have and the best use of those dollars, I must say that I don't think that that is a good expenditure of money for my people in Alaska.

Mr. MOORHEAD. You wouldn't begrudge it if it were people from my state of Pennsylvania?

Senator GRAVEL. I think you yourself may have priorities other than paying for your constituents to travel to Alaska to see my military bases. We may have housing for our poor people. We might want to make more money available for more education. But that is just the type of errosion that takes place in our prerogatives, and we let it happen.

I am not critical of the Executive because they have stolen anything from us. They didn't steal anything from us, we gave it to

them. We gave it to them in the laws—in the laws that we passed and the laws that we didn't pass. And I think that what is at hand in your activities is to take back some of these prerogatives. Let them classify what they want for their use—that is privacy. We in the Congress can classify what we want for our use. I would hope in both cases we would keep it to a minimum. But if the press gets hold of some of their secrets and some of our secrets and thinks it should get out to the American people, then I applaud the press for that.

I can't help but draw the comparison: we had a Pulitzer Prize for the New York Times and Pultizer Prize for Jack Anderson, and I didn't get any Pultizer Prize for what I did. I am a little jealous. But I think what has been noted here with these Pultizer Prizes is that these people in the fourth estate have done a great service to our democracy, and I think that that is the job of the media, rather than sitting around playing pinochle waiting for something to happen. They should be clawing at us all the time trying to find out what we are doing and then evaluating what we do, right or wrong.

Mr. MOORHEAD. I remember Speaker Rayburn always said "never overestimate the amount of information the people have, but never underestimate their intelligence." But, of course, you have to have some information on which your intelligence can work.

One thing that has come up on several occasions in these hearings is what I will call either the power of the Congress to declassify documents classified by the Executive or, phrasing it another way, is the executive department's classification stamp on a document merely advisory to the Congress and not binding at all on us?

Senator GRAVEL. No question it is advisory. If I see a document that is classified top secret and I don't think it is top secret information, I shouldn't be bound by that stamp on that piece of paper for one second.

I posed a question in dialogue on the Senate floor with one of my colleagues, who takes a very radically different view than I. I posed the question this way:

Supposing in your state there was a camp, a piece of ground one hundred acres or so, surrounded by a barbed wire fence and inside of the camp they killed people and had ovens, and they would cook the remains of those people. Now suppose the existence of that camp were classified top secret. I asked the senator if he would feel compelled morally to release this information to the American people if that document fell in to your possession? He couldn't answer that question because he felt that he had a greater obligation to the classification of secrecy than to the immorality of the dastardly act. And how can we as Americans looking back at the people who lived in Munich, not 40 kilometers from Dachau, say, Why didn't you gentlemen do something about what was going on there? Some of you had to know about it. And, of course, some Germans did know about it. But obviously the existence of Dachau was a top secret in Germany. But now we look upon them, we look down our nose at them and say why didn't you have the moral fiber to stand up and make it public. Of course nobody did because they lived in fear, because they obeyed and worshipped the false God of secrecy; and we do the same thing.

If I released to any American a document that had had top secret on it, something would happen emotionally to us. Somebody has a secret. And we feel bound by it. The classification is, as so ably stated by Mr. Florence, a routing, it is a determination, it is an inhouse determination, and it is used excessively inhouse. Much too compulsively. That is why I think our role in legislation can be to, one, contract the perimeters of where it is used, either in the Congress or in the Executive, because it is excessively used in both places. In that contracted area we should then establish the rules where we can declassify if we choose.

Now, I take an extreme position and I don't know if we will be able to get the Congress to go along with the whole of it. I think each member when he is elected to office should respond to his own conscience as to what should be made public and what not. Maybe our colleagues will come to that point and, if so, then the law that should be passed will be very small indeed. You won't need a great deal of pages to give that kind of license, to set out where we draw the line.

Well, right now we are silly enough to draw the line on the other side of ourselves and leave two hundred thousand people out there to decide what you and I are going to find out, and we are supposed to run the country. I think the line should be drawn on this side, and that we should reserve this right. If you and I in the depths of our conscience feel the American people should know something, we should be entitled to tell the American people.

There have been a couple cases in history, for example, the Sandy case in Britain, right during the Second World War. A member of the Parliament, House of Commons, released the air defense of Britain. This was before the blitz. This is a very serious thing. He wasn't castigated by the Parliament and he wasn't sent to jail, because he was defended by none other than Winston Churchill and Clement Atlee. They felt the risks involved must be taken if you are to have a real democracy. And obviously this person didn't mean to do any harm.

We have an example in the United States. Burton K. Wheeler, just prior to Pearl Harbor, released a whole bunch of information related to our air force. Actually, the low quality of our air force. A person could say as a result of this the Japanese probably felt more secure in their plan to attack us. Nothing happened to Burton Wheeler because Pearl Harbor happened shortly thereafter and his actions were totally justified.

I look at the Espionage Act and I think this Espionage Act goes just far enough. The Espionage Act states very clearly that if you give out information—it doesn't talk of secret, top secret and confidential—it says information that you think will injure your country, obviously you are being a traitor. But if *you* give out information that *he* thinks will injure the country, but *you* think will help the country, then why should we do anything to you? You are acting in good conscience, doing what you think you should be doing. If the 537 people who are elected to run this country have not been vested with that power and that responsibility; then what do we vest our elected officials with?

So I think that in the final analysis any law we pass should leave it up to the individual elected person.

Senator Goldwater, the day after I released the Pentagon Papers, made a statement which I think was a very unfortunate statement. That was that I should have my top secret clearance removed. Now, this goes to the heart of the matter of what we are talking about. We are going to write a law and we are going to say what you can release and what you can't release. Now what we are saying is that it is the Congress that permits you to have the power that you have, and that is not so. It is not the Congress. It is the people who elected you to office, Mr. Chairman, that gave you the power. Not your colleagues in the House.

It is the people who elected me to the Senate in Alaska that have given me my top secret clearance, not the FBI or not my colleagues in the Senate. They have no right to sit and make a judgment as to what I can communicate to my constituents, right or wrong. That judgment must rest with me as an elected official and it must rest with each one of our elected officials.

That is a Constitutional responsibility we have. And as soon as we try to abrogate this right by defining it we are going to find ourselves in a maze we can't get out of. Because you may look at a document, you may look at a piece of information and say it is secret, and I may look at it and say I don't think it is secret. How do we recognize the difference? We try to reconcile it by establishing a law. But what will happen, that law will be used to protect not the secret but will be used to protect our egos, our incompetence.

That is what happened in the Executive. Secrecy is not used to protect our national defense posture, it is used to protect the egos of public officials, and with that act you sow the seeds of our own destruction. So if there is a risk, and there is, there is a risk you are going to elect some idiot to high office and he is going to do some bad things. But you know something? We have been living under that risk ever since this nation was founded, and we have had our share of idiots in high office that have done bad things, and we have paid a price for that, and we are going to continue to pay a price for that, but that is exactly the problem of representative government.

We can't solve that problem. All we can do is hope that the quality of people that are being represented improves so that they can improve the quality of the people they choose to represent them. And that is the evolutionary process. We can't legislate good. We can only hope that good will come about in the climate that we provide. You can't legislate to keep secrecy because it is a subjective determination. So all you can do is hope that the judgment exercised by the people who hold high office will be a good judgment. What you can do is hope in a democracy; the minute you try to force you don't have a democracy anymore.

BILL OF RIGHTS FOR LAKE MICHIGAN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DINGELL. Mr. Speaker, the year to date has not provided a great deal of encouragement to those of us especially concerned about protecting and revitalizing our environment. First, there was the decision by the administration to reject a program recommended by the Environmental Protection Agency which would have made saving the Great Lakes a national priority. Then, when the President delivered his environmental message to Congress, there was not even a mention of the Great Lakes. The antipollution agreement the President signed with Canada not long ago was a step forward, but it did not go far enough. The same can be said for the Water Pollution Control Act passed by Congress—it could have been and should have been tougher.

There is a gap developing—between what Government says it will do about pollution and cleaning up the Great Lakes and what Government actually is doing about it. In the State of Illinois, there is a movement underway to close that gap. State Representative Robert Mann of Chicago has proposed a bill of rights for Lake Michigan, a bill of rights that would protect the lake and its adjoining shoreline and prevent it from

becoming a dead sea like Lake Erie. It is an unprecedented proposal, a comprehensive proposal that may set an example for the rest of the Nation, especially those other States that share the wealth of Lake Michigan.

On May 1, 1972, my colleague from Illinois, Congressman ABNER J. MIKVA, testified in support of Representative Mann's bill. His testimony indicates the scope of the problem and how the bill of rights will help solve it. Congressman MIKVA lives less than half a mile from Lake Michigan—in Evanston—and the welfare of the lake and our environment has been of special concern to him for 20 years. I commend his testimony to my colleagues and include it at this point in the RECORD:

TESTIMONY OF CONGRESSMAN ABNER J. MIKVA

Mr. Chairman, it is a special privilege to appear before this Subcommittee of the Illinois Senate this afternoon, and I would like to thank you for giving me the opportunity to testify. Having been a member of the state legislature for 10 years before going to Congress, I can appreciate the time and effort that must go into these hearings, and I know the members of the Subcommittee appreciate the importance of public hearings. By holding them in Chicago, you are providing a vital public service, because what is at stake here is a vital public resource: Lake Michigan. When it comes to saving the Lake—and we are at a point where we either will save it now or we will lose it permanently—the proposals must be real, not rhetorical.

I support the Bill of Rights for Lake Michigan. Its medicine is strong, but very necessary. Let me tell you why. The United States is the most technologically-advanced country in the world, and it is the most prosperous. Chicago on Lake Michigan is a symbol of that prosperity. The business, the industry, the people living together—it's all here. But that prosperity has not come without a price. In the process of developing industry and bringing people together in the cities, we have come perilously close to destroying the environment.

Consider this: in the most prosperous and technologically-advanced country in the world, there is a river so contaminated with volatile industrial discharges and chemicals that it is a fire hazard. There is a lake, one of the Great Lakes, that has become a dead sea—fit only for the scavenger fish, sludge worms and algae which seem to thrive on municipal and industrial waste. What has happened to Lake Erie has not happened to Lake Michigan—yet. But the death watch has started, and unless we can do something to stop the inexorable process of pollution and decay, Lake Michigan also will become a dead sea where there is no swimming, no recreation, no life.

Today and at its next hearing, the Subcommittee will hear a great deal of testimony about what is happening to Lake Michigan. The scientists and environmental experts will come to talk about eutrophication and bacterial growth and Biochemical Oxygen Demand (BOD) and water turbidity.

I am here neither as a scientist nor an environmental expert, but I live less than a mile from Lake Michigan in Evanston, and I can see what is happening to it. My neighbors can see it, and so can yours. They are beginning to realize something: Lake Michigan is being poisoned. Slowly but surely, it is dying—losing its oxygen and vitality—and slowly but surely, the quality of life for the millions of people who live around the Lake is deteriorating.

When municipal and industrial waste is dumped into the Lake, it begins to decay and steals oxygen from the water. The process occurs with such intensity that, in effect, Lake Michigan is being strangled. U.S. Steel, the North Shore Sanitary District, Abbott Labs—every industry and every municipality that dumps something into the Lake helps pull the noose a bit tighter. The results should not be surprising. Every year, more beaches are closed because there is too much bacteria in the water. Every month, the water is stained and fouled with some new strain of pollutant and more sewage and, every day, the Lake yields a bit more of its life to the pollution of progress.

Five hundred years from now, historians probably will find it rather ironic. In the cities of medieval Europe, the people dumped human waste and garbage into the streets. We have come a long way in the last four centuries. Now, we dump it into the Lake. The last few years have seen the beginning of a new national consciousness of the problems of the environment. Despite that however, we are losing ground in the battle against pollution. Lake Michigan is dirtier today than it was five years ago. We still are spending more time and money polluting the Lake than we are spending to revitalize it. We must change that. We must begin to repay our debt to the environment—a debt that compounds with every gallon of sewage and waste dumped into Lake Michigan, a debt that threatens the very quality of our lives. Enacting the Lake Michigan Bill of Rights can be the first installment on that debt. And we will continue to owe a debt to Rep. Robert Mann for his leadership and for promoting the Bill of Rights for the Lake.

For the very real threats that face the Lake and its adjoining land, the Bill of Rights has some very real proposals. After all the pollution conferences and hearings, after all the special programs, the one thing Lake Michigan has not had is a total and unequivocal commitment to clean water. The Bill of Rights provides that commitment in no uncertain terms: "The state of Illinois should be at the forefront of the effort to enhance and maintain a high standard of water quality for all of Lake Michigan" (sec. 3 F). It is a commitment that our neighboring states, industry, municipalities, and even the federal government have failed to make. The state of Illinois must take the bold action necessary to save the lake if only because no one else is.

The failure of our society and our government to face up to the problem of pollution is a sad and troubling story. Late last year, for instance, the Administration turned down a $141.3 million request from the Environmental Protection Agency to assign "national priority" to the fight against pollution in the Great Lakes. In his recent environmental message, the President did not even mention Lake Michigan or the other Great Lakes and, just a month ago, the House of Representatives passed a new Water Pollution Control Act which carries some strong provisions, but stops short of that total commitment. With the Lake Michigan Bill of Rights, the state legislature has an opportunity to fill a "credbility gap," a gap between what government says it will do about pollution and what government actually does about it.

Ironically, another threat to Lake Michigan lies in the very number of agencies and programs—local, state and federal—that are supposed to attack water pollution. There are so many standards and so many areas of overlapping responsibility and jurisdiction that we end up with a piecemeal approach. Pollution becomes a thousand separate incidents instead of the one very menacing threat that it is. Each separate incident, each violation, does not seem much when taken alone. But they add up, and they will eventually overwhelm a system that concentrates on the parts instead of the whole. The Bill of Rights provides the anti-pollution umbrella that we have needed for so long.

It treats Lake Michigan and its adjoining shoreland and waterways as a "comprehensive natural resource unit which must be considered from a total environmental perspective" (sec. 3D). That approach has never been tried before. The Bill of Rights proposes a total waste management program that looks at the whole and not just at the individual parts. It almost does away with the need for conflicting standards because it forbids the pollution of Lake Michigan (sec. 4C). The idea is not complicated, and perhaps that is why we have overlooked it for so long.

The Bill of Rights deals with the current problems of Lake Michigan, but it also prepares for the future. Unlike most of the present anti-pollution programs, it is much more than treatment—it provides for prevention. That is especially important in view of the "plans" for a major airport in Lake Michigan. I am convinced that would seal the ecological fate of the Lake, and the Bill of Rights makes it clear that approval for such a project would not be possible. In one section (4E), it requires the consent of the city government, the state legislature, and the governor for any "impoundments or fill of the waters of Lake Michigan." The value of Lake Michigan as a natural resource extends far beyond the city limits, the county line, or even the state line. The Bill of Rights insures that no one can tamper with it unless it is in the people's interest.

That is another intriguing aspect of the Bill of Rights. It is not just a Bill of Rights for the Lake, but a Bill of Rights for the people who live around it, for our children who will raise their families around it.

The commission that drafted the Bill carried the name "Lake Michigan and Adjoining Land Study Commission." "Adjoining Land"—even the title conveys the notion that it will do little good to save the Lake, if the people cannot get to it and enjoy it. The Bill of Rights, in section 4 and 5, protects that right of the people for the first time, declaring "the highest and best use of the land abutting on Lake Michigan in Illinois is declared to be for open space, park and recreation purposes."

This part of the bill is especially timely because, in the last few months, there has been a great deal of controversy about building along Lake Michigan. Whether it is for a high-rise apartment or a sports stadium, the land along the Lake is prime land. It is a natural tendency to want to "develop" it, I suppose, in the finest Chicago tradition of building. But that takes us back to something I mentioned earlier about the cost of progress and development. We can have industrial and commercial wealth and environmental wealth, as well, in many instances—as long as industry and government try to stop pollution and clean up what we have spoiled. But there are times when we cannot have both, when the expansion of commerce and industry can be had only at the expense of the environment and the people's well-being. In "developing" the lakefront, we are faced with such a choice: more prosperity or a better environment. We cannot have both this time, and I think it is clear which one we must choose. The Bill of Rights will help us.

The Bill of Rights brings some other new concepts to the field of water pollution control. It is going to keep us all honest. No longer will a municipality or an industry be able to say it is going to do something about pollution and then forget to do it. Our track record has not been good in this respect but, with the Bill of Rights, it will have to change. The development of the Illinois Central air rights in Chicago is a good example of that. 35-thousand people are going to be living there some day, and there is not going to be much more than a postage stamp's worth of park space and open land for them. There was supposed to be 144 acres of open land,

but somehow it became deferred and brushed aside. The building and construction is not being deferred, of course. With a Bill of Rights for Lake Michigan and the people who live around it, that would not happen.

For the last few minutes, we have talked about the threat of pollution to Lake Michigan and how the Bill of Rights can help prevent it from being fatal. There are many other aspects of the problem that deserve attention—priorities, for example, and how it ought to be more important to save the Lake than to build a cross-town expressway—but other witnesses no doubt will cover that area. I would like to conclude by emphasizing how important I think the Bill of Rights is—so important that it may represent our last clear chance to save Lake Michigan.

You might be interested in something President Nixon said in his 1971 environmental message to Congress:

"As our nation comes to grips with our environmental problems, we will find that difficult choices have to be made, that substantial costs have to be met, and that sacrifices have to be made. Environmental quality cannot be achieved cheaply or easily. But, I believe the American people are ready to do what is necessary."

That was well put, and I think all of us would agree that the American people are ready to do what is necessary. But it seems that the federal government and many of our industries and municipalities are not quite ready yet. That leaves the state of Illinois.

If this state is not willing to help make those difficult choices and sacrifices now, if the state legislature is not willing to make a total commitment to saving Lake Michigan, then it will not make much difference what we decide to do 10 years from now. By then, I'm afraid, it may be too late. By then, Lake Michigan will be a dead sea, and it will have died a long and lingering death—from an illness that might have been cured had it not been for the indifference and inactivity of the people and the public officials in a position to help. That is the prospect that faces us, and that is the reason the Lake Michigan Bill of Rights should be enacted.

Last week, the U.S. Supreme Court handed down a significant decision in the case of *Sierra Club* v. *Morton*. The Club had sued the Department of the Interior to stop what many of us consider the environmentally disastrous "development" of the Mineral King Valley area of California's Sierra Nevada Mountains by Walt Disney Enterprises. The court ruled in favor of the government, deciding that the Club did not have "legal standing" to file the suit. In his dissent, Mr. Justice Douglas offered a new approach to legal protection of the environment and I think it's appropriate here to quote a few lines from his opinion: "The problem is to make certain that the inanimate objects, which are the very core of America's beauty, have spokesmen before they are destroyed. The voice of the inanimate object, therefore, should not be stilled."

The Bill of Rights will give Lake Michigan a voice in the years ahead, a voice that can be heard loud and clear and clean, and we will all be the better for it.

Thank you.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 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?

RESPONSIBILITY OF EDUCATORS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DUNCAN. Mr. Speaker, the ability to influence our young people is a most marvelous gift. At the same time, this ability carries with it an awesome responsibility.

At the universty level, professors have the responsibility to instill in our young people that ours is a society of law. While our laws are made by men, no man is above the law.

Professors and administrators who, by their words and actions, fail to convey this basic democratic principle to our youth have surely earned the contempt of a society governed by law.

The following article which appeared in the Knoxville News-Sentinel on May 2, 1972, discusses the responsibility our educators have to the youth of this Nation:

"I'M THE LAW" VIEWS HURT EDUCATION

(By Henry J. Taylor)

When Professor Leslie A. Fiedler of the State University at Buffalo was arrested and convicted some time ago, City Judge H. Buswell Roberts called a spade a spade.

In sentencing Fiedler and his wife Margaret for maintaining premises (their campus house) where marijuana was used, Judge Roberts said to the professor:

"You have the minds of thousands of young people in your care. They look to you for example. This gives you great influence. It imposes on you a special responsibility. This includes not only academic excellence but a high standard of personal conduct. What you as a professor say and do establishes for your students the norms of permissible behavior. Therefore, the penalty for the abdication of that responsibility must be severe."

Totally aside from the matter of marijuana, startled Professor Fiedler shouted that he is his own judge and mouthed all the old wheezes which proclaim, in effect, that "I am the law," that "bad laws ought to be broken," and that the violator should decide which laws are bad.

This is a root of much of the campus uproar we see in resurgence today.

OUTSIDE SOCIETY

Where has the "I am the law" element's search for institutional destruction and systematic pandering to permissiveness taken us? They have left us with the consequences against which we are struggling today.

Is the dissenting professor, youth or any other citizen who insists that the draft, the drug, the arson or other laws are unjust, immoral or inapplicable to him entitled to live by his own view? If so, by what authority?

What Italian philosopher-statesman Benedetto Croce called "the religion of liberty" is a demanding creed. And it should be obvious to all of us, as it was to Judge Roberts, that no democratic society can accommodate the claims of the Fiedler ilk.

Equally obvious, no democratic society can accept the ilk's "aristocracy of conscience" (whatever that means), "the autonomy of the individual," etc., and remain workable.

Throughout all time there have been people who serve their own convenience, or cowardice, or selfishness, or something by dressing up their own desires in the clothes of a higher cause. Yet no society of consent can live that way, and no other society would care enough about the rights of a nonconformist to consider it.

DEMOCRACY MISAPPLIED

Accepting the proposition of the Fiedlers would make concord within society impossible. The number of individual Fiedlers and groups who claim their own superior virtue would boil society as a whole into a totally unworkable, insecure mess—the name for which is anarchy.

As distinguished Eugene V. Rostow, former dean of Yale Law School, has remarked: "Even the most tolerant of societies cannot ignore indefinitely war against it waged by individuals or groups."

This country has not yet made the Fiedler breed into kings by divine right, nor are we likely to.

Moreover, while education is the jewel in the crown of democracy, a proper university is not a democratic machine.

This is not its legitimate administrative purpose nor is it a desirable or workable goal. And the academic infatuation with the sacrosanct word democracy, along with the mistaken acceptance of that goal by university trustees and presidents, is a wellspring from which much of the muddleheadedness flows. No wonder destroyers can make monkeys out of so many of our university administrators.

MANAGEMENT IS VITAL

Certainly, nothing should be left undone that would nurture, encourage and vitalize administrative-faculty-student communications. Great improvements—badly needed—are possible in this required area.

An "ivory tower" complex is always a problem in a university or other institution. But enlightenment is one thing; authority is another.

Nothing works without management. The duty of management is to manage. University trustees and presidents have no right to follow the line of least resistance by ducking out of that duty. In organizations you find good management. You also find bad management, which should be ousted. But the need for responsible management is undeniable.

Do not underestimate national dangers from the Fiedler breed. Judge Roberts was as right as can be. This self-aggrandizing cabal is responsible for its share of today's threat to our educational system. And the muddleheaded among our university administrators must take the blame.

END THE WAR NOW

HON. BERTRAM L. PODELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. PODELL. Mr. Speaker, our worst fears have now become reality. Now, instead of just accidentally hitting Russian and Chinese ships, we are hitting those ships on purpose. When will this madness end?

This Congress can create a quarter of a trillion dollar budget; this Congress can establish programs calling for massive social change; this Congress can take 25 to 75 percent of a person's income; why is this Congress unable to end the war?

A few weeks ago, I pleaded for an end to the war. The statement was prophetic. The "tomorrow" of that statement is today—we have no choice but to end the war.

Mr. Speaker, I respectfully offer my remarks of April 18, 1972, to this body for reentry into the RECORD, in the hope that we shall finally vote for peace; as follows:

Mr. PODELL. Mr. Speaker, for some time, we have all known that the President was taking his time getting us out of Indochina. With one excuse after another, Mr. Nixon has been proceeding with a now familiar routine of procrastination.

Several weeks ago, I along with several of my colleagues, introduced a final end-the-war bill. That bill would terminate funds for all military operations and bombing in Indochina and do so immediately.

At the time the end-the-war bill was introduced, we were told it was not necessary. None of us can believe that now.

We woke up yesterday to read that U.S. forces bombed Hanoi and Haiphong. The end-the-war bill then became a necessity for peace and the eventual freedom of our POWs.

We woke up this morning and read that four Russian ships were hit by U.S. bombs. The end-the-war bill is even more than a necessity.

At the very height of the Cuban missile crisis—when all the world was a moment from a nuclear holocaust—not a scratch was made on Russian ships. But today, this administration has learned to swagger easily under the nuclear threat.

We may wake up tomorrow to read that there is no more choice.

We used to believe we were fighting for democracy. But Vietnam is not a democratic France overrun by the Kaiser. Vietnam is not a democratic England facing Nazi rockets. Vietnam is not a democratic Israel surrounded by petty, fanatical tyrants. Vietnam, North and South is dictatorship.

There are no moral principles in this war. Besides that, we now know from this administration's policies throughout the world—from ITT to China, from tax reform to Indochina—that morality is not its first concern.

So let us discuss the pragmatic side. In all the years the strategy of "bombing them back to the Stone Age" has been tried, it has failed. The more we bomb, it seems, the more it fails. When will Mr. Nixon learn?

Mr. Speaker, every day that the current Indochina policy continues, we wreck not only five Asian nations, but our own Nation as well.

Every bomb that falls on Hanoi rips our society apart—while it only damages their factories.

I am sure that Mr. Nixon is bent on proving that we can defeat North Vietnam. I have no doubt that in the long run we can destroy them. But in the process, we will also destroy everything that is worth fighting for in this country. We will destroy our peace, we will destroy our freedom, we will destroy our POW's, we will destroy our youth.

Mr. Speaker, the President has never called upon us to declare war in Indochina. Well, let's send him a message. Let us declare peace in Indochina.

TITLE III OF H.R. 7130

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. GIBBONS. Mr. Speaker, tomorrow we will be considering H.R. 7130, the proposed fair labor standards amendments.

A number of us in the House are deeply concerned about title III of this bill, a "sleeper" provision that is an ill-designed attempt to deal with trade issues which are under the jurisdiction of the Ways and Means Committee.

When H.R. 7130 comes to the House floor, we will seek to have title III stricken from the bill.

I know that a number of individuals and organizations have been contacting their Congressmen to alert them to the dangers of title III and to ask them to oppose this measure on the House floor.

For the record, I would like to insert a couple of the telegrams and letters of opposition to title III which have come across my desk in the past several days:

NATIONAL OFFICE MACHINE DEALERS ASSOCIATION,
Des Plaines, Ill., May 8, 1972.

MEMORANDUM TO MEMBERS OF CONGRESS

The National Office of Machine Dealers Association, an organization of 2,600 members located in all fifty States, urges you to vote against Title III of the Minimum Wage Bill, H.R. 7130, tentatively scheduled for House floor action on May 10 and 11.

The extreme protectionist and Buy American provisions of Title III would penalize federal, state, and local governmental units both in terms of availability and price. Tax dollars would be wasted and even more pressure would be placed on already strained budgets.

Enactment would also disrupt our trade relations, invite retaliation against U.S. exports, and cripple United States efforts, through negotiation, to arrive at internationally accepted standards for government procurement. Other negotiations with the aim of removing impediments to United States exports would be severely handicapped.

Another part of Title III would give the President unprecedented and unlimited authority to control imports. The President already has the authority to provide protection against injurious imports under the escape clause, the Antidumping Act, and other statutes in which the Congress has set forth appropriate standards and criteria for such action.

Passage would create substantial damage and unemployment in our industry. About 80,000 jobs created by office machine dealers would be directly affected.

We would greatly appreciate your opposition to this provision.

MICHAEL L. MCWILLIAMS,
President.

Hon. SAM M. GIBBONS,
Rayburn House Office Building,
Washington, D.C.:

This is to voice strong opposition to title III of H.R. 7130, which comes up for debate on the House floor May 10 and 11.

This title would, in effect, prevent the use of Federal funds—directly or indirectly—to produce any products in which even a single component was made outside the United States. The added cost to the American taxpayer could amount to billions of dollars over the next few years.

Furthermore this provision would defeat its intended purpose of expanding domestic employment. It would in reality jeopardize thousands of American jobs by inviting retaliation against American-made goods abroad. In turn this would diminish the Nation's opportunity to regain a favorable balance in its international trading.

We want you to know that Continental can, as a concerned corporate citizen of your district, believes this title is not in the public interest and is inconsistent with U.S. policy of negotiating non-tariff barriers.

ROBERT S. HATFIELD,
Chairman of the Board, Continental Can Co.

ST. PETERSBURG, FLA.,
May 5, 1972.

Hon. SAM M. GIBBONS,
Rayburn House Office Building, Washington, D.C.:

Title III of the minimum wage bill (H.R. 7130) would authorize the President to impose import restrictions whenever the Secretary of Labor deems that imports are impairing the health, efficiency, or the general well-being of any group of workers of the community.

Enactment of H.R. 7130 with the foreign minimum wage proviso intact would:

(1) Lead to a drastic reduction of imports if exercised by the President, since few if any countries, including those with which the U.S. has maintained strong trade relations over a number of years, have minimum wage requirements within the intent of H.R. 7130,

(2) Invite trade retaliation by those countries whose imports to the U.S. might be affected by presidential exercise of authority contained in H.R. 7130,

(3) Seriously jeopardize the current U.S. balance of payments posture, since it would degrade the ability of those nations that purchase U.S. goods to continue such purchases, to the extent that their purchasing power is a function of their ability to export goods to the U.S.

The President already has broad authority under various existing laws to regulate imports which have adverse impact on American industry. H.R. 7130 focuses solely on cost of labor as the criterion for determining whether the President should invoke its provisions, totally disregarding the host of other factors—cost of materials, skills of management, productivity, costs of capital, etc.—which are of equal impact in international trade competition.

In short, the provision of H.R. 7130 concerned with minimum wage requirements of foreign manufacturers is unwarranted, unnecessary, and potentially damaging to America's trade position in the world marketplace. Furthermore, if enacted it could place in serious jeopardy international efforts now under way to establish a code of fair and equitable public procurement practices.

I strongly urge you to vote against inclusion of the foreign minimum wage requirements contained in H.R. 7130.

R. F. MURPHY,
Vice President and General Manager, Aerospace Division, Honeywell, Inc.

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN,
Washington, D.C., May 8, 1972.

Hon. SAM M. GIBBONS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GIBBONS: H.R. 7130, if enacted, would amend the Fair Labor Standards Act by extending its coverage and by increasing the minimum wage under the Act.

The American Association of University Women is in full sympathy with these purposes and therefore supports H.R. 7130 as it was reported out of the Education and Labor Committee with one exception of Title III. We particularly applaud extension of the equal pay for equal work provision of the Act to workers employed in executive, administrative or professional capacity or in the capacity of outside salesmen.

H.R. 7130 is of particular interest to us in AAUW since a large proportion of those workers to which H.R. 7130 will apply are women. Many of the women who work at the lowest level of the wage scale act as heads of families or use their earnings to augment minimal

household budgets. It seems to us in AAUW that the provisions of Titles I and II, increasing minimum wage levels and extending coverage, will be a step in the direction of breaking the chains of the poverty which breeds illiteracy, ill health, malnutrition and crime.

The part of the bill which we oppose is Title III, Relief for Domestic Institutions and Employees Injured by Increased Imports from Low-Wage Areas. We believe this country's trade policy is a very complicated, many sided problem with economic and political implications which cannot properly be handled in a minimum wage bill. Although we support efforts to aid workers whose jobs and livelihood are threatened by imports from low wage areas, we do not believe the remedies proposed in Title III are the solution to the troubles of these workers.

Under Title III the very people H.R. 7130 is designed to help, the poor, would be denied access to the low cost imports they need. The curb on inflation imposed by competition would be eliminated. Consumers would be denied the right of choice which they now enjoy in the open market.

Under the restrictions of Title III any school which uses Federal funds under any of several federally aided education programs could be restrained from buying imported scientific equipment from abroad or even erasers from Japan! Therefore, we urge deletion of Title III and full consideration of trade policy and trade adjustment programs and problems at later date.

But we also urge immediate enactment of Titles I and II as reported from the House Education and Labor Committee and without restricting amendments.

Sincerely,

Mrs. SHERMAN ROSS,
Chairman, Legislative Program Committee.

NATIONAL COUNCIL OF FARMER COOPERATIVES,
Washington, D.C., May 5, 1972.

Hon. SAM M. GIBBONS,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: The National Council of Farmer Cooperatives is greatly concerned about the threat to American farm exports and to world trade which is posed by Title III of the proposed "Fair Labor Standards Amendment of 1971" (H.R. 7130).

The sweeping import restrictions of Title III could set off very disruptive or disastrous repercussions in our world trade patterns. While we too are concerned with unfair import competition in several of our economic sectors, we should use more sophisticated techniques for dealing with these rather than the crude sledeghammer tactics of Title III.

In the interest of American farmers and the national welfare, we urge your vigorous opposition to Title III of H.R. 7130.

Sincerely yours,

BOB HAMPTON,
Director of Marketing and International Trade.

FIRE SAFETY RECORD IN NURSING HOMES APPALLING

HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. KEATING. Mr. Speaker, I was deeply grieved upon receiving the news last Sunday morning that another nursing home fire had broken out, this time in Springfield, Ill. It was almost 10 weeks ago that a similar tragedy struck in my own congressional district, resulting in the loss of 10 lives. This most recent tragedy in Springfield provides us with yet another grim reminder that many nursing homes throughout the United States do not have adequate fire safety devices.

Altough the Carver Convalescent Center in Springfield had been provisionally certified by State fire inspectors 2 days before the fire, nine persons were killed and 32 others were injured in the blaze. I do not pretend to have any knowledge of what caused the fire. Nor am I in a position to levy the blame for this recent tragedy on any particular person or unit of government.

Nevertheless, there is one aspect about fire safety in our country's nursing homes which remains abundantly clear: The record is appalling. National Fire Protection Association records show that since 1961, there have been 34 multiple fire deaths in nursing homes in which three or more lives were lost, with an overall total of 283 deaths. This is an average of more than eight persons per fire and an average of more than three fires per year.

Moreover, even though there seem to be few reliable statistics on the number of fires in nursing homes in which one or two persons have lost their lives, the American Nursing Home Association has estimated that there may be as many as 500 single death fires in nursing homes each year.

In an effort to assure that Federal Responsibilities in these matters are met, I presented to Congress a package of three bills on February 29 of this year. This legislative program would, in essence, accomplish the following objectives:

First, it would require that intermediate care facilities, by far the most fire-prone of any class of nursing homes, meet the same fire safety standards required of extended care facilities and skilled nursing homes certified under the medicare and medicaid programs;

Second, it would authorize the Federal Housing Administration to guarantee the loan of funds to any nursing home facility for the expressed purpose of purchasing fire safety equipment; and

Third, it would require, as a condition of eligibility for the reciept of funds under section 232 of the National Housing Act and title VI of the Public Health Service Act, that nursing home facilities be in conformity with the provisions of the Life Safety Code, or that they be striving to meet the code's fire safety standards.

The time to act on these proposals is now. We cannot sit back idly and wait for tragedy to strike again. Our older Americans have been victimized by neglect for too long, and nothing less than a total commitment to their safety and well-being is needed to confront the problems of fire safety in America's nursing homes.

In closing, Mr. Speaker, it would be worthwhile to recall the words of Mr. Richard E. Stevens, director of engineering services of the National Fire Protection Association, when testifying before the House Special Studies Subcommittee of the Committee on Government Operations:

Why do facilities for the care and housing of the elderly have such a poor fire record? Fire experience in places where the elderly are housed and cared for indicates that the elderly present a special and unique fire problem. They are responsible for a significant number of fires due to the physical and mental circumstances which accompany old age. In addition, their reaction to the discovery of fire does not necessarily suggest to them the need to alert other occupants of the buildings or to save themselves. In a fire, the elderly are not only more helpless than the average person trapped by fire but they are often transfixed by the emergency, even refusing to leave their quarters and resisting efforts to remove them from the building. Having been taken out of the building, the elderly are apt to return to the burning structure.

The characteristics, which I believe are most applicable to the discussion here, have occurred time after time in fire emergencies where patients are non-ambulatory or are heavily sedated or strapped in their beds.

Mr. Speaker, I would like to insert into the RECORD at this point a newsclipping from the Washington Post, which describes in some detail known events surrounding the fire:

[From the Washington Post, Sunday, May 7, 1972]

NINE DIE IN NURSING HOME FIRE

SPRINGFIELD, ILL., May 6.—Nine persons were killed and 32 injured early today in a fire that destroyed a provisionally certified nursing home that had been checked by state fire inspectors two days earlier.

The fire broke out on the second floor of the Carver Convalescent Center and rapidly spread through the two-story frame structure. The cause was not determined at once.

Dr. Franklin Yoder, director of the Illinois Public Health Department, said the center operated on a provisional license and had facilities for 52 persons. He said 41 persons resided there at the time of the fire.

Yoder said state fire inspectors had checked the building Thursday. He said he has not seen the inspectors' report.

Spokesmen at Memorial Hosptial in Springfield reported nine persons were dead on arrival at the hospital. Eight others were treated for smoke inhalation and two persons were placed in the hospital burn unit. St. John's Hospital admitted 22 persons.

Mayor William Telford of Springfield said the fire was the "worst disaster" in terms of death in the history of Springfield.

In Washington, a presidential fire-control panel said the White House was "deeply distressed" about the fire.

The statement by the National Commission on Fire Prevention and Control said it "would like to know if the center had smoke or fire detectors in operation. We would like to know also about their evacuation plans and the condition of the wiring in the center."

DO YOU KNOW THE CAPTIVE NATIONS? WHO'S NEXT—SOUTH VIETNAM?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DERWINSKI. Mr. Speaker, this July 16 to 22 will mark the 14th observance of Captive Nations Week, which our Congress provided for in Public Law 86–90 signed by President Eisenhower in July 1959. Since the law was passed,

nothing has changed as to the basic captivity of nations and peoples in Central Europe, in the Soviet Union, Asia, and Cuba. This is a constancy of international life that we must realistically face up to. Our implosive involvements with transient domestic problems will not erase this basic fact of the world, nor will the temporary diplomatic blandishments of Moscow and Peking, the two imperialist centers of the world conceal the stark reality of one-third of humanity under totalitarian Red rule. Indeed, no amount of self-involving rhetoric and myopic activity can becloud this massive fact. As the scientist Jean Henri Fabre aptly put it, "One observation is worth a thousand theories."

WHO'S NEXT?

The real question in the minds of millions today is who is next on the long list of captive nations? Prepared by the National Captive Nations Committee in Washington, D.C., the captive nations list was published last fall in the Reader's Digest and is incorporated in the comprehensive and penetrating article written by Dr. Lev E. Dobriansky of Georgetown University on "Do You Know the Captive Nations?" The article appears in the scholarly journal on East Europe and Asian problems, The Ukrainian Quarterly. Widely known for his incisive institutionalist analyses of the U.S.S.R., Dr. Dobriansky, who also authored the Captive Nations Week resolution, advances concepts in the captive nations analysis that enable us to understand accurately and meaningfully the imperial structures in both the U.S.S.R. and Red China. On the eve of this 14th observance of Captive Nations Week, I urge every American to familiarize himself with the illuminating contents of this article:

DO YOU KNOW THE CAPTIVE NATIONS?

(By Lev E. Dobriansky)

How well do you know the captive nations? The question posed in the title of this article is surely not purely academic, but rather points to a broad field of politico-economic analysis which basically underlies the issues of our national security and graded opportunities for a more productive domestic development. With the sound historical perspective that the captive nations analysis provides and some measure of logical reflection, it is not difficult to fundamentally relate the foremost issues of our day, such as Vietnam, inflation, national priorities, the Cold War or diminution of it and so forth, to the aggregate existence of the captive nations and their exploitation by the two imperial seats of Red power, Moscow and Peking. With some imaginative thinking, one need only logically ponder the question "If there were no captive nations and the principle of national freedom were to reign from the Danube to the Pacific, particularly among the nations in the USSR and Red China, what would be the importance, scope and even the reality of some of these problems?" The answer to this question is really simple, depending on how well you know the captive nations and their exploited utility in the world designs of both Moscow and Peking.

Speaking from broad experience on this basic subject, the writer would submit that well over 75 per cent of our Americans, in high places as well as low, can scarcely recite all the dominant captive nations in Eurasia. The concept itelf seems to elude even those familiar with most of these nations. Recently, a courageous and outstanding defector from the USSR observed, "I was deeply shaken when I came here by the fact that people in the West scarcely understand the real nature of the Soviet system and of Communism as a whole." [1] Quite appropriately, Kuznetsov asks, "Are You All Deaf?" If this cultural deafness applies to our understanding of the Soviet Union alone, how much deeper is it with regard to the captive nations in the aggregate? Despite the politico-economic climate in which we find ourselves today, marked by widespread confusion as to the priorities of our national needs and requirements, it would be of salutary intellectual worth for a Gallup or Harris poll to be run on the primary question posed here. As suggested above, the results would very likely indicate the near-absence of any casual relationship between the reality of the captive nations in toto and our predominant domestic problems. Deafness can result from an exaggerated self-implosiveness, and the risks of disaster grow accordingly.

Objectively, whether we like it or not, whether we want to face it or not, the massive reality of the captive nations exists. No amount of Party disagreements between Belgrade and Moscow, Prague and Moscow, Moscow and Peking and so forth can overshadow this basic reality; nor can the grown indifference in our country and in most Western countries, similarly gripped by cultural deafness, conceal this prime reality. The Communist regimes, even in so-called progressive Yugoslavia and its recent nationalism crisis, suppress the free nationalism of the underlying populations and in varying degree exploit their economic and other resources in behalf of the different courses taken toward the attainment of world communism. If an honest and open captive nation by captive nation survey were made—as urged in the House of Representatives for over a decade by Representatives Daniel J. Flood and Edward J. Derwinski—this truth on the indomitable force of free nationalism in the Red Empire and its composite politico-economic ramifications would undoubtedly have the most salutary effects both here in the United States and behind all the curtains of the Red Empire. That is, again, if we are ready to face the truth and do what must be done in behalf of it.

FULBRIGHT AND CONSERVATIVE ELEMENTS ON CAPTIVE NATIONS

Now, if you don't know all the major captive nations, don't be disheartened by it. Simply resolve to get to know them and what they signify for our personal and national being. After all, if you were prone to ask the chairman of the Senate Foreign Relations Committee the small initial question, you would receive a very vague and misleading answer. For example, in an exchange with Senator Fulbright, the writer was confronted with this on the nature of a captive nation: "I suppose, if you want to go that far, we are holding Texas in subjection, too, because we took her from Mexico, but I do not think we want to go into that." [2] A Texan who knows the history of his area should react viscerally to this askewed comprehension. It is most interesting to witness Fulbright using the same specious argument that Khrushchev and the Russians did in 1959 after the passage of the Captive Nations Week Resolution in Congress.[3]

In effect, Texas a captive nation like Ukraine! On this score, when the truly heroic Bruce Herschensohn, director of the USIA Motion Picture and Television Service, branded Fulbright's views as "very simplistic, very naive and stupid," he was somewhat understating the case.[4] Concerning the captive nations and their strategic importance to our national security, Moscow and Peking and their respective Red associates couldn't have a better disinforming spokesman than Senator Fulbright. His article on "In Thrall to Fear" in the January 10, 1972 issue of the *New Yorker* magazine is a hallmark in pseudo-intellectual disinformation conducing to the propagandistic benefit of our prime enemy, in the Soviet Union. A gem of Fulbright's thoughts is, for example, the following: "The notion that a country is 'lost' or 'gone' when it becomes Communist is a peculiarly revealing one. How can we have 'lost' a country unless it was ours to begin with—unless it was some part of an unacknowledged American imperium?" [5] The Senator, it seems, never heard of national self-determination.

Significantly, too, in many conservative circles you'll find a dearth of knowledge regarding all the captive nations. In recent years relatively little, if anything, has appeared on the collective subject in such conservative publications as the *National Review* and *Human Events*, and as to a commanding comprehension of the captive nations in the USSR and Red China, these and others have never really attained to it. For instance, in the case of the latest North Vietnamese invasion of South Vietnam, it is neither revealing nor technically accurate to hold that the "enemy in this instance is quite clearly the Soviet Union . . ." [6] That Moscow has long supported Hanoi's aggression against the Republic of Vietnam is a matter of objective record; that the captive non-Russian nations in the USSR are responsible for this and other aggressions on the part of imperialist Russian Moscow is, even by implication, totally erroneous. Inexorable events, if not reason itself, will in time force us to recognize the prime enemy in Soviet Russian imperio-colonialism, but to cite in transient style "Russian-made tanks" rolling across the Vietnamese DMZ [7] or the "unreasonableness of Moscow in not paralleling our peaceable policies for detente and universal tranquility" [8] is patently not enough. What is required is a full understanding and appreciation of the cumulative history of the captive nations, which impinges upon Vietnam, Israel, Chile and elsewhere, and continually focusing our sights on the strategic and tactical global maneuvers of our prime enemy in Moscow, which precisely can be said to have initiated through conquest and expansionist influence the very history of the captive nations since 1918.

THE PAST LIVES IN THE PRESENT AND FORMS THE FUTURE

As many recall, the U.S. Congress passed in July 1959, the Captive Nations Week Resolution, which President Dwight D. Eisenhower signed into Public Law 86-90. The measure designates the third week of every July as Captive Nations Week and calls upon the President to issue a "proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world." [9] A careful reading of the Presidential proclamations since 1959 will show a progressive wateringdown of their content in the light of the Congressional resolution. In essence, to bargain with and progressively appease the Red dictators, particularly those in Moscow, our principled position toward the captive nations has been subjected to steady erosion.[10] However, despite this official executive tendency, the Week has been strongly supported in Congress and perpetuated in most of our major cities. In short, the past lives in the present and forms the future—in this case, chiefly for the reason that the captive nations still remain very much captive and, as present developments indicate, their family stands to increase in the years ahead.

One outstanding aspect of the annual Captive Nations Week observance is the degree to which it has taken hold in the free Asian countries. From the Republic of Korea down to Australia the Week has been consistently

Footnotes at end of article.

and prominently observed. The most impressive annual observance usually takes place in the Republic of China. Clearly, the moral of all this is that, like the behavior of individuals, nations whose very existence is directly threatened, tend to show a more compassionate and realistic concern for those which at one time tasted the fruits of national freedom and economic self-determination. What has perpetuated the Week in our country has, of course, not been similar circumstances of direct threat but rather the persistent moral idealism and vision of those who have upheld the Week since its inception in 1959. There can be no doubt that when the factor of national threat becomes more discernible to our people, as it undoubtedly will, the full meaning and historic significance of the Week will soar.

Both the domestic and international dimensions of the Week's observance have received the support and coordinating efforts of the National Captive Nations Committee in Washington, D.C. The committee was founded in 1959 on the basis of the Congressional resolution. Before his retirement as Speaker in the House of Representatives, the Honorable John W. McCormack paid special tribute to the committee in his remarks on the floor of the House on July 15, 1970. He declared: "A special tribute is in order, I feel, to the National Captive Nations Committee of Washington, D.C., who for 12 years have spearheaded this annual observance of Captive Nations Week." As a clearing house on captive nations' subjects, NCNC has pursued purely educational undertakings once it was established on the basis of the Congressional resolution. Its work has been in complete conformity with the spirit and content of the resolution.

As a matter of fact, the full story of the past twelve years and more has yet to be written in toto. The period is replete with diverse and rich experiences, extending from Khrushchev's outbursts against the resolution and the Week to current involvements here and abroad. For example, in the period ahead it will be most interesting to see in this presidential election year the positions taken by both major parties on the captive nations issue. NCNC and its cooperating committees in the field have always and necessarily assumed a non-political, bipartisan position. However, their output has been utilized by various different groups, including our major political parties. In an excellent article on the subject, one of NCNC's executive members raises the question, "Does anyone know what exactly is the policy of the United States toward the Captive Nations?" [11] She states that "our official legislative position on the Captive Nations remains as stated in Public Law 86-90, the Captive Nations Resolution, approved on July 17, 1959." As she rightly points out, the question is one of foreign policy, and the "Republican Party has always supported liberation for the Captive Nations—rather than accommodation with their captors." For instance, the Republican Platforms from 1952 to 1968 clearly show this. Will the 1972 Platforms of the two Parties strongly enunciate the "official legislative position" on the captive nations? This will be a further test of our political morality, idealism and principle in this so-called era of negotiations.

THE CAPTIVE NATIONS—WHO'S NEXT?

For the past decade political and economic developments on both sides of the Red curtains have well justified raising the question "Who'll be next on the long list of captive nations?" Whether one analyzes the USSR and its politico-economic preparations for dominant global power, the continued sway of the Brezhnev doctrine in Central Europe, the growing divisions in Western Europe and in our country, or the perilous policies we're pursuing in Asia and elsewhere, there is no solid development for one to point to with any hope that another free nation will not fall into the already large family of captive nations. When some of us believe the Cold War has ended, that Moscow and Peking have renounced their respective world ambitions, that Vietnam is a sorry mess of no global importance, not to mention other current myths, the general acceptance of these illusions will more than guarantee the subsequent addition of more independent nations to the long list.

Last year *The Reader's Digest* published the list of captive nations issued by the National Captive Nations Committee. Historically accurate and powerfully meaningful, this list and the *Digest's* comments we reproduce here for the reader's compact understanding of this massive reality that feeds the global strides of Soviet Russian imperio-colonialism and Red Chinese ambitions: [12]

WHO WILL BE NEXT?

Today the communists still pursue their 50-year policy of relentless expansion. And they still back that policy with merciless genocidal practices. This year we've seen the exposure of a communist plot to begin bloody revolution among our next-door neighbors in Mexico. And we've seen the Dalai Lama cry out to the world that the Reds ". . . launched a veritable reign of terror. Tibetans of all classes are beaten, humiliated, tortured, or killed. . . ." *Who will be the next to fall?*

People or Nation:	*Year of Communist Domination*
Armenia	1920
Azerbaijan	1920
Byelorussia	1920
Cossackia	1920
Georgia	1920
Idel-Ural	1920
North Caucasia	1920
Ukraine	1920
Far Eastern Republic	1922
Turkestan	1922
Mongolian People's Republic	1924
Estonia	1940
Latvia	1940
Lithuania	1940
Albania	1946
Bulgaria	1946
Serbia, Croatia, Slovenia, etc., in Yugoslavia	1946
Poland	1947
Rumania	1947
Czecho-Slovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1960

As shown in my current work, those who ask the perennial question, "The Captive Nations—Who's Next?" do so not in the form of any cynical query bereft of hope and optimism but rather with a fixed eye upon the dominant forces at work in the world and a realistic appreciation of the changes transpiring in various parts of the globe.[13] For instance, despite the different changes of the past two decades on whatever plane, who can rationally deny the constancy of Moscow's enemy-like hostility toward the U.S. and its allies? Who can deny the constancy of captive nations reality? Or does it take another Czecho-Slovakia to re-sharpen our perceptions.

Yes, who's next—South Vietnam, the Republic of China, Cambodia, Laos, Israel, Bolivia or Chile? Each of these and others, like Bengladesh, are promising targets for Moscow's and Peking's long-term designs. In South Vietnam, where at this writing the republic is under siege by Hanoi and its prime backer, Moscow, the time is past for an Asianization policy as against simply a Vietnamization one. Several years ago NCNC stood almost alone in this country in its advocacy of Asianization of the conflict in Vietnam, a practical policy of free Asian solidarity in winning the war and permitting the systematic withdrawal of American ground forces.[14] It is fervently hoped that the Vietnamization policy will succeed, but if by a combination of factors we should in effect surrender in this critical area, through compromise for a coalition government which many an East European nation experienced, the fate of the Republic of Vietnam will have been sealed. Whatever the outcome in Vietnam, its great lesson in history will be our demonstrated incapacity to engage adeptly in Red-sponsored political warfare, extending from Vietnam to Paris and the streets and campuses of America. Our usual reliance on technological and economic superiority will in future conflicts have even less impact as the war-oriented economies of Eastern Europe and the USSR advance.

If the possible addition of South Vietnam to the long list of captive nations is clear, and all that this would imply in reduced American global leadership and the fates of Laos and Cambodia, the similar danger engulfing the Republic of China is not at the moment equally clear. Yet any detailed analysis of what has transpired over the past year in our relations with Red China would offer ground for sufficient justification in raising in this respect the question "Who's next?" In terms of global power shifts the only sound reason for our change in policy is to be found in the Sino-Russian conflict and the need to prevent the application of the Brezhnev doctrine to Red China. Ping-pongism, trade lures, cultural intercourse and other superficialities are mere frostings on the global power cake. That the road ahead in our dealings with Peking is a treacherous one is to state the obvious. Like the Russians, the Red Chinese totalitarians display every intention of capitalizing on their new outlets for purposes of political warfare in southeast Asia, the Mideast, Africa and Latin America. In the midst of all this, the future of the Republic of China looks dim. To smugly hold that the two Chinas will have to settle it themselves is fundamentally a way of prescribing the addition of ROC to the captive nations list. Plainly, in terms of cumulative captive nations analysis these are only two of the "possibles" resulting from our policies that are pragmatically shaped in line with domestic politics and world realities.

UTILITIES IN THE CAPTIVE NATIONS ANALYSIS

On record, no analysis has been more disconcerting to our totalitarian enemies than the captive nations one. Its detailed content can be found in numerous works, and its outlines were portrayed in a Congressional reprint last year.[15] Common sense would rule that there must be something in it if Moscow, Peking and their minions find the analysis so disturbing. The fact is that there are numerous utilities in the analysis which enable us to assess critically the transient, day-to-day events, the spectaculars on the global front, and the over-all drifts in the world situation with flexible perspective and historically-based criticism. The analysis provides a structure of thought and many productive concepts that is found wanting in too many political and economic analyses of our world.

As seen in the captive nations list, countries and nations which have been taken over by totalitarian communist parties are the captive nations. Despite certain minor or more essential differences, as between the nations in Yugoslavia and Romania and those in the USSR, the concept substantially reflects the expansion of the captive nations family from 1918 to present times or, in other words, a succession of communist takeovers in some five decades. Quite advantageously, the concept is basically a genetic analytical

Footnotes at end of article.

one, and explains on the basis of cumulative historical causation the fundamental point of how the Red Empire came to be what it is in the phenomenal span of a little over fifty years. The productive utility of this concept can only be appreciated by reading the usual textbook or some treatise which is completely unaware of the earliest Soviet Russian takeovers in Byelorussia, Ukraine, Georgia, Armenia and elsewhere. This indicator is enough to suggest the scope of the writer's knowledge and comprehension. A survey of books and commentaries in the West on the occasion of the 50th anniversary of the Bolshevik revolution was an eye-opener in this respect. An impressive number identified the event with the founding of the Soviet Union, which historically was made possible by Moscow's initial series of conquests. Put another way, this valuable concept expresses the domino fact, not theory, of the successive cumulation of captive nations over a relatively short period of time and lays the foundation for the realistic question "Who's next?"

Emerging from this concept, which deals with captive nations in the aggregate—in Central Europe, in the USSR, Asia and Latin America—is the more exclusive concept spotlighting the "nationalities" in the two basic imperial complexes within the Red Empire, namely the Soviet Union and Red China. In the wake of events this past year, further concentration on both Red China and the USSR will unquestionably underscore the fruitful utility of this working concept. During Nixon's spectacular in Red China one couldn't have gathered from most press reports that Red China is a multinational state, containing some 60 million non-Chinese nationals. Although of less proportion, by nature it is an imperial complex similar to the USSR. It seems that at least one writer on the trip was somewhat aware of this composition.[16] Plainly, without this basic concept founded on fact, it is impossible for one to attain to any working appreciation of the forces of economic imperialism and exploitation, not to mention blunt or subtle colonialism, in the respective non-Russian and non-Han areas of the USSR and Red China.

Curiously, in their political warfare, both Moscow and Peking are vividly aware of these phenomena and employ them against each other. "The nature of Soviet revisionist social-imperialism, just as that of US imperialism, will never change" is a repeated argument from Peking.[17] Moscow retorts continually in kind. It appears that Red China has even gone to the extent of urging Ukrainians, particularly the three million in the Amur River Valley and Vladivostok areas, to unite against russification and work toward a free and independent "Socialist People's Republic of Ukraine." [18] Thus, from our vantage point, the crucial importance of this concept of non-Russian nations in the USSR and non-Han nations in Red China cannot be too strongly emphasized. With reference to the USSR and the US, to speak, therefore, in this vein, "Thus, our two nations have substantial mutual incentives to find ways of working together," is clearly misguiding.[19] There is too much at stake not to appreciatively grasp the fundamental thought that the USSR has never been, is not now, nor ever will be a nation. If the Red Chinese totalitarians can understand this, why can't we? Without doubt, the sheer force of events in this decade will compel us to accept this basic "nationalities" concept.

A third concept that has been developed in captive nations analysis is the poltrade concept, which predicates the opportunities and uses of economic exchange on political considerations and objectives. The writer first advanced this instrumental concept in hearings before the Senate Foreign Relations Committee in 1965. In an article on "Needed: A Realistic East-West Trade Policy" in the June 1969 issue of *Reader's Digest*, the late Senator Everett M. Dirksen accepted the idea and urged its advancement. The concept can be specifically applied to the captive nations or to our global involvements vis-a-vis Moscow and Peking. In any case, it would have some impact upon the underlying captive peoples, an adverse one if not properly measured and guarded. It appears that the East-West trade policy of the Nixon Administration embraces the essence of the poltrade concept. As the preceding one, here too, the concept is fraught with immense potentialities and uses as concerns the captive nations, for better or for worse, depending on the quality, magnitude and timing of the trade use.

THE ROAD AHEAD FOR THE CAPTIVE NATIONS

Now, what are the prospects, what is the road ahead for the captive nations? It should be evident from the foregoing analysis that, in whatever form, the captive nations in the aggregate cannot but play an increasingly decisive role in the world situation. Though many Americans have become apathetic toward the predominant issue, the issue of national freedom and its consequences for world freedom still is the over-all issue of our world. It exists in fire in Vietnam, it was expressed in Bengladesh, it grips Israel, it concerns patriotic Chileans, and it is aflame in the soul of every captive nation from the Danube to the Pacific and over to Cuba. The spirit of moral obligation and commitment toward all the captive peoples should be enough to motivate all free peoples, particularly us Americans, to pray and to work in behalf of their freedom, and thus in behalf of our own. Considering the moral state of America today, among parts of its youth, religious establishments and educational institutions, this no longer is a safe and easy assumption. Prudent, rationally calculated self-interest is also necessary. National dishonor in Vietnam, Moscow's attainment of military superiority, economic regress in world markets, and further moral decline in our nation can easily reduce us to a second-class power, and with our striking incapacities in the art of political warfare, it is no frightful exaggeration to state that we, too, would become a fitting candidate for the captive nations list.

Fortunately, there are forces within our country and in other parts of the world, particularly behind the Red curtains, which tend to preclude such a linear outcome. It is not possible here to recount all of these, but with direct relation to the captive nations, the following recent developments are indicative of the forces and counter forces at work:

(a) *The Derwinski Challenge in the United Nations.*

As reported in papers across the country, the speeches delivered at the U.N. last fall by the Honorable Edward J. Derwinski of Illinois rocked the delegates from the Red states. On November 15 and again on December 9, the U.S. Representative in the U.S. Delegation dwelled on Soviet Russian imperio-colonialism, highlighting Moscow's forcible annexation of the Baltic states—Estonia, Latvia and Lithuania. As the Congressman put it, "We must be ever mindful of those proud nations which have lost their freedom in this period as well as those brave peoples everywhere who are denied national dignity and the right of self-determination." [20]

The able Representative has long supported the captive nations in their quest for freedom. As pointed out, his credentials as an experienced member of the House Foreign Affairs Committee and chairman of the American delegation in the Inter-Parliamentary Union were widely recognized at the U.N.[21] The importance of his action in the U.N. is seen in the pointed reminder he delivered to the Red delegates of America's unyielding concern for the captive nations. The Congressman set a precedent that should be repeated in every U.N. Assembly meeting.

(b) *The Shakespeare Innovation.*

One of the most significant innovations in the Nixon Administration was made by the Honorable Frank Shakespeare, the director of the United States Information Agency. The very able head of the USIA issued this past March a directive to abolish the use of such nonsensical terms in the Agency's reportings as "the Soviet nation," "The Soviets" and the like. "Soviet nation," he wrote, "is semantical absurdity. There is no 'Soviet nation' and never will be." The directive is completely well-founded on historical and demographic grounds. It fully recognizes the bonus advantage given to Moscow in using terms that conceal the reality of captive nations in the USSR such as Lithuania, Latvia, Byelorussia, Ukraine, Armenia and others. Very simply and very accurately, if you refer to the multinational state, use "the USSR"; if to the specific nations and peoples involved, use their names.

Though it didn't meet with his liking, Senator Fulbright couldn't offer any substantive objection to the directive other than to blurt out that it was released at an inopportune time when the President is preparing for his trip to Moscow. The facts are that this notable innovation was long overdue, and the timing of it was perfect for if the Russian totalitarians respect anything other than power, it is also knowledgeability. The Fulbright reaction to the apt Herschensohn characterization of him is measured by the chairman's attempt to reduce USIA funds by about 23 per cent. In combined hours and language broadcasts, the Voice of America lags well behind Moscow's and Peking's radios, and even behind Egypt. If anything, the USIA budget should be increased well over 25 per cent, but here, too, Fulbright, who is under the illusion that the Cold War has ended, displays his insularity concerning the nature of the world struggle.

About the silliest commentary on Shakespeare's directive appeared in the column by Russell Baker.[22] Harping on poet William Shakespeare's questioning of a name, the writer states, "Shakespeare (Frank) obviously dislikes the Soviet Union and believes that it can be hurt if we refuse to call its residents by the name of its choosing. What's in a name?" The writer misses the point completely, for an Irishman doesn't want to be known as an Englishman, nor an Israeli an Arab, nor a Lithuanian a Russian or, absurdly, a soviet; nor would Baker relish to be called Jackass. If he knew his capitive nations, he would know that even the term USSR is not of the choosing of over half the population. National identity is a powerful force.

(c) *The Invincible Force of Nationalism.*

The deadliest and invincible force challenging the tenure of Red dictatorships is nationalism. Analytically, any treatment of this recurring force behind the Red curtains necessarily means the captive nations in their struggle for freedom and independence. Over the past two decades it was observed at work in Georgia, Ukraine, Hungary, East Germany, Poland and Czecho-Slovakia. This history of East European nationalism is well documented and must not be forgotten because it is persistent and continuous, and will resurge when practical opportunity will permit. After all, the whole meaning of the Brezhnev doctrine is the suppression of nationalist undercurrents.

For the past three years the force of nationalism in Ukraine has taken the form of cultural rights demands in tune with the provisions of the USSR constitution. The widespread cultural repression and the arrest of intellectuals by Moscow, including Valentyn Moroz, Eugene Sverstiuk, Ivan Dzyuba and scores of others, indicate the ferment in that captive nation. Recently, in Yugoslavia, Croatian nationalism surged forward, threatening the Tito regime and resulting in numerous high-level arrests. It is a certainty that when Tito passes from the scene, a formidable resurgence of national-

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ism will occur in Yugoslavia and pose a delicate problem for Moscow and its attempted application of the Brezhnev doctrine.

(d) *Radio Free Europe and Radio Liberty.*

At a time when pressures for economic freedom, religious revival and critical expression are mounting in Eastern Europe and the need for greater information from the outside world is more pressing than ever, the two radio Stations Radio Free Europe and Radio Liberty clearly are more necessary than ever before. In fact, the time is now to expand the facilities of both and increase their funding. Instead, what do we find but further strokes of Fulbright obstructionism, aimed at the elimination of the two highly effective stations. Budgetary cutbacks have already led to the closing of the Institute for the Study of the USSR maintained by Radio Liberty in Munich. The institute's educational output consistently had the stamp of excellence.

By all performance, RFE has served the captive peoples of Central Europe well and sustainingly, as RL has those in the USSR. Virtually, the only opponents to the existence of the two stations are the Red totalitarians and Messrs. Fulbright and the senile Cyrus S. Eaton. It's little wonder that Fulbright has to lean on Eaton for a statement on the issue, which is studded with misinformation and twisted argument.[23] Here is a specimen on spurious argument: "Let us ask ourselves how we would feel if the Soviets set up a special station in one of our neighboring countries in an attempt to arouse the American citizenry, or some racial or ethnic segment of it, against its government and media." It's quite evident that Eaton has no comprehension of the captive nations and still less of the difference between totalitarian Red imperialism and democratic freedom. Any sensible person would place far greater weight on the words of a Solzhenitsyn who, with reference to RL, has said, "If we learn anything about events in our own country, its from there."[24]

On the eve of the Fourteenth Observance of Captive Nations Week (July 16–22), it would do well for every intelligent American to ponder the chief points raised here—the politico-economic pressures for freedom behind the Red curtains, the fixed, massive reality of the captive nations, the dominant concepts of the captive nations analysis, the unaltered devotion of both Moscow and Peking to global political warfare, the critical decision of America to maintain its world leadership, and the real need for expanding, not contracting, VOA, RFE and RL. Mistakes in these areas will certainly be paid for heavily by us in the future. To avoid these mistakes, prepare yourself to answer in the affirmative the basic question "Do You Know the Captive Nations?" For as Dr. Joseph M. A. H. Lun, NATO's Secretary General, soundly has pointed out: "To the Communists detente means the exploitation of the peaceful instincts of the West, while waiting and working patiently to gain access to political power; in short, continuing the struggle by all means short of war." In other words, preparing other nations for the captive nations list.

FOOTNOTES

[1] A. Anatoli Kuznetsov. "Are You All Deaf?" *America*, Philadelphia, April 20, 1972.

[2] *Consular Convention With The Soviet Union*, Hearings, Senate Committee on Foreign Relations, 1967, p. 185.

[3] Nikita S. Khrushchev. "On Peaceful Coexistence," *Foreign Affairs*, October 1959, pp. 6–7.

[4] "Criticism by USIA Aide Fuels Feud With Fulbright," *The Evening Star*, Washington, D.C., March 29, 1972.

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[7] Senator James L. Buckley. "Five Options for Viet Nam Victory," *Human Events*, April 22, 1972.

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[9] Tenth Anniversary of the Captive Nations Week Resolution 1959–1969, USGPO, 1969, p. 2.

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[12] "Who Will Be Next?" *The Reader's Digest*, October 1971, p. 122.

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REALLY SETTING THE RECORD STRAIGHT ON THE TRANS-ALASKA PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ASPIN. Mr. Speaker, my distinguished colleague, the gentleman from Alaska (Mr. BEGICH) charged in the May 4 RECORD that a recent statement of mine concerning the availability of the environmental impact statement on the trans-Alaska pipeline—April 27, 1972—was "inaccurate and misleading." Mr. BEGICH placed both my statement and an answer from the Interior Department in the RECORD. Unfortunately, my colleague from Alaska did not see fit to check out the facts. Many of the points contained in the Interior Department statement, which Mr. BEGICH maintained to be true, simply were not. Both my statement and the Interior Department "fact sheet" are printed below:

THE ALASKA PIPELINE ENVIRONMENTAL IMPACT STATEMENT IS VERY SCARCE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I am very concerned that the environmental impact statement on the proposed trans-Alaska pipeline has been virtually hidden from public scrutiny. I am sure that many of my colleagues will be interested in knowing that only seven copies of this important impact statement are available for public inspection in the lower-48 States. In fact, there is not one impact statement publicly available for 3,000 miles. There is not one impact statement publicly available in New York, Chicago, Milwaukee, or Detroit. In fact, there is not one copy available between Washington, D.C. and San Francisco.

Not only that, but the Interior Department is charging $42.50 for the 9-volume environmental and economic study of the Alaska pipeline and its alternatives. And, even if you are willing and rich enough to be able to afford the $42.50 price tag, it may take almost 1 month to obtain a copy of the impact statement.

For instance, in one case, it took the lawyers for the three environmental groups who are suing to prevent construction of the Alaska pipeline, 28 days to obtain several copies of the impact statement. On March 24, these lawyers asked for the copies, but were told they were out of print and would not be available for another 2 weeks. Three weeks later, on April 14, they were told that the impact statements were still not ready. They finally received part of their order on April 21. Thus, it took these lawyers—who have been integrally involved in the Alaska pipeline issue for over a year and a half—almost a month to get hold of these copies, which they wanted to distribute to others for comment. It is quite relevant to note that Secretary of the Interior Rogers Morton stated when the impact statement was released that a decision might be made at the end of a 45-day period, which means that these lawyers spent almost two-thirds of that period futilely searching for some copies of the 3,550-page impact statement.

Saying that Interior's treatment of the public has been shabby in this case is being kind to the Department. First, Interior refuses to hold public hearings on the basis that hearings would constitute "a circus," in the words of Under Secretary William Pecora. Then the Interior Department announces that it is sending the impact statement for a mere $42.50, and delays the distribution of these copies for as long as 1 month in some cases. And, to top it all off, the Department only provides seven publicly available copies for over 200 million people.

If there were a conscious conspiracy to prevent public scrutiny of the impact statement, it couldn't be accomplished much more effectively than this.

It is also important to note that the Council on Environmental Qoulity, to whom all comments on the impact statement are submitted, has so far received only five or six comments from private individuals on the Alaska pipeline impact statement. This was an unusually low number. I am just waiting for the Interior Department to say: "Aha, this shows that the public is satisfied with the impact statement." The real reason, of course, for the lack of public statement is that the Department has made the impact statement virtually invisible.

I believe very strongly that the Interior Department is truly concerned with allowing the public affair opportunity to comment on this vitally important environmental impact statement, it will agree to postpone its decision on the Alaska pipeline for at least 2 more months. In the interim it should, of course, make the impact statements much more available for public inspection and should also assure that those willing and able to buy the impact statement are able to get them much more quickly than is presently the case.

FACT SHEET—DEPARTMENT OF THE INTERIOR

1. The Final Environmental Impact Statement on the Trans-Alaska Pipeline as proposed was the most lengthy and detailed im-

pact statement ever prepared. Consisting of 6 volumes and 3 supplemental volumes, it totals over 3.800 pages. The statement was the result of approximately 175 man years of work during the past year. It is the most thorough and lengthy impact statement ever published.

2. Congressman Aspin received a complete set of the 9-volume statement. Over two dozen complete sets of the 9-volume statement were distributed to certain members of the House and Senate.

3. March 20, 1972, was the date on which the Department of the Interior released the final environmental impact statement on the proposed pipeline. On that date, in accordance with the provisions of the National Environmental Policy Act, 10 copies were delivered to the Council on Environmental Quality.

4. On the same date, 102 copies of the 9-volume statement were made available to the press.

5. Ten copies of the entire statement were given on March 20, 1972, by the Department of the Interior to the lawyers for the three environmental groups who are suing the Department concerning the pipeline. These lawyers were given preferential treatment.

6. Congressman Aspin did not mention that the lawyers were given 10 free copies on March 20, 1972. But Congressman Aspin claims that the lawyers spent almost a month "futilely searching for some copies of the 3,500 page impact statement." While leading one to believe the lawyers could not get copies, Congressman Aspin failed to mention that the lawyers had been given ten free copies on the first day of issue.

The Department of the Interior did not sell the statement. The statement was sold by the National Technical Information Service of the U.S. Department of Commerce and by the Government Printing Office. The cost for all nine volumes (3,800 pages) was $42.50. The Department of the Interior sold no copies.

8. Congressman Aspin alleges that only seven copies of the statement are available for public inspection in the lower 48 States. Of the 2,460 copies printed, 585 were for Depository Libraries, 265 were for sale by the National Technical Information Service, and another 1,000 were for sale by the Government Printing Office. And in addition, copies were sent free to several environmental and public interest groups. Also, copies were provided to the media and to elected officials, all of which are public.

9. There were three printings of the 9-volume document. The first printing (March 20, 1972) provided 625 copies for special distribution such as the Council on Environmental Quality, the press, conservation groups, other government agencies and officials, Alaskan offices, and the Congress. Of that 625, 174 complete sets and 172 copies of Volume I went to the National Technical Information Service for public sale. The second printing (April 7) provided 225 complete sets to the National Technical Information Service for public sale. The third printing (April 17) provided 585 complete sets for Government Printing Office distribution to its depository library system and 1,000 complete sets for GPO sales stock.

I would like to go through each of the nine points in the Interior Department statement and analyze their accuracy and relevance in relation to my statement.

First. This has no relevance in relation to my statement except to suggest that because of the complexity and length of the impact statement public hearings should have been held and more time provided for analysis of the impact statement.

Second. It is true that I did receive a copy of the impact statement. But I did not receive a copy from the Interior Department. In fact, the Interior Department refused to supply me with a copy even though they of course knew of my deep concern and involvement in this issue.

Third. This is also clearly irrelevant. The basic point of my statement was to suggest that the Interior Department had failed to make the impact statement sufficiently available to the public. It seems somewhat odd that the Interior Department wants a pat on the back for supplying 10 copies to another Government agency.

Fourth. Again, my point was that they did not make the impact statement available to the public, not to the press. In fact, it is interesting to note how thorough the Interior Department was in getting copies of the impact statement to the press. It is unfortunate that it did not attempt with an equal amount of zest to make the impact statements available to the public.

Fifth and sixth. This is apparently an intentional distortion. I clearly said in my statement that these lawyers wanted these copies "to distribute to others for comment." Indeed, it is odd that Interior is bragging about supplying the lawyers with 10 copies since the lawyers originally asked for 40 copies and since it took so long for them to even purchase the additional copies that they were actually forced to Xerox off parts of the impact statement. The Interior Department also fails to mention that it was not its magnanimity that caused it to agree to supply the lawyers with 10 copies since it knew that the district court would force them to supply the lawyers with a certain quantity of copies.

Seventh. While it is true that the National Technical Information Service was responsible for selling the impact statement, it was the Interior Department that contracted with NTIS to sell the impact statement. It remained the Interior Department's responsibility to see that the impact statements were adequately distributed to the public at a reasonable price; $42.50 hardly seems to be a reasonable price. Moreover, it was the Interior Department that set the time limit of only 45 days for comments on the impact statement to be received by the Department. Even if it were impossible to get the impact statements to individuals who were willing to pay for them within 30 days—which I strongly doubt—it was the Interior Department that had the authority to extend the time for comments to be submitted. This they have repeatedly refused to do.

Eighth. I clearly said in my statement that only seven copies were publicly available for inspection in the lower 48 States. I challenge the Interior Department, or Mr. BEGICH, to disprove this statement.

Ninth. Nothing here contradicts anything I said.

In short, Mr. Speaker, I would hope that in the future the Interior Department and my colleague from Alaska will be more careful before issuing statements filled with distortion and inaccuracies.

THE ENERGY CRISIS—A SIGN OF OUR SHORTSIGHTEDNESS?

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. RONCALIO. Mr. Speaker, recently much has been made of the impending energy shortage in this country. By the end of this century, it is widely predicted that most or all of our natural resources, such as oil and gas, will be depleted. It will take some 1 million years to replenish them. Thus, this country, as we have known it and know it now as a world leader and a major power, will face extinction if something is not quickly done to correct a situation which shortly will cripple us.

Foreign trade can be no substitute for for native strength, as the decline of England has made abundantly clear. Even if the supply of oil and gas from the Near East should be unending, there is no guarantee that it could not be abruptly shut off at the whim of small Arab powers or of the Soviet Union itself. As odd, as much an echo of science fiction as this may sound, our continued existence as a power to be reckoned with, but moreover as a country strong and wealthy enough to support our people, may shortly depend upon our discovering absolutely new and as yet untried sources of energy. This is not my suggestion alone, but also that of several renowned experts and inventors, such as the famous R. Buckminster Fuller. In a recent speech before the students of the University of Colorado, Fuller suggested some of the ways in which this might be done. Not only must we devise new energy sources, but we must create ways in which the energy we do use might be used sparingly and might also be conserved. A student, Dennis D. Matewski, was so inspired by Mr. Fuller's speech, that he wrote an extended account of it for The Denver Post of last Sunday. It is my pleasure to insert this account, as well as the imaginative suggestions from Mr. Fuller which it contains, into the RECORD at this time.

TOOLS TO OVERCOME ENERGY CRISIS

TO THE DENVER POST: Recently, people have become aware of the impending energy crisis, and writers like Peter Drucker have pointed out that energy is necessary to eliminate the pollution problems, causing more pollution etc. Reports out now remind us that by the year 2000, all natural gas and oil reserves will be depleted and the United States will have nothing but coal as an energy source. People are talking about compromising our "high" standard of living to save on these valuable resources.

I think it's about time we looked at this from a more comprehensive point of view. It is in our specialization and lack of imagination that we are planning our doom and/or retreat to a less progressive world.

Buckminster Fuller has dedicated his life to charting the world's resources and has found there is enough to go around; and if these resources are used efficiently, everyone in the world can be put on a higher standard of living than any of us now know. Below are some of the thoughts he shared with CU students on April 15. Considering the way

people are talking about these problems, I feel it's worth passing on.

People talk about pollution. The universe has no pollution. It is totally regenerating. Specialization produces pollution. For instance a mining business extracts minerals and produces tailings that are waste because that company doesn't make that product, but that same mineral is probably being mined by someone else, someplace else, at very great expense.

Power plants spew out huge amounts of sulfur into the air. Yet it is fact that the amount coming from the stacks in concentrated form, is the exact same amount that is mined to satisfy the world's sulfur needs.

Heat loss is based on surface area, so the more efficiently a structure covers something, the less energy is required to heat or cool it. Take a motorcycle engine, which is air cooled. It has a large surface area created by fins to get rid of excess heat. If you really wanted to be efficient you would use spikes because they have even more surface area exposed The needles of pine trees do this in hot climates.

Speaking of spikes and heat transfer, the best air-cooled engine in the world is New York City. Fuller has calculated that if he would put a 2.5 mile diameter dome over Manhattan, and completely heat and air condition it, the surface area exposed to adverse conditions would be 80 times less than at present, meaning that it would take 80 times LESS energy to heat it than at present—80 times Think of the saving in fossil fuels! This saving would pay for the dome in three years! Then we talk about not enough to go around!

That brings us to the fuel crisis. Just what kinds of fuels are we talking about? There are two kinds, Fuller like to think of them as "income" and "capital" resources. Capital resources, such as natural gas, oil, fossil fuels, etc. cannot be replenished without millions of years. These should be used sparingly.

Why not research our income resources to harness them because they will never be diminished due to their regenerating principles. Income resources include the wind, sun, waves and gravity. The energy of a hurricane for one minute is greater than that of the total stockpile of nuclear weapons of both the United States and Russia combined. Yet, has any research been done to harness this power? No.

A good example of doing more with less is copper wire. At first it could transmit one voice, then four, then sixteen, until now it carries thousands. The Trans-Atlantic cable took tons and tons of copper, now a single satellite does many, many times more work using an infitesimally small amount of copper, the rest being available for recycling. Seventy-five per cent of all copper ever mined in the world is in circulation today, being reused and re-melted, always to a more efficient use.

It seems that our whole problem lies in our unwillingness to try something new or explore other alternatives. Instead of turning on the ship's seepage pumps, we are hanging over the edge watching it sink! Maybe this is why Fuller wrote a book called, "Utopia or Oblivion: the prospects for humanity."

DENNIS D. MATESKI.

BOULDER.

BRINKSMANSHIP IN VIETNAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. UDALL. Mr. Speaker, today I issued a statement dealing with the serious developments in Vietnam which I would like to share with my colleagues. In addition, I wanted to call their attention to an excellent column by Tom Wicker in today's New York Times. I insert both these items at this point in the RECORD:

STATEMENT OF REPRESENTATIVE MORRIS K. UDALL

Mr. Nixon has embarked on an unwise and extremely dangerous game of brinksmanship without the slightest attempt to comply with the Constitutional requirement of Congressional action. I think—and hope I am wrong—it will turn out very badly for all of us and for the world. I hope the Soviets show more restraint and judgment than we have, but the matter is in grave doubt.

No President should take the world into the shadow of nuclear war except for the most pressing and overriding considerations of national security. But no such considerations are involved in Vietnam. He asks a major world nuclear power and its ally to accept an ultimatum of a kind we and he would instantly reject.

And for what? As nearly as I can determine the main things at stake are to save prestige and face for the President, and to keep a corrupt Saigon government in power.

There is great confusion in Mr. Nixon's logic. On one hand he tells us that peace in the Middle East, in Europe and elsewhere depend on the Russians and North Vietnamese bowing to our ultimatum that the Saigon government shall not fall. In the next breath he tells us that if they'll accept dictation of terms from us and return the prisoners we'll completely withdraw in 4 months, after which presumably the Vietnamese themselves can depose Mr. Thieu.

And to complete the illogic his previous statements imply that unless the adversary meets our terms we'll withdraw 20,000 more ground troops by July 1st!

I call on the President to pull back from this reckless escalation before it is too late, and to take the Congress into his confidence. All of us got into this miserable war together (Democrats and Republicans). Together we can find a way out.

AN AMERICAN EMPEROR

(By Tom Wicker)

"No One Knows," said the headline in The New York Times, "What He Might Do." And indeed, no one, including Secretary of State William Rogers, summoned home from Europe for a National Security Council meeting, could know what President Nixon might decide upon as antidote in the current crisis in South Vietnam. The press has described admirably the range of explosive options open to him; members of his Administration had been hinting darkly of the terrible vengeance this unchecked Caesar might choose to wreak upon something abstract known only as "Hanoi" or "the enemy"; but the decision was Richard Nixon's.

And when Mr. Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of *noblesse oblige* as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well-known that these officials more nearly ratify than form Presidential judgments.

Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create? Is that what the Constitution means, when it says that the President shall be Commander in Chief of the Armed Forces?

As to the first question, there seems little doubt that the answer is yes. Just last year, for instance, Congress passed an amendment to the Military Procurement Authorization bill which declared it to be the policy of the United States to bring to an end "at the earliest practicable date" all military operations in Indochina, subject only to the release of all American prisoners of war.

What was President Nixon's reply to that? Upon signing the measure on Nov. 17, he declared flatly that the amendment was "without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to an end." It would not change his policies, he said, and in fact "legislative actions such as this hinder rather than assist in the search for a negotiated settlement."

Such high-handedness is not unique to Richard Nixon. The greatest of Presidents, Abraham Lincoln, interpreted the Presidential "war powers" so broadly that he repeatedly overrode both Congressional wishes and military advice; and since his actions saved the union, history generally accounts him strong and wise for having done so. But Lincoln was literally waging war for national survival, in a situation in which there was no precedent and which does not provide a precedent for anything that has followed—least of all a deliberate act of Presidential policy such as Vietnam.

Mr. Nixon, in contrast, now relies almost exclusively upon the Commander in Chief's power to protect the lives of American soldiers as constitutional justification for whatever he might choose to do in Southeast Asia; yet, it is arguable that American soldiers are in jeopardy primarily because Mr. Nixon's own policies have kept them in Vietnam. So the mere act of putting troops into a place, or keeping them there, which is in itself a Presidential decision, becomes the Presidential justification for any other Presidential action he may choose to take.

Mr. Nixon has not, for example, resorted to the use of nuclear weapons in Southeast Asia; fortunately, there is no sensible military rationale for doing so. Nevertheless, the fact that the President has not so chosen does not alter the fact that it *was* his choice; sensible or not, he *could* order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Since the authors of the Constitution could not foresee the nuclear era, they could have had no intent to lavish upon the President that degree of power; indeed, almost every other line of the document they produced suggests the extent to which they mistrusted unchecked power, whether vested in an executive or in a people's assembly.

Richard Nixon need not be psychoanalyzed or even mistrusted in order to perceive that that mistrust was well founded; for as he went on the air last night, it was terrifyingly true that no one knew what the President would do, that no immediate means of influencing his judgment was at hand, that no real way existed to stop him from following some apocalyptic course. He was in that moment as true an emperor as ever existed and scarcely more accountable; a people who wanted peace could still be given war at his dictate; and what good would it do to vote him out of office six months from now if the world were an ash, or "the enemy" had been obliterated in his honor?

A LETTER FROM VIETNAM

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DAVIS of Wisconsin. Mr. Speaker, I recently received this letter from a

young man who is one of the many not unaware nor taken in by the machinations of a few opinion leaders in this country. His insight comes not only first hand but of being of immigrant stock from an Eastern European country, who has had direct knowledge of what Communist aggression is all about. The letter follows:

DEAR GLENN: As you can see, I am still in sunny Saigon observing with increasing dismay what our news media report about Vietnam and the attitude of some of our lawmakers.

You know Glenn, I was having dinner in a Saigon restaurant just last Saturday night when a Viet Cong detonated a plastic charge within a few meters of my table. After I collected myself and went home, I turned on the television to relax only to be informed about our glorious Senators Kennedy and McGovern berating the President for trying to help repel the North Vietnamese invasion. After that they showed pictures of demonstrations in the U.S. against the bombings of North Vietnam. I was rather disgusted. I can not understand what is happening to our country and how the people back home and, even supposedly responsible legislators, can be so blind to what is going on. To us, who are in Saigon, because we believe that communist aggression must be opposed, that is all very discouraging. It is amazing that no one seems to oppose all the killing the NVA has done to the South Vietnamese.

PTA WORKS TO IMPROVE READING ABILITY

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHWENGEL. Mr. Speaker, one out of four students on a nationwide basis have significant reading deficiencies; 25 million jobholders may be denied advancement, because they have reading weaknesses. About one-half of the unemployed youth between the ages of 16 and 21 are functionally illiterate. Dropout students and juvenile offenders are often poor in reading skills, and literally millions of older elementary and secondary students cannot read above fourth-grade level.

These statistics are cause for serious concern. The reading ability of our students has long been a concern of parents and teachers throughout our Nation. The National PTA has designed a project, called RISE, to improve reading ability through the use of volunteers in the classroom, giving help to individual children under the guidance and instruction of the teacher.

There are three basic reasons for a child's failure to learn to read adequately: First, he does not know how to improve; second, he lacks the necessary skills; and third, he does not want to improve. Parents and teachers have accepted their responsibility to provide constructive learning situations for elimination of all these obstacles.

Project RISE will help to assure every student the opportunity to acquire the necessary reading skills to effectively participate in our society. Volunteers will be people in the community who are interested in helping children, PTA members, and others concerned. Materials have been prepared by members of the faculty of the reading program at Indiana University. The friendly, personal attention will hopefully provide the intimate contact necessary to develop lagging reading skills. The volunteers, however, will not be considered instructors. They will provide the needed extra help for teachers in the following ways: First, relieving teachers of nonteaching duties by serving as an extra pair of hands, eyes, et cetera; second, supplementing the work of the classroom teacher; third, building a better understanding of school problems among citizens; fourth, providing 1-to-1 or small group relationships between the child and the volunteer; and fifth, enriching the opportunities for reading growth.

This innovative program is a step in the direction of better reading skills for all students by concentrated effort in the schools. But Project RISE will also encourage direction in the home, where over 50 percent of a child's development occurs, by educating parents to the need for improved reading ability.

A laudable program, Project RISE deserves the support of parents and educators everywhere. With continued emphasis, we will be able to correct the all-too-prevalent reading deficiencies among our elementary and secondary school children. Job opportunities will be enhanced and personal participation in Government increased.

For recognizing the problem and taking initiative, the PTA deserves much credit. Success for this program merits our help and contribution.

LORETTA FLEMING RETIRES AS MANAGER OF PENNSYLVANIA BUREAU OF EMPLOYMENT SECURITY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. McDADE. Mr. Speaker, it is not possible to be in Washington for more than 5 minutes without learning that this Government functions because there are competent and dedicated civil servants who patiently do the work that must be done, who seek little recognition, whose career is a commitment to the excellent functioning of Government, so that the Government may more properly serve the people. And what is true of the Federal Government is certainly true of the government of each State.

In Scranton, Pa., Miss Loretta Fleming has announced her retirement after 34 years with the Pennsylvania Bureau of Employment Security. Here is, indeed, the very personification of the excellent civil servant, devoted to her work far beyond the mere concept of holding a job, but rather committing her life to that most vital part of our American life—the securing of employment for those in need of work, so that they might raise their families in decency and dignity.

I have had many occasions to contact Miss Fleming when my constituents came to me for help in securing employment. She was unfailing in her attention to every request. I knew each time that the problem was in the hands of one who would do everything humanly possible—and a little more—to solve it.

I know that every Member of this House will join me in commending Miss Fleming for her devoted years of service to mankind. If our governments function well, they do so through the tireless devotion of such people as Miss Fleming. She has served all of us, and served us in an outstanding manner.

With your permission, Mr. Speaker, I insert in the RECORD an article from the Scranton Tribune which details somewhat her career with the Bureau of Employment Security:

WITH EMPLOYMENT SERVICE 34 YEARS—MISS FLEMING RETIRES AS MANAGER OF PENNSYLVANIA BUREAU OF EMPLOYMENT SECURITY

Loretta Fleming, distaff manager of Scranton office, Pennsylvania Bureau of Employment Security, has concluded a career with that agency which started back in 1938. In that span of 34 years she saw and participated in major changes in what started out concerned primarily with paying jobless benefits and steering the "best qualified" job applicants to employers.

Miss Fleming, who resides at 1240 Wyoming Ave., Exeter, and who was Scranton BES manager since March of 1967, officially ended her long service with the bureau as of last Friday but emphasized she "intends to keep on being active so long as I have good health and stamina."

Holder of a degree in education earned at Bloomsburg State College, plus post graduate work at Columbia University, she joined the employment service during its initial stage after two years with the Department of Public Assistance.

During her association with the service she handled a variety of jobs at Nanticoke, Pittston local offices and as an occupational analyst with the district office, then based in Wilkes-Barre, before succeeding the late Stanley Simrell as Scranton office manager. She also was temporary manager of the Youth Opportunity Office six months while it was getting started in Scranton.

Miss Fleming said most of her time with the BES was spent on the "employment side," although as Scranton office manager she also was in charge of the related unemployment compensation program.

Asked about the changes in the program over the years, Miss Fleming said there has been great and valuable expansion from something which began "just as an office for paying jobless benefits and finding jobs."

Elaborating, Miss Fleming said: "No longer is BES just an agency filling job orders and paying out benefits. Now we are engaged in "fitting applicants to jobs and getting employers to find slots for those in need of employment.

"When we first started it was the policy to send the best qualified . . . the 'cream of the crop' . . . to employers placing job orders. But we found there were jobs going begging while lots of people were unemployed. We realized that we had to retrain people and that employers had to be interested in helping find places for job seekers who didn't possess all the skills."

Miss Fleming said she finds great satisfaction in her career since it was progressively more concerned with "helping people qualify for employment rather than writing them off if they lacked skills."

While stressing "there are always people who take advantage," Miss Fleming said that for the vast majority of people on the rolls "it is not pleasant to be unemployed."

She said her immediate plans are indefinite, although travel is always appealing and she wants to do "useful things."

It was reported Jack Fox, assistant office manager, will be designated as acting manager of the Scranton BES office.

THE ADMINISTRATION AND THE WAR

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. RIEGLE. Mr. Speaker, the following two articles are thoughtful and accurate. They deserve careful attention, so I insert them in the RECORD at this point:

JUDGMENT ON WAR: DUMBFOUNDING INCOMPETENCE

(By William F. Buckley, Jr.)

What I want to know is: Why have we known so little? Why have we misjudged so gravely? I ask the questions at this point, clinically, without prejudice to any future right to give way to anger.

One week ago the President of the United States told the entire country and the entire world that the invasion of South Vietnam would be repulsed, that that was the solid military judgment of Gen. Creighton Abrams.

Today the South Vietnamese are almost everywhere in tatters, the millions of pounds of bombs we continue to dump over North Vietnam and much of South Vietnam appear to be about as related to stopping the North Vietnamese offensive as underground atomic explosions in Amchitka. One province is gone, another teeters at the brink, the refugees swarm out of the cities in such numbers as the Chinese did during the 30s fleeing the Japanese, the South Vietnamese army falls apart, whole regiments and divisions become nothing more than journalistic abstractions. Why didn't we know? Anticipate it? Warn against it?

There are many cases to be made against President Nixon, but let us confine ourselves to the one that says simply: With all his experience, with his knowledge of the dozen times his predecessor ventilated an optimism which proved to be inopportune to the point of being macabre, what did he do to overhaul the means by which he got his information?

Is it the fault of Gen. Abrams, who was there before President Nixon was elected? What is the nature of Abrams' misestimates: Was it on the morale of the South Vietnamese that he guessed wrong? If so, why did he guess it wrong? Did he make enough allowances, in his estimates, for the morale factor? If not, why not? Did the Defense Department probe the matter, or simply accept the estimates of the commander in the field? Did the CIA contribute to the estimate? When, early in Nixon's term, the CIA advised that Vietnamization would not work, were its arguments confuted, if so by whom, using what arguments, what analysis?

Or was it the military strength of North Vietnam that we misestimated. The President told us that it was last October that we discovered that the enemy was preparing for a great offensive. Indeed: Did we know on what scale the enemy was preparing? Did our intelligence services perform usefully? Did we weigh the amount of equipment being off-loaded from the Soviet freighters? Did we know the nature of the materiel? Did we infer the uses to which it would be put? Did we organize our defenses, given the assumptions, competently?

There are many things to be focused upon in the next weeks, having to do with the consequences of what is happening in Vietnam, but one of them surely is the dumbfounding incompetence of our calculations. We have been made to sound like Nicholas II, confidently advising the court that the imperial navy would knock out Japan in three weeks.

How many other mistakes, and miscalculations, have we made, are we relying on? As we have sat in Helsinki playing poker, have we proceeded on the basis of information put together by the same people who put together the information on which we have relied in Vietnam? President Thieu has gotten around to firing a couple of generals. Will we?

Do we need to completely revamp our intelligence system? What about the State Department? And of course the Army.

There are a lot of people who, after assimilating the loss of South Vietnam of those South Vietnamese who fought because we told them on network TV that we would never let them go down, are going to ask the hard technical questions, and they are not going to spare the army, indeed they may very well not spare the commander-in-chief and I'm not so sure they should.

HISTORY UNHEEDED: STILL DARKNESS IN THE TUNNEL OF VIETNAM

(By Flora Lewis)

WASHINGTON.—President Nixon has once more appealed to the people of the United States to unite behind his Vietnam policy. He spoke of "this final challenge," though obviously there is no kind of pledge from Hanoi that it won't launch another offensive next fall or next spring—if South Vietnam weathers the current heavy fighting.

He did not repeat his previous frequent assessment that the war "is winding down." Nor did he repeat statements that America's goal is limited to safe repatriation of troops and prisoners and self-determination for South Vietnam.

On the contrary, the President appeared once more to escalate America's war aims, as he escalated the air war in response to Hanoi's escalated attacks on the South. "Our overall goal," he said, is "insuring South Vietnam's survival as an independent country."

This is a good deal more than "self-determination" or a "reasonable chance," especially since the 1954 Geneva Accords, which Nixon said Hanoi has now violated, explicitly provided for reunification of Vietnam and explicitly said the line between north and south was only a military demarcation line, under no circumstances to become a political border.

Ruling out union of North and South, whether by self-determination, political maneuver or military action, is only an apparent expansion of U.S. objectives, however. Sometimes the aim has been masked by other words, sometimes it has been stated openly.

Nonetheless, it has been the care of Washington's unchanged policy through the Eisenhower, Kennedy, Johnson and Nixon administrations. The differences, in each phase of the war, have been in each administration's view of the best means of pursuing that goal.

Nor has there been any change in Hanoi's goal during all that time, only sporadically varying ways of seeking it.

President Nixon's biggest switch has been to build up the South Vietnamese armed forces, withdraw American infantry and shift America's combat role from dogged jungle sweeps to electronic air war.

"Vietnamization has proved itself sufficiently," he said recently, that "we can continue our program of withdrawing American forces," taking out another 20,000 troops by July 1.

It is the numbers game again. On April 7, 1971, the President told the nation on TV, "Tonight I can report that Vietnamization has succeeded," because of the "success" of the Cambodian and Laotian operations.

But the Defense Department's spokesman now discloses that from March 2 to April 20, 1972, U.S. Navy manpower off Vietnam increased by 23,000 to a total of 38,000, and Air Force manpower in Thailand increased by 2,000 to 34,000. These figures can be misleadingly low, because Defense has a habit of assigning men on "temporary duty" and not counting them in the published force levels, although they are regularly replaced so that in fact they represent a steady increase in force.

Complete or not, this is at least 25,000 additional men committed to the Vietnamese war, more than the new withdrawal total.

NUMBERS GAME

As President Nixon points out, though, he will have taken 500,000 men out of Vietnam itself by July 1, three-and-a-half years after he took office. That is one-half year longer than it took President Johnson to put them in, building ports and bases and barracks as they arrived.

The casualty numbers game is the most painful of all. The President said they have been reduced by 95 percent and no doubt there are accurate ways of presenting the figures to produce that comparison.

However, a total of 45,713 Americans have been killed in action in Vietnam, through April 22 of this year. Of those, 15,200—about one-third—were killed after Jan. 1, 1969.

There is another category of American deaths related to the war (not to speak of Vietnamese deaths) which Defense calls "non-hostile" and which are listed separately. These may be from accidents, disease or even deaths in hospitals outside of Vietnam after evacuation of the wounded. Defense lists a total of 10,136 since the war started, of which 4,013—some 40 percent—were since Nixon took office.

In place of assuring a "winding-down war," the President has called on the country "to respond to this final challenge." With echos of Neville Chamberlain one year before the start of World War II, he has offered "not only peace in our time, but peace for generations to come."

Meanwhile the war goes on. The deaths mount. The participants are replaced. And the basic goals, in Washington and Hanoi, remain both unchanged and flatly contradictory.

It is the same old tunnel and there is still no light, only the same old administration hope that somehow North Vietnam can be forced to quit.

IOWA OPPOSES FRAGMENTATION OF STATE

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHWENGEL. Mr. Speaker, the Federal Reserve Board has issued a formal policy statement directing the Federal Reserve banks to extend check-clearing arrangements to wider areas. This will greatly enhance check-clearing time and its resultant other benefits.

Iowa is in the possible position of being split between two Federal Reserve banks. Recently, the Iowa State Legislature, in House Concurrent Resolution 132, opposed such a split and urged the needs of the business interests of the State as

a whole be considered before any split is made.

The resolution follows:

HOUSE CONCURRENT RESOLUTION 132

Whereas, the Board of Governors of the Federal Reserve System has issued a formal policy statement directing the Presidents of the Federal Reserve Banks to extend check clearing arrangements into larger zones of immediate payment and establish other regional clearing arrangements wherever warranted by the need for more expeditious and economical check handling; and

Whereas, the Federal Reserve Bank of Chicago, which serves the Seventh Federal Reserve District including Iowa, has established objectives to implement these directives including the establishment of a regional check clearing facility in Des Moines, Iowa; and

Whereas, the establishment of a regional check clearing facility in Des Moines will be valuable to Iowans because of the employment of additional persons in the Des Moines area, the reduction of check clearing time, and providing the business community with more funds because of faster check clearing with the result that more businesses may be attracted to the central region of Iowa; and

Whereas, in developing the plans to implement the directives of the Board of Governors of the Federal Reserve System, consideration is being given to dividing Iowa between two Federal Reserve Districts which might have the effect of fragmenting the state of Iowa; and

Whereas, such fragmentation would be disadvantageous to the business communities of Iowa if not implemented with due consideration to the needs of individual economic areas within the state of Iowa, now therefore,

Be it resolved by the House of Representatives, the Senate concurring. That the General Assembly strongly urges the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Chicago not to detract from the beneficial aspects of their objectives by fragmenting the state of Iowa into different Federal Reserve Districts, or if some fragmentation is necessary because of the economic characteristics of certain regions of the state of Iowa, the needs of the business interests of the state as a whole be carefully considered and only those areas of the state which have a distinct definable economic interest in areas outside of the state be joined to such areas; and

Be it further resolved, That a copy of this Resolution be forwarded to each member of the Iowa Congressional delegation in order that each such member can inform the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Chicago of the concern, interest, and position of Iowa citizens in regard to the pending changes in the Federal Reserve System.

We, William H. Harbor, Speaker of the House and Roger W. Jepsen, President of the Senate, hereby certify that the above and foregoing Resolution was adopted by the House of Representatives and the Senate of the Sixty-fourth General Assembly, Second Session.

ROGER W. JEPSEN,
President of the Senate.
WILLIAM H. HARBOR,
Speaker of the House.

THE PEOPLE'S VOICE IS HEARD

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. YOUNG of Florida. Mr. Speaker, more than 101,000 people in the Eighth Congressional District of Florida responded to my second annual districtwide questionnaire. The district is made up of people from nearly every section of our great Nation, and their views on some of the issues confronting America will be beneficial to all of us in Congress.

To insure that the survey was fairly worded, I secured the assistance of Premack & Associates, a St. Petersburg polling and market research firm, to draft the questions. I believe the results gave me extremely accurate information on how the people feel about various issues—Gallup, for example, samples only 1,600 persons nationwide for his highly respected survey.

Here, for the benefit of my fellow Congressmen, are the results of the opinion survey—figures rounded off to the nearest tenth of a percent:

1. Should employees of the Federal Government be given the right to strike? Yes—14.5%; No—81.7%; No opinion—3.7%.

2. Would you be in favor of a government financed guaranteed annual income for everyone? Yes—19.7%; No—76.2%; No opinion—4.0%.

3. Do you believe property taxes for schools should be partially replaced by a Federal value-added tax (similar to a sales tax)? Yes—41.7%; No—50.1%; No opinion—8.6%.

4. Do you believe the news media should have the right to publish or broadcast secret government information dealing with national security? Yes—11.1%; No—86.2%; No opinion—2.6%.

5. Should amnesty be granted to young men who fled the country to escape the draft? Yes—9.8%; No—87.5%; No opinion—2.6%.

6. Would you favor a national program of no-fault auto insurance? Yes—86.6%; No—11.5%; No opinion—1.6%.

7. Do you support President Nixon's strategy in Southeast Asia? Yes—69.7%; No—28.2%; No opinion—1.6%.

8. Would you support the bill now pending before Congress to raise the legal limit on alcohol in candy from ½ to 8½%? Yes—11.6%; No—87.2%; No opinion—1.0%.

9. Do you believe that President Nixon's trip to China was beneficial? Yes—82.8%; No—15.4%; No opinion—1.7%.

I AM A REACTIONARY!

HON. PAGE BELCHER

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BELCHER. Mr. Speaker, I would like to take this opportunity to insert the enclosed article which appeared in the Tulsa Daily World on April 4, 1972, written by Patricia Young. I believe that this represents the sentiments of a great many people in this country.

The article follows:

I AM A REACTIONARY!

(By Patricia Young)

Just for the record—and without apology—I am a reactionary! I react to sin and sadism, riots and revolution, gutlessness and Godlessness; to philosophies and sophistries which seek to destroy those values which make a country great, and which fashioned the very fabric of civilized mankind.

I react to dancing the permissive polka with those who would whirl me all the way to Hell while whispering that "God is Dead" and that the Devil is nothing but a myth. Yes, I am a reactionary: I react to those ministers who would convert my church into a hootenany hall or a political forum.

Yes, I'm a reactionary. I react to the emasculation of my Faith in the name of humanistic togetherness; I react to those who would seek to destroy my love for the Holy Bible, and my loyalty to the flag, and my esteem for the police.

I react to charges that I am personally guilty for other people's failures—as if I personally poured liquor down the alcoholic's throat, or peddled the heroin, or mugged a little old lady, or created the slums, or invented The Bomb!

I react to the glorification of the welfare state as a substitute for working for a living. I react to stupid kids who turn to pot and away from pink lemonade. Yes, indeed, I am a reactionary! I react to those who advocate The Pill instead of purity, and demonstrations instead of dedication, and desire over discipline, selfishness instead of sacrifice. I react to those who constantly prate about "rights" but who don't give a darn what's right.

I react to the portrayal of my friends in America as "Fascist beasts," and to those who regard Communist dictators as Santa Claus. I react to those who consider love as nothing more than sex, and who contend that "art" is a film showing an unmarried couple in bed together. Yes, sir, I react to order to promote surrender, and who are so in love with themselves that they would destroy all values except their "right" to be against everything.

I'm a reactionary, yes I am: I react to the stupid sentimentality of amateur-do-gooders who, like carved wooden monkeys, see no evil, speak no evil, and hear no evil—even when it runs riot with a shotgun, Molotov cocktail or plastic bomb. Oh, do I ever react! I react to the phonies who would re-write Little Red Riding Hood to have her "rehabilitate" the wolf while screaming "hate-monger" at the woodsman coming to her rescue.

You'd better believe I'm a reactionary. In my book, it's time all responsible adults began reacting instead of suffering the insults, inconveniences and intimidations of a noisy minority who would sacrifice their own freedom—and ours—on the altar of atheistic materialism.

If the majority will just begin reacting, the kooks and the creeps would soon crawl back under their rocks, and this tired old world would have time to bind its wounds and regain its sense of humour.

JUDGE-OCRACY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. LENT. Mr. Speaker, in recent years, I have viewed with alarm the increasing involvement of the courts of our land in legislative affairs. On May 4, Ira L. Cahn, publisher of the Massapequa, N.Y., Post, wrote an editorial on "judge-ocracy," which describes two court decisions regarding zoning regulations established by local legislative bodies. I believe Mr. Cahn has coined a new word in the lexicon of politics to describe the alarming phenomenon of increased court involvement in legislative affairs.

So that my colleagues may have the benefit of Mr. Cahn's views, I am including them in the RECORD at this point:

JUDGE-OCRACY

(By Ira L. Cahn)

Two court decisions that could affect the quality of life in the Massapequas and other

suburban areas were reported in the daily press this week. One, in New Jersey, voided a township's zoning ordinance on the ground that it led to economic discrimination against persons with low and moderate incomes. The other, in New York State, upheld the right of suburban towns to set aside vacant land for future governmental use such as schools and parks.

We hope the New Jersey decision is overturned by higher courts because if it isn't, control of zoning will pass from elected town boards and other legislative bodies to the courts. For much the same reason in reverse, we hope the New York ruling stands, since it could tend to nullify the effect of the sweeping New Jersey edict.

Our interest in these decisions is more than academic. The Town of Oyster Bay will soon go to trial over the zoning challenge instituted by the NAACP. The outcome of that trial could determine whether local control can survive in the suburbs.

We read some time ago that the United States was fast becoming a judge-ocracy. We're beginning to agree.

CITIZENS RESPOND TO QUESTIONNAIRE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ARCHER. Mr. Speaker, in order to achieve constructive changes in our laws and policies, it is important that the people make their views known to their representatives in government; but all too often they do not. Thus, I was quite pleased that so many citizens in my district responded to a questionnaire I mailed to them last month.

The poll covered some of the significant issues confronting Congress and the Nation this year. I was encouraged to learn that there are many thousands of people in my district who are concerned enough about these issues to take the time to answer the questionnaire. And by doing so, they are a great help to me as their Representative in Congress.

I think their opinions will also be of interest to my colleagues, so I hereby submit the results of the questionnaire for inclusion in the RECORD:

[In percent]

Do you think the wage-price controls benefit you?

Yes	52.7
No	42.8
No response	4.5

2. Do you support the President's policy in Southeast Asia?

Yes	65.2
No	29.0
No response	5.8

3. Do you think the U.S. financial contribution to the United Nations should be reduced?

Yes	75.6
No	20.3
No response	4.1

4. Do you support the idea of a national value-added (sales) tax?

Yes	16.2
No	75.6
No response	8.2

5. Do you support development of the Addicks-Barker Reservoirs as a major recreational park and wildlife preserve?

Yes	81.6
No	10.9
No response	7.5

6. Do you favor U.S. recognition of Communist China?

Yes	67.0
No	27.1
No response	5.9

7. Do you favor forced busing of school children to achieve a racial balance?

Yes	5.6
No	93.0
No response	1.4

8. Would you favor amnesty for draft evaders and deserters?

Yes	13.4
No	84.2
No response	2.4

9. Do you think the death penalty should be abolished?

Yes	21.1
No	76.1
No response	2.8

10. Do you favor the legalization of marijuana?

Yes	23.5
No	72.8
No response	3.7

11. Would you favor the establishment of a national health insurance program?

Yes	37.6
No	54.5
No response	7.9

RESOLUTIONS OF THE TANANA CHIEFS CONFERENCE—AN ALASKA NATIVE REGIONAL CORPORATION

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BEGICH. Mr. Speaker, the Alaska Native regional corporations recognized in the Native Claims Settlement Act are continuing to develop and take an active role in the public affairs of the State of Alaska. Most of the regional corporations recognized in that act were in existence and functioning long before the settlement legislation was passed, and the Tanana Chiefs Conference was one of those having a long and responsible history. So that my colleagues can understand some of the issues, and some of the progress in this area of Alaska, I am inserting a number of the resolutions passed at a recent meeting of the Tanana Chiefs:

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-46

Whereas, the Village of Telida has no Post Office, and

Whereas, the Village of Nikolai is just a Star Route Post Office with only one mail run per week in the summer and two in the winter, and

Now therefore be it resolved, that Upper Kuskokwim Native Association has gone on record to request the Post Office Delivery to establish a Post Office in the Village of Telida and establish a United States Post Office in Nikolai with two mail runs per week year round.

Be it further resolved, that the Tanana Chiefs Conference go on record to support these member villages actions.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-52

Whereas, Tanana Chiefs Conference supported Resolution 72-15 in regards to extention of the Holly Cross Airport, and

Whereas, there is a need for an adequate road to be built from the City of Holy Cross to the airport at Fat Johns Slough, and

Whereas, these two projects could be combined,

Now therefore be it resolved, that Tanana Chiefs Conference supports the village of Holly Cross for the above mentioned.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-58

Whereas, the State of Alaska has laws governing the taking of game in Alaska, and

Whereas, the State of Alaska has repeatedly failed to carry out such laws, and

Whereas, the State of Alaska's failures have resulted in endangering Alaskan Native's subsistance living, and

Whereas, the United States Conference Committee stated that Congress "Expects both the Secretary of The Interior and the State of Alaska to take any action necessary to protect the subsistance needs of the Natives."

Let it hereby be resolved, by the Tanana Chiefs Conference duly assembled the 16th day of March, 1972, take the appropriate steps necessary to assure continued subsistence living for Natives.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-59

Whereas, there is a 25 mile limit set on all Native Villages for Wolf hunting by airplanes, and

Whereas, the present laws on Wolf hunting, with airplanes, are not presently strictly enforced,

Now therefore be it resolved, that the State of Alaska Fish & Game *strictly* enforce the existing 25 mile limit, and

Be it further resolved, that a person owning more than 1 plane be limited to a *total* of 10 Wolves.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-60

Whereas, the Public Health Service Dental Teams are not being fully utilized in Fairbanks and outlying rural areas within the Tanana Chiefs Conference, and

Whereas, some days only a few patients show up after a full booking of patients, and

Whereas, the Native people realize the great need of additional dental teams for the Tanana Service Unit, and

Whereas, we realize true statistical data possibly would not be conveyed to a Public Health Service employee as it would to an independent Native party,

Now therefore be it resolved, that Public Health Service Contract out to the Tanana Chiefs Native Organization for a survey to be made immediately.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-63

Whereas, fishing licenses are currently being sold at Tatalina Air Force Base, and

Whereas, it is desirable that these licenses be sold at private business establishments for the purpose of bringing in business to the local merchant.

Now therefore be it resolved that the Alaska State Fish and Game be charged wtih

investigating the possibility of changing the location of license outlet.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–65

Whereas, the Iditarod Trail is a historical trail, and

Whereas, this trail is growing over and becoming unidentifiable, and

Whereas, this trail runs through the village areas of Takotna, McGrath, Medfra, Telida, and Nikolai, and

Whereas, the people of Alaska are concerned about this trail and its historic value,

Now therefore be it resolved, that the Upper Kuskokwim Native Association request that the State and Federal Governments take necessary action to brush this trail out, use manpower from this area and implement the necessary programs,

Be it further resolved, that the Tanana Chiefs Conference go on record in supporting these member villages action.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–68

Whereas, Alaska State Public Health Service in their Satellite Radio Communications between Villages and Urban Areas is lacking in many villages, and

Whereas, Satellite Radio Communications have proven to be quite successful with regards to health problems and many other problems, to those villages that now have such Satellite Radio Communications, and

Whereas, It has been brought to the attention of the Tanana Chiefs Conference that there are many villages waiting for this service,

Therefore be it resolved, that the Tanana Chiefs Conference supports this stand that the Public Health Service in their 1973 fiscal budget includes Satellite Radio Communications for those villages not currently served.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–73

Whereas, there is ninety miles of State of Alaska road net work in the Takotna Village Area, and

Whereas, these roads are deteriorating and have long been neglected by low funding in the State Budget for maintenance and improvement, and

Whereas, there is great future potential for recreation, historical, and mining interests to strengthen the economy of the area,

Now therefore be it resolved, that the Upper Kuskokwim Native Association to strengthen the economy and recreation interest of its area hereby request that the State of Alaska make a study for further development on this road net work,

Be it further resolved, that the State look into the possibility of extending this road net work to the nearby Village of McGrath,

Be it further resolved, that the Tanana Chiefs Conference in conference now assembled go on record in supporting these member villages requests.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–91

Whereas the Tanana Native Community is without any type of fire protection and fires have destroyed homes there,

Now therefore be it resolved by the Tanana Chiefs Conference that it support Tanana's request for fire fighting equipment and the implementation of fire protection in Tanana.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–93

Whereas, communication is of vital importance in linking the Tanana Native Community with other areas both within Alaska and outside, and

Whereas, mail service is a primary communication medium,

Now therefore be it resolved that the Tanana Chiefs Conference support Tanana's request for more frequent and efficient postal services and for protection against the backlogging of mail.

Adopted April 5, 1972.

SUPERINTENDENT SCOTT DEFENDS SCHOOL COMMITMENT TO WELFARE MARCH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. STOKES. Mr. Speaker, the welfare march held here on Saturday, March 25, 1972, has had some disturbing repercussions. The central theme of the march has been obscured by the furor over the support given by Superintendent Scott and the District of Columbia School Board. The march focused on the administration's callous disregard for the needs of poor children. The White House and the administration supporters reacted defensively by attacking Superintendent Scott, School Board President Marion Barry, and the members of the board. This was a diversionary tactic.

The reaction was a natural one for an administration which had proposed H.R. 1, the welfare restraint bill. Defending President Nixon, whose basic theme on the welfare issue is getting the cheaters off the rolls rather than feeding the hungry, is difficult. Only an administration which had so completely failed to live up to it promise to reform the welfare system would be vulnerable to such a march.

The superintendent and the board endorsed the march and permitted distribution of leaflets about it to schoolchildren. Children were given letters explaining the march to their parents and permission slips for parents to sign if they chose to allow their children to participate. The administration charged the superintendent and the board with manipulation of children. Coming from an administration which had just resumed the massive, indiscriminate killing of women and children by the bombing of North Vietnam, this was ludicrous.

Mr. Speaker, this controversy has brought threats to cut appropriations for the District and predictions that the President and some Members of Congress will now resist legislation to provide home rule. In providing for the distribution of the leaflets, Superintendent Scott was carrying out the mandate of the elected members of the school board. As elected public officials should, the board considered an important issue, took a stand on it, and provided for the effectuation of that policy. The citizens of the District must look for leadership to the few officials whom they are permitted to elect, Delegate FAUNTROY and the school board. Those officials courageously and aggressively supported the march and are to be commended, not condemned, for their action.

Mr. Speaker, I want to express my strong support for Delegate FAUNTROY, Superintendent Scott, Board President Marion Barry, and the other members of the school board who have been so unjustly maligned.

In order to further clarify the record on this issue. I insert here the eloquent statement issued by Superintendent Scott on March 27, 1972:

QUALITY EDUCATION AND PUBLIC SCHOOLS

Quality education in a democratic society requires that the educational process relate directly to helping all individuals and groups live constructively together. While it stresses the attainment of certain very fundamental skills, the school must also demonstrate an equal concern for the individual's capacity and right to work and play with other members of society, whatever their race, religion, sex, or social and economic condition. In a world where men are geographically close but socially distant, the schools have a clear commitment: to help produce a climate in which democracy works.

Quality education has to do with the output of those educational institutions whose policies and practices contribute significantly to the intellectual, physical and psychological preparation of individuals for effective and satisfying participation in society. When applied specifically to black Americans, quality education designates the qualitative efforts of those institutions which provide major assistance to black people in fulfilling their need to alter (in legitimate ways) those elements of the social structure that will promote equal opportunity for all.

In keeping with the basic tenets of our democracy, the schools have a responsibility to reform society as well as to perpetuate it. By their very nature and intent the schools must be involved in the identification and resolution of societal problems and issues as they appear at the local and national levels. While the schools must not promote a partisan politics—advocating one political party over another—they must nevertheless participate in the exploration of current issues and ideologies in order to help create an informed public.

The integrity and viability of this democratic, pluralistic society depend in large measure on the effectiveness of our schools as agents of social consciousness and reform. With regard to the resolution of problems that deny individuals their rights as citizens, the schools must vigorously work toward actualizing our Constitutional principles and thus give substance to the American Dream. If the schools are relegated to the role of passive observers of social injustice, they cease to serve the interests of all Americans.

The rights of dissent and freedom of speech must be actively preserved in our schools. It is in the best interest of this country that the schools expound and exercise our democratic principles in the context of day-to-day experiences. The schools are far too fundamental to the hopes and aspirations of millions of citizens to be deterred from one of its major tasks: that of helping turn the promises of democracy into realities.

NATIONAL MONUMENT TO THE NAVY SEABEES

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. GOLDWATER. Mr. Speaker, today the question of a national monument to the Navy Seabees comes to the floor. I would like to speak in support of the monument.

The naval construction force, commonly called the "Seabees" was born in March of 1942. They were needed then, as they are now, as a mobile, versatile engineering force, capable of performing diverse construction tasks under great duress.

During World War II, the Seabees were responsible for a major construction effort in the Pacific, building 111 major airstrips, 441 piers, 2,558 ammunition magazines, 700 square blocks of warehouses, enough hospital space for 70,000 patients, tank storage for 100 million gallons of fuel, and enough housing for 1,500,000 men. Their ability to work under the most harsh, severe conditions made them rightful heroes in the eyes of the American public.

During the Korean war, the Seabees made the Inchon landing and positioned pontoon causeways in advance of the troops, working under heavy enemy fire and strong tides. They built a "couldn't be done" airfield for damaged aircraft, which was aptly titled "Operation Crippled Chick." They were given 35 days to do that job, and they completed it in 16.

Between the Korean and Vietnam wars, the Seabees concentrated on peacetime construction; they built the Marine Corps air facility on Okinawa using modern precast concrete construction that was copied by private industry. They built a floating drydock in Holy Loch, Scotland, for the Polaris submarine fleet. They constructed the Cubi Point naval airstrip in the Philippines by cutting a mountain in half and filled a mile-long section of Cubi Bay with blasted coral; a task equal to the construction of the Panama Canal.

More recently in Vietnam, the Seabees have been the backbone of the construction effort. Admiral Moorer, the Chairman of the Joint Chiefs of Staff called their work in Vietnam the "largest single construction project in the history of the world." The Seabees built camps for the Marines, Army, Navy, and Air Force, equal to a city with a population of half a million people, including all utilities, sanitation facilities, and roads. They built half a million linear feet of taxiways and runways, 4 million square miles of warehouse space, and for every mile of road they built, they also built 100 feet of bridges.

To their credit, the Seabees also have civic action units in underdeveloped countries in Southeast Asia, Micronesia, and other countries of the free world; they build and teach the natives to build water systems, sanitation facilities, roads, schools, hospitals, and orphanages. They are the "Peace Corps" of the military, and they do their job quietly, without fanfare, with dedication and professionalism.

A monument in the Nation's Capital to these earnest, hard-working, quietly heroic men is the very least we can do by way of tribute for years of selfless service.

ELEVEN SOVIET JEWS HIDE TO AVOID GOING TO ARMY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. EILBERG. Mr. Speaker, in today's edition of the Washington Post there is an article with the headline, "11 Soviet Jews Hide to Avoid Going to Army." It has a Moscow dateline and it was written by Robert G. Kaiser.

The article states that 11 Jews in their late twenties and thirties, all of whom are scientists, have gone into hiding to avoid being forced to go into the army.

They are being drafted at this late age because they have applied for permission to emigrate to Israel. Four of the 11 are leaders of the Zionist movement in Russia and have applied for permission to demonstrate during President Nixon's planned visit to Moscow later this month.

This method of "dealing with the Jewish problem" is not new to Russia. during the reign of the czars Jewish boys were "drafted" for 20 years as one method of destroying the Jewish community in Russia.

The article also mentions the lack of news about Jewish dissent in Russia in the Voice of America broadcasts to that country.

The only chance the 2.5 million Jews in Russia have for freedom is the weight of world opinion on their side. This was clearly demonstrated when the Jews convicted in the farcical Leningrad trials had their sentences commuted after protests poured in from around the world.

Yet, today, our Government seems to be doing less and less to support the Russian Jews. For a year now a group of Congressmen has been trying to convince the USIA to broadcast programs to Russian Jews in Yiddish.

These requests have been answered with only the flimsiest excuses for not making these broadcasts.

The fate of the Russian Jews rests in our hands and we must do more if we are going to help them.

At this time I enter into the RECORD Mr. Kaiser's article which describes the worsening plight of these people.

ELEVEN SOVIET JEWS HIDE TO AVOID GOING TO ARMY

(By Robert G. Kaiser)

Moscow.—Eleven young Jews, several of whom hoped to stage a demonstration during President Nixon's visit to Moscow later this month are in hiding to avoid being called into the army, Jewish sources here report.

All 11 Jews are scientists in their late 20s and 30s, all have applied for permission to emigrate to Israel and all have been denied that permission, these sources say. They are regarded as activists in the Jewish movement here.

[In Washington, a spokesman for the Washington Committee for Soviet Jewry said that telephone calls to the Soviet Union disclosed a similar pattern of pressure on Jewish activists in a number of cities outside Moscow.

[In Tallin, Estonia, and Kauna's, Lithuania, two men were unexpectedly called to military duty, while a Jewish activist in Sverdlovsk had gone into hiding the spokesman said.]

Alexander Y. Lerner, a professor whose 28-year-old son is one of the 11, said the group included many of the most useful members of the Jewish protest movement, as well as those "who are brave enough to make some manifestation during President Nixon's visit."

Four of the 11 had actually applied for official permission to stage a demonstration during the Nixon visit carrying signs reading "Let my people go."

A group of Jews including Lerner wrote Mr. Nixon asking to meet him here. Lerner said that he didn't really think this would be possible, but he does hope to meet a member of the presidential party in Moscow.

STRANGE SITUATION

He also says there will be a public demonstration while Mr. Nixon is here, but other Jewish activists say there will be no demonstration, because that could only lead to trouble. Activist Jews in Moscow often disagree on tactics.

News of the 11 men hiding from the army is already well known in activist Jewish circles in America and Europe—a fact which reveals something about the strange situation in which Jewish protesters here now find themselves.

Russian Jews got the news to the West by long-distance telephone. "Every day," Lerner explains, "I get calls from Los Angeles, Chicago, Florida, New York—everywhere . . . Today, I heard from Ohio, New York, London—twice from London—Canada."

The callers are Jewish activists in those cities, who apparently have no trouble getting through Soviet switchboards to talk to dissident Jews here. Lerner is only one of many Jews receiving these calls.

The correspondent first learned of the 11 Jews in hiding in a telegram from The Washington Post in Washington. Americans who had been talking to Moscow by phone contacted The Post.

These phone calls suggest the dependence Soviet Jews often feel on the outside world. This sense of dependence has grown since the small band of dissident Jews here learned that President Nixon was coming to Moscow May 22 "President Nixon must help us," Lerner said.

He also criticized the Voice of America for not carrying enough news about Jewish dissidents in the Soviet Union.

SMALL GROUP

The 11 young men in hiding are part of a relatively small group of Soviet Jews who have been denied permission to emigrate to Israel because of their jobs, educations or both. (Generally, emigration continues at a fast rate. More than 9,000 Soviet Jews have left for Israel so far this year.)

Lerner, a small, chain-smoking man of 58 who speaks English with a gravelly voice, is one of these himself. An expert on cybernetics with an international reputation and a dozen books to his credit, Lerner says he was told by Soviet authorities: "we cannot give such a gift (as him) to Israel . . ."

Lerner has been refused an exit permit three times since last fall when he first applied—and lost his job.

Others who have been denied exit visas include former employes of sensitive organizations, or others who had access to state secrets. This has been literally interpreted, so that some former Aeroflot pilots, for instance, have been denied visas.

U.S. BOMBING: AN ENVIRONMENTAL DISASTER

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ROSENTHAL. Mr. Speaker, the bombing war the United States has conducted and is continuing to wage during the course of our involvement in the tragic and senseless war in Vietnam has been on a scale unprecedented in the annals of history.

In the 7-year period from 1965 to 1971, the area of Indochina was bombarded by 26 billion pounds of munitions, which is approximately double the total used by the United States in all the theaters of World War II. Of the 26 billion pounds, 21 billion were exploded within South Vietnam, the nation we are ostensibly aiding and protecting. For the area and people of Indochina as a whole, U.S. bombing, from the air, the ground and from ships at sea, represents an average of 142 pounds of explosives per acre or, to put it another way, 584 pounds for each man, woman and child.

The incessant U.S. bombing of Indochina has had baneful effects both on the ecology of Southeast Asia and on the health and welfare of the people themselves.

Craters now pocket every area of South Vietnam like a lunar landscape, decimating forests, swamps, fields, paddies, roads, villages, hamlets and—worst of all—human lives. How many millions of innocent persons have been driven from their homes, maimed, and even killed by American bombs?

The number of craters produced in the past 7 years Indochina by American bombardment totals 26 billion, covering a total of 423,000 acres.

This campaign will have an impact that will outlast the troops and the fighting. It is a legacy of famine and disease and destruction.

Fertile soil has been displaced, promoting erosion; the removal of vegetation and humans has made the area in and around craters permanently barren, and the deep craters have made many areas impassable for travel.

The impact of cratering on agriculture has been substantial. Unexploded munitions buried in the ground have deterred many farmers from attempting to reclaim rice paddies or other farmlands and, of course, in many places the land can no longer support any form of agriculture.

In addition, many of the craters have penetrated the water table and remain filled with water during much or all of the year and have thereby become breeding grounds for mosquitos and other insects, greatly increasing the hazards of malaria, dengue fever and other diseases.

The timber industry is another casualty of American saturation bombing of Indochina. The heavy shelling and bombing has either destroyed the trees outright or riddled the timber with shrapnel making the cutting of the wood hazardous, and subsequently resulting in the weakening of the trees through infection by wood-rotting fungi.

In recent days we have heard that U.S. planes have begun bombing the dams and dikes of North Vietnam. This threatens the food supply for hundreds of thousands of persons now and for years to come.

The military effect of the bombing campaign may have been negligible—it certainly did not prevent or halt the current North Vietnamese innovation—but there can be no doubt about the environmental impact—that has been widespread and disastrous.

Mr. Speaker, I would like to call to the attention of my colleagues an article in the May 1972 issue of Scientific American by Arthur H. Westing and E. W. Pfeiffer entitled "The Cratering of Indochina." This article discusses in great detail the longterm ecological effects of the massive physical alteration of the terrain in Indochina caused by U.S. bombing.

The article follows:

THE CRATERING OF INDOCHINA

(The countries of the area are pitted with an estimated 26 million bomb and shell craters. What are the long-term ecological effects of this massive physical alteration of the terrain likely to be?)

(By Arthur H. Westing and E. W. Pfeiffer)

The unprecedented use of herbicides on a massive scale as an instrument of war in Vietnam has prompted several studies of the probable long-term effects of these chemical agents on the land of Indochina. Much less attention has been paid to the effects of the tearing up of the land by bombing and shelling. Yet the released tonnage statistics alone suggest that these effects must be sizable. In the seven-year period from 1965 to 1971 the area of Indochina, a region slightly larger than Texas, was bombarded by a tonnage of munitions amounting to approximately twice the total used by the U.S. in all the theaters of World War II.

During three tours of war zones of Indochina to assess damage done to the environment by herbicides, we became increasingly conscious of the ubiquitous scarring of the landscape by bomb and shell craters. From the air some areas in Vietnam looked like photographs of the moon. How would this cratering of the land affect life and the ecology in Indochina when its people attempted to pick up normal living after the war? It seemed that the physical alteration of the terrain by bombing might have created long-range problems fully as serious as those produced by the defoliation campaign (which had attacked more than five million acres of forest and cropland in Vietnam). In order to initiate investigation of the crater problems, the two of us went to Vietnam for a preliminary study in behalf of the Scientists' Institute for Public Information in August, 1971. From the U.S. Department of Defense we collected the limited information that was available to the public about the expenditures of munitions in Indochina. Then in the field we surveyed bombed areas on the ground and from the air (in helicopters) and interviewed many people, including farmers, lumbermen and other persons who had observed various effects of the bombing on the land, the economy and various occupations.

In the seven years between 1965 and 1971 the U.S. military forces exploded 26 billion pounds (13 million tons) of munitions in Indochina, half from the air and half from weapons on the ground. This staggering weight of ordnance amounts to the energy of 450 Hiroshima nuclear bombs. For the area and people of Indochina as a whole it represents an average of 142 pounds of explosive per acre of land and 584 pounds per person. It means that over the seven-year period the average rate of detonation was 118 pounds per second. These average figures, however, give no indication of the actual concentration; most of the bombardment was concentrated in time (within the years from 1967 on) and in area. Of the 26 billion pounds, 21 billion were exploded within South Vietnam, one billion in North Vietnam and 2.6 billion in southern Laos. The bombardment in South Vietnam represented an overall average of 497 pounds per acre and 1,215 pounds per person; the major part, however, was focused on two regions: the five northern provinces and the region around Saigon.

Craters pock every area of South Vietnam: forests, swamps, fields, paddies, roadsides, Certain areas, notably the "free fire," or "specified strike," zones, show severe cratering. We personally observed large areas that had been subjected to intensive transformation of the landscape in Tay Ninh, Long Khanh, Gia Dinh, Hau Nghia and Binh Duong provinces around Saigon and Quang Ngai, Quang Tin and Quang Nam provinces of the northern part of the country. And of course the concentration of craters is particularly marked in areas such as the demilitarized zone (DMZ) between North Vietnam and South Vietnam and the supply trails in southern Laos.

We were able to visit on foot an area in the Mekong Delta that had been until fairly recently a free-fire zone. The area was near the hamlet of Hoi Son about 30 miles south of My Tho. Farmers were being resettled there on their previously fought-over land because senior officials considered the region fairly secure. (The degree of security became evident during our stay when U.S. aircraft were observed rocketing and strafing only a few miles away.) Several families that had left the area a decade earlier because of the fighting were interviewed, and they took us to three craters that they said had been made in 1967. The craters had probably been produced by 500-pound bombs dropped by fighter-bombers. Each crater was about 30 feet in diameter, filled with water, and at the time of our visit was about five feet deep in the center. The entire immediate area had been a rice paddy, but during the years when no cultivation had occurred, the rice had been replaced by a very tall reed, genus *Phragmites*, which surrounded the crater at a distance of 10 to 20 feet. Growing from the rim of the craters and into the reeds was a species of relatively short grass, *Brachiaria*, and a taller grass, *Scirpus*. The farmers were growing seed rice near the craters and were plowing under the reeds and grasses in preparation for planting rice. It was obvious that they could not use the cratered areas for rice cultivation because the water was much too deep. The only apparent solution was to bring in soil from elsewhere, but this was obviously not practical.

We also observed at close hand many craters on the flat terrace lands northwest of Saigon that had previously supported an evergreen hardwood forest. In this area the craters generally contain no water during the dry season, so that their natural history is considerably different from the history of the craters of the Delta region that are permanently filled with water. The craters were very numerous in this area; there was at least one every 100 feet. Each crater was 20 to 40 feet across and five to 20 feet deep. There were many generations of craters from different air strikes. The most recent ones were bare of vegetation but contained some rainwater. (We observed these craters in the wet season.) In the older craters a few sprigs of grass, probably *Imperata*, were sprouting in the center. As the craters age grass grows radially, eventually covering the bottom to meet vines trailing down from the peripheral vegetation. There is some filling of old craters with soil washed down from the sides,

but this is limited because old craters almost completely covered with grass were still five to 10 feet deep. They thus became permanent features of the landscape.

From the data available to us on the quantity of munitions expended we calculated tentative estimates of the total area by cratering and other damage to the land. For these estimates we had to make some very free and general assumptions. For example, we assume that about half (by weight) of the total amount of munitions employed in Indochina consisted of bombs, shells and other missiles that would produce craters. We assume further than on the average each of the crater-producing missiles was equivalent to a 500-pound bomb and formed a crater 30 feet in diameter and 15 feet deep, displacing 131 cubic yards of earth. (A large proportion of the cratering has been produced by B–52 bomber raids; each of these big planes typically carries 108 500-pound bombs.) We also estimate that the fragments from each crater-producing missile were spread over an area of 1.25 acres.

On the basis of these assumptions (some of which are supported by actual measurements) we estimate that the number of craters produced in Indochina by the bombardments from 1965 to 1971 totaled some 26 million, covering a total area of 423,000 acres and representing a total displacement of about 3.4 billion cubic yards of earth. The area of missile-fragment spread totals 32.6 million acres, if we disregard overlap. Again we note that South Vietnam has borne the brunt of this damage. In the period mentioned (through 1971) South Vietnam is estimated to have received about 21 million craters, covering all together about 345,000 acres, and to have had millions of acres contaminated by missile fragments, even allowing for overlap. The total area of the country is 42.8 million acres.

Let us now examine some specific effects, for the present and for the future, of this massive application of "landscape management" by high explosives. There is evidence from previous wars that the effects will be long-lasting. A decade after the end of World War II the craters of heavily shelled areas on Okinawa were still barren of vegetation and reddened by rusting shell fragments. On Eniwetok craters were clearly in evidence two decades after the war. Four decades after World War I vegetation in the Negev desert of Israel outlined the craters from that war, and even in France's Verdun area many of the World War I craters are still clearly visible and in some cases to this day are devoid of vegetation.

To begin with, we can see that the displacement and scattering of soil and subsoil from the craters in Indochina have given rise to harmful physical consequences. (Over the seven years the displacement of soil by bombardment in Indochina proceeded at a rate of nearly 1,000 cubic yards of soil per minute.) In hilly terrain the tearing up of the soil promotes erosion. In Indochina, where some of the soil is vulnerable to laterization (hardening to a bricklike state), the removal of vegetation and humus may make the area and around craters permanently barren. At the least it has resulted in colonization of cratered regions by weedy, worthless grasses and shrubs. Furthermore, the deep craters have made many areas almost impassable for travel.

Many of the craters, particularly in the Delta and coastal regions, have penetrated the water table and remain filled with water during much or all of the year. They have thereby probably become breeding grounds for mosquitoes, greatly increasing the hazards of malaria and dengue fever for the population. Reports by military authorities indeed confirm that "malaria has been causing increasing concern in Vietnam" and has spread to previously unafflicted areas.

The impact of cratering on agriculture has been substantial. Farmers in South Vietnam, notably in the Mekong Delta, have been reluctant or unable to attempt to reclaim rice paddies or other farmlands that have been pocked by craters. One of the important deterrents is the presence of unexploded munitions buried in the ground. A number of farmers have been killed by the detonation of such shells or bombs by their plows. Moreover, the ubiquitous missile fragments in the ground cut the hooves of the water buffaloes used as draft animals, causing infection and death of the animals. The unexploded bombs and shells lying about in the soil of Indochina are known to number several hundred thousand. Bombing has also disrupted rice-growing in Indochina by breaking up many of the intricate irrigation systems, and in some areas near the seacoast it has opened the land to encroachment by salt water.

The timber industry of South Vietnam, potentially one of the most important elements in the region's predominantly agricultural economy, has been particularly hard hit by the bombing. It has catastrophically slashed the values of the once prime timberlands northwest and northeast of Saigon, for example. The heavy shelling and bombing have damaged the trees in three ways: outright destruction, riddling of the timber by missile fragments and subsequent weakening of the trees through infection by wood-rotting fungi.

The forests have been bombarded by ordnance so intensively that the trees are filled with metal shards; one mill-owner told us that four out of five logs he receives have metal in them. Although the sawmill operators make laborious efforts to chop out the pieces of metal, they are only partly successful, with the result that they have a high rate of destruction of their saw blades by still embedded metal. In trees left standing the missile-fragment wounds provide ready entry for fungal rot. In some tree species the rot progresses so rapidly that if they are not harvested immediately after the metal attack they soon become almost worthless. Apparently the main South Vietnamese timber trees lose about 50 percent of their value in two or three years from this cause. Rubber trees are particularly susceptible to the fungal rot initiated by missile-fragment wounds; they become so weakened that they are felled by any high wind. A French official of a rubber plantation told us he had lost 80 percent of his trees within two years after a bombardment of his plantation.

Loggers in the battle zones of South Vietnam find that the damaging of timber by munitions is causing them a loss of more than 30 percent in the price received for the logs (although the severance tax remains the same). In addition the profusion of craters impedes the hauling of their logs to the mill. Often they must cut the logs to a short length (instead of the desirable 90 feet that is possible under normal circumstances) to allow sufficient maneuverability to skid them around the craters. During a survey in a high-flying helicopter of a mountain forest near Da Nang we saw many craters on the mountainside and along the ridges with severe accompanying erosion; they had been produced by a single B–52 raid about a year and a half earlier. We also observed another significant type of damage: large areas of the forest had been burned out, apparently by incendiary attacks with napalm, white phosphorous and flares.

Bombardment and defoliation are by no means the only methods used by the U.S. military in its struggle with vegetation in Indochina. Beginning in the mid–1960's a vast program of systematic forest bulldozing has been developed. The employment of massed tractors organized into companies for extensive forest clearing had apparently replaced the use of herbicides to deny forest cover and sanctuary to the other side. The effectiveness of the tractors, called Rome plows, is in some ways clearly superior to that of chemicals and is probably more destructive to the environment. When we visited a land-clearing operation in August, 1971, we watched about 30 such plows (20-ton Caterpillar tractors fitted with massive 11-foot-wide, 2.5-ton plow blades and with 14 tons of armor plate) scrape clean the remaining few areas of the Boi Loi Woods northwest of Saigon. We learned that in the 26 days prior to our visit the company had cleared 6,037 acres. Four other companies were also in operation and these five units had cleared a total of 750,000 acres as of August, 1971. We visited an area that had been plowed several years previously and it had regrown to cogon grass (*Imperata*), making further successional stages to the original hardwood forest very unlikely.

A study by U.S. agents has determined that about 10 percent of the agricultural land of South Vietnam has had to be abandoned because of the destruction wrought by bombardment and other weapons used in this war. It has been a war against the land as much as against armies. Indeed, it appears that one of the main strategies of our military effort has been to disrupt and destroy the social and economic fabric of rural, agricultural Vietnam in order to drive the peasant population into areas under central control and to deprive the guerrilla enemy of a power base.

Only about 5 to 8 percent of the U.S. bombing missions in Indochina have been directed at tactical military targets, that is, in direct support of troops. The rest of the bombing missions are described as "harassing" or "interdiction" attacks. They are also referred to as strategic bombing missions. Whereas the targets of strategic bombing in World War II were the factories, port cities, railroads and so forth of the enemy, in the Indochina war the strategic targets are the land and forests of Indochina because they give cover and sanctuary to the other side. It is important to note here that whereas factories, ports and other man-made sources of production can be rapidly rebuilt, as demonstrated in Europe and Japan, it is doubtful that many of the forests and lands of Indochina can be rehabilitated in the foreseeable future.

From 1966 on the B–52's carried out incessant attacks on a schedule of almost daily missions. From an altitude of 30,000 feet, where they are usually unheard and unseen from the ground, they have been sowing systematic destruction. A typical B–52 mission, comprising seven planes on the average, delivers 756 500-pound bombs in a pattern that saturates an area about half a mile wide and three miles long, that is, nearly 1,000 acres. Thus on a schedule of four or five missions per day of seven sorties each, such as was followed during 1971, the B–52's alone were creating about 100,000 new craters each month. Unfortunately the release of air-war data is now severely restricted.

The cumulative impact of the munitions attack on the land has to be seen to be grasped fully. Reports by military observers speak of the landscape's being "torn as if by an angry giant," and of areas of the green delta land's being pulverized into a "gray porridge." Our brief survey has only suggested some of the grim consequences for the present and future life of the inhabitants of Indochina. Still to be assessed are the effects of the persisting bombardment on the people's habitations, on the animal life and general ecology of the region. The damage caused by the large-scale disorganization of the environment may be felt for centuries.

Meanwhile the steady bombardment and shattering of the land, shielded from the Western world's view and concern by the

wide Pacific Ocean and the supposed "winding down" of the war, goes on with no end in sight.

Senator Gaylord Nelson of Wisconsin has introduced in the Senate a bill to provide for a study by the National Academy of Sciences "to assess the extent of the damage done to the environment of South Vietnam, Laos and Cambodia as the result of the operations of the Armed Forces of the United States . . . and to consider plans for effectively rectifying such damage."

Senator Nelson declared:

"There is nothing in the history of warfare to compare with [what we have done in Indochina]. A 'scorched earth' policy has been a tactic of warfare throughout history, but never before has a land been so massively altered and mutilated that vast areas can never be used again or even inhabited by man or animal. . . . These programs should be halted immediately before further permanent damage is done to the landscape.

"Our program of defoliation, carpet bombing with B–52's and bulldozing . . . did not protect our soldiers or defeat the enemy, and it has done far greater damage to our ally than to the enemy.

"The cold, hard and cruel irony of it all is that South Vietnam would have been better off losing to Hanoi than winning with us. Now she faces the worst of all possible worlds with much of her land destroyed and her chances of independent survival after we leave in grave doubt at best."

TITLE VII OF THE CIVIL RIGHTS ACT AND SEX DISCRIMINATION IN EDUCATIONAL INSTITUTIONS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. FRASER. Mr. Speaker, the Association of American Colleges—AAC—has issued a concise 3-page summary of title VII of the Civil Rights Act as it impinges upon sex discrimination in educational institutions. The memorandum is a product of the project on the status and education of women at the AAC headed by Bernice Sandler. Dr. Sandler is assisted in this project by Rebecca Stanley and Francelia Gleaves.

This April 1972 memo on title VII is the best brief look at the title which I have seen. It is reprinted below in its entirety:

TITLE VII OF THE CIVIL RIGHTS ACT AND SEX DISCRIMINATION IN EDUCATIONAL INSTITUTIONS

Background: Title VII of the Civil Rights Act of 1964, which forbids discrimination in employment on the grounds of race, color, religion, sex or national origin, was amended in March 1972 to include educational institutions.

To whom does title VII apply? All educational institutions, both public and private, with 15 or more employees. All employees are covered, including those subject to State and local civil service laws. Institutions are covered regardless of whether or not they have any Federal funds. Title VII also covers labor organizations (collective bargaining unions) and employment services.

What does the law require? Title VII makes it unlawful to discriminate in:

Recruitment, hiring, firing, layoff, recall; wages, terms, conditions or privileges of employment; classifying, assigning or promoting employees; extending or assigning use of facilities; training, retraining or apprenticeships; opportunities for promotion; sick leave time and pay; vacation time and pay; overtime work and pay; medical, hospital, life and accident insurance coverage; optional and compulsory retirement age privileges; receiving applications or classifying or referring for employment; and printing, publishing or circulating advertisements relating to employment; that express specifications or preferences based on sex.

Religious exemption: Religious educational institutions are exempted with respect to the employment of individuals of a particular religion to perform work for that institution. It does not exempt such institutions from the prohibition of discrimination based on sex (or race, color and national origin).

Who enforces title VII? The Equal Employment Opportunity Commission receives and investigates charges of discrimination. In certain states that have fair employment laws that provide sanctions similar to those in Title VII, EEOC, automatically defers investigation of charges to the state agency for 60 days. (If deferred, at the end of the 60-day period, EEOC will handle the charges unless the state is actively involved in the case. EEOC may grant an additional 300 days to the state for further handling of the case. About 85% of deferrred cases return to EEOC for processing after deferral.)

Power of enforcement: After investigation the Commission attempts conciliation. Should this fail, the Commission has the power to bring civil action against a private institution in the appropriate Federal District Court. Due to an ambiguity in the law as it relates to public institutions, it is not yet clear whether the Commission or the Attorney General will file suit in all situations which involve public institutions. Aggrieved individuals may initiate suits against institutions when the Commission or the Attorney Attorney General has not done so (see next section).

Private right to sue is guaranteed: If the aggrieved party is not satisfied with EEOC's actions, the aggrieved party is guaranteed the right to sue privately in court for damages. (Under the Executive Order, legal opinion differs as to whether or not there is a private right to sue; under Title VII, a private right to sue is guaranteed in the law.)

What the courts can do: After a preliminary investigation, the Commission or the Attorney General may ask the Court for a temporary restraining order or other order granting preliminary or temporary relief.

If conciliation is not effective, EEOC or the Attorney General can bring civil suit against the employer, labor union or employment agency. When a case in court is decided in favor of the aggrieved individual, the court may order all or any of the following:

1. Enjoin the respondent from engaging in such unlawful behavior.

2. Order affirmative action as may be appropriate and "other equitable relief."

3. Order reinstatement of hiring of employees with or without back pay.

4. Award back pay (but no more than up to two years prior to the filing of a charge with the Commission). Interim earnings are subtracted from back pay awards.

Who can file a complaint: Charges can be filed by or on behalf of any person claiming to be aggrieved, or by a member of the Commission.

"Pattern or practice" complaints: Individuals claiming to be aggrieved or a member of the Commission can file class complaints charging a pattern or practice of discrimination.

Time limits for filing a complaint: Charges must be filed within 180 days after the alleged unlawful act has occurred.

Notification of charges: A copy of charges filed must be given to the party charged with discrimination within ten days of filing.

Record keeping: All institutions must keep and preserve records relevant to the determination of whether unlawful practices have been or are being committed. The Commission is empowered to request such information.

Confidentiality requirement: Charges are *not* made public by the Commission, nor can any of its efforts during the conciliation process be made public by the Commission and its employees. However, should court proceedings be initiated by the Commission or the Attorney General, records may be made public. The aggrieved party and the respondent are not bound by the confidentiality requirement.

Prevention of harassment: Employers are forbidden to discriminate against any employee or applicant because he or she has opposed any unlawful employment practices, or because he or she has filed charges, testified or participated in any action under Title VII.

What is a bona fide occupational qualification (BFOQ): In some limited instances, a job may be limited to one sex provided the employer can prove that sex is a "bona fide occupational qualification." The Commission and the courts have construed BFOQ's very narrowly. Jobs may be restricted to members of one sex:

For reasons of authenticity, such as actress or model; because of community standards of morality such as lingeree sales clerk or restroom attendant; and in jobs in the entertainment industry where sex appeal is an essential qualification.

Jobs may not be restricted on the basis of sex for any of the following reasons:

Assumptions related to the applicant's sex, e.g. some or most members are unable or unwilling to do the job; preference of co-workers, employers, clients or customers; the job has traditionally been restricted to members of the opposite sex; the job involves heavy physical labor, manual dexterity, late or night hours, work in isolated locations or unpleasant surroundings; physical facilities are not available for both sexes; and the job requires personal characteristics not exclusive to either sex such tact, charm, or aggressiveness.

Relationship to the executive order: Executive Order 11246 as amended (which covers institutions with Federal contracts) is still in effect. In institutions with federal contracts, parties can file charges, simultaneously under the Executive Order and under Title VII. The Office of Federal Contract Compliance (Department of Labor)*, which has policy jurisdiction over the Executive Order, and the Equal Employment Opportunity Commission, which has jurisdiction over Title VII, coordinate in such instances.

Additional information: EEOC Sex Discrimination Guidelines as well as other information can be obtained by writing: Equal Employment Opportunity Commission, 1800 G Street, N.W., Washington, D.C. 20506.

POLISH CONSTITUTION DAY

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DULSKI. Mr. Speaker, this year marks the 181st anniversary of the Polish Constitution, adopted on May 3, 1791.

By that action, the Polish people established a principle of government which is one of the proudest achievements of Polish history.

People of Polish extraction every-

* The Department of Health, Education and Welfare does the actual investigations of educational institutions covered by the Executive Order.

where, including Polish-Americans, pause on this occasion each year to reflect on their proud ancestry. In my home city of Buffalo, N.Y., the observance was held on Sunday, May 7, as a joint effort of Polish-American organizations in our community.

It began with a parade of veteran, fraternal, civic, and student groups to St. Stanislaus Roman Catholic Church where the pastor, Rev. Msgr. Peter J. Adamski, P.A., celebrated the mass and delivered the sermon. During the afternoon, there was a well-attended program in the auditorium of the former Bishop Colton High School.

The Polish Constitution was adopted just 3 years after the U.S. Constitution was ratified. Thus the association of the United States with Poland over the years is very logical and has been very close.

Poland has not been as fortunate as has our Nation in preserving its independence, but the Polish people have not lost their faith that one day they may be able to live in the independence which they spelled out nearly two centuries ago.

ESTABLISHMENT OF A PLANT MATERIALS CENTER IN ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BEGICH. Mr. Speaker, I rise today to call attention to a very important bill, now before the Alaska State Legislature.

The bill, authorized by State Representative Jalmar Kerttula, would establish a Plant Materials Center that would conduct research and programs crucial to the maintenance of Alaskan ecology. Production of conservation materials for revegetating sites damaged by construction activities, recovering burned over areas, and improving winter range for wildlife are some of the short-term goals. In the long run, the center will focus in on development of new agricultural areas and vegetating erosion areas for their conservation.

I believe that the plant materials center is a demonstration of Alaskan environment awareness and a desire to maintain a balance between development of natural resources and protection of the environment. I think that the Alaska State Legislature deserves a vote of confidence for this demonstration of concern, and I call upon my colleagues to take notice and lend their support.

A memorandum by Representative Kerttula explains the bill, and the bill itself follows:

MEMORANDUM FROM REPRESENTATIVE JALMAR KERTTULA

The center has a considerable degree of urgency in view of accelerated growth and construction. However, the additional functions it would serve are by no means unimportant. The first function would be best described as the production and propagation of "conservation materials" suitable for best revegetating sites damaged by construction activities. It would also be helpful in recovering burned over areas, and hopefully improving winter range for wildlife.

Again, there are both short term and long term returns to this type of program, initially we have tended to emphasize the short term and deemphasize the long term returns. The early years of operation are based almost entirely on production of agronomic materials for farm, conservation, and revegetation use since we have the most experience in these fields. I believe the Center will rapidly become involved in other types of plant materials such as forestry plants, woody species for ornamentals and conservation purposes, and possible fruit species and disease-free planting stocks. Other agencies of the state government will wish to participate directly in the program since highways, airports, and other disturbed sites need hardy native materials for revegetation and soil stabilization.

In synopsis the Plant Materials Lab essentially takes environmentally adaptable seeds and develops the product in field tests to significant quantities (i.e. 5 to 10 acre plots). The seed is then turned over to commercial market for development by private industry. Present immediate applications are development of:

(1) Hardy strains for erosion areas.

(2) Ornamentals.

(3) Economically valuable agricultural strains.

[In the House by the Finance Committee]

HOUSE BILL NO. 8—IN THE LEGISLATURE OF THE STATE OF ALASKA, SEVENTH LEGISLATURE—SECOND SESSION

A bill for an act entitled "An Act establishing a plant materials center; and providing for an effective date"

Be it enacted by the Legislature of the State of Alaska:

*Section 1. AS 03 is amended by adding a new chapter to read:

CHAPTER 65—PLANT MATERIALS CENTER

Sec. 03.65.010. Establishment of Plant Materials Center. The Department of Natural Resources, in cooperation with the University of Alaska Agricultural Experiment Station, shall establish and maintain a plant materials center.

Sec. 03.65.020. Purpose of Center. The objectives of the plant materials center, in cooperation with the University of Alaska Agricultural Experiment Station, are to

(1) assemble, evaluate, select and increase plant materials needed in soil and water conservation, agriculture and industry, and maintain genetic purity of these materials;

(2) increase promising plant materials for field scale testing;

(3) test the promising materials in field plantings on sites that represent soil and climatic conditions not found at the center;

(4) maintain and provide for increase of basic seed stocks of plant materials for agricultural and conservation interests;

(5) make seed and plant materials available (for a fee if necessary) in such a manner as to avoid monopolistic control of basic request, accept and receive from federal, state and nongovernment sources financial and other aid and assistance, including personnel and equipment, for the construction, equipment, maintenance and operation of the center.

Sec. 03.65.080. Payments and Vouchers. Appropriations made by the state for the construction, maintenance and operation of the center shall be expended upon vouchers approved by the department in the manner prescribed by it.

*Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

SHOOTING CRAPS WITH AMERICAN DESTINY

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. RONCALIO. Mr. Speaker, last night President Nixon again demonstrated to the American people that his "path to peace" is one of disregard for public sentiment.

Only 19 days after Democratic Members of the U.S. House of Representatives adopted the precedent setting Indochina resolution calling for adoption of a bill which would set a date for terminating all U.S. military involvement in and over Indochina—views long before adopted by th U.S. Senate—our President has determined unilaterally to ignore the wishes of the very people who put him in office, and the representatives of the people.

He has turned instead to his military hawks who have been urging moves to end the war faster by a sea blockade since the Presidency of Lyndon Baines Johnson who had the good sense to reject such proposals on the grounds that they might well force a confrontation with the Soviet Union, not in Vietnam, but with some action in Korea, Turkey, Iran, the Middle East, and Berlin—places where the Soviet Union can better control the degree of crisis.

In accepting the advise of the military, President Nixon has chosen to ignore equally reputable guidelines by the CIA which has determined that a sea blockade "would be widespread but temporary, simply because the North Vietnamese could bring in supplies by small reed ships with equal results within 2 or 3 months.

President Nixon is clearly gambling. By his own admission last night he stated that "he could be wrong." He continued that if he was wrong, only he is responsible, and nobody else.

What the President has failed to recognize is that it really does not make much difference if it is his decision or someone else's—that what really counts is that the decision was made—and the possible ramification that are being forced on the people of this Nation.

President Nixon has rejected the cry for immediate withdrawal on three principles: First, it would leave the Vietnamese helpless; second, it would jeopardize the release of our POW's; and third it would endanger world peace.

The decisions announced last night—the mining of all entrances to North Vietnamese ports within international waters—continued air and naval strikes against military targets—cutting off rail and all other communications—and interdiction of delivery of supplies by U.S. forces—is certainly not going to be of any assistance whatsoever toward obtaining release of POW's. It is certainly not going to stabilize world peace. There is even a great deal of doubt that it will have any effect on helping the South Vietnamese, for the CIA contends we

cannot cut off supplies for more than 3 months, and there are reports that the North Vietnamese already have adequate supplies and equipment in the south to continue their drive.

The determination of the most powerful nation in this world to pound a small, underdeveloped nation into submission, to acceptance of ideologies and a way of life alien to that land, by the killing and injuring of 1,000 noncombatants per week, has never been a pretty picture. And the picture gets uglier with each move that is made toward shooting-in-the-dark attempts to hasten the end of the war so that it will not be an issue in the fall of 1972.

The move by the House of Representatives just last month to finally join with the Senate in setting a withdrawal date is long overdue. I am hopeful that the President's message last night will spur both bodies into immediate and decisive action to set a withdrawal date—to turn our attention and our vast resources to the many and pressing needs of the United States of America.

President Nixon has asked the American people to hold him accountable for actions in Vietnam. I am hopeful they will take his request to heart and do so.

SOCIAL SECURITY PAYMENT CENTER FOR RICHMOND, CALIF.

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. WALDIE. Mr. Speaker, for a number of years I have been attempting to obtain for Richmond, Calif., in my congressional district, the site for a proposed Social Security Payments Center.

There is no question in my mind that the area recommended by the city of Richmond is the most strategic—and will be a tremendous boost to this model city inasmuch as the center would be located in a depressed downtown area, giving employment to 2,000 people.

I should like to submit the enclosed editorials from the Oakland Tribune of October 14, 1971, and the Richmond Independent on April 21, 1972, giving impetus to my arguments on behalf of the site selection to be made in favor of Richmond. These articles follow:

[From the Oakland (Calif.) Tribune, October 15, 1971]

PAY CENTER FOR RICHMOND

If the Department of Health, Education, and Welfare is to follow President Nixon's criteria for locating new federal office facilities, Richmond should be given strong consideration for the proposed regional Social Security Payment Center.

The President issued an executive order in February, 1970 requiring that in picking a site consideration be given to the "impact a selection will have on improving social and economic conditions in the area."

Although a pay center which would house 2,500 workers in a 400,000 square foot building would have a substantial impact on any community, Richmond probably could stand to gain the most from its presence.

Location of the pay center in Richmond would be of considerable social benefit to that city and its large minority population because it would add job prospects in an area of high unemployment.

The city's decaying downtown, long suffering from the exodus of many customers and, hence, businesses to outlying areas, would receive an economic breath of life from an influx of people who would work and do business at the center. In addition, the center could even be responsible for attracting new commercial enterprises.

The city has offered HEW a choice 10-acre site in its 107-acre redevelopment project which was established with $18 million in federal and local funds in the heart of the downtown area.

By building the center in Richmond, HEW would be greatly enhancing an area in which the Federal Government already has a substantial investment.

The city feels the huge pay center would add impetus to development of this valuable property as a major complex of office buildings. Total development of the 107 acres would put the now virtually barren land back on the tax rolls.

The new Bay Area Rapid Transit station within several hundred feet of the site offers easy access to both commuting workers and the public. In addition, 2,000 parking spaces would be available.

The Richmond site appears a most logical location for the pay center in terms of its positive social and economic impact on the area.

RICHMOND THE RIGHT CHOICE FOR SOCIAL SECURITY CENTER

It's an election year and political winds are blowing up a controversy over the location of the new 2,000 employe Bay Area Social Security payment center.

Preliminary Congressional and Social Security reports have all favored Richmond as the most suitable location for the new building. San Francisco and Oakland were also in the running, but did not meet the criteria outlined by the Executive branch for new federal construction. Oakland has gracefully bowed out.

And The Oakland Tribune has given its unequivocal support to Richmond as the site for the new building.

However, San Francisco Congressman Phillip Burton has decided to muddy the water with politics. Burton's staff has admitted that according to current federal criteria for site selection. Richmond offers the best location. Even so Burton is seeking to stall action on a decision in the Social Security administration in order to reopen the site selection process with new criteria.

The Executive branch of the government has ordered that new federal facilities be placed in areas where there is the opportunity to make maximum social and economic impact. What better criteria could the federal government adopt in its building program Congressman Burton?

And what person, with any knowledge of San Francisco and Richmond, would argue that there is any comparison in the relative impact the new center would have on the two communities?

In San Francisco it would be another big building in an already crowded city.

In Richmond, it would serve as a major economic catalyst in redevelopment of the seriously depressed downtown area. Richmond desperately needs a dramatic and substantial boost for the downtown. Location of the new building here employing 2,000 people would mark a definite turning point toward a new Richmond.

We trust that the Nixon administration and the federal bureaucracy will stand firm against the last minute political pressure from San Francisco and choose Richmond as the site for the new center.

PEACE—A TWO-WAY STREET

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following editorial:

PEACE—A TWO-WAY STREET

Whether the "Harrisburg 7" defendants had been convicted or acquitted, justice would have been suspect in the end. The mob of radical activists who swarmed around the courthouse and environs in the last two weeks was a shameful spectacle.

American courts have banned news photographers, they even have forbidden news pictures of defendants within a block or so of the courthouse, lest justice be influenced.

But in Harrisburg, the state's laws were flouted by the radicals putting the pressure on the public and the court to free the accused. Religious services even were held in front of the courthouse, along with parades and speeches, pressure which had only one purpose, to influence the court and the jury.

It is a ridiculous evasion of the truth to say that such demonstrations, such pressure do not carry influence upon justice, that they do not affect the delicate balance of the scales.

Only the most dedicated, the most unusual jurors, one may expect, will set aside fears of reprisals of some kind in the face of such fanatical displays as were presented by the backers of the Harrisburg defendants.

It does nothing for the peace of mind of the American public to read that six of the Harrisburg 7 planned to go back into radical activism at once with an anti-war demonstration at a defense plant at nearby York.

There is a nauseating misplaced fervor in all this that sooner or later must cause a violent revulsion of feeling in America. While these people are aiding the cause of the enemies of America with their protests here, the Communists, 40,000 strong, have invaded South Vietnam and neighboring nations, slaughtering right and left.

All the time the Paris delegation of Reds was mouthing propaganda and denouncing America—denunciations in which so many Americans shamefully participated—they were planning this offensive. Current evidence shows this Red drive has been planned ever since the American radicals and liberals went on the rampage to denounce their own country for the war.

People who swarm in this country to attack their own land utter never a word of criticism of the war initiated by the Communists, the slaughter by the Reds!

As the chairman of the U.S. Joint Chiefs of Staff said several days ago, the only thing required to end this slaughter in Vietnam is for the Communists to go back home.

It is time indeed for Americans to brand for what they are, traitors, who find no fault in the enemy, but denounce their own country so unjustly.

There has been too much apathy, too much uninformed tolerance of the forces twisting and trying to destroy America, too much indifference to the people who see the war only through the eyes of the enemy, who distort responsibility and justice, not to mention loyalty and common decency.

There is an unctuous self-righteousness about the people who clamor for the spotlight on their eagerly-sought "martyrdom," and who, in their misplaced efforts, encourage the enemy to go about his business of crushing freedom in the world.

Today's world is a world at war—a war started and waged by the Communist forces of international revolution.

The free world has been suffering endless pressure and assault since World War II ended.

Too many people in this country do not seem to realize that world peace is a two-way street, that it takes two sides to make a war and the same two sides to make peace.

Peace simply cannot be achieved, or aided, by a unilateral sitdown and disarmament.

The people who ignore this are—whatever their intentions—helping America to commit national self-destruction.

THE MISSING MIRV

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. FRASER. Mr. Speaker, in an April 28 Christian Science Monitor article, Herbert Scoville, Jr. described how the Department of Defense used the scare crow of a Soviet MIRV threat to frighten off congressional support for cutting back strategic weapons programs. Mr. Scoville calls this "a classic case of the misuse of intelligence to promote expenditures for new weapons."

This House should "go to school" on the MIRV episode described by Scoville. We must look closely at the strategic weapons spending proposed this year such as ULMS—the undersea long-range missile system—and then provide only what is essential for the national security.

The Scoville essay follows:

[From the Christian Science Monitor, Apr. 28, 1972]

THE MISSING MIRV

By Herbert Scoville, Jr.

The Soviet MIRV threat is a classic example of the misuse of intelligence to promote vast expenditures for new weapons. (MIRVs are multiple missile warheads which can be aimed at separate targets.) Three years after the first cries of alarm over an imminent Soviet MIRV capability, defense officials are now only saying that the Russians have the necessary technological base to develop MIRVs.

In 1969, the danger of a first strike against our Minuteman ICBMs from the large Soviet SS-9 missiles armed with MIRVs was used to justify going ahead with the Safeguard ABM. Then, President Nixon referred to Russian tests since 1968 to triplet reentry vehicles (MRVs) with a "footprint" or impact pattern which could be made to match the layout of three Minuteman silos. This same song was repeated for two years whenever the Red menace was needed to pry loose from reluctant congressmen money for new weapons.

In 1971, however, a leak to the press at last gave the public an inside view of the validity of DOD "interpretations." Analysis of the Soviet MRV tests did not substantiate the theory that the impact patterns of the triplet warheads could be varied, i.e., the "foot print" could not be changed to step accurately on more than one pattern of Minuteman silos. This less fearsome interpretation was held, it seems, by most intelligence analysts from the beginning. Our previous policies had been based on an improbable "worst case analysis." In his February, 1972, report to Congress, Secretary of Defense Laird conceded that the Russians have probably not yet tested a MIRV system and that there had been no new tests of even an MRV system for the SS-9 since the fall of 1970.

One might have thought that this was the end of the MRV and its "footprint." After all, the U.S. has had MRVs on its Polaris missiles since 1962, and they are not first-strike weapons. But no, on March 6, speaking to the Veterans of Foreign Wars, Secretary Laird reported that the Russians were deploying about 100 missiles with MRVs (no mention of this was made three weeks earlier to the more savvy congressional committees). When queried by the press, he played down the difference between MRVs and MIRVs, implied that this was unimportant semantics, and again gave the impression that the Russians could vary the "footprint" of their MRVs. Thus, the fears of the public, unfamiliar with details of the past history, were once again aroused by the MRV threat.

However, two weeks later, on March 21, Dr. Foster, the top Pentagon weapons scientist, reporting to the Senate Armed Services Committee, reversed the field once again. The lack of even MRV tests since 1970 now suggests to Dr. Foster that the Russians may have canceled or curtailed the SS-9 triplet program, possibly in favor of a new missile which has not even yet been tested for the first time. If this is true, a Soviet first-strike threat against Minuteman is delayed (Dr. Foster mentioned early 1980's or beyond)—or postponed indefinitely since it was recently reported that the Soviets had not initiated any construction of new silos for more than six months.

So goes the MIRV threat—first you see it in all its fearsome trappings, then as you dig deeper it fades into the future. Now it recedes to the '80's. Certainly, as President Nixon says, the Russians have the technological base to develop MIRVs if they choose to move in that direction and if they are not prevented by an arms limitation agreement. (Strangely, the administration has never made a serious effort to control MIRVs at SALT). But today there is no concrete evidence that the Russians are far down the MIRV road. Although they could start testing tomorrow, it would be several years before they had a fully developed MIRV and many more before they could deploy a system that could threaten our Minuteman deterrent.

Meanwhile the public has been the victim of a hoax, fed by a blatant misuse of intelligence designed to scare it into approval of large new weapons programs. Not only does this result in a waste of billions of dollars, but it frequently leads to a decrease in security because we buy weapons designed against the wrong threat. We are seeing today a repetition of the same tactics in the request for nearly one billion dollars for a new missile submarine—ULMs, when even the nature of the danger to the present Polaris-Poseidon system is unknown. The time has come for honesty in our national security programs as well as in our national political structure.

AMENDMENT TO THE FAIR LABOR STANDARDS AMENDMENTS OF 1972

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, at the appropriate time during our consideration of the Fair Labor Standards Amendments of 1972, I plan to offer the following amendment:

AMENDMENT

An Amendment to the Amendment in the Nature of a Substitute, H.R. 14104, Introduced by Mr. Erlenborn, to be offered by Hon. John B. Anderson of Illinois: Page 2, line 13. Strike out "$2 an hour" and insert in lieu thereof the following: "$1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, and not less than $2 an hour thereafter".

Page 2, line 19. Strike out "$1.80" and all that follows through paragraph (b) and insert in lieu thereof the following: "$1.70 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, not less than $1.80 an hour during the second year from such effective date, and not less than $2 an hour thereafter."

AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DINGELL. Mr. Speaker, on April 26, 1972, the Environmental Protection Agency called together representatives of the States, environmental organizations, and others in an effort to win their support for early enactment of a water pollution control bill. Earlier on April 22, 1972, EPA issued a press release in which EPA's Assistant Administrator for Enforcement and General Counsel, warns that EPA's "water pollution control program will be imperiled" unless Congress "acts promptly" to resolve differences between the House and Senate bills. EPA's release states that:

Attention has focused on the *differences* between the two bills. In reality the *similarities are far more important.* (Italics supplied.)

Apparently, these two events were the opening effort on the part of the administration to convince environmentalists and State officials that a new water pollution bill should be enacted, no matter what form it takes.

At the meeting, EPA officials were surprised to learn, I am told, that these representatives did not share EPA's view that a bill, in any form, is essential. Environmentalists do not buy the idea that the similarities between the House and Senate bills are far more important than the differences. Possibly this is because they recall the administration's efforts last November and December to delay passage of a strong Senate bill, to lobby for major changes in that bill, and to insist that the House hold hearings on the Senate-passed bill. They also recall the efforts in March by industry lobbyists, aided by the administration, to have the House pass its much weaker bill, H.R. 11896, without any amendments. They

also note that many legislative weeks remain before Congress will adjourn.

Yes, there are many similarities between the two bills. But, unfortunately, they do not exist in what might be termed the "gut" provisions—those dealing with establishment of effluent limitations, enforcement, permits, and citizen participation. There the differences are, in fact, far more important than the similarities.

The April 22 news release also quotes the EPA Assistant Administrator for Enforcement and General Counsel, as stating:

> The real need is *to achieve legislation now*. It would be a tragedy if we lost the opportunity to obtain a good bill because of a failure to agree on *details*. (Italics supplied.)

I am amazed at this attitude of EPA. Do they mean that the Senate conferees and environmentalists and State officials should capitulate on these so-called details and accept a weak House bill just so the administration can boast to the public that new water pollution control amendments have been enacted in 1972?

Since 1956, Congress has amended the Federal Water Pollution Control Act four times—1961, 1965, 1966, and 1970. Although these amendments were helpful in some respects, they were largely cut-and-paste revisions of a weak and largely ineffective law. They did not face the real issue—namely, the issue of eliminating—not merely abating—water pollution wherever possible. Those amendments skirted that issue.

It was not until this time that Congress squarely faced the issue of eliminating versus abating water pollution. This is the principal difference between the House and Senate versions of the amendments to the Federal Water Pollution Control Act of 1956 pending in conference. This is the detail that the conferees must work out when they meet beginning this week.

My colleague, HENRY S. REUSS, and I, joined by more than 40 other Members of the House, a few weeks ago sought to have the House adopt the 20th century concept of the Senate bill (S. 2770)—to eliminate pollution through the use of best available technology wherever possible from our waterways—rather than the 19th century abatement concept of the House bill (H.R. 11896). We believed then, and now, that unless the Congress adopts this pollution elimination concept, it probably would be better to enact no bill at all, but merely pass a continuing resolution and let the 93d Congress take a fresh look at the problem. We want strong and effective legislation along the lines of the Senate bill. A weak bill would be equal to no bill at all.

There are many excellent provisions in the House-passed bill. But there are also many provisions in that bill that are designed to perpetuate the abatement theory. For example, the House bill:

States, in section 102, that EPA should establish a national research program for the prevention and abatement of pollution;

Continues the archaic concept of beneficial uses of water, whereby the stream is used to treat wastes rather than requiring that the polluter eliminate or adequately treat the wastes;

In attempting to retain the outmoded and unenforceable system of water quality standards of the receiving waters, and to integrate that system into the new system of effluent controls at the source, the House bill lets the States establish maximum daily waste loads allowable for a waterway—in other words, it continues the old assimilative capacity theory that a stream can be used to treat wastes up to an established limit;

Authorizes EPA to defer to 1978 the requirement that point sources must comply with effluent limitations;

Instead of requiring pollutors to apply the best available technology to their wastes by 1981, it simply calls for a 2-year study by the National Academy of Sciences, and leaves it to some future Congress to enact that requirement;

Requires that all point sources of pollutants, other than publicly owned treatment works, must achieve, not later than January 1, 1976, effluent limitations requiring the use of the best practicable control technology currently available. This sounds fine, but it is drastically undermined by the committee report's definition of the term "currently available," as a control technology demonstrated as viable at the time of commencement of actual construction of the control facilities, with no provision for review and updating of this technology at any time. Thus, it appears that a pollutor who began construction of his control facility in 1971 using the best practicable control technology of that time would have that technology grandfathered until Congress changes the law by adopting some supposedly stricter standard after the NAS study;

Adds a new and subjective economic test in the setting of Federal standards of performance for any facility discharging pollutants that is constructed more than 90 days after enactment of this legislation;

Gives EPA total discretion to decide whether or not to initiate a civil action to require compliance with an abatement order when a violation of permit conditions or effluent limitations takes place;

Does not provide criminal sanctions against polluters who fail to comply with an EPA order;

Ties EPA's hands by refusing to give that Agency power to issue subpenas in enforcement actions;

Gives pollutors immunity until 1976 from prosecution, except in an emergency that threatens the health of persons, either under the Refuse Act of 1899 or this legislation, if they merely file applications for permits;

Allows EPA to transfer the permit program to a State long before the State has established effluent limitations, standards of performance, and other basic requirements under the act;

Takes away from EPA its present authority to review and, where appropriate, disapprove discharge permits, once administration of the permit program is transferred to a State;

Provides that industrial pollutors who discharge wastes into a publicly owned waste treatment system—rather than directly into a waterway—need not apply for any permit;

Severely limits a citizen's ability to require enforcement of the law, by establishing vague, ambiguous, and unwise tests to establish the citizen's standing to sue a pollutor or EPA's Administrator:

Limits EPA's emergency powers under the bill to those instances where the health, but not the welfare, of persons is endangered by a pollution source or combination of sources;

Deletes a Senate provision which prevents a pollutor from obtaining court review of EPA's action in promulgating effluent standards, performance standards, et cetera, in civil or criminal enforcement proceedings later instituted by EPA against the pollutor, despite the fact that both the House and Senate bills provide an opportunity for such review within 30 days after such promulgation; and

Deletes a provision in the Senate bill that specifically provides that stricter water quality requirements of a State shall be set forth in the certifications provided in section 401 of the bill and shall become a condition of any Federal license or permit for which the certification is required.

These are some of the major deficiencies in the House-passed bill that, if enacted, would continue the Federal water pollution program in the style of the 19th century. It would reenact the same old pollution-as-usual approach that has prevailed in the United States for many years. That approach is remarkable in that it has served to perpetuate pollution, rather than to reduce and eliminate it. Under that approach, our Nation's waters have been further degraded. A 1972 EPA report, "The Economics of Clean Water," states that "water pollution increased from 1970 to 1971."

We have the opportunity today to shift from this old approach to a modern and, in the long run, less costly approach of pollution elimination. We have tried the old way. It has not worked. Let us try a new way that shows greater promise.

Mr. Speaker, at this point I insert in the CONGRESSIONAL RECORD a document—dated April 15, 1972—prepared by EPA and marked "Official Use Only" which I have just obtained. It is entitled "Comparison of Major Provisions Between S. 2770, Passed By The Senate on November 2, 1971, H.R. 11896, Passed By The House On March 29, 1972, and Comments." I commend it to the attention of my colleagues. I feel certain that, after you read it, you will discern an alarmingly negative attitude at EPA for anything that is progressive in this field. I certainly hope that Mr. Ruckelshaus will disassociate himself from this document.

The comparative follows:

AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT—COMPARISON OF MAJOR PROVISIONS BETWEEN S. 2770, PASSED BY THE SENATE ON NOVEMBER 2, 1971, "H.R. 11896," PASSED BY THE HOUSE ON MARCH 29, 1972, AND COMMENTS

(NOTE.—Sections refer to House bill)

S. 2270, PASSED BY SENATE, NOVEMBER 2, 1971	"H.R. 11896," PASSED BY HOUSE, MARCH 29, 1972	COMMENT
1. Goals and Policies (Section 101)	*1. Goals and Policies (Section 101)*	*1. Goals and Policies (Section 101)*
The objective of the Act is "to restore and maintain the chemical, physical, biological integrity of the Nation's waters."	The objective provided in the Senate bill is retained.	We oppose the 1985 policy in the Senate bill as unnecessary, undesirable, and uneconomic.
Six national policies directed toward the achievement of that goal are identified as follows: (1) the elimination of discharge of pollutants into waters by 1985; (2) wherever attainable, an interim goal of water quality which would support fish, wildlife, and recreation by 1981; (3) the prohibition of discharge of toxic pollutants in toxic amounts; (4) Federal financial assistance would be provided to communities for construction of waste treatment facilities; (5) regional waste treatment management programs to be developed by the States; and (6) a major research and demonstration effort to develop necessary technology.	Of the six national policies identified in the Senate bill, the first two—the "no-discharge of pollutants by 1985" policy and the "fish, wildlife, and recreation by 1981" policy—would not be identified as "national policies" but as "goals."	We oppose the 1971 policy in the Senate bill as inappropriate for many bodies of water.
	Actions in implementation of the 1981 and 1985 goals will not be pursued until the National Academies of Sciences and Engineering complete a study of the economic, social and environmental costs and benefits involved in achieving such goals, and until Congress evaluates the recommendations of the Academies and takes further legislative action.	We agree with the House bill's elimination of the 1981–1885 policies as the basis for legally binding rgulatory action at this time. The study of the feasibility and desirability of the no discharge goals and future consideration and action by the Congress before such requirements are imposed is highly desirable.
2. Standards (Sections 301–305)	*2. Standards (Sections 301–305)*	*2. Standards (Sections 301–305)*
Standards would be established and implemented in three phases: (a) during phase 1, the period from 1972 to 1976, effluent limitations based on "best practicable treatment" to be required of industrial dischargers and any more stringent requirements under Federal or State water quality standards as necessary to achieve ambient water quality for the beneficial use identified in such standards. "Secondary treatment" would be required of municipal facilities.	Effluent limitations based on best practicable treatment currently available or a greater degree of treatment as necessary to achieve ambient water quality to accommodate beneficial uses identified in water quality standards would be required of industrial dischargers.	We object to effluent limitations based on technology better than "best practicable treatment," which are not addressed to ambient water quality considerations as the Senate bill would impose in phases 2 and 3. We agree, however, that "best practicable technology" should be required of industrial dischargers and that any more stringent limitations should be imposed only when ambient water quality considerations require. This is the approach in the House bill.
(b) During phase 2, the period from 1976 to 1981, "best available technology" would be required of industrial dischargers, and following a public hearing and a determination of the costs and benefits involved, more stringent limitations needed to achieve ambient water quality to support identified beneficial uses. Best practicable technology would be required of municipal dischargers after a consideration of the costs and benefits of alternative treatment techniques.	Water quality standards for interstate waters would be retained and water quality standards for intrastate waters would be reviewed and approved. These standards (as well as "best practicable treatment" requirements) would form the basis for effluent limitations.	We agree with the retention and expansion of water quality standards, as the House bill would provide.
(c) During phase 3, the period from 1981 to 1985, presumably more stringent limitations would be imposed directed toward the achievement of the "no-discharge" goal. However, requirements for phase 3 effluent limitations are not explicit.	The 1976 deadline can be extended up to 2 years if existing implementation plan or physical or legal obstacle so dictate.	We agree with the provision for extension for good cause.
	Requirements and limitations beyond 1976 would not be imposed until study and report on the costs and benefits involved in achieving the 1981 and 1985 goals have been considered by the Congress and until it takes affirmative legislative action.	
	Provides that use by industrial dischargers of "best *available* technology" as distinguished from "best practicable" during period 1972–1975 will preclude imposition of more stringent requirements for a 12-year period or for the period of rapid amortization (5 years).	
3. New Source Performance Standards (Section 306)	*3. New Source Performance Standards (Section 306)*	*3. New Source Performance Standards (Section 306)*
"Best available control technology" would be required of all new industrial discharge sources, unless it can be demonstrated that the social and economic costs of achieving standards exceed the social and economic benefits.	"Latest available demonstrated control technology" would be required of all new industrial discharge sources.	We are in essential agreement with this requirement, which corresponds to a provision in the Administration's bill.
		We prefer the House Committee bill approach whereby "best available technology" is that which is *"demonstrated."*
4. Enforcement (Section 309)	*4. Enforcement (Section 309)*	*4. Enforcement (Section 309)*
Present enforcement procedures involving "enforcement conferences and 180-day notices to violators of standards preliminary to court action would be eliminated. A system of administrative orders and civil and criminal legal actions, administrative fines, civil and criminal penalties, and emergency powers would be provided.	Similar to the Senate bill.	We are in essential agreement with the enforcement provisions of the bills, which correspond closely to the Administration's bill.
5. Toxic and Pretreatment requirements (Section 307)	*5. Toxic and Pretreatment requirements (Section 307)*	*5. Toxic and Pretreatment requirements (Section 307)*
Toxic substances would be identified and effluent limitations including prohibitions, as appropriate, would be established by the Administrator.	Similar to the Senate bill.	We are in agreement with the provisions of the bills with respect to pretreatment requirements.
Requirements for the pretreatment of industrial waste which if untreated prior to the discharge into the municipal system would either pass through or adversely affect the functioning of such system would be established by the Administrator.		

6. "Clean Lakes Provisions" (Section 314)

States would be required to identify their lakes according to eutrophic conditions and to establish procedures to control and restore polluted lakes. $300,000,000 would be authorized to be appropriated for this program.

7. Thermal Pollution (Section 316)

No distinction is made between thermal discharges causing pollution and other pollutant discharges.

8. Waste treatment facility construction in title II

(a) Authorization (Section 207)

$14 billion for fiscal years 1972 to 1975 would be authorized for Federal financed assistance for waste treatment facility construction.

(b) Federal Share (Section 202)

A basic Federal share of 60% is provided. The Federal share may be increased to 70% if the State "matches" with 10%.

(c) Allocation of Funds (Section 205)

Allocation of construction grants funds is based on population ($400,000,000 is "earmarked" for the District of Columbia waste treatment plant).

(d) Reimbursement (Section 206)

"Reimbursement" of funds expended by States and localities to prefinance the Federal share with Federal funds was not available during the period 1966–1971 would be provided. However, reimbursement would be at the new 50% Federal share rather than the previously authorized, i.e., 30%–40%–50%. Reimbursement to States and municipalities for projects constructed without full Federal financial support authorized during the period 1956–1966 would be available at a 30% Federal share.

(e) User charges (section 204)

Municipalities would be obliged to collect user charges from recipients of waste treatment services to pay the costs of constructing, operating and maintaining waste treatment facilities. Industrial user charges allocable to the Federal share of the capital costs of construction would be returned to the U.S. Treasury.

(f) Storm and combined sewers and collection systems (sections 211 and 212)

Storm and combined sewers and collection systems would be eligible for Federal financial assistance.

(g) Grant v. Contract (Section 203)

Federal financial assistance would be available through contracts with States and municipalities. Contract authority could reach into future years' allocations.

6. "Clean Lakes Provisions" (Section 314)

Same provisions as Senate bill, but authorizes $250,000,000.

7. Thermal Pollution (Section 316)

Comprehensive studies of the effects and methods of control of thermal discharges, including consideration of costs, benefits, environmental impacts and methods to minimize adverse effects and maximize beneficial effects of thermal discharges, would be required.

Separate regulations relating to the control of thermal discharges would be required.

8. Waste treatment facility construction in title II

(a) Authorization (Section 207)

$18 billion for fiscal years 1973–1975 would be authorized for Federal financial assistance for waste treatment facility construction.

(b) Federal Share (Section 202)

A basic Federal share of 60% would be provided. The Federal share may be increased to 75% if the State "matches" with 15%.

(c) Allocation of Funds (Section 205)

The allocation of funds to the States is based on identified waste treatment construction grant needs. These needs are identified in a "needs" list resulting from a 1969 survey of States and municipalities. (To use '71 survey in Conference).

(d) Reimbursement (Section 206)

Reimbursement for the period 1956–1966 is the same as that in the Senate bill.

Reimbursement for the period 1966–1972 would be at the rate of Federal share authorized at the time construction of projects was initiated (30%–40%–50%).

(e) User charges (section 204)

Municipalities would be obliged to collect user charges from recipients of waster treatment services to pay the costs of constructing, operating and maintaining waste treatment facilities. Industrial user charges allocable to the Federal share of the capital cost of construction would be retained by the municipalities to provide for future needs.

(f) Storm and combined sewers and collection systems (sections 211 and 212)

Storm and combined sewers and collection systems would be eligible for Federal financial assistance.

(g) Grant v. Contract (Section 203)

Same provisions as Senate bill.

6. "Clean Lakes Provisions" (Section 314)

We are opposed to a separate approach for lakes as distinguished from other bodies of water. No separate technology exists necessitating such separate approach. This problem could be dealt with under national programs of effluent limitations and treatment facility construction.

7. Thermal Pollution (Section 316)

We agree that the study of thermal discharges should be continued and accelerated. However, we question whether separate effluent limitations should be required for thermal discharges, for which "best practicable" control technology could not be required across the board.

8. Waste treatment facility construction in title II

(a) Authorization (Section 207)

The 1971 "needs" survey in the view of EPA identifies a need of approximately $14 billion.

(b) Federal Share (Section 202)

We are opposed to a Federal share in excess of 55%. Substantial State and local matching is necessary to insure economy and cost effectiveness.

(c) Allocation of Funds (Section 205)

We oppose the population allocation approach taken in the Senate bill.

We favor an allocation of construction grant funds based on needs as the House bill would provide, but the "needs" list incorporated in the House bill is out of date. We prefer a formula to calculate "needs."

(d) Reimbursement (Section 206)

We oppose "reimbursement" for projects constructed during the period 1956–1966. No promise or inducement was made upon which reimbursement would now be carried out. "Reimbursement" for this period represents a windfall.

We object to the Senate bill provisions for reimbursement for the period 1966–1971 as being in excess of amounts originally authorized for grants for such projects.

We agree with the reimbursement provisions of the House Committee bill for the period 1966–1972.

Only the House bill provides reimbursement for projects for which construction was initiated after June 30, 1956 without Federal support.

(e) User charges (section 204)

We agree with the provisions of the House Committee bill which essentially corresponds to the Administration's proposal.

(f) Storm and combined sewers and collection systems (sections 211 and 212)

We are opposed to the inclusion of storm and combined sewers in the program at this time in view of the lack of mature municipal plans for such projects; the demands upon the limited resources of the construction industry involved and accelerating inflation that would result.

We are opposed to the inclusion of collection systems under this program. Grants in support of such systems are available under HUD authority.

(g) Grant v. Contract (Section 203)

We are opposed to the contract approach to financing. We favor the grant approach, which necessarily involves the safeguards of the annual budgetary appropriations process.

AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT—COMPARISON OF MAJOR PROVISIONS BETWEEN S. 2770, PASSED BY THE SENATE ON NOVEMBER 2, 1971, "H.R. 11896," PASSED BY THE HOUSE ON MARCH 29, 1972, AND COMMENTS—Continued

S. 2770, PASSED BY SENATE, NOVEMBER 2, 1971—Continued	"H.R. 11896," PASSED BY HOUSE, MARCH 29, 1972—Continued	COMMENT—Continued
(h) Regional Planning and Management (Section 208)	(h) Regional Planning and Management (Section 208)	(h) Regional Planning and Management (Section 208)
Areawide waste treatment management plans would be developed and management agencies established by the States.	Essentially the same provisions as the Senate bill.	We oppose these provisions.
5% of construction funds to be available by contract.	$450 million of Federal financial assistance would be authorized for the first three years of this program.	Although we favor regional waste treatment planning, the provisions of the bills fail to take into account activities of other governmental levels and fail to provide for consistency with such activities and with other planning.
9. Permits (Section 402)	*9. Permits (Section 402)*	*9. Permits (Section 402)*
A Federal permit program would continue essentially the same Federal permit program now underway pursuant to the Refuse Act. Permits embodying the appropriate effluent limitations would be required of all industrial and municipal discharges.	Generally the same provisions as the Senate bill.	We agree that a clear legislative base for the Federal permit program now underway is desirable.
The permit-issuing authority may be delegated to the States which meet the requirements of Federal guidelines.	Permit-issuing authority may be delegated to the States prior to the promulgation of Federal guidelines, in which case each State permit would be subject to Federal review.	We do not favor the permit-by-permit Federal review of State permits as the Senate bill would provide.
No State permit may issue until the Administrator approves or waives.	No Federal review or approval of State-issued permits unless a State affected by permit issued by another State requests.	
10. Citizen Suits (Section 505)	*10. Citizen Suits (Section 505)*	*10. Citizen Suits (Section 505)*
Persons may bring civil action against any person or governmental entity in violation of effluent standard or limitation or order of Administrator. May bring action against Administrator for failure to perform non-discretionary act.	Similar provisions. "Citizen" is defined to mean one from the geographic area and directly affected or groups of persons actively engaged in the administrative process relating to the question in controversy.	

Mr. Speaker, I call attention to several very interesting "comments" and "non-comments" in this document.

First, the comment that EPA is opposed to increasing the Federal share for waste treatment works to more than 55 percent. EPA contends that "substantial State and local matching is necessary to insure economy and cost effectiveness."

This sounds like it was written by the penny-pinching Office of Managament and Budget, or at least under the direction of OMB.

Second, the EPA comparison describes the different versions in the two bills concerning citizen suits and the issue of standing to sue, but no comment is forthcoming from EPA as to which version is preferred by EPA.

This matter of citizen suits and standing is of great importance to all citizens and environmental organizations. Where does EPA stand on this issue? Does that Agency side with those in industry who seek to curtail citizen suits? I hope not.

EPA needs help. Citizen participation would be welcomed by EPA. Citizen suits provide such participation. I urge that EPA publicly support the Senate version which leaves the question of standing to the courts, where it belongs.

Finally, the EPA document fails to comment on the so-called Baker amendment—a major attempt to weaken the National Environmental Policy Act of 1969. It does not note the differences between the two versions of the NEPA amendment. Most importantly, once again it fails to indicate where EPA stands on this amendment to NEPA.

Environmentalists are seeking to save EPA. I support them in this effort. But I think we must look closely at the so-called Baker amendment which, I understand, was initially offered for what appeared then as environmentally sound reasons. It is clear now, however, that the amendment is not sound, and I urge that the conferees abandon it entirely.

At this point I insert an article from the New York Times:

[From the New York Times, May 7, 1972]

PASSAGE OF FEDERAL WATER POLLUTION BILL SESSION IS DOUBTED

(By E. W. Kenworthy)

WASHINGTON, May 6.—Differences in the House and Senate water pollution control bills are so fundamental that passage of legislation this session is in doubt.

The fate of the legislation will be determined by a conference committee that will begin next week to go over the House and Senate measures.

Much rides on the final product. One is the Federal share for sewage plans. The Administration asked $6-billion for three years. The Senate bill authorizes $14-billion, the House bill $18-billion.

Without a bill, cities could still get Federal grants under a continuing authorization such as has been in effect since the old law expired in June, 1971. But the rate of Federal funding would be only $2-billion a year.

The differences in money in the two bills are believed to be subject to compromise. More difficult to adjust are basic differences on pollution controls and many provisions in the House bill that the Senate conferees and environmental organizations regard as loopholes for industry.

Fearful that there may be no legislation, officials of the Environmental Protection Agency have been meeting the last two weeks with representatives of environmental groups, urging them to use their influence to get a compromise.

John R. Quarles, the agency's general counsel, and Gary Baise, its legislative liaison, have been insisting that the "similarities" in the two bills "are far more important" than the differences and assert that it would be "a tragedy" if the bill were lost because of a failure to agree "on details."

So far, the conservation groups have not been receptive to these arguments. They say that the Administration, including E.P.A.'s administrator, William D. Ruckelshaus, strenuously opposed the Senate bill and organized industrial opposition to it.

The environmental organizations believe that they are being asked to support a "compromise" that would be essentially the same as the House bill.

Following are a few of the differences that could result in a deadlock:

PERMIT SYSTEM. Both bills would abolish the system, based on the Refuse Act of 1899, under which the Army Corps of Engineers must give a permit, subject to E.P.A. approval, for dumping wastes into navigable waters. They provide that the states shall issue such permits to industries if they are in compliance with the effluent limitations imposed by the 1972 Federal act.

However, the Senate bill gives E.P.A. the authority to veto a state permit. The House bill would allow such Federal veto only where a downstream state was adversely affected by and objected to another state's permit.

The Senate Public Works Committee and environmental groups contend that the E.P.A. veto is necessary to insure that states do not give permits to industries not meeting effluent standards. An E.P.A. document, marked "official use only," puts the agency's position in these words, "We do not favor the permit-by-permit Federal review of state permits."

Furthermore, the Senate bill includes in its definition of "discharge" for which permits must be obtained those pollutants that an industry may put into a public waste treatment system. The House bill deletes such industrial pollutants discharged into public sewers.

The effect of this deletion, environmentalists contend, is to free such industries of the requirement for a discharge permit.

Pollution-dilution. The Senate bill states that water shall not be stored in a reservoir to release for diluting pollution downstream when this is a substitute for "adequate treatment" of the industrial waste "at the source." It says further that the need for such water quality storage shall be determined by the E.P.A. administrator.

The House bill, by contrast, requires that "consideration" be given to the pollution-

dilution in the planning of any reservoir by the Army Corps of Engineers or the Bureau of Reclamation of the Department of the Interior. It further states that the need for such water quality storage be determined by these two agencies, with "the advice" of the E.P.A. administrator.

The Senate committee and environmental groups oppose the House provision for two reasons. First, they contend that industry wants pollution-dilution because it is obviously cheaper for it than treating wastes at the source.

Second, they contend that the corps and the Bureau of Reclamation favor pollution-dilution because it gives them one more argument for constructing dams—an added "benefit" to balance out a cost-benefit ratio that might otherwise be too heavily weighted on costs to justify the project.

Citizen-suits. The Senate bill provides that any person can file a suit against alleged violators of the act. The House bill requires that, to have standing to sue, a person must come from the "geographic area" where the alleged violation occurred and also have "a direct interest" in the violation.

It further provides that no organization, such as the Izaak Walton League, can file suit unless it has been actively engaged in administrative proceedings—for example, hearings on a permit for a nuclear power plant—from the outset.

While the above differences are important, the showdown in the conference committee is likely to come on the basic questions of control and enforcement.

Under the old law, states get water quality standards, subject to E.P.A. approval, for a lake or stream. The standards take into account the so-called "beneficial uses" of the waterway, which might range from swimming to serving as a receptacle for industrial wastes. Consequently, the standard was based on the estimated capacity of the receiving water to "assimilate" wastes.

CAB'S PROMOTION OF THE AIR FREIGHT FORWARDING INDUSTRY

HON. CHARLES W. SANDMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SANDMAN. Mr. Speaker, very little has been recorded concerning the Civil Aeronautics Board's promotion of the air freight forwarding industry.

Some excellent insight into this situation is provided in an article that appeared in the January edition of the Journal of International Law and Economics, which is the Law Review of George Washington University's National Law Center here.

Author of the article is Allan J. Kam of Fort Lee, N.J. He is also managing editor of the Law Journal at GWU where he will graduate this year with a law degree.

Mr. Kam is a graduate of Drew University with a major in political science, is an honor student, and has long been active in New Jersey political and civic affairs.

For those who desire insight into a little known field of Government influence, I commend Mr. Kam's article to you and ask that it be reprinted in the RECORD in full:

[From the Journal of International Law and Economics, January 1972]

REGULATION BY CIVIL AERONAUTICS BOARD PROMOTING THE AIR FREIGHT FORWARDING INDUSTRY

(By Allan J. Kam)

INTRODUCTION

For the last quarter century, the Civil Aeronautics Board (CAB) has promoted the air freight forward industry by careful regulation and oversight to a point where it now appears to be on the verge of dominating small parcel airfreight in both the domestic and international markets. An analysis of CAB decisions demonstrates that the Board has favored air freight forwarders over their competition, the direct carriers (airlines) and surface carriers. Before it is possible to understand the CAB's decisions in the field of air freight forwarding, it is necessary to understand the nature of the air freight forwarding industry and where the CAB derives its power to regulate it.

NATURE OF AIR FREIGHT FORWARDING INDUSTRY

An air freight forwarder assembles goods which are to be shipped by air and consolidates these goods into cargoes for transport by direct carriers. The forwarder receives the consolidated cargo on arrival, and divides and distributes the goods from the airport to their destinations. Thus, although not actually owning or operating aircraft the forwarder makes flight arrangements and provides local ground delivery.

The existence of the air freight forwarding industry is economically justified because the forwarder is in a position to consolidate small individual packages of many small customers into larger packages (containers) and then secure a lower rate per pound from the direct air carrier than the individual customer could secure for his small package. The forwarder must extract its profit from the difference between the amount of money that it charges the customer and the amount that the direct carrier charges the forwarder. In addition to providing lower costs to the public than the direct air carriers do, the forwarder generally provides more expeditious ground service.

STATUTORY BASIS FOR CAB REGULATION

Air freight forwarders are considered "indirect air carriers" within the meaning of § 101(3) of the Federal Aviation Act of 1958 [1] (hereinafter "the Act"), 49 U.S.C. § 1301(3), and as such are regulated by the Civil Aeronautics Board. They are exempt from obtaining the CAB's certificate of public convenience and necessity under § 401 of the Act. Nevertheless forwarders are required to obtain operating authorizations (formerly letters of registration) from the CAB.[2] Unlike authorizations of direct carriers, operating authorizations of forwarders are not limited by routes to given cities, except that they are domestic or international. However, separate authorizations are required for domestic and international service, pursuant to the procedures of CAB Economic Regulations 296 and 297, respectively, and a single forwarder may hold both a domestic and an international authorization.

Not only are forwarders exempted from obtaining the certificate of public convenience and necessity (and all of its certification requirements under § 401 [3]), but they are also exempted from the heavy regulation of the Interstate Commerce Commission (ICC) to which surface carriers are subject. The ICC's authority over air freight is limited by § 203(b) of the Interstate Commerce Act [4] to the exclusion of surface transportation "incidental to transportation by aircraft," which has generally been interpreted by the CAB's "rule of thumb" as within twenty-five miles of the airport or its city's limits.[5] Two recent decisions of the CAB to extend the limitation under § 203(b)(7a) considerably beyond twenty-five miles met with resistance from the ICC,[6] which previously had not exercised its authority to, in effect, veto § 203(b)(7a) authorizations of the CAB.

DOMESTIC AUTHORIZATIONS

Until 1948 the Railway Express Agency (REA) was the sole indirect air carrier. REA had been engaged in both the rail and air express business prior to the passage of the Civil Aeronautics Act of 1938. A 1941 CAB decision [7] held that air freight forwarders are "air carriers" within the meaning of that term as stated in § 1(2) of the Civil Aeronautics Act of 1938 (the predecessor to § 1(2) of the Civil Aeronautics Act of 1938 (the predecessor to § 101 of the Federal Aviation Act of 1958), and are therefore covered by the regulatory provisions of that Act. The CAB granted REA a § 1(2) exemption, which temporarily relieved REA from the requirements of § 401(a) to the extent necessary to permit REA to engage in transportation of property by air under the air express contracts then existing without obtaining a certificate of public convenience and necessity.[8]

In 1948 the CAB held a comprehensive investigation to determine whether forwarders should be authorized and, if so, by what procedures. As a result of this investigation and over the strenuous objections of the direct air carriers, the CAB decided in *Air Freight Forwarder Case* [9] to grant temporary authorizations for five years, which were renewed "indefinitely in 1955.[10] By this renewal, the CAB clearly established that air freight forwarding would be a permanent and important part of the larger air cargo industry.

INTERNATIONAL AUTHORIZATIONS

In a 1950 proceeding similar to its domestic counterpart two years earlier, the CAB issued to several applicants five-year authorizations to operate as indirect air carriers in overseas and foreign shipments.[11] Again the technique of authorization was the exemption rather than the certificate of public convenience and necessity. Economic Regulations 297, 14 C.F.R. § 297, was promulgated, establishing and regulating a classification of air carriers designated as "international air freight forwarders." The authority granted in the 1950 proceeding was renewed for an "indefinite" period in 1958 [12] with a form of authorization similar to that granted to domestic air freight forwarders.

Although the domestic and international authorization regulations [13] are somewhat similar, one difference is that the international forwarder is permitted, under certain circumstances, to act as the agent of the direct air carrier.[14]

INTERMODAL CONTROL AND INTERLOCKING RELATIONSHIPS

Control of an air freight forwarder by any carrier or party controlling a carrier is prohibited by § 408 of the Act, unless approved by CAB. Under § 408, a control relationship will be approved by the CAB upon application and after a public hearing unless it is inconsistent with the public interest or unless it is so monopolistic as to restrain a third-party air carrier. A 1960 proviso to § 408 eliminated the requirement of a public hearing under certain circumstances.[15] An alternative proviso to avoid a public hearing was added in 1969.[16] The latter proviso permits the CAB to expeditiously handle air freight forwarder acquisition applications notwithstanding the general requirement [17] that a public hearing be held where an acquirer obtains ten percent or more ownership of an air carrier. In the last two years this proviso has been relied upon extensively by the CAB.[18] Under § 409 an interlocking relation-

Footnotes at end of article.

ship will be approved by the CAB upon a showing that the public interest will not be adversely affected by the relationship.[19]

In *Air Freight Forwarder Authority*,[20] the CAB disapproved the applications for authorizations as air freight forwarders of several interstate motor carriers, the majority of which were household goods carriers. It was decided as a matter of policy that "air freight forwarding is best promoted by enterprises whose prime economic activity is that of [air] freight forwarding." The CAB felt that the position of the applicants, if they were granted air freight forwarder authorizations, coupled with their ICC authority as interstate motor carriers, would be "pregnant with conflicts of interest," and this conflict would also exist for those applicants seeking authorizations as international air freight forwarders. The CAB also concluded that the same problem existed with respect to applicants seeking approval of control and interlocking relationships between air freight forwarders and long distance motor carriers pursuant to §§ 408 and 409.

A public hearing was held before a CAB Examiner in 1963 essentially to reconsider the conclusion reached two years earlier in Air Freight Forwarder Authority. As a result of the Examiner's findings, the CAB decided[21] the following year that to exclude surface (motor) carriers from air transportation would violate the legislative intent of Congress in enacting § 408:

". . . if Congress had intended to exclude all surface carriers from . . . air transportation it would have said so specifically in the statute. To the contrary . . . Section 408(b) . . . requires approval of their applications upon a showing that their services would promote the public interest."[22]

The CAB authorized air freight forwarding by motor carriers of household goods holding ICC certificates as long-haul household goods movers. These five-year authorizations were to terminate on July 9, 1969, as were several similar authorizations that were later issued. The CAB also granted several authorizations, that were limited to the forwarding of "used household goods." Subsequently almost fifty more household goods companies applied for authorizations to operate as air freight forwarders of household goods, but on October 8, 1968, the CAB declared a moratorium on the processing of such applications.[23]

In March of 1969 the CAB decided to undertake a general investigation of air freight forwarding of household goods.[24] This investigation was timely because of the forthcoming expiration of existing authorizations and the desirability of considering the authorization of new forwarders. The extensive Initial Decision of the CAB Examiner, served on December 15, 1970, found that most of the applicants were capable of performing air transportation as domestic and international air freight forwarders and should be granted authorization for both.[25] Some of these authorizations would be conditioned upon CAB approval of common control and interlocking relationships. The matter is still under consideration by the CAB, which granted petitions for discretionary review subsequent to the issuance of the Initial Decision. Among the issues to be decided by the CAB[26] is whether the distinction between general commodities and household goods should be retained; if not, the CAB must consider the implications resulting from this further liberalization of the "free-entry" policy into the air freight forwarding industry.[28]

Until 1967 the general policy of the CAB had been to prohibit the entry of large surface carriers or affiliates into the air freight forwarding industry where conflicts of interest could arise which would result in diversion of traffic from air to surface transportation and thus deprive the air freight forwarders of promotional incentive.[27] This prohibition was in keeping with the CAB's general policy of promoting air freight forwarding by admitting independent applicants who were not associated with surface carriers; a partial exception to the policy, as discussed above, was the admission of surface carriers insofar as they transported household goods.

Recently, the CAB has changed its policy to one of inclusion. "[T]he Board believes that its policy should . . . be one of granting authorizations . . . rather than, one of protecting existing forwarders from competition."[28] This change began in 1967 with the "Long Haul Motor Carrier Case,"[29] where two motor carriers applied for domestic and international air freight forwarding authority and two others requested similar authorizations through interlocking relationships with subsidiaries. The CAB took this opportunity to review its policy regarding applications of long-haul motor carriers of general commodities requesting entry into the air freight forwarding field. The CAB granted the requested authority to the applicants for an experimental five-year period. In doing so, the CAB noted that the

"[E]conomies of the dynamic air cargo industry have changed drastically since. . . restrictions were first evolved . . . the applicants' entry will not lead to the ills which persuaded the [Civil Aeronautics] Board to deny forwarder authority to some motor carriers in the past.

"[T]his decision should increase the intermodal carriage of air freight by air and truck."[30]

Upon appeal by several air freight forwarders, the United States Court of Appeals for the Second Circuit vacated the CAB's order and remanded the case for further findings. Judge Friendly, speaking for the court, noted that the CAB's decision was deficient in that there was an ambiguity as to whether the CAB had established a policy of entry for all truckers desiring air freight forwarding authorizations or had merely granted the applications that were then under consideration. The court added that if the former was the correct interpretation, then the CAB had inadequately considered the effect on existing forwarders.[31] Nevertheless, the court recognized that even the existing record might "be sufficient for the [Civil Aeronautics] Board to initiate a properly controlled experiment in the authorization of truckers as air freight forwarders, with the limitation on numbers and the reporting and other requirement [that] an experiment would be expected to entail."[32] In response to the court's decision, the CAB invited the parties to file briefs regarding the action which the CAB was directed to reconsider.

In April of 1969 the CAB issued a thirty-seven page opinion which discussed the relevant issues and basically reiterated its previous order.[33] In its new order the CAB granted authority to the three applicants who had previously received authority in the 1967 order which had been judicially vacated. The CAB emphasized that it was granting only the applications before it and not passing upon any others. Long-haul carriers, defined as a carrier that hauls 500 miles or more from the air terminal,[34] will not be granted air freight forwarding authority routinely—each applicant will be required to make an affirmative showing that its operations are in the public interest.[35]

The objecting forwarders went back to the Court of Appeals, petitioning Judge Friendly to set aside the three authorizations approved in the 1969 Order and to terminate the rule-making proceedings as contrary to the court's prior mandate.[36] However, the court recognized that the CAB's 1969 Order was carefully worded. The petitioners' request to terminate the CAB's rule-making procedure regarding proposed regulations governing long-hauling truckers' applications for air freight forwarding authority was dismissed as premature.[37] The objecting forwarders then petitioned the United States Supreme Court for a writ of certiorari, which was denied in 1970.[38]

Recently, in *Southern Pacific-Santa Fe Air Freight Forwarder Case*,[39] the CAB approved the applications of two large rail-controlled systems which included motor carriers to engage in air freight forwarding. The CAB Examiner, in reviewing relevant Board decisions, noted that prior to 1948 there had been no Board precedent or policy prohibiting rail-controlled enterprises from engaging in air freight forwarding, either directly or through affiliates. In 1948 the CAB denied the application of rail affiliates for domestic authorizations,[40] but in 1955 it granted such authorizations to two railroad affiliates.[41] Furthermore, in 1949 the CAB awarded an applicant international authority[42] which has renewed indefinitely in 1958.[43] And in 1969 the CAB reviewed its policy with respect to entry of long-haul surface carriers into the air freight forwarding industry and stated its policy standards for authorization.[44] These standards were applied to the Southern Pacific and Santa Fe applications.[45]

SUMMARY AND CONCLUSIONS

The CAB authorized air freight forwarding in 1948 over the vigorous protests of its competition, the direct air carriers. By renewing operating authorizations for an indefinite period in 1955 (domestic) and 1958 (international), the CAB determined that the air freight forwarding industry would be an integral part of the air freight services available to the public. By prohibiting control and interlocking relationships, the CAB shielded the infant industry from possible relegation by surface carriers. But as the industry grew, the CAB's policy evolved toward a realization that such protection from the surface carriers is often undesirable, and that the growth of the now-mature industry can be promoted in many cases by intermodal control and interlocking relationships.

Although some authorizations have been revoked due to failure of the forwarder to operate the authorized service for two consecutive years,[46] nevertheless the industry is growing steadily,[47] and by all indications will play an increasingly significant role in domestic and international business.

FOOTNOTES

[1] 72 Stat. 731(1959), 49 U.S.C. §§ 1301–1542 (1964), *formerly* the Civil Aeronautics Act of 1938. The predecessor to § 101(3) was § 1(2) of the Civil Aeronautics Act of 1938.

Section 101(3) of the Federal Aviation Act defines an air carrier as "any citizen of the United States who undertakes, whether directly or indirectly . . . to engage in air transportation: Provided, That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this chapter to the extent and for such periods as may be in the public interest." For judicial determinations of what constitutes an "indirect air carrier," *see* Airborne Freight Corp.

v. Civil Aeronautics Board, 258 F.2d 210 (D.C. Cir. 1958), and Railway Express Agency, Inc., v. Civil Aeronautics Board, 345 F.2d 445 (D.C. Cir. 1965).

[2] To obtain CAB authorization, the prospective forwarder files an application for operating authorization with the CAB's Bureau of Operating Rights. The filing fee is $275. The Bureau studies the application to determine if it is accurate and if the forwarder is capable of performance for which the authority is sought. If there are no complications, the forwarder files tariffs (rates) with the CAB, and the operating authorization is issued.

[3] Federal Aviation Act of 1958, § 401, *formerly* Civil Aeronautics Act of 1938, § 401.

[4] 49 U.S.C. § 303(b)(7a)(1964).

[5] The ICC, not the CAB, has the ultimate authority to determine which motor vehicle transportation is in fact "incidental to air transportation" within the meaning of § 203)b)(7a) of the Interstate Commerce Act, 49 U.S.C. § 303(b)(7a). *See* Note, Administrative Law—*Indirect Air Carriers—Interagency Conflict*, 32 J. Air L & Com. 273(1966). In 1953 the ICC set the guideline that motor vehicle transportation "is incidental to air transportation" for the purposes of § 203(b)(7a) when the motor transportation is limited to a bona fide collection, delivery, or transfer service within a reasonable terminal area of the air carrier as distinguished from a connecting carrier line-haul service, and that a reasonable terminal area of the air carrier was found to be that established by the air carriers in their tariffs [fees] filed with the CAB [Hazel Kenny Extension—Air Freight Case, 61 M.C.C. 587(1953)].

The ICC assumed that the CAB would refuse to accept any tariffs of air freight forwarders which prescribed an unreasonable terminal area. The CAB, in turn, adopted a "rule-of-thumb" definition of a reasonable terminal area: within twenty-five miles of the airport. This "rule-of thumb" was codified in 1966 in CAB Economic Regulation 222, 49 C.F.R. §§ 210.44, 404.1, and 14 C.F.R. § 222(1966). In Economic Regulation 222, 14 C.F.R. § 222, the CAB manifested its belief that the air freight forwarders should be permitted "a reasonable amount of freedom . . . to establish pick-up and delivery service . . . vital to prevent stifling . . . of air cargo transportation." At times, this would require authorization for places more than 25 miles from air terminal of its city's limits. The CAB acknowledged the ICC's ultimate authority to determine what constituted service "incidental to transportation by aircraft," but expressed the hope that the ICC would "give appropriate weight to the [Civil Aeronautics] Board's findings that the contemplated services are truly air cargo pick-ups and delivery in nature." Until the summer of 1970 the ICC always upheld the CAB's judgment.

In Motor Transportation of Property Incidental to Transportation by Aircraft, ICC Reports MC-C-3437, decided July 28, 1970, served August 18, 1970, the ICC refused the extensions of the area "incidental to transportation by aircraft" within the meaning of § 203(b)(7a) to points well beyond twenty-five miles from the airports of Atlanta and Indianapolis; in the latter, the place in question was Terre Haute, more than sixty miles from Indianapolis. Prior to this decision the CAB had authorized, by the approval of 13 air freight forwarders applications, 227 tariffs for places more than 25 miles from their respective air terminals. Thirty-nine of these places which the CAB deemed within the "incidental to transportation by aircraft" exemption under § 203(b)(7a) were more than seventy miles from the relevant airport or city limits.

The CAB has not processed exemption applications under Economic Regulation 222 for more than a year. This is because of the ICC holding in Motor Transportation of Property Incidental to Transportation by Aircraft, *supra*. According to Vernon Nightingale, Transportation Industry Analyst at the CAB, the ICC & the CAB are now in the process of negotiating a new standard for § 203(b)(7a) exemptions.

[6] Motor Transportation of Property Incidental to Transportation by Aircraft, *Id.*

[7] Railway Express Agency, Grandfather Certificate Case, 2 C.A.B. 531(1941).

[8] C.A.B. Order No. 941(1941).

[9] Air Freight Forwarder Case, 9 C.A.B. 473(1948). The CAB decision was upheld in court over the vigorous protests of the direct air carriers (the airlines), American Airlines v. C.A.B., 178 F.2nd 903 (7th Cir. 1949).

[10] Airfreight Forwarders Investigation, 21 C.A.B. 536(1955); Supplemental Opinion and Order Reconsideration, 23 C.A.B. 376 (1956); Second Supplemental Opinion and Order on Reconsideration, 30 C.A.B. 13 (1959); Air Freight Forwarder Case, 9 C.A.B. 473(1959).

[11] Air Freight Forwarder Case (International). C.A.B. 182(1949).

[12] International Airfreight Forwarder Investigation, 27 C.A.B. 658(1958). This 1958 C.A.B. Order renamed the international industry the "air cargo consolidator(s)," but the following year the name was changed back to "international air freight forwarder(s)." Supplemental Opinion and Order on Reconsideration, 30 C.A.B. 13(1959).

[13] Economic Regulation 296 and 297.

[14] See Puerto Rican Forward Co., Inc., Max Margolin and Henry v. Kantzer, C.A.B. Order E-24820(1967).

[15] Federal Aviation Act of 1958, § 408(b) (3rd proviso).

[16] *Id.* at § 408(a)(5) (proviso).

[17] *Id.* at § 408(a)(5).

[18] *See* Century Air Freight, Inc., Howard Cohen, and James Cirami, C.A.B. Order 71-6-18 (adopted June 2, 1971), Docket #21808 (mimeo), p. 3, n. 6 and orders cited therein.

[19] *See* Barnet International Forwarders, Inc., and Barnet International Air Freight Corp., Application for Interlocking Relationships, 23 C.A.B. 760 (1956); and Lifschultz Air Freight, Control and Interlocking Relationships, 25 C.A.B. 732 (1955).

[20] C.A.B. Order E-16474 (1961). Prior to this proceeding, several control and interlocking relationships between forwarders and *small surface* carriers had been approved by the CAB on a seemingly ad hoc basis. *See, e.g.*, Air Freight Forwarder Case, 9 C.A.B. 473 (1948).

[21] Airfreight Forwarder Authority Case, 40 C.A.B. 673 (1964). In a related matter that was consolidated into this proceeding, the CAB approved control and interlocking relationships involving a domestic and international air freight forwarder, limited to the movement of household goods and a long-haul motor carrier of household goods; a similar application was also approved the following year in Van-Pack Acquisition of U.S. Van Lines, 42 C.A.B. 838 (1965).

[22] 40 C.A.B. 673, 715 (1964).

[23] C.A.B. Order 68-10-32.

[24] Order 69-3-43, Docket 20812, instituted primarily to determine whether (1) outstanding authorizations for air freight forwarding of household goods and used household goods should be renewed, and if so for how long; (2) additional (new) applications should be approved (i.e., authorized); (3) the authorizations referred to in (1) and (2) should be restricted; and (4) interlocking and/or control relationships should be authorized for such applicants. The proceeding was to be known as the Household Good Air Freight Forwarding Investigation.

[25] The Initial Decision specified which of the applicants should be granted authorizations. Two applications, Greyhound Van Lines and International Sea Van, were denied outright by the C.A.B. Examiner. The former was vigorously opposed by the Air Freight Forwarders Association (which opposed all the applications), mainly because of Greyhound's activities in the field of aeronautics: a Greyhound subsidiary is the country's leading supplier of jet aircraft to U.S. airlines by lease, and therefore would be in a position to exert substantial leverage on the airlines, which could result in preferential treatment for air shipments which it forwards.

[26] *See* Motor Carrier Airfreight Forwarder Investigation, *infra*.

[27] The CAB, through delegated authority in its Bureau of Economic Regulation, articulated this policy in Telstar Air Freight, Inc., Control and Interlocking Relationship, C.A.B. Order E-22479 (July 27, 1965) at 2. The policy was reviewed in C.A.B. Order 69-4-100 (1969).

[28] Motor Carrier-Air Freight Investigation, C.A.B. Order 69-4-100 (on remand), mimeo (1969), at 3-4.

[29] Motor Carrier-Air Freight Forwarder Investigation, C.A.B. Order E-25725 (1967), vacated 391 F. 2d 295 (2nd Cir. 1968); further proceedings, C.A.B. Order 69-4-100 (1969), review denied 419 F. 2d 154 (2nd Cir. 1969), cert. denied 397 U.S. 1006 (1970).

[30] C.A.B. Order E-25725.

[31] ABC Freight Company v. Civil Aeronautics Board, 391 F. 2d 295 (2nd Cir. 1968).

[32] *Id.* at 307.

[33] C.A.B. Order 69-4-100.

[34] 14 C.F.R. 244.2. *See also* 14 C.F.R. 296.1 (d) *re:* domestic forwarders; 14 C.F.R. 297.1 (e) *re:* international forwarder; and 14 C.F.R. 399.20(b) *re:* policy statement.

[35] For precisely what the applicant must show, *see* 14 C.F.R. 296.83 *re:* domestic forwarders; 14 C.F.R. 297.63 *re:* international forwarders; and 14 C.F.R. 399.20 *re:* policy statement.

[36] ABC Freight Company v. Civil Aeronautics Board, 391 F. 2nd 295 (2nd Cir. 1968).

[37] 419 F. 2d 154 (2nd Cir. 1969).

[38] 397 U.S. 1006(1970).

[39] C.A.B. Order 70-10-100(1970).

[40] Air Freight Forwarder Case, 9 C.A.B. 473 (1948).

[41] Air Freight Forwarder Investigation, 21 C.A.B. 536, 544 (1955).

[42] Air Freight Forwarder Case (International), 11 C.A.B. 182, 197 (1949).

[43] International Airfreight Forwarder Investigation, 27 C.A.B. 658 (1958).

[44] Motor Carrier-Air Freight Investigation, C.A.B. Order 69-4-100, on remand (1969).

[45] C.A.B. Orders 70-10-99 and 70-10-100 (mimeo), at 75-80.

[46] *See* Wings and Wheels Express, Inc., and American Shippers, Inc., Enforcement Proceeding, 33 C.A.B. 577 (1971) (revocation for violations); Schulman, Inc. et al. International Airfreight Forwarder Investigation, 36 C.A.B. 110 (1962) (authorization approved despite past violations); Air Cargo Division of Frederick Henjes, Jr., Revocation, 37 C.A.B. 780 (1963) and Bar San Aircargo, Inc., 43 C.A.B. (1965) (revocations for nonperformance); and Airsembly Forwarders, Inc., C.A.B. Order E-20430 (1964) and Universal Air Freight Corporation, C.A.B. Order E-15282 (1960), E-18917 (1962), 70-1-156 (1970) (recision of revocations of authority).

[47] C.A.B. figures as of September 30, 1971, show that there are 228 air freight forwarders, of which 39 hold only domestic authorization, 37 hold only international authorization, and 152 hold both domestic and international authorizations.