SENATE—*Wednesday, May 10, 1972*

The Senate met at 12 noon and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

"Drop Thy still dews of quietness,
'Til all our strivings cease;
Take from our souls the strain and stress,
And let our ordered lives confess
The beauty of Thy peace."

O Lord, our God, bring peace to our troubled souls that we may be instruments of Thy peace among the nations. Rule over the deliberations of this body for the good of the people, the peace of the world, and Thy glory.

In the name of the Prince of Peace. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 10, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. ALLEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 54) to print additional copies of hearings on "War Powers Legislation," with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H.R. 4383. An act to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes; and

H.J. Res. 55. Joint resolution proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy.

The message further announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 483. Concurrent resolution providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission";

H. Con. Res. 530. Concurrent resolution to reprint brochure entitled "How Our Laws Are Made";

H. Con. Res. 545. Concurrent resolution authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments; and

H. Con. Res. 552. Concurrent resolution to provide for the printing of the Constitution of the United States together with the Declaration of Independence.

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were each read twice by their titles and referred, as indicated:

H.R. 4383. An act to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes; to the Committee on Government Operations.

H.J. Res. 55. Joint resolution proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy; to the Committee on Rules and Administration.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were severally referred to the Committee on Rules and Administration:

H. Con. Res. 483. Concurrent resolution providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission";

H. Con. Res. 530. Concurrent resolution to reprint brochure entitled "How Our Laws Are Made";

H. Con. Res. 545. Concurrent resolution authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments; and

H. Con. Res. 552. Concurrent resolution to provide for the printing of the Constitution of the United States together with the Declaration of Independence.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 9, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, under "New Reports," will be stated.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The second assistant legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF HOUSE REPORT 92-911

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 688, House Concurrent Resolution 557.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

H. Con. Res. 557, authorizing the printing of additional copies of House Report 92-911.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

DEPARTMENT OF THE TREASURY POSITIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 749, H.R. 13334.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill, H.R. 13334, to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to a third reading, was read the third time, and passed.

PORTS AND WATERWAYS SAFETY ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8140.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 8140) to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MANSFIELD. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. MAGNUSON, Mr. LONG, Mr. HART, Mr. GRIFFIN, and Mr. STEVENS conferees on the part of the Senate.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD AND SENATOR SCOTT AT 2 P.M. TOMORROW TO MAKE A REPORT ON THEIR MISSION TO CHINA

Mr. MANSFIELD. Mr. President, I ask unanimous consent, notwithstanding the rule of germaneness, if it does apply tomorrow, that I be recognized at approximately 2 p.m. tomorrow to make a report on the Scott-Mansfield mission to China.

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

Mr. SCOTT. Mr. President, I ask unanimous consent that, under the same conditions, following the speech of the distinguished majority leader, I may be granted 1 hour to make a report to the Senate on the Mansfield-Scott mission to China.

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

Mr. STENNIS. Mr. President, reserving the right to object——

Mr. MANSFIELD. The first unanimous consent request has already been granted.

Mr. STENNIS. I know. My only objection is that perhaps sufficient notice has not been given on this matter. I believe that every Senator would appreciate having his office called and notified about this. I am very much interested in it myself.

Mr. MANSFIELD. They have been notified, I assure the Senator, but I am not at all sure they will all show up to listen. [Laughter.]

Mr. STENNIS. I thank the Senator very much. I have no objection, of course.

Mr. SCOTT. Mr. President, I think that our reports should be made on tomorrow, Thursday, in order to make a prompt report to the Senate, before we are called upon to say too much to the press generally.

While my report may or may not be ready on Thursday, and I may decide to make it on Friday, I have reserved time to follow that of the distinguished majority leader. I have the feeling that his report, in view of the way in which we worked together, will be one of considerable depth and will have been compiled with excellent research assistance and will reflect the deeply contemplative nature of the distinguished majority leader.

My own report may be, perhaps, more in the nature of a summary of impressions and, possibly, some commentary and some recommendations. After all, 800 million people are too great a number to be accounted for in 1 hour, or 2 hours. The most populous nation in the world cannot be encapsulated in two speeches. But we will do our best to give a fair impression of two Senators who were honored by the Premier of China, Chou En-lai, with an invitation to visit his country.

I will say at this time only that we were received with the utmost correctness and courtesy, and that we were treated considerately and with cordiality. I have never seen a schedule more efficiently compiled and executed. We were able to move freely, to observe freely, and to comment candidly. We will go into more of that tomorrow.

Mr. MANSFIELD. All I want to say is that I agree with every word the distinguished Republican leader has just said.

It was a trip of great interest. It was educational. We tried to keep it in low profile. We did. We had two press conferences. We issued a brief press statement when we came out of Canton by rail to Lowu on the Hong Kong border, and another one when we arrived.

So we hope that what we have learned will be of benefit to our colleagues because we went to look, to listen, and to learn and we arrived at some conclusions.

Mr. SCOTT. I thank the distinguished majority leader. I may add that yesterday morning we did, pursuant to our undertaking, confer with the President of the United States and each of us submitted to him a confidential report in writing, and we made our oral report.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

MR. NIXON'S BRINKMANSHIP

Mr. SYMINGTON. The last paragraph of an editorial in the New York Times of this morning reads as follows:

Mr. Nixon is pushing the country very near to a constitutional crisis; Congress can yet save the President from himself and the nation from disaster.

The action taken yesterday in a caucus of the Democratic Members of the Senate would appear to confirm this warning.

I ask unanimous consent that this editorial be printed in the RECORD.

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

MR. NIXON'S BRINKMANSHIP

In ordering the closing of land and sea supply routes to North Vietnam by American military action, President Nixon is taking a desperate gamble that alters the entire nature of the war, that risks the fundamental security and deepest interests of the United States for dubious and tenuous gains, and that runs counter both to Congressional mandate and to the will and conscience of a large segment of the American people.

The mining of the harbors of North Vietnam poses a direct challenge to the Soviet Union and other arms suppliers to Hanoi that could quite possibly escalate into a confrontation between the world's two great superpowers. Only the gravest threat to the security of the United States could justify such a challenge, as was indeed the case in the Cuban missile crisis. But Vietnam is not Cuba; and there is no conceivable American interest at stake in Indochina today as there was in Cuba to warrant the risk—and the escalation—the President has so clearly undertaken.

Let us grant that the North Vietnam Communists are infuriatingly—even insultingly—intransigent in the negotiations at Paris and are stubbornly aggressive in the field, as indeed they are. Let us grant that the United States still has a commitment to support to the death the present Saigon Government as representative of South Vietnamese democracy—a commitment which, if it ever existed, has surely been long ago fulfilled. Let us even grant—contrary to fact—that President Nixon's Vietnamization program has been a success and that all that is needed is a little more time and a few more arms to bring Hanoi's belligerence to a halt. Granting all these hypotheses, what possible good could President Nixon's present escalation-cum-confrontation accomplish?

Even if the closing of the ports by mining and the interdiction of land routes by renewed extensive bombing should succeed in their goals without retaliation by the Soviet Union and China, the resultant cutoff in supplies could not materially affect the outcome of the present North Vietnam offensives in the South.

In any case, the bulk of North Vietnam's military supplies enter not from the sea but

from China via road and rail. The entire history of deep interdiction of supply routes, from World War II to the present, demonstrates its ineffectuality. At most, therefore, Mr. Nixon's orders would simply tend to move Soviet supplies back to the trans-China route and shift the balance of influence in Hanoi a little more toward Peking.

This semi-blockade policy is both spurious and impractical; and it is difficult to understand how the President and his advisers, given the history of the war, can genuinely believe in it either. But to explain it, as the President did in his television address Monday night, as a means of protecting the American troops still remaining in Vietnam strains credulity to the breaking point. In fact, it is painfully obvious that Mr. Nixon's escalation of the conflict, including the stepped-up bombing of the North in reprisal for the Northern successes in the South, only increases the peril of American ground troops in Vietnam while obviously raising with every air raid the potential number of American prisoners held by Hanoi.

The President's risky action Monday evidently signals a decision to intensify and enlarge American military involvement in the war from sea and air, with all the attendant risks accompanying such escalation. The President is in fact leading the country down precisely the road—though by different means—that President Johnson did in 1965. The difference is that President Nixon has the benefit of these last seven years' experience. Yet, like the Bourbons, he seems to have forgotten nothing and learned nothing.

Even the peace offer included in Mr. Nixon's speech has a specious ring to it. He tells Hanoi that if it agrees to an internationally supervised cease-fire and returns the American prisoners, the United States "will stop all acts of force throughout Indochina" and will be out of Vietnam "within four months." On the face of it, this sounds as though Mr. Nixon were at last cutting all ties with the Saigon Government, for there is no mention of any political condition whatsoever. But given Hanoi's present military successes, there is little incentive to North Vietnam to accept a cease-fire now; and while Mr. Nixon specifically promises American withdrawal from Vietnam within a short period, he does not promise withdrawal from the neighboring states, leaving the implied threat of American force and American power still hanging over the peninsula.

By his rash and precipitate action, President Nixon is not only risking military confrontation with the Soviet Union over an issue that is not and never has been vital to the security interests of the United States; he is also risking the almost equally dangerous collapse of the painfully built progress toward a genuine diplomatic detente, as it is already taking form in the SALT agreements and would surely be further advanced by the now-threatened Moscow summit conference.

By his action, President Nixon is also inviting Soviet retaliation, if not in East Asia, then in other sensitive parts of the globe. By his action, he is unwittingly encouraging the Soviet hawks. By his action, he is incurring the possible speedy dissolution of the thin and delicate relationship just painfully constructed with Peking. By his action as well as his rhetoric, he has dug the United States deeper into the hole from which it had for four years been trying to extricate itself in Indochina.

And by his action he has clearly defied the Congress if not the Constitution. This may turn out to be the most dangerous of all the ominous aspects of Mr. Nixon's present course. The Congress of the United States last year resolved that it was "the policy of the United States to terminate at the earliest possible date all military operations of the United States in Indochina. . . ." Mr. Nixon said at the time that the resolution was "without binding force or effect and it does not reflect any judgment about the way in which the war should be brought to a conclusion."

But now Mr. Nixon has in effect defied the expressed will of the Congress by replying to North Vietnamese escalation with more escalation—an old, familiar and demonstrably useless course of action. His dangerous and unnecessary resort to semi-blockade and massive bombing in a futile search for military victory in an undeclared war repudiated by a large section of the American people can only weaken the country internally and discredit it abroad.

The only recourse now is in the hands of Congress. It still has the Constitutional power to curb and control the Executive. While it is an extremely distasteful action, under the circumstances Congress still can regain it * * * along the general lines of the Church-Case amendment in the Senate. It can shut off funds for all further military operations after return of the prisoners and after a certain date, either in Indochina as a whole or, as a more limited restraint, above the North Vietnam panhandle.

Mr. Nixon is pushing the country very near to a Constitutional crisis; Congress can yet save the President from himself and the nation from disaster.

THE WAR, GOLD, AND THE DOLLAR

Mr. SYMINGTON. Mr. President, there is much comment about the recent heavy escalation by this administration of the war in Vietnam from the standpoint of the political and military implications; but little comment about what said escalation is doing and will do to our economy.

Yesterday gold sold on the London market at $54 an ounce.

The press explained this unprecedentedly high price as a lack of adequate supply to meet demand; but there was a day when we talked with pride of the fact the dollar was "as good as gold."

Now we know any such statement is no longer justified. This administration has already raised the price of gold from $35 to $38 per ounce—theoretical, because no longer is there convertibility—and we know that this estimated new value bears no relationship to the deteriorated purchasing power of the dollar.

It would seem important for every American to realize that if these present policies continue, even further devaluation is inevitable.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon tomorrow.

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

(Subsequently, this order was changed to provide for the Senate to convene at 11:30 a.m. tomorrow.)

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND LAYING BEFORE THE SENATE THE UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after the two leaders have been recognized, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, without amendment:

S. 2988. A bill to authorize the appropriation of $250,000 to assist in financing the Arctic Winter Games to be held in the State of Alaska in 1974 (Rept. No. 92-788).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MAGNUSON (by request):

S. 3591. A bill to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces. Referred to the Committee on Commerce.

By Mr. STEVENS:

S. 3592. A bill to amend section 6334(a) of the Internal Revenue Code. Referred to the Committee on Finance.

By Mr. EAGLETON (for himself, Mr. STEVENSON, and Mr. TUNNEY):

S. 3593. A bill to increase the compensation of the Chairman, Vice Chairman, and other members of the District of Columbia Council. Referred to the Committe on the District of Columbia.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 3594. A bill providing for Federal purchase of the remaining Klamath Indian Forest. Referred to the Committee on Interior and Insular Affairs.

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

S. 3595. A bill to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MAGNUSON (by request):

S. 3591. A bill to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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

S. 3591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 14, United States Code, is amended by adding the following new section at the end of chapter 21 thereof:

"§ 764. Active duty for emergency augmentation of regular forces

"(a) Notwithstanding the provisions of any other law and for the emergency augmentation of regular Coast Guard forces at times of serious natural or man-made disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of persons affected, order to active duty of not more than 30 days a year from the Coast Guard Ready Reserve any organized training unit; any member or members thereof; or any member not assigned to a unit organized to serve as a unit.

"(b) A reasonable time, under the circumstances of the domestic emergency involved, shall be allowed between the date when a Reserve ordered to active duty under this section is alerted for that duty and the date when he is required to enter upon that duty. unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

"(c) Active duty served under this section—

(1) may, in the discretion of the Secretary, satisfy all or a part of the annual active duty for training requirement of section 270 of title 10, United States Code;

(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

(3) entitles a member while engaged therein, or while engaged in authorized travel to or from such duty, to all the rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which he would be entitled while performing other regular active duty."

SEC. 2. The analysis of chapter 21 is amended by adding therein:

"764. Active duty for emergency augmentation of regular forces."

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 26, 1972.

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

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill,

"To amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces."

The proposed bill would authorize the Secretary of the department in which the Coast Guard is operating to order members of the Coast Guard Ready Reserve to active duty for periods of not more than 30 days to assist in the performance of Coast Guard missions during and following major natural or man-made disasters, accidents or catastrophes.

Domestic emergencies such as hurricane Camille in 1969 are of such sudden and vast proportion that every available federal, state and private resource must be utilized for the saving of life and property and for initial rehabilitative efforts. It goes without saying that Coast Guard and other resources in and around affected areas, though taxed to an ultimate limit, do not have a response capability commensurate with the need for assistance. It is for such situations that this Department seeks the authority to augment regular forces with members of the Coast Guard Reserve.

We are, of course, aware that heretofore the statutory and accepted mission of the reserve components of the Armed Forces has been principally limited to training for wartime mobilization. The proposed bill does not disturb that basic concept. It is our view that the anticipated peacetime utilization we propose supports rather than impairs that training objective. Motivation which is so vital to effective training and so inherently difficult to instill with training that may never be used should be significantly enhanced by a member's greater expectation of using his training to advantage. With regard to specifics of training it should be borne in mind that the Coast Guard's peacetime mission is synonymous with a part of its wartime role.

Of equal importance in justifying the authority we seek is the greater economic efficiency which will ensue. Everyone is aware of the current national concern over ecological matters and how funds may be made available properly to combat problems such as pollution of the sea by oil. Part of the answer lies in better utilization of existing resources. The Coast Guard Reserve is such a resource. A massive oil spill requires rapid and massive response perhaps to preclude a massive ecological disaster.

Enactment of the proposed legislation would not result in an immediate requirement for additional funds. We would expect at the outset to utilize existing resources until some experience can be gained on the degree and the cost of this utilization of the Coast Guard Reserve. Ultimately the usual budget and legislative procedures would be a constraint on the continuing degree of utilization.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

JAMES M. BEGGS,
Acting Secretary.

By Mr. STEVENS:

S. 3592. A bill to amend section 6334(a) of the Internal Revenue Code. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, I am today introducing a bill which would exempt salary or wages in an amount of $450 per month for the head of a family or $300 per month for an individual from levy for nonpayment of Federal taxes.

Many people throughout the country have been faced with severe hardships because there is no present provision in the Internal Revenue Code to exempt any amount of a person's salary or wages from levy for the nonpayment of taxes.

Under the law as presently written, the Internal Revenue Service has no authority to levy on less than 100 percent of a person's take-home pay. This is not to say that it would not be possible for the IRS to accept less under a specific arrangement; however, under the law, it is the Internal Revenue Service's position as I understand it that any levy that does attach must attach to the full amount of the employee's take-home pay.

In order to permit taxpayers to retain a minimal amount of wages or salary upon which to live, I have introduced this bill.

Because the bill is brief, I believe it will be necessary to provide specific guidelines to Congress in order to indicate my intent as the author of this legislation. Such guidelines will serve two purposes: They will assist the Senate and House committees in their considerations of this bill and also serve as the basis for the Internal Revenue Service in applying the law.

First, the exemption is stated in an amount per month rather than an amount per week. I realize that many people are paid on a biweekly or weekly basis and that weekly wages may be involved in tax levies more often than monthly wages. However, many pay periods are made on a bimonthly or other basis, not easily statable in weekly figures.

Second, it is my specific intent that the Director of the Internal Revenue Service should have the discretion as to whether to exempt, first, the first earnings for that month, up to the exempt amount, or, second, to prorate such exemption for the month in question. He is to make such a choice based upon the equities of the case. Such a decision is presently permissible under the proposed regulations under section 6334(a)(8) which permit the District Director to make "arrangements" with a taxpayer to establish a prorated amount for each pay period which shall be exempt from levy (36 F.R. 19035).

Third, I intend that the amount exempt from levy under this bill is to be reduced by any amount exempt from levy under section 6334(a)(8).

Fourth, I intend that this exemption should apply whether or not any other member of the household is employed in addition to the head of the household.

Fifth, I intend that at the discretion of the Internal Revenue Service, the amount exempt from levy may be apportioned among several salaries or allocated entirely to one salary in the case of a taxpayer who is employed by two or more employers. This is the position the Internal Revenue Service has taken in the proposed regulations to be promulgated under section 6334(a)(8). See 36 Federal Register 19035.

Sixth, I intend that there be no carryover of the exemption from one pay period to another. The amount exempt from levy for 1 month should not be increased by the amount exempt for the preceding month merely because the taxpayer did not work in such preceding period.

Seventh, I intend that the Internal Revenue Service may prescribe by regulation general rules relating to the cir-

cumstances under which money deposited in a checking account or savings account—or which is traceable to other property acquired—loses its identity as salary or wage exempt from levy. In certain cases it is possible that a taxpayer may utilize a checking account for the payment of his household expenses. In such a case, the purpose of this legislation would be frustrated if levy were permitted to be made upon the account immediately after the money is deposited. On the other hand, taxpayers should not be able to shield funds indiscriminately by accumulating them in a bank account. This problem is one that is solvable by regulation.

For the information of my colleagues and the general public, I ask unanimous consent that this bill be printed in its entirety in the CONGRESSIONAL RECORD at this point.

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

S. 3592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) IN GENERAL.—Section 6334(a) of the Internal Revenue Code (26 USC 6334(a)) (relating to enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(9) salary or wages in an amount of $450 per month for the head of a family or $300 per month for an individual."

(b) EFFECTIVE DATE.—This amendment shall apply to levies made 30 days or more after the date of enactment of this Act.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 3594. A bill providing for Federal purchase of the remaining Klamath Indian Forest. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, today I am introducing legislation to require the Secretary of Agriculture to purchase 135,000 acres of Klamath Indian timberland. I am pleased that my colleague, Senator PACKWOOD, is joining me in this effort, and I would point out that on Monday, this same legislation was introduced in the House of Representatives by Congressman AL ULLMAN, and he was joined by all the members of the Oregon delegation: WENDELL WYATT, JOHN DELLENBACK, and EDITH GREEN. The House bill is H.R. 14840. The entire Oregon delegation, in both Houses, urges that this valuable property be purchased by the Federal Government. In addition, Oregon's Governor, Tom McCall, has supported this effort.

This purchase would add approximately 15 percent to the existing Winema National Forest, which was created by a purchase of much of the original Klamath Indian Forest land some years ago.

This purchase would cost in the neighborhood of $52 million, but I believe it to be a wise investment by the Government. Not only could this land be managed by the Forest Service in a wise and astute manner, but even more pressing is the alternative that is present. A longtime Washington-based correspondent for several Oregon newspapers expressed his thoughts, that I think are worthy of serious consideration. A. Robert Smith wrote in his column on April 26 that:

The basis for the forecasts of exploitation of the remaining Indian timber if the federal government doesn't buy it, is that private purchasers would be compelled to cut and sell timber rapidly to recover their investment because the price is too high to permit it to be harvested slowly on a sustained-yield basis.

This fear has caused alarm to many Oregonians.

The beneficiaries of purchase by the Government would be the Klamath Indians, as well as the general public. Increasing recreational pressures, many from other States, would allow wise utilization of this land for the benefit of all American vacationers and travelers who visit this section of Oregon.

Mr. PACKWOOD. Mr. President, the bill that Senator HATFIELD and I are introducing here today is identical to a proposal on the House side, introduced by Representatives DELLENBACK, GREEN of Oregon, ULLMAN, and WYATT. It seems to me a pity that the Oregon delegation must resort to such a bill as to direct the Secretary of Agriculture to purchase prime, scenic timberland within national forest boundaries, when the Federal Government already has the authority to do so.

Under provisions of the Klamath Termination Act, as amended, the Federal Government is authorized to purchase the 134,960 acres. Pursuant to the above act, title to the property of the remaining members of the Klamath Indian Tribe was conveyed to the U.S. National Bank of Portland, Oreg., for operation and management in accordance with the management trust agreement. This agreement contained provisions allowing the beneficiaries of the trust to terminate the trust. At an election in 1969, the beneficiaries favored termination.

The trustee is required under the Termination Act to first offer the property to the Indians, if they do not purchase, then to the Federal Government. On July 29, 1971, the trustees by letter offered the property for sale to the Forest Service for $51,360,731, subject to adjustment, if any, as of the acceptance date to reflect growth and cutting. The trustees gave the Forest Service until July 2, 1972, to either accept or reject the offer.

Forest Service indicated its interest in acquiring the scenic timberland, adding it to the Winema National Forest to be managed on a multiple-use, sustained yield basis. Forest Service felt the 1958 amendment to the Termination Act provided for sale of any portion of the approximately 135,000 acres. That section is as follows:

If at any time any of the tribal lands that comprise the Klamath Indian Forest and that are retained by the tribe are offered for sale other than to members of the tribe, such lands shall first be offered for sale to the Secretary of Agriculture, who shall be given a period of twelve months after the date of each such offer to purchase such lands. No such lands shall be sold at a price below the price at which they have been offered for sale to the Secretary of Agriculture, and if such lands are reoffered for sale they shall first be reoffered to the Secretary of Agriculture. The Secretary of Agriculture is hereby authorized to purchase such lands, subject to such terms and conditions as to the use thereof as he may deem appropriate, and any lands so acquired shall thereupon become National Forest lands subject to the laws that are applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended.

Mr. President, I have been aware of the interests in this land since 1969, and have frequently communicated with the Forest Service, and I know they are interested in acquiring the land. Upon notices from the bank a year ago, I pursued this matter with the Forest Service and the White House again, and was assured that purchase by the Forest Service was under consideration. Forest Service was definitely interested in purchasing.

Only recently did the Oregon delegation and Governor McCall become aware of how critical this was—OMB—the Office of Management and Budget—announced its decision not to purchase this property. The 135,000 scenic acres will go on public market in July of this year.

Oregonians are deeply and understandably upset. Telephone calls and letters have been pouring into the Oregon delegation from the people at home. I have had telephone conversations with the White House, have sent wires and letters to the White House, the Secretary of Agriculture and the Secretary of the Interior, urging the administration to seize this opportunity to protect this vast acreage from rape. It seems certain that if this vast natural resource is not purchased by Forest Service, then it is threatened by clear-cutting and commercial exploitation. This seems poor exchange for the opportunity of both doing something for the Indians as well as protecting our forest lands.

If the Oregon delegation is to respond properly to this crises, then the bill we have put forth in the Congress appears to be our only route.

Mr. President, I ask that editorials from some of our Oregon papers be printed in the RECORD at this point.

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

[From the Oregonian, Apr. 26, 1972]

KLAMATH FOREST NOW SEEMS LOST TO DEVELOPERS UNLESS PUBLIC STARTS "SOUNDING OFF"

(By Phil Cogswell)

WASHINGTON.—For about $51 million the federal government could buy 135,000 acres of scenic timberland in Southern Oregon—the Klamath Indian Forest.

Instead, unless public or congressional pressure forces the administration to change its mind before June 30, the land apparently will be put up for sale to private companies.

Federal officials have announced that although the land would be a desirable purchase for addition to the Winema National Forest, the government prefers to spend available money for high use recreation sites in the East near the large centers of population.

In short, the Klamath Indian Forest didn't have a high enough priority.

Rep. Al Ullman, D-Ore., whose district contains the Klamath lands, was the most aggressive supporter over the past year for federal purchase and he has become the loudest critic of the decision not to buy the property.

"It has the making of the grossest land

and forest exploitation of anything that's happened in our generation, and yet the administration with full authority to act is sitting down and letting it happen," Ullman said.

Ullman and other supporters of the federal purchase fear that the land will be bought up by private firms or high intensity logging and recreational homesite development rather than for use as a perpetual forest managed or sustained yield techniques.

While federal purchase has been supported by Oregon congressmen over the past year, it has not become the sort of public issue that could lead the government to modify its priorities.

There appears to have been a general assumption that the government would buy the property—especially since experts agreed it was well worth the money.

Thus, while there were letters sent and meetings with administration officials the Klamath issue stayed out of the limelight.

Oregon Gov. Tom McCall, who as a television newsman did a documentary on the Klamath issue in 1958, said he had thought the government was going to purchase the land until the decision to the contrary was announced.

National conservation groups—which could have made something of the issue—also were silent.

"I don't think anybody's clamored for it—that's the problem," said Barbara Holliday, an aide to Sen. Bob Packwood, R-Ore., for environmental affairs.

"We've been concerned since 1969, but no body seemed interested in it."

The Klamath Indian Forest gained public and congressional attention in 1958—the time of then-newsman McCall's documentary—when the government terminated the tribal status of the Klamath Indians and broke up their reservation.

At that time, some tribal members voted to sell their lands immediately. Others declined and held onto approximately 135,000 acres. It is their land which is at the center of the new controversy.

In the face of fears that the pine forest would be dumped on the open market for exploitation, Congress authorized the land to be managed in trust for the benefit of those Indians. Congress also specified that if the Indians decided to end the trust arrangement, the U.S. Forest Service would have one year to buy the forest if it wanted at market value.

In 1969, the Indians voted overwhelmingly to terminate the trust and receive payment for the land. The authorization for the Forest Service to buy the land expires June 30, and the trustee—U.S. National Bank of Oregon—has indicated it will then put the land up for sale to the highest bidder.

Several lumber companies are believed interested in the property.

So is Gov. McCall, who has ordered state officials to see if there is some way the state could buy the land, but no clear method has emerged. The State of Oregon doesn't have $51 million sitting around ready to be spent.

Rep. Ullman believes the best chance for public ownership of the forest is for so much public pressure to be generated that the administration would change its mind.

He emphasizes that the administration "has the full authority under the law to make the purchase" without any additional congressional action being required.

Sen. Packwood also has urged that the federal mind be changed.

In a telegram to President Richard Nixon, Packwood said if the Forest Service is not allowed to buy the lands, "they are in danger of being destroyed forever."

Federal purchase also apparently is advocated by at least some of the Klamath Indians, who want an Indian-run corporation to manage the forest.

What the public wants done with the forest land—some of which lies along picturesque rivers and is described by Ullman as "magnificently beautiful"—might be revealed over the next two months, if the public begins expressing an opinion at all.

[From the Eugene (Oreg.) Register-Guard, Apr. 26, 1972]

RAPE OF THE LAND

Refusal of the federal government to buy a large parcel of Indian forest land in Klamath County is nothing short of an outrage. It's an example of poor resource management and, in the long run, of poor business judgment.

Involved are 135,000 acres of timber land north of Klamath Falls. If the federal government does not buy it, private timber operators will. Edward P. Cliff, retiring chief of the Forest Service, says the nature of the timberland is such that a private owner could not afford to harvest it on a sustained yield basis. Only the government could do that. This means that in private hands the acreage would soon become a wasteland like much other land in that part of the state.

It is in the long-range public interest to see the land logged in such a way that it will continue to produce timber, on a predictable basis, forever. It is, moreover, a chance for the federal government to make some money. Acquisition of timber land is less an expense than an investment. The cost, $52 million, is not great as government expenses go. Over the years it would be more than recovered. An administration that prides itself upon its concern for environmental quality should consider that aspect of the proposed purchase.

Mr. Cliff says the administration's refusal to buy the land is based on the philosophical belief that the government owns too much of the nation's land already. That might be a good argument if the proposal were to buy Times Square or Eugene's Mall. It is not a good argument, however, when applied to resource management.

The Oregon congressional delegation is unanimous in urging the government to buy the land. The Forest Service wants it as part of the Winema National Forest. If this fine land is turned over first to timber companies who will cut out and get out, and then to real estate developers, the Nixon administration will have been party to an outrageous rape of a natural resource.

[From the Oregonian, Apr. 27, 1972]

UNITED STATES URGED TO BUY KLAMATH LANDS

(By Phil Cogswell)

WASHINGTON.—Two Oregon congressmen—Republican Wendell Wyatt and Democrat Al Ullman—said Wednesday they are giving strong consideration to introducing legislation that would direct the federal government to buy the Klamath Indian forest land in Southern Oregon.

The congressmen are seeking to reverse a government decision not to purchase the 135,000 acres of timberland valued at $51 million.

Congress has authorized the government to purchase the property—which had been operated in trust for the benefit of the Klamath Indians—but that authorization expires June 30. The land then could be sold to private companies.

Wyatt and Ullman said they thought their legislation would have a chance of passage by Congress but agreed it would mean a difficult fight.

"I think it's possible but I wouldn't want to underestimate the difficulty," Wyatt commented.

"We well know it's a tough road, but we also feel that saving this tremendous block of land is a dramatic enough conservation issue and has such wide-ranging political implications that if it's properly understood we can get the support to move the bill," Ullman said.

The two congressmen said they hope to meet with other members of the Oregon delegation next week to seek additional support for the proposed legislation.

The proposal being studied by Wyatt and Ullman is a seldom-used process that would bypass the appropriations committees and direct the secretary of agriculture to enter into a contract to buy the property.

The congressmen are meeting with key members of interior and appropriations committees to explain their position and create an atmosphere for speedy passage of the legislation.

"We're still at the point of doing an analysis of both the legislative and political situations," Ullman said.

The government decision not to buy the Klamath Indian forest has raised fears among members of the Oregon delegation that the land will be bought by private firms for intensive logging and other types of development.

"I think that urgent measures are necessary to keep it from falling into the hands of developers," Wyatt commented.

Ullman said he still hopes "the administration will see the light of day and use existing authorization to buy the forest land.

[From the Oregon Statesman, Salem, Oreg., Apr. 22, 1972]

WHITE HOUSE SAYS "NO" TO PURCHASE OF KLAMATH INDIAN LAND

(By A. Robert Smith)

WASHINGTON.—The Nixon Administration has handed Oregon Democrats a political issue by deciding, against the advice of the entire Oregon congressional delegation, not to purchase a $52 million stand of Klamath Indian timberland.

Rep. Al Ullman, D-Ore., was quick to label the decision a "giveaway" to private timber interests.

The Forest Service had strongly recommended federal purchase, according to Edward P. Chieff, chief of the Forest Service. But the White House Office of Management and Budget decided "in view of the present fiscal situation, the administration just can't approve it," the Forest Service was informed.

This wasn't surprising to the Forest Service, in view of the rejection last November by the White House of another land acquisition the Forest Service wanted to make in New Mexico, a half million acre tract for some $23 million.

If the Klamath Indians who want to sell this timber put it up for private purchase, who will buy it—and what will be the consequences?

There are reports that Japanese interests are taking a look at this timber.

Japan has been the principal market for some years for logs from the Pacific Northwest. Three years ago Congress restricted the amount of log exports to Japan from federal timberland because of complaints from domestic loggers who claimed the exporters were driving up the price of logs by high bidding.

This restriction didn't affect sale of logs from private timberlands nor from the forests of Washington State. Crown-Zellerbach, Weyerhauser and Washington State have done a brisk business in log exports to Japan for some years.

Sen. Bob Packwood, R-Ore., has obtained congresssional hearings in May and June on the entire log export situation to explore possible changes in the law, to consider everything from dropping the export limitation to applying it to logs from both private as well as public forests.

Packwood Friday sent President Nixon a telegram urging him to reverse the decision

so that the Klamath timber is not "in danger of being destroyed forever."

"Let us join in doing something for the Indians as well as conservation," Packwood concluded.

Rep. Ullman took a more partisan approach Friday, blasting the decision as "the biggest resource giveaway of the decade."

"This has the makings of the greatest land and forest exploitation of any time in our generation and yet the administration with full authority to act is just sitting by and letting this happen," Ullman added.

The Eastern Oregon lawmaker hopes to create a public clamor against the private sale of the timber so as to influence the White House to reverse the decision.

"Where in hell are all the conservation and environmental groups? asked Ullman. "Why aren't they moving to help save this resource?'

The entire Oregon congressional group and Gov. Tom McCall favored federal purchase. The 135,000-acre tract would represent a 15 per cent increase in the existing size of Winema National Forest, which was created a decade ago by purchase of timberland from the majority of the Klamath Tribe when they elected to terminate federal supervision over their affairs and resources.

The basis for the forecasts of exploitation of the remaining Indian timber if the federal government doesn't buy it, is that private purchases would be compelled to cut and sell timber rapidly to recover their investment because the price is too high to permit it to be harvested slowly on a sustained-yeld basis.

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

S. 3595. A bill to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa. Referred to the Committee on Public Works.

SAVING PRESQUE ISLE

Mr. SCHWEIKER. Mr. President, I introduce for myself and the distinguished senior Senator from Pennsylvania (Mr. SCOTT), a bill to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.

The purpose of this legislation is to extend the authority for Federal participation in the Presque Isle Cooperative Beach Erosion Control project for a period of 5 years. The legislation also authorizes $3,500,000 to support the work necessary on this important project.

Federal participation in the Presque Isle Beach Erosion Control project was originally authorized by the 1960 River and Harbor Act, Public Law 86–645, for a period of 10 years. That authority existed from 1961 to May 1971, when it expired.

Presque Isle State Park and its beaches are considered a statewide resource in Pennsylvania, and truly are a national resource as well. About 4 million people enjoy the area annually. For many years, attempts have been made to control erosion at these beaches. Such attempts, however, have been ineffective and temporary in nature. Winter storms, particularly this year, have taken a heavy toll. It is essential that immediate steps be taken to provide protection for the peninsula.

Over the past several months, I have been corresponding with Col. Ray S. Hansen, District Engineer of the Army Corps of Engineers, Buffalo district, which has jurisdiction over Presque Isle. In April, I wrote Colonel Hansen urging that public hearings be held in Erie on the Presque Isle erosion problem in early May. Colonel Hansen responded by scheduling hearings in Erie for June 2, at which corps representatives will have an opportunity to review the current condition of Presque Isle and to hear from the many members of the Erie community who have suggestions and ideas as to how to handle this tragic erosion problem.

I have asked Colonel Hansen how the Federal Government can be of assistance to the residents of Erie and the many tourists who use Presque Isle State Park and its recreation facilities. I am advised that in order for the Corps of Engineers to actively work on the area, it will be necessary to obtain an extension of Federal participation in the project beyond the expiration date which occurred in May 1971. The extension would permit Federal participation in emergency restoration of beach areas that may be required to protect park facilities from severe damage and provide useful and attractive bathing areas until more permanent modifications can be authorized and constructed. This is exactly what my legislation would do. This legislation would authorize Federal participation to a maximum of 70 percent of the cost of improving public park areas. Presque Isle State Park meets all the criteria for 70 percent participation and the cost of work done on the cooperative project for the 10 years prior to 1971 has been shared on that basis, with 30 percent State participation.

Mr. President, recently a petition bearing nearly 66,000 signatures appealing for permanent erosion control at Presque Isle State Park was presented to Pennsylvania Gov. Milton J. Shapp and Hon. Herbert Fineman, speaker of the house of representatives. The petition was presented by David DeHaven, vice president of the Pennsylania State Federation of Sportsmen's Clubs, Robert Zawadzki, president of the Northwest Pennsylvania Duck Hunters Association, which initiated the idea for the petition, and James A. Ketcham, vice president of marketing for the First National Bank of Pennsylvania, headquartered in Erie. The petition was originally presented to Erie County Representatives Robert E. Bellomini and Bernard Dombrowski who later, along with Representative Wendell R. Good, presented it to Speaker Fineman. Later, these representatives, along with Erie Representative Forest W. Hopkins, presented the petitions to Governor Shapp in his executive offices. Representative David Hayes has also worked closely with me on this problem.

Many organizations and individuals have also contacted me about Presque Isle. Thus, the residents of the Erie area have shown their sincere concern both to State and Federal representatives about the need to undertake an emergency restoration of the beach areas.

Mr. President, Presque Isle State Park is simply too valuable to Pennsylvania and to the Nation to permit continued erosion to take place. There is an increasing demand for recreation by our citizens, and we must take all necessary steps to preserve this area which, as I pointed out previously, is enjoyed by 4 million people a year. I am sure that my colleagues will agree with me that this is an area well worth saving. I am certainly hopeful of early and favorable action on this legislation.

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

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

S. 3595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pennsylvania, as provided in section 101 of the River and Harbor Act of 1960 (74 Stat. 480) is reinstated and extended, under the terms existing immediately prior to the termination of such authorization, for a period of five years from the date of enactment of this Act, or if the review study of such project being carried out by the Secretary of the Army is not completed prior to the end of such period until such study is completed and a report thereon submitted to the Congress.

SEC. 2. There is authorized to be appropriated not to exceed $3,500,000 to carry out the provisions of this Act.

Mr. SCOTT. Mr. President, I am delighted to join my distinguished junior colleague from Pennsylvania (Mr. SCHWEIKER) in the introduction of a bill authorizing the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula in Erie, Pa.

Several months ago, I urged the U.S. Army Corps of Engineers to expedite their projected restoration plans so that Federal funds would be available. I indicated that I would seek to include the project in next year's Federal budget.

The Presque Isle State Park in Erie is tremendously important to the Commonwealth of Pennsylvania as an outstanding water recreation area. Severe storms which hit the beach late last year caused extensive damage to the access highways and to the shore protection facilities. I have carefully examined a series of excellent aerial photographs of the area and can see quite clearly the extent of this damage. It will certainly cost several million dollars to restore the beach and park area to its original condition.

The great need for the Schweiker-Scott proposal is evident. Authority for Federal participation in the Presque Isle project expired 1 year ago. This new authorization will extend the government's participation and will authorize the expenditure of $3.5 million. As I said several months ago, the citizens of Erie and the Commonwealth's entire northwest region deserve a first-rate water recreation area. The beach must be restored. I urge the Congress to consider favorably this proposal.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 887

At the request of Mr. EAGLETON, the Senator from California (Mr. CRANSTON)

and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of S. 887, a bill to amend the Public Health Service Act to provide for the establishment of a National Institute of Gerontology.

S. 3070

At the request of Mr. THURMOND, the Senator from Colorado (Mr. ALLOTT) and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 3070, a bill to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations, to provide for such veterans a certain priority in entitlement to hospitalization and medical care.

S. 3148

At the request of Mr. BAYH, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 3148, a bill to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

S. 3262

At the request of Mr. CURTIS, the Senator from Idaho (Mr. JORDAN) was added as a cosponsor of S. 3262, a bill to amend the Occupational Safety and Health Act of 1970.

S. 3302

At the request of Mr. PEARSON, the Senator from Hawaii (Mr. FONG) was added as a cosponsor of S. 3302, a bill to amend the Airport and Airway Development Act of 1970 in order to make certain airports where the landing area is owned by the United States or an agency thereof eligible for assistance under such act.

S. 3416

At the request of Mr. THURMOND, the Senator from South Carolina (Mr. HOLLINGS), the Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. TUNNEY), the Senator from Washington (Mr. MAGNUSON), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Colorado (Mr. ALLOTT) were added as cosponsors of S. 3416, a bill to preclude POW's and MIA's from losing accumulated leave upon return.

S. 3538 AND S. 3539

At the request of Mr. BAYH, the Senator from Texas (Mr. BENTSEN), the Senator from Tennessee (Mr. BROCK), the Senator from Indiana (Mr. HARTKE), and the Senator from Idaho (Mr. CHURCH) were added as cosponsors of S. 3538, a bill to amend the Controlled Substances Act to require identification by manufacturer of each schedule II dosage unit produced; and S. 3539, a bill to amend the Controlled Substances Act to move certain barbiturates from schedule III of such act to schedule II.

SENATE RESOLUTION 300—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

(Referred to the Committee on Rules and Administration.)

Mr. MONDALE submitted the following resolution:

S. RES. 300

Resolved, That Senate Resolution 247, Ninety-second Congress, agreed to March 6, 1972, is amended as follows:

(1) In subsection (a) of the first section, strike out "May 31, 1972" and insert in lieu thereof "June 30, 1972".

(2) In section 2, strike out "$104,000" and insert in lieu thereof "$, ".

(3) In section 3, strike out "May 31, 1972" and insert in lieu thereof "June 30, 1972".

FOREIGN RELATIONS AUTHORIZATION ACT—AMENDMENTS

AMENDMENTS NOS. 1188 AND 1189

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted two amendments intended to be proposed by him to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

AMENDMENT NO. 1191

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted an amendment intended to be proposed by him to the bill (S. 3526), supra.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1190

(Ordered to be printed and referred to the Committee on Finance.)

Mr. NELSON. Mr. President, I introduce today an amendment to H.R. 1 that would greatly strengthen the emergency assistance provisions of the welfare program.

The purpose of emergency assistance is to provide money or services to poor people for short periods of time when the failure to provide such assistance would result in destitution. For instance, in Oklahoma, emergency assistance is now available in the following situations:

Loss of employment or illness; natural or man-made disaster; loss of a relative who has been responsible for support and/or care; garnishment of wages; and foreclosures which would deplete the family's capital resources from which essential income is derived.

Currently, emergency assistance is optional with the States, and only 24 of them have a program. In September 1971, only 10,912 families were receiving emergency assistance nationwide, and the annual cost of the program was only $20 million. The scope and coverage of the program have been kept down by numerous restrictions, particularly the fact that only 50 percent of the cost is borne by the Federal Government.

Mr. President, I ask unanimous consent that a table showing the number of families receiving emergency assistance and the amount of payments by State for September 1971 be printed in the RECORD at this point.

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

EMERGENCY ASSISTANCE: FAMILIES RECEIVING ASSISTANCE AND AMOUNT OF PAYMENTS, BY STATE, SEPTEMBER 1971 [1]

State	Number of families			Amount of assistance payments			
		AFDC money payment cases		Total			
	Total		Other	Amount	Average per family	Maintenance	Medical care
Total [2]	10,912	5,079	5,833	$1,650,825	$151.29	$1,570,160	$80,665
Alaska	65	35	30	13,720	211.08	1,233	12,487
Arkansas	149	36	113	3,923	26.33	3,674	249
Kansas [3]	3	0	3	621	(4)	621	0
Maryland	1,880	1,780	100	336,532	179.01	336,532	0
Massachusetts [3]	1,578	498	1,080	242,863	153.91	238,840	4,023
Michigan	2,202	2,062	140	332,860	151.16	281,087	51,773
Minnesota [5]	198	15	183	54,645	275.98	49,764	4,881
Montana	10	6	4	1,033	(4)	984	49
Nebraska	306	80	226	13,704	44.78	13,673	31
New Jersey [6]	2,500	100	2,400	$440,000	$176.00	$440,000	0
New York [7]	64	64	0	41,003	640.67	41,003	0
Oklahoma	316	29	287	55,231	174.78	55,231	0
Oregon	414	2	412	20,638	49.85	16,144	$4,494
Rhode Island	56	0	56	20,211	360.91	20,221	0
Utah	99	99	0	4,469	45.14	4,469	0
Vermont [5]	157	96	61	18,440	117.45	15,766	2,674
Virgin Islands	1	1	0	168	(4)	168	0
Washington	494	34	460	32,589	65.97	32,589	0
West Virginia	305	142	163	12,388	40.62	12,384	4
Wyoming	115	0	115	5,707	50.32	5,787	0

[1] All data subject to revision. Such emergency assistance authorized to needy families with children under title IV–A.
[2] Data incomplete; see footnotes 5, 6, and 7.
[3] Represents data for August; September data not available.
[4] Average payment not computed on base of fewer than 50 families.
[5] Data incomplete.
[6] Estimated by State.
[7] Does not include New York City.

Mr. NELSON. Mr. President, passage of the President's family assistance plan would greatly increase the need for a strong emergency assistance program. For instance, consider the process of determining eligibility. Unlike present law, there is no requirement in H.R. 1—as approved by the House—that eligibility be determined within 30 days of application. Moreover, the House bill specifically insists on a more rigorous eligibility test than is made presently.

Surely, people cannot be allowed to starve while their eligibility for assistance payments is being determined. Indeed, those who are pushing for a more rigorous test of eligibility should be willing to provide emergency assistance so that the eligibility determination does not proceed at the expense of the recipient.

Under H.R. 1, provision is made for payment of up to $100 to families applying for benefits, but this is clearly inadequate. The $100 may be totally insufficient—particularly if the family is large and if the determination of eligibility is lengthy. Moreover, the emergency payment must then be deducted from subsequent payments—assuming the applicant proves to be eligible—which can only lead to a future financial crisis.

H.R. 1 also differs from current law in its treatment of past income. At present, eligibility is based on current need. But under H.R. 1, the welfare department would look at the applicant's income over the preceding 9 months. If the preceding 9 months' income exceeds a certain amount, the applicant might be ineligible for benefits for up to 9 months—until his past year's income had dropped below the critical level. Without getting into the merits of this provision, it should be obvious that some form of emergency payments will be required if the applicant is without funds and his income over the preceding 9 months makes him ineligible for payments under the family assistance plan.

Finally, H.R. 1 differs from current law in not providing for special needs. At present, in addition to his basic benefit, the welfare recipient can normally apply for money to pay for unusual expenses: new shoes for the children, a winter overcoat, an ice box, and so forth. The States currently receive Federal matching for such payments. But under H.R. 1, provision is made for the basic grant, and no more. The special needs would have to be financed wholly by the States.

This amendment would make four important changes in the emergency assistance program:

First, it would broaden the program to every State.

Second, it would encourage the States to use this form of assistance by increasing the Federal contribution from 50 percent of the cost to 75 percent—the same percentage employed for the other social services. This was the recommendation made by the administration in 1967 when the emergency assistance program was first proposed and enacted.

Third, it would provide assistance to single people and childless couples facing destitution. Currently, these cases are handled by the State general assistance programs which are financed 100 percent by State and local governments.

Fourth, it would make emergency assistance available for up to 60 days, rather than 30 days as at present. The need for this change would be particularly compelling if eligibility determinations under H.R. 1 take over a month. But the argument goes far beyond that. As Under Secretary Wilbur Cohen told the Finance Committee in 1967, when the administration recommended the 60-day limit:

> There are many kinds of cases in which there is disorganization in the family. There may be alcoholism, there may be mental illness, there may be serious physical illness, or simply lack of education. The children may have to be placed with some other relative, or they may have to be placed in an institution. They may have to be placed in foster care. They may have to go to a court.
>
> Thirty days does not seem to be a sufficient time to allow the administrative agency, the courts, or the family to make the adjustment. What we are really asking is for a longer period of time that would permit the State welfare agency to undertake handling that child in that family in a responsible way. I would say somewhere between 60 and 120 days would cover a very large proportion of the cases.

Mr. Cohen reiterated his support for an extension of coverage from 30 to 60 days in his testimony to the Finance Committee this year.

These changes would greatly strengthen and expand emergency assistance. The additional cost to the Federal Government is estimated at about $120 million in 1973, and about $170 million annually when title IV of the bill goes into effect. The program would continue to be administered by the States—along with the other social services—because the decisions involved are largely discretionary.

The changes advocated here will provide considerable fiscal relief to State and local governments. At the present time, emergency cases that are not covered by the AFDC program almost invariably fall under the general assistance program, which is supported 100 percent by local funds. In Wisconsin, general assistance is administered by the counties and municipalities, and is financed wholly out of the property tax.

In the absence of a beefed up emergency assistance program, passage of the family assistance program will force the States increasingly to fall back on general assistance. This could result from delays between application and processing of the first check, the carryover of income from the preceding 9 months, or the failure to cover special needs. And expansion of general assistance will simply shift a major part of the welfare burden back to local governments and taxpayers.

A strong emergency assistance program would also contribute to lower welfare costs in the longer run. In his testimony before the Finance Committee this year, Wilbur Cohen described this case:

> The husband dies leaving a woman with, let say, three or four children and there has to be a complete readjustment in that life. The woman may have to sell her home; she may have to move in with some other relatives. There may be a long period of illness that used up all the resources of the family. She may have to be retrained to go to work. There may be—if it was a workmen's compensation case—there may be controversy over the settlement. I believe that in the death cases if you were to make a nonrecurring payment to the woman so that she could move or do whatever she felt was in the best interests of herself or her children rather than paying her, let's say, $200 a month, which does not enable her to make the big shift that she needs. You could probably get her off the welfare rolls faster. Instead of her being on the rolls 3 years she might only be on a year and a half or two if she could make the adjustment she felt was in her and her children's best interest.
>
> Let's say the mother comes in and says, "I would be willing to go out and live with my elder son or my brother-in-law or my sister," and she needs a $200 or $300 transportation payment or she has got to do something to sell her home or pay her medical bills, I think it is not realistic or put it this way, if you just say to her, "Well, we will put you on welfare for $200 a month." It does not give her the financial opportunity to make that adjustment that I think is necessary and, therefore, I think you should have this concept of the nonrecurring single payment, and also for the disabled person.
>
> Now, a disabled person many times might want to make an adjustment in where he lives or what he has done, and I believe the concept in section 529 of a nonrecurring payment would be well worth the cost and reduce the welfare costs in the long run.
>
> The Chairman. In other words, you have got a lot of successful families where there is a very severe temporary emergency created by the death of the husband and where that family will probably be able to readjust and get by without much help, but they are going to need help for a year or so?

Mr. President, I ask unanimous consent that a summary of my amendment, an explanation of the cost estimates, several letters endorsing the amendment, and the amendment itself be printed in the RECORD at this point.

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

DESCRIPTION OF EMERGENCY ASSISTANCE AMENDMENT

The amendment would make four changes in the emergency assistance program (presently in section 406 e of the Social Security Act). It would:

1. make it a mandatory program in every state;

2. lengthen the period during which emergency assistance could be received in any year from 30 days to 60 days. The amendment would also make assistance available for up to two periods in a year, instead of one (as at present);

3. provide coverage for single people and childless couples facing destitution. Under the amendment, coverage for these new groups would begin when title IV of the bill goes into effect; and

4. increase the federal matching for emergency assistance from the present 50 percent to the Medicaid percentage. At such time as title IV of the bill goes into effect, the federal matching would become 75 percent, or the Medicaid matching, whichever is higher.

COST ESTIMATES FOR THE EMERGENCY ASSISTANCE PROGRAM

Currently, 24 states have an Emergency Assistance Program. In 1973, the estimated coverage for this program is about 30,860 families per month, which is 370,320 families per year.

These states include 44.59 percent of the national AFDC caseload. If this program were mandated nationwide, we should expect at least 460,180 new cases, which comes to a total of 830,500 cases all together.

The average monthly payment in 1973 is $138.25. Thus, using the current eligibility requirements with the program mandated nationwide, we could expect a total cost of $114,817,000.

If we assume that the period of eligibility will be extended from one thirty day period

to two thirty day periods, then the costs may be increased by 50 percent. This would involve a total cost of $172,225,000.

If, in addition, the program is extended beyond families with children to include childless couples and single individuals, then the costs of the program may again be increased by 50 percent. This would involve a final cost of $258,336,000.

Under these assumptions, the federal cost of the proposal in the first year would be $146,994,000 (56.9 percent of $258,336,000). The federal cost would increase when title IV becomes effective due to an increase in the federal matching to 75 percent or the Medicaid percentage, whichever is higher. The federal cost of a flat 75 percent would be $193,754,000; the federal cost of the proposal would be only a little higher since only five of the smaller states have Medicaid percentages above 75 percent.

ESTIMATED FEDERAL AND STATE SHARES OF EMERGENCY ASSISTANCE PROGRAM—FISCAL YEAR 1973

[Dollars in thousands]

	Federal matching formula (percent)	Federal	State
1. Current program	50.0	$25,599	$25,598
	[1] 56.9	29,131	22,066
	75.0	38,398	12,799
Total cost		51,197	
2. Current program: extended nationwide (increase cost 124 percent)	50.0	57,409	57,408
	[1] 56.9	65,331	49,486
	75.0	86,113	28,704
Total cost		114,817	
3. Current program: extended nationwide increase to 60 days (increase costs by 50 percent)	50.0	86,113	86,112
	[1] 56.9	97,996	74,229
	75.0	129,169	43,056
Total cost		172,225	
4. Current program: extended nationwide increase to 60 days include individuals and childless couples (increase costs by 50 percent)	50.0	129,168	129,168
	[1] 56.9	146,994	111,344
	75.0	193,754	64,582
Total cost		258,336	

[1] This figure is the weighted average Federal participation rate based on caseload figures for the current Medical Assistance matching formulas in each state.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES,
Madison, Wis., May 1, 1972.

Mr. PAUL OFFNER,
% Senator Nelson, U.S. Senate Office Building, Washington, D.C.

DEAR PAUL: I appreciate receiving the draft of Senator Nelson's amendment to H.R. 1 concerning emergency assistance.

The measure is desirable for several reasons:

1. Under H.R. 1 both federal benefits and any state supplements must be flat grants. Some additional device, such as emergency assistance, is needed to take care of the unique and special needs of some families.

2. Wisconsin does not have an emergency assistance program now, so many unique needs must be met by counties or municipalities. Since there is neither state nor federal matching of such costs and no standard setting, there is great variation across the state in the meeting of such needs. Some local units can finance a fairly decent program, and others cannot. Some approach the problem with a fairly generous attitude and others are more restrictive.

3. The program would partially relieve the property tax of one burden, i.e., some general relief, it now must bear.

4. The measure would provide immediate help when needed by a financially needy family applying for H.R. 1 benefits. The provision for advancing $100 to be deducted from the first federal check is of no real benefit to a destitute family.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

FRANK NEWGENT,
Administrator,
Division of Family Services.

UNIVERSITY OF MICHIGAN,
SCHOOL OF EDUCATION,
Ann Arbor, Mich., May 4, 1972.

Senator GAYLORD NELSON,
Senate Office Building
Washington, D.C.

DEAR SENATOR NELSON: I have reviewed the draft of the amendment to H.R. 1 relating to emergency assistance which Paul Offner sent me.

I wholeheartedly endorse the objectives of the amendment.

The amendment generally follows the specifications of the proposal which I supported, on behalf of the then Administration, in 1967.

It would enable the States, in my opinion, to meet a wide variety of problems in a flexible and compassionate manner.

Sincerely,

WILBUR J. COHEN,
Dean.

AMENDMENT NO. 1190

On page 447, between lines 5 and 6, insert the following new section:

EMERGENCY ASSISTANCE

SEC. 530. (a)(1) Section 406(e)(1) of the Social Security Act is amended by striking out "for a period not in excess of 30 days" and inserting in lieu thereof "for not more than two periods (neither of which shall be in excess of 30 days)".

(2) Section 402(a) of such Act is amended by inserting immediately before the period at the end thereof the following: ", and (24) provide for the furnishing of emergency assistance (as defined in section 406(e)) in accordance with regulations of the Secretary (which regulations shall (i) provide for the furnishing, to children and families eligible therefor, of such food, clothing, housing, utilities, and other items specified by the Secretary, as may be needed, (ii) establish criteria for establishing eligibility for, and the extent to which, emergency assistance will be provided, and (iii) prescribe the conditions under which, and the extent to which, recipients of such assistance will be liable for the repayment thereof)".

(3) The amendments made by the preceding provisions of this subsection shall be effective in the case of months beginning after the month in which this Act is enacted, but notwithstanding any other provision of part A of title IV of the Social Security Act, no State plan which has been approved under such part prior to the effective date of such amendments shall, on account of failure to comply with the requirements of section 402 (a) (24) of such title (as added by this subsection), be deemed to have failed to comply with the requirements of such title if such State plan complies with such section 402 (a) (24) not later than the first day of the 6th month following the month in which this Act is enacted.

(b) Effective in the case of expenditures, under State plans approved under part A of title IV of the Social Security Act, made after the date of enactment of this Act and prior to the effective date of title XXI of the Social Security Act (as added by section 401 of this Act), section 403(a)(5)(A) of such Act is amended by striking out "50 per centum" and inserting in lieu thereof "the Federal medical assistance percentage (as defined in section 1905)".

(c) As of the effective date of title XXI of the Social Security Act (as added by section 401 of this Act), title XI of the Social Security Act (as amended by other provisions of this Act) is further amended by adding at the end thereof the folowing new section:

"EMERGENCY ASSISTANCE

"SEC. 1126. (a) Notwithstanding any other provision of this Act, no State shall be eligible for payments pursuant to title V, or title XIX, or part A of title IV, with respect to expenditures under any State plan approved by the Secretary under such title (or such part A) for any calendar quarter, unless such State has in effect a State plan for emergency assistance approved by the Secretary under this section.

"(b)(1) Any such State plan shall be designed to provide services and financial assistance necessary to avoid destitution of families or individuals as a result of sudden desertion, sickness, fires, natural disasters, or similar causes.

"(2) Any such State plan shall (A) provide that emergency assistance under the plan will not be provided to any family or individual for more than two periods (neither of which shall be in excess of 30 days) in any 12-month period, and (B) provide for the furnishing of emergency assistance in accordance with regulations of the Secretary (which regulations shall (i) provide for the furnishing, to families and individuals eligible therefor, of such food, clothing, housing, utilities, and other items specified by the Secretary, as may be needed, (ii) establish criteria for establishing eligibility for, and the extent to which, emergency assistance will be provided under State plans, and (iii) prescribe the conditions under which, and the extent to which, recipients of such assistance will be liable for the repayment thereof.

"(c) The Secretary shall, from the funds appropriated to carry out this section, pay (in accordance with regulations) for each quarter to each State which has an approved plan under this section an amount equal to 75 per centum, or if greater, the Federal medical assistance percentage (as defined in section 1905), of the amounts expended during such quarter as emergency assistance under its State plan, and of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of such plan.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to enable the Secretary to make the payments to States authorized by this section."

(c) On and after the effective date of the amendment made by subsection (b), there shall be no further requirement that any State having a plan approved under part A of title IV of the Social Security Act provide, in such plan, for the furnishing of emergency assistance, and no Federal payment shall be made under such part A on account of expenditures incurred in any such plan in providing emergency assistance thereunder.

TAX REFORM ACT OF 1969—AMENDMENT

AMENDMENT NO. 1192

(Ordered to be printed and referred to the Committee on Finance.)

Mr. ALLOTT. Mr. President, on November 12, 1971, I introduced S. 2851, a bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions. As I stated at that time, my purpose is to grant certain homes for the aged and underprivileged the same privileged status extended to hospitals.

Mr. President, so that my colleagues may be provided with background on

this subject matter, I ask unanimous consent that my introductory remarks of November 12 be printed in the RECORD at this point.

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

By Mr. ALLOTT:

S. 2851. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions. Referred to te Committee on Finance.

Mr. ALLOTT. Mr. President, I send to the desk a bill for appropriate reference. This bill amends the Internal Revenue Code of 1954 with respect to certain charitable contributions. My purpose in introducing this legislation is to grant certain homes for the aged the same privileged tax status extended to hospitals. My deliberations convince me that there is insufficient justification for any other treatment. The Tax Reform Act of 1969 made numerous changes in the exempt organization area. Albeit, much tax reform was needed to correct abuses that arose in connection with private foundations. Under the current law, many charitable homes providing long-term care for the aged and underprivileged are classified—by definition—as private foundations.

The adoption of this bill will relieve these homes of the burdens imposed upon private foundations by the 1969 Tax Reform Act—mainly the 4-percent excise tax on investment income and the minimum distribution requirements.

At first blush, the provisions contained in the Tax Reform Act of 1969 appeared to be reasonable obligations, even for the most charitable of institutions. But indepth study reveals that they will lead to the eventual depletion of the assets of these charitable organizations. Let me explain why. These homes for the aging are usually classified as operating foundations under the Internal Revenue Code. They use their investment income, often supplemented by fees charged to the recipient of the care, to meet their operating costs. It is a known fact that operating costs, especially those in the area of long-term care are constantly on the increase. Most of the homes that have come to my attention have been in existence for many decades and in most instances exercise a conservative investment philosophy. They have chosen to accept a lower yield in order to maximize growth potential, to make allowances for future years—hedging against inflation, if you will. Siphoning off of the top 4 percent—section 4940—plus mandating that an amount equal to 4 percent of their assets be disbursed each year—section 4942—really hurts. Most Senators know the difficulty in obtaining growth investments that yield 4 percent. In order to avoid the penalties contained in the Internal Revenue Code, these homes must dip into their capital in order to meet their minimum disbursement requirements.

Last year, I introduced S. 4435, a narrowly structured bill granting similar relief to the Myron Stratton Home of Colorado Springs, Colo. It had come to my attention that the 1969 provisions could lead to the eventual demise of the Myron Stratton Home, which provides long-term care for poor children and disabled elderly persons—without charge. I therefore introduced remedial legislation inasmuch as I could not tolerate the siphoning off of money from the operations of this home, a home the benefits of which have been known to me personally for many years—the housing, feeding, and care of underprivileged children and elderly citizens.

In the past year, my research has uncovered other homes for the aged which likewise are affected to their serious detriment—and, in my judgment, to society's detriment—by the Tax Reform Act of 1969. At this point, I wish to recognize and thank the American Association of Homes for the Aging for their cooperation in my research. Homes for the aging located in: Massachusetts, Pennsylvania, Nebraska, Kentucky, Missouri, Delaware, New York, Ohio, and California—and Mr. President, I suspect in many other locations—have their very existence threatened by these tax provisions.

These nonsectarian organizations, by and large have been in existence for many, many years and are able to offer long-term care services at a reduced cost because of the existence of an endowment, the income from which is used to offset operating costs; thereby reducing the cost of care to the residents/recipients. If they were church affiliated—performing the same function—they would not be classified as a private foundation, and would not be subject to these deleterious tax provisions. Why discriminate when we are talking about care for the aged?

At a time, Mr. President, when the Congress is laboring to increase social security benefits, increase medicaid and medicare benefits, increase Federal retirement benefits, and increase the number of subsidized housing units for the elderly, we cannot permit these organizations to be penalized under our tax laws. The dissipation of resources dedicated to such a social good must be terminated. Certainly we do not want to foist upon the taxpayers burdens heretofore borne by eleemosynary organizations. We must eliminate this "penalty" imposed upon those organizations. In all likelihood, Mr. President these are the only organizations which provide an absolutely necessary community service—which I might add, has been hit the hardest by rising costs—that of providing long-term care of the aged at a reduced fee for those who are least able to pay.

Mr. President, in my 17 years of service in the U.S. Senate, I have learned, among other things, that when the Congress enacts sweeping legislation, such as the Tax Reform Act of 1969, oversights are inevitable, provisions are enacted which in later years are discovered to cause certain inequities, and in my judgment this has happened in the instant case. This situation is an example of treatment which was not contemplated by the Congress when the Tax Reform Act of 1969 was enacted.

Mr. ALLOTT. Mr. President, subsequent to my introduction of this bill, three identical bills have been introduced in the House of Representatives. Following in order of introduction of legislation, are the names of those Congressmen who have given their support to this legislation: Congressman BROTZMAN; Congressman BETTS; and Congressman BURLESON. Also, since that time, I have been expanding my search for organizations which are in need of the relief provided by this legislation. I can now report to my colleagues that homes in the States of: Louisiana, Ohio, Oklahoma, New York, California, Illinois, Connecticut, Pennsylvania, Colorado, and Washington, D.C., are in need of this aid.

My purpose in offering today this amendment in the nature of a substitute is to respond to the constructive comments I have received. In enacting the amendments to chapter 42 of the Internal Revenue Code in the Tax Reform Act of 1969, one of the things that the Congress recognized was a need to prohibit unreasonable accumulations of capital by charitable organizations. In operating a home for the aged, one must certainly exercise a conservative investment philosophy geared to growth of the investment portfolio to guard against the rising cost of providing lifetime care. In fact, the minimum distribution requirements contained in chapter 42 of the code are too stringent as they apply to this group of organizations because of their need to hedge against future costs. In order to be responsive to this concern, however, I have decided to add the following language to assure that a minimum portion of an organization's investment assets are devoted to the charitable purpose:

. . . and which normally makes qualifying distributions (within the meaning of section 4942(g)(1)) directly for the active conduct of such purpose or functions in an amount not less than 3 percent of the amount described in section 4942(e)(1)(A),

Mr. President. As I have previously indicated, I believe the effects of the Tax Reform Act of 1969, as they apply to this group of organizations were unintended by the Congress. I sincerely hope that the Finance Committee will take positive action to remedy this inequity.

I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

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

AMENDMENT No. 1192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 170 (b) (1) (A) (iii) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following: ", or an organization which on or before May 26, 1969, and continuously thereafter to the close of the taxable year operated and maintained as its principal purpose or function facilities for the long-term care, comfort, maintenance, or education of resident permanently and totally disabled persons, elderly persons, needy widows or children, and which normally makes qualifying distributions (within the meaning of section 4942 (g) (1)) directly for the active conduct of such purpose or functions in an amount not less than 3 percent of the amount described in section 4942 (e) (1) (A),"

(b) The amendment made by subsection (a) shall take effect on January 1, 1970.

FEDERAL AID HIGHWAY AND MASS TRANSPORTATION ACT OF 1972—AMENDMENT

AMENDMENT NO. 1193

(Ordered to be printed and referred to the Committee on Public Works; and, if and when reported by that committee, jointly to the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, and the Committee on Finance.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (S. 3590) to authorize appropriations for the construction of certain highway and public mass transportation facilities in accordance with title 23 of the United States Code, to establish an urban transportation program, and for other purposes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1183

At the request of Mr. BROOKE, the Senator from Wisconsin (Mr. NELSON)

was added as a cosponsor of amendment No. 1183, intended to be proposed to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

NOTICE OF HEARINGS ON S. 3148—THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1972

Mr. BAYH. Mr. President, as chairman of the Subcommittee to Investigate Juvenile Delinquency, I wish to announce hearings on S. 3148, the Juvenile Justice and Delinquency Prevention Act of 1972. This bill is designed to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency.

These hearings have been scheduled for May 15 and 16, 1972, at 10 a.m. The hearings will be held in room 2228, New Senate Office Building.

Those who wish to file statements for inclusion in the record of the hearings should contact Ms. Mathea Falco, staff director and chief counsel of the subcommittee at 225–2951.

NOTICE OF HEARING ON SENATE JOINT RESOLUTION 106

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee on Constitutional Amendments of the Judiciary Committee will hold a hearing on Senate Joint Resolution 106, proposing an amendment to the Constitution of the United States with respect to the reconfirmation of judges after a term of 8 years.

The hearing will be held on Friday, May 19, 1972, and will begin at 10 a.m. in room 318, Old Senate Office Building. Persons wishing to submit written statements for the record in connection with this Joint Resolution are requested to contact Mr. Michael Helfer, Assistant Counsel, Subcommittee on Constitutional Amendments, Room 300, Old Senate Office Building, Washington, D.C. 20510.

CANCELLATION OF BUS SUBSIDY HEARINGS

Mr. EAGLETON. Mr. President, the Committee on the District of Columbia had scheduled a hearing for Thursday, May 11, 1972 on the need for a subsidy for the D.C. Transit Co. in place of an increase in bus fares, it being the committee's understanding that an increase in bus fare from 40 to 50 cents per ride will go into effect on May 25, 1972. The day before yesterday, the House of Representatives, by a vote of 270 to 50, disapproved of such a subsidy. Accordingly, it does not appear that any useful purpose could be served by the Senate District Committee's holding a hearing at this time.

In April of 1970 the Senate passed a bill authorizing a public takeover of the operation of D.C. Transit, a course of action which is presently being discussed in the community. However, that bill was never acted upon in the House of Representatives. I am sure that I speak for the committee and for the Senate when I say that we would again be willing to consider such legislation were the House of Representatives to indicate that they looked with favor upon such legislation. However, without such an indication it appears that any action by the Senate would be futile.

NOTICE OF INVESTIGATIVE HEARINGS ON BARBITURATE ABUSE

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary is continuing its investigative hearings on barbiturate abuse on May 17, 1972.

The subcommittee began this investigation with hearings December 15 and 16, 1971 on the extent of barbiturate abuse and the legitimate uses of these dangerous drugs. On May 2 and 3, 1972 the subcommittee heard testimony from police officials and others on the illegal diversion of legitimately produced barbiturate materials and pills illicit barbiturate traffic; and law enforcement responses to the diversion and illegal distribution of these dangerous substances.

On May 17 we will hear testimony from several district attorneys representing various regions of the country. They will focus on aspects of illicit barbiturate traffic and prosecutorial efforts to deal with the barbiturate problem.

The hearings will begin at 10:00 a.m. on May 17 in room 2228 New Senate, Office Building. Any person who wishes to submit a statement for the record should notify Mathea Falco, Staff Director and Chief Counsel of the Subcommittee at 225–2951.

ADDITIONAL STATEMENTS

SENIOR CITIZENS' MONTH

Mr. GURNEY. Mr. President, I think it is only proper that we in the Senate should, along with the President, take the lead in promoting national awareness of the needs and wants of the retired American.

It is, therefore, most fitting that the President has proclaimed the month of May as "Senior Citizens' Month," and I hope that we in the Senate can do our part in translating the words of the proclamation into action.

For instance, we have a massive social security and medicare reform bill which should soon be reported to the Senate floor for action. We have a number of bills in the Post Office and Civil Service Committee which would improve and update the retirement system for the Federal retiree. The Armed Services Committee has a body of legislation which would bring the military retirement system more into line with today's needs. We have legislation in the Labor and Public Welfare Committee which would improve and regulate private pensions. Lastly, we await the report of the Commission on Railroad Retirement, so that Congress can legislate on its recommendations affecting railroad retirees. Our senior citizens have worked hard in expectation of an enjoyable and dignified retirement. Now they look to us to fulfill that promise.

Mr. President, this year should indeed be a year of action for our elderly Americans who have done so much to make America great. I would like this year, the year following the White House Conference on Aging, to be the year we get all this legislation onto the Senate floor for action now.

I ask unanimous consent that the President's proclamation declaring May to be Senior Citizens' Month be printed in the RECORD.

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

A PROCLAMATION: SENIOR CITIZENS' MONTH, 1972

There are certain landmark years in every individual's life—memorable, significant years of advance and achievement.

This year offers promise of becoming a landmark year in the lives of America's 21 million older citizens.

In December 1971, I met with 3500 delegates to the White House Conference on Aging. I told the delegates that I did not want their recommendations to gather dust on storeroom shelves. And I promised to join them in making 1972 a year of action for older Americans.

Since that time, we have been reviewing those recommendations—and a number of action steps have already been taken. For example, we have increased the budget for the Administration on Aging tenfold. I have signed into law a new national nutrition program for older people. We are working to ensure that needed transportation services are included in service projects for the elderly. Programs to involve older people in voluntary service to others are growing. And we are moving forward with other, earlier efforts—such as our campaign to reform nursing home care and our program to provide hundreds of information centers for older persons at the local level.

All of these endeavors complement our basic program for improving the income position of the elderly. If the Congress approves my recommendations for reforming and expanding social security and other income maintenance programs, the income of older Americans would be increased by some $5.5 billion annually.

Of course, there is much that remains to be done. One important challenge is to help all our people develop a new attitude toward aging, one which stops regarding old Americans as a burden and starts regarding them as a resource. For such an attitude will not only contribute to the dignity of life for older Americans, it will also give our country the immense benefit of their skills and their wisdom.

Now, therefore, I, Richard Nixon, President of the United States of America, do hereby designate May 1972 as Senior Citizens Month. The theme for this month is action now.

I urge officials of government at all levels—national, State, and local—and of voluntary organizations and private groups everywhere, to give special attention during this period to the concerns of the elderly, so that it may truly be a high point in a year of action for older Americans.

I also urge each individual American to use this month as a time to make a personal commitment to action on behalf of older people—so that the last years may be among the best years for all of our countrymen.

In witness whereof, I have hereunto set my hand this second day of May, in the year of our Lord, nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

RICHARD NIXON.

THE FORTHCOMING GAS SHORTAGES

Mr. HANSEN. Mr. President, one would think, in view of the dire warnings of forthcoming gas shortages in Washington and other cities of the North and East, that Congress would be making some positive efforts toward alleviating a situation that could quickly become a crisis.

But rather than doing what could and should be done on legislative proposals now pending in both the House and Senate, we hear a chorus of demands from Democratic presidential candidates as well as other Senate and House Members for further cuts in the oil depletion allowance and other disincentives to an industry already hard pressed for the earnings and capital necessary to explore and drill for vitally needed domestic oil and gas.

There is also the sanctity of contract gas bill still languishing in committees of both the House and the Senate. While not the final answer to realistic producer wellhead natural gas prices, the act would at least be a step in the right direction and would give gas producers assurance that once a contract had been certified by the Federal Power Commission, the price agreed on could not at some later date be lowered.

Additionally, legislation is now pending that would decontrol the wellhead price of newly discovered natural gas as well as another bill to free all natural gas from Federal price regulation. In my opinion, the Natural Gas Act was never intended to fix the wellhead producer price.

Federal Power Commission regulation of wellhead price came about by edict of the U.S. Supreme Court in the Phillip's case of 1954 and was upset by an act of Congress a few years later. That bill, however, was vetoed by President Eisenhower, because of the impropriety of lobbying activities by a representative of an oil company.

The unrealistically low wellhead gas prices imposed during the 1960's, beginning with area rate ceilings have, in my opinion, been mainly responsible for our dwindling gas reserve posture and resultant gas shortage as demand for this cleanest and most convenient fuel runs far ahead of the discoveries necessary to supply the market.

In addition to legislation, the Federal Power Commission on its own initiative has proposed a procedure that would enable producers to apply for higher wellhead rates for newly discovered gas and is intended to encourage long-term, large volume dedications of new supplies of natural gas to the interstate market and stimulate and accelerate domestic exploration of the Nation's natural gas reserves.

Under present FPC wellhead pricing regulations—even after a substantial increase last year—gas sold intrastate not under FPC control brings far higher prices than gas committed to the interstate system. But even so, gas-producing States such as Louisiana and Wyoming are hard pressed for gas for new or expanding industry because of the growing demand.

In Ohio, all gas produced in the State is sold and used in the State at wellhead rates, about double the FPC rates in Louisiana, Texas, and Wyoming.

In Boston and New York, plans are underway to import liquified natural gas at rates not only double but triple the price of domestic natural gas delivered to the distributors in those cities.

Yet a former Chairman of the Federal Power Commission, under whose jurisdiction such unrealistically low producer prices were enforced, now denounces the FPC proposal as outrageous.

It is strange, indeed, that he and others now question the validity of information on gas reserves furnished by the industry, although such information apparently was considered reliable as long as the industry was able to produce enough gas to satisfy demand.

Also, in one breath the industry is charged with its inability to furnish more gas 3 years after several FPC decisions seeking to stimulate the discovery of more gas reserves. Actually, the only realistic increase was approved last year.

And in the second breath, the industry's accusers say that higher prices—"disciplines of the marketplace"—would make no difference anyway, because it would take 1 to 5 years to get new products on the market, "no matter what the price."

So a number of companies continue plans to import Algerian and other foreign liquified natural gas to the east coast and manufacture synthetic gas from naptha or crude oil at three times the cost of the delivered price of natural gas while those who have been largely responsible for the unrealistically low prices paid to domestic producers of natural gas insist on continued bargain rates to the consumer—even though gas is the only fuel so regulated.

Mr. President, the Columbia Gas System, Inc., which operates in a number of States including this area has published an excellent summary of the energy crisis and their proposal for an action program to help to correct the national energy crisis.

I fully agree with their conclusion that the Nation's economy, in fact the whole level of our civilization, will suffer, unless affirmative action is promptly and incisively taken.

Mr. President, I ask unanimous consent that the Columbia "Action Program" be printed in the RECORD.

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

AN ACTION PROGRAM TO HELP CORRECT THE NATIONAL ENERGY CRISIS

(Proposed by: The Columbia Gas System, Inc.)

Although this Action Program is directed to correcting the gas shortage, it will alleviate the total energy crisis by contributing, directly and indirectly, to adequate supplies of other energy—nuclear, coal, oil, and electricity.

NATIONAL ENERGY CRISIS FACTS

1. The welfare of the nation and its citizens is directly dependent upon an adequate availability of energy fuels.

2. The nation is in the beginning stages of an energy crisis with increasing shortages of all forms of energy.

3. The situation is worsening day by day and unless the public recognizes the problem and urges government to cooperate with industry for early solution, it could go from crisis to disaster as early as the winter of 1973–74. Industries could be shut down because of lack of energy, resulting in great unemployment, homes and commercial establishments could be without sufficient energy for their daily needs.

4. The day of low cost energy is past. The prices of all forms of energy must increase sharply if the nation is to have the supplies it needs. Congress, the Administration and the public must be prepared for such higher energy costs and greater efforts must be exerted to conserve energy by stopping wasteful practices.

These facts are evident from an abundance of studies and official energy reports. They lead to the inescapable conclusion that early development of adequate supplies of energy must have the highest priority among our national goals.

Following first in summary and then in detail is an Action Program for achieving such priority as to gas, which presently provides almost one-third of the nation's energy needs and is already unable to meet current demands.

EXPLANATION

I. Domestic Exploration and Development Must be Greatly Expanded:

For the last four years more gas has been used in the lower 48 states than has been found. This trend must be reversed as quickly as possible.

A. Producer Rates:

The Federal Power Commission should allow substantially higher rates than those presently in effect to insure an expanded exploratory program on the North American Continent. The Administration, as well as Congress, and the public must understand the inevitability of the increasing cost of exploration.

Under heavy pressure from consumer representatives, the FPC set the price for producers' natural gas at levels which have proved to be not only below its economic value but wholly inadequate to justify exploratory efforts. This underpricing perhaps more than any other single factor is the basic cause of the gas shortage today. It had a two-fold result—it increased demand for gas and its discouraged exploration for gas to meet such demand. Thus, between 1956 and 1971, the number of exploratory wells drilled declined over 50% leading directly to an inadequate development of new reserves.

New reserves will also be costly since the less costly reserves have already been developed. The cost of offshore wells and deeper wells is of a different magnitude (in 1969—average onshore well—$68,726; average offshore well—$559,309; average cost of Alaskan well—$2,087,000!). The capital requirements of the petroleum industry (oil and gas) in the 1971–1985 period for exploration, development and production needed to meet U.S. demands is over $100 billion.

We urge immediately substantially higher producer rates. In recognition of the severe gas supply shortage, the Federal Power Commission has proposed in its Rule-making at Docket R–441 a procedure whereby prices higher than existing area rates can be paid for gas. This is a major procedural step toward achieving the objective of higher producer rates.

We urge that in an orderly but relatively manner the Federal Power Commission phase out the concept of "vintaging" of gas, i.e., different prices for old gas and new gas.

Until such time as vintaging of gas prices has been phased out and higher field prices can be realized, we urge FPC to permit pipelines to continue to assist in financing "development" of gas reserves.

B. Lease Sales:

The amount of federal land made available for exploratory efforts must be substantially increased, both in the Gulf of

Mexico and on the continental shelf off the Atlantic Coast. Federal lease sales must be held more frequently with greater areas of land involved.

Lease sales in the Gulf of Mexico must involve a minimum of 450,000 acres annually through the balance of the decade if there is to be any hope of even holding production of gas from that area at its present level. As older fields in the Gulf decline in production, new fields must be developed to replace their production. Expanding delivery of gas from offshore waters will require a program of leasing in the Atlantic and the first steps must be taken in the near future to provide necessary lead time for exploration and development.

It is urged that the Department of Interior relax its efforts to maximize bonuses received for leases and implement the President's pledge to make more public land available for exploration. Currently there is a contradiction of federal policy—keep prices of gas low, but obtain high prices for leases.

C. Sanctity of Contract Legislation:

Congress should pass the bills now before it which will: first, assure producers that approved contract prices and other economic terms of contracts will not subsequently be changed by Federal Power Commission order; and, second, set more realistic standards for determining gas prices. These measures (H.R. 2513 and S. 2467), known as the Sanctity of Contract bills, can contribute significantly in providing the economic incentive that producers must have to undertake costly drilling programs.

This comprehensive legislation is responsive to the great need to assure producers of their contract prices, the lack of which assurance is a substantial deterrent to producers; this lack is compounded by the fact that under present conditions a producer whose rate has been retroactively reduced has no choice but to continue the sales he committed to make at a higher rate. This legislation has widespread industry support; it has widespread Congressional support; it has strong support from the Administration. Its prompt enactment would remove significant barriers in fixing realistic rates and encouraging sales to interstate pipelines. It is an essential part of a total program for increasing incentives for exploration and production of gas. This legislation is needed to attract desperately needed amounts of natural gas to the interstate market. Without it there will be increasing inequities in the distribution of available gas and inefficiencies in its use by encouraging intrastate, as distinguished from interstate, sales.

II. Nonhistoric Sources of Gas Must be Made Available Promptly:

Historic domestic sources of gas cannot fully satisfy the nation's growing requirements. Therefore, the prompt development of nonhistoric sources of gas is essential.

A. Oil and Gas from Alaska:

Construction of the trans-Alaskan oil line must be permitted to move forward at the earliest possible date. Not only is the high quality oil from the North Slope of Alaska needed to supplement present domestic supplies, but the gas associated with this oil must be added to the nation's supply total by the latter half of this decade. The gas from Alaska cannot be produced until oil production begins, so that the line needed to bring out the oil must be built. Only after this work begins can the project of constructing a gas pipeline from the area get under way. Both projects will be extremely costly and require some four to five years to complete. The environmental benefits of the clean energy to come from development of Northern Alaska oil and gas will far offset any possible minimal adverse impact on the vast Alaskan wilderness.

The gas industry will also need assistance and cooperation from the national administration and Federal Power Commission to make possible the delivery of gas by pipeline from Alaska through Canada to the lower 48 states.

B. Import Policies for LNG and Synthetic Gas Feedstocks:

Practical import policies for liquefied natural gas (LNG) and feedstocks for synthetic pipeline quality gas should be promulgated as soon as possible. There are problems of national security and balance of payments, which can and must be reconciled with the fact that synthetic pipeline quality gas and LNG are the quickest means of expanding the nation's gas supply.

C. Coal Gasification Research and Development:

Research and development of the gasification of coal must be pursued vigorously in the years immediately ahead. Coal gasification offers one of the most promising sources of gas in the 1980's and thereafter. Thus, adequate funds should be appropriated each year for coal gasification research. The existing joint industry-government program for accelerating the construction of pilot plants for gasification of coal should be funded promptly. The industry portion of $10 million for the first year of the program has already been committed; the government portion of $25 million for the next fiscal year is still pending before Congress.

This appropriation should be approved promptly and measures taken to assure continuation of the funding in the future.

D. Joint U.S.-Canadian Energy Board:

The National Administration should seek to create as soon as possible a joint U.S.-Canadian Energy Board to help coordinate programs which would make Alaskan and Canadian natural gas available to the United States market. The joint Board should be a clearinghouse for expediting all matters necessary for the development and delivery of such gas.

III. Clarification of the National Environmental Policy Act:

The National Environmental Policy Act (NEPA), passed in 1970, had as its objective the improvement of the environment and quality of life. *This objective must be achieved.* However, because of the vague standards set forth in NEPA and because of unwieldy procedures often used by administrative agencies to implement the Act, the initial actions under NEPA have paradoxically obstructed efforts to supply the American people with clean burning natural gas. The result is not only a serious imbalance between the ecological and energy needs of the nation, but, in the ultimate analysis, an imbalance between different environmental considerations. Congress should promptly review the Act, including current administrative and judicial interpretations thereof, and amend the Act to clarify certain of its provisions and administrative procedures.

Recent Court decisions and dissents to those court decisions point up the need for Congressional review so that environmental considerations will be placed in their proper perspective in terms of the nation's overall goals. Indicated procedural requirements have already delayed many needed energy projects, and unless modified, they could delay many more for indeterminate periods.

As NEPA is interpreted and administered, any private citizen can in effect stall in the courts virtually any energy project, without regard to the directness of his interest in the project, the need of vast numbers of others for it, or the added costs inherent in such delay. The Alyeska Pipeline, needed to bring oil and gas from North Alaska to the lower 48 states, and the Southern Louisiana Offshore lease sales, particularly needed to maintain existing gas service to the northeastern states, are tragic examples of how the nation's severe energy shortage is hostage to procedural exploitation of NEPA by environmental activists of limited perspective.

IV. A Department of Natural Resources:

The President's Departmental reorganization Program, contained in his Message to Congress dated March 29, 1971 and embodied in S. 1431, should be enacted; amended, however, in accordance with S. 1025, to include the Environmental Protection Agency in the Department of Natural Resources.

The objective of organizing federal efforts more effectively is essential to needs of the 1970's. The cause of much malfunction of government machinery is the fragmented structure for solving the complex problems confronting the nation. This is particularly true with respect to energy problems.

There are over 60 federal agencies sharing responsibility for gas and oil matters. The result is a lack of overall energy direction; e.g., (a) contrary to the overriding need for providing incentives for exploration, the Interior Department's federal lands leasing policies are designed to maximize the bonuses paid to the government with the dual adverse effect of increasing the cost of gas to producers and so to consumers, and of draining away from producers capital they could better use in exploration and development, (b) the contrast between enormous research funds appropriated for civilian atomic energy and the relatively trifling funds for coal gasification and other mineral research, (c) the absence of well-defined policy as to importing supplemental gas, such as LNG and feedstock for synthetic gas, and (d) the lack of any priority for energy needs in fixing national goals.

A single Department of Natural Resources would enhance the possibility of broadening the scope and accelerating the industry-government research effort beyond the present coal gasification efforts.

The proposed amendment placing environmental administration in the new Department is essential so that all environmental factors can be recognized and evaluated as part of a natural resource program. Inclusion of this function in the new Department will permit such evaluation in a more orderly fashion and in a manner consistent with national goals.

Current studies looking toward sound energy programs for our nation are now under way in both Houses of Congress. It is essential that such studies promptly concentrate on necessary governmental actions, such as those proposed in this document, to alleviate the growing energy crisis. A single Department of Natural Resources could more efficiently and effectively implement the Action Programs developed from such studies.

V. Timely Response in the Administrative Process:

The Administrative Process has not and is not responding quickly enough. For example:

The Permian Basin Proceeding, instituted in 1961, was not completed for nearly seven years. A second layer of proceedings is now in process.

The Southern Louisiana Area Rate Proceeding, also instituted in 1961, was decided in early 1969, but at that time it was clear that the prices arrived at were inadequate and the Commission initiated AR69–1 to determine a new price. It took over two years for the Commission to fix a new price. This price is already wholly inadequate.

Efforts to correct the gas supply situation are being thwarted by delay. No one would deny the right of due process, but neither should anyone be permitted to exploit the adversary process for tactical reasons unrelated to the merits, which is now possible in view of the virtually unlimited rights of interventon, hearings, and judicial review. Congress, the National Administration, Administration agencies, and the Courts must help establish procedures for quickly considering, reconciling or resolving the conflicting interests of all parties in the energy scene. Administrative procedures must be streamlined so as to provide fair considera-

tion of all points of view without thwarting completely the timing of programs and projects directed to correcting the gas supply situation.

In line with this suggestion, Congress should resist introducing further conflict and delay such as are inevitably involved in the enactment of various provisions of the Consumers Protection Act.

THE OVERALL ENERGY SITUATION

While the shortage is becoming dramatically clear as to natural gas, it is by no means limited to natural gas.

(a) Natural gas which in 1971 provided 33% of the nation's energy requirements is not available in sufficient volume to meet today's demands, and its reserves are increasingly deficient to meet new demands. FPC Staff Report No. 2 shows a natural gas shortage of 0.9 trillion cubic feet in 1971, projected to 9 trillion in 1980 and to 17 trillion in 1990.

(b) Oil which in 1971 supplied 44% of the nation's energy needs is also in short supply. The nation is increasingly dependent on foreign oil imports, with all its related uncertainties.

(c) Coal in 1971 supplied 18% of our energy needs. While the nation has substantial reserves, environmental requirements limit their utilization. Substantial research and development programs are needed to develop new technology to make these vast reserves available, e.g., coal gasification and programs to remove pollutants so coal can be used directly. Such projects are long-term, so coal cannot be counted on as an immediate or short-term alternative to other energy fuels.

(d) Hydropower provided about 4% of energy needs in 1971 and is being counted on to continue to supply an even smaller portion of total energy needs in the future.

(e) Nuclear energy, which in 1971 provided less than 1% of our energy needs, is being counted on to provide a substantial portion of the nation's future energy needs, but not significantly so before around 1985; in the meantime it is already far behind schedule and more costly than expected because of environmental delays.

It is thus clear that energy in any of its forms is in short supply. Unless we face up to the problem immediately, the more than 41 million present customers of natural gas (roughly equivalent to 150 million users), and many prospective new consumers, including householders and employees of businesses that depend upon gas, will find their service and jobs increasingly endangered. As the same situation applies or soon will apply to all energy fuels, the nation's economy, in fact the whole level of our civilization, will suffer, unless affirmative action is promptly and incisively taken. The American people can no longer take for granted, and they must recognize they can no longer take for granted, an adequate supply of energy.

April 20, 1972.

If you desire further information on any of the specific elements of this Program, write: Action Program, c/o The Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807.

SUPPORT FOR RICHARD KLEINDIENST

Mr. PEARSON. Mr. President, I support the nomination of Richard Kleindienst as Attorney General of the United States.

The individual charged with implementing the law of the land holds a unique responsibility under our system of government, one which inspires the hopes and confidence of a law-abiding and freedom-loving people. The Attorney General is also charged with the major responsibility of assuring the safety and individual rights of all Americans, an obligation which is of vital and immediate importance to each citizen.

Finally, the Attorney General is responsible for implementing the policies of his superior, the President of the United States. In this regard, Mr. Kleindienst is uniquely qualified, having served under the President as Deputy Attorney General since 1969.

Mr. President, in analyzing the qualifications a nominee brings to this office, I believe it is incumbent upon the Senate to examine as closely as possible his integrity, his honesty, and his beliefs. The Judiciary Committee, after two sets of exhaustive hearings, the second of which the nominee himself requested, has determined that Richard Kleindienst satisfactorily meets the standards by which an individual appointed to such a high office is judged. I support this decision, and I believe the Senate will stand behind the President in approving this nomination.

RUSSIA: THE REAL ESCALATOR OF THE WAR

Mr. BELLMON. Mr. President, the Soviet Union has been playing an extremely dangerous game of world psychological warfare throughout the history of the Vietnam war, particularly in recent months. While pretending to be for peace in Europe, at the same time the Russians have been largely responsible for the war in Southeast Asia.

The overwhelming force with which the current North Vietnamese offensive was launched is clearly a result of the vast quantities of modern, sophisticated Russian weaponry with which the North Vietnamese have been supplied, including infrared antiaircraft rockets which have been withheld prior to this invasion.

Mr. President, the Soviet Union must bear the responsiblity in this offensive and must now bear the responsibility of a Moscow-Washington confrontation. It is regrettable that at a time when a productive summit meeting seemed possible that the Russians have chosen to enter into a dangerous gamble.

They have presumably measured the risks, of jeopardizing an East-West detente, of reaching agreement in the strategic arms limtation talks, of American support for the Bonn-Moscow treaties, and of acquiring Western industrial technology that the Soviet Union needs.

Mr. President, last Monday evening the President of the United States announced to the American people new steps to be taken to counter the North Vietnamese offensive. These steps included interdiction of rail and truck transport and the mining of harbors in North Vietnam to deny the enemy a safe haven for receiving war materials from its allies. The most significant decision lies in the decision to mine entrances to the harbors. The President indicated that of all the options available, these measures were the only ones that could be taken.

President Nixon's bold move has caught the Russians with their pants down and exposed their duplicity. They must now either opt for peace in Southeast Asia or for a return to cold war conditions in Europe.

Mr. President, while President Nixon has been withdrawing American troops and lessening the military capability of South Vietnam, the Russians have escalated the supply of war materials and introduced larger, longer-range, more sophisticated tanks, artillery and other offensive military hardware in North Vietnam. While the United States has been working for peace, the Russians, through their North Vietnamese puppets, have been furthering the war in Southeast Asia.

It should be obvious by now to the American people and to the world that Russia, not the United States, is the real escalator of the war in Vietnam.

Thanks to the courageous action of a President determined to achieve peace in Vietnam, the world now sees a new animal—the two-faced Russian bear.

Mr. President, it is highly encouraging to me to note the support that has been forthcoming for the President's decision from my home State of Oklahoma.

In Tulsa, Western Union reports that more than 700 telegrams mostly supporting the President, had been sent to Washington within 3 hours of President Nixon's announcement.

Mrs. Barbara Fieszel, of Tulsa, Okla., State coordinator for the National League of Families of American Prisoners and Missing in Southeast Asia, is quoted in published reports as saying she was "real encouraged" by President Nixon's stand. She said she believed that if the American public stands behind the President, "Hanoi will listen."

Editorial comment from Oklahoma newspapers also has been favorable toward the President's position.

Mr. President, I ask unanimous consent that the editorials be printed in the RECORD.

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

[From the Tulsa Tribune, May 9, 1972]

NIXON BITES THE BULLET

Richard Nixon made a great speech last night. It was the speech, not of a politician, but of a President.

He has elected to pursue a course that could cost him many millions of votes in a war-weary nation. He has turned his back on easy surrender, even though such a course might be politically profitable since he would join in a policy which his leading opponents think will pay ballot box dividends.

He has looked into the future, beyond the alluring short-term advantages of bug-out and give-away. He understands the great lesson of the 20th century, that Munichs produce holocausts, that where totalitarian aggression succeeds greater totalitarian aggression inevitably follows.

This is a dangerous moment. The blockade of North Vietnam is a direct challenge to the Soviets. At best, Moscow will erupt with furious words. At worst, Russia will try countermeasures on the high seas.

But, having offered to give everything which we could give with honor, and having been answered in the screaming rhetoric of those who are determined to win by raw conquest, the door to negotiation had been

slammed shut, and we faced the option of total collapse or more vigorous response.

Mr. Nixon chose the hard and rocky path that, hopefully, leads to sunny uplands, rather than the easy, downward path that heads for the quagmires.

Whether Americans elect to uphold his courage is not yet known.

But last night he upheld his solemn oath of office.

[From the Tulsa Daily World, May 10, 1972]

NIXON'S BOLD DECISION

We support President Nixon's move to mine the harbors of North Vietnam and to continue the bombing of strategic targets in the North.

The President explained, and every American should fully understand that there are risks involved in this new development in Indochina. But since when has there ever been a risk-free alternative for the United States in Indochina? Certainly, there has been no simple and easy way out since President Nixon inherited the mess from his predecessors. His task all along has been to weigh one risk against another.

Mr. Nixon must surely have been tempted many times to merely throw up his arms, yield to his enemies in North Vietnam and their supporters in the United States and quietly walk away. Let the North Vietnamese aggression succeed. Forget about the millions of South Vietnamese who took us at our word that we would help them if they would try to defend themselves from tyranny.

This would have been tempting, indeed, for a President who could have declared with some justification that the war was mismanaged, messed up and possibly lost before he took office. But it would not have been without risk to our remaining forces in that part of the world. Certainly, it would not have been without risk to status as a world power, or as some might phrase it, our national honor.

Instead the President has chosen the hard road. He has gambled his political life on a courageous move to protect our remaining forces in Indochina, to keep the pressure on an enemy that holds hundreds of American prisoners as hostage and to keep our word to our allies in Southeast Asia.

We hope it works. We hope it will not result in a new deterioration of our cautious but continuous efforts toward nuclear arms controls. We trust the North Vietnamese will finally understand that the American people are not going to accept international humiliation as casually as Sens. McGovern, Kennedy and Fulbright would have them believe.

In any event, we back President Nixon who has the guts to stand up for his country.

THE IMPACT OF OSHA

Mr. HANSEN. Mr. President, on numerous occasions I have asked to be recognized in order to call the attention of the Senate to the impact which the Occupational Safety and Health Act is having on the American people.

While the intent of the law is good, the extremely complex and cumbersome rules and regulations implementing the act have led to confusion and fear. Employers read these lengthy rules and regulations, and although some are unnecessary or irrelevant to the health and safety of employees in that particular workplace, the employer is faced with complying with the rules and regulations or with being cited and penalized by a Department of Labor inspector during the first visit to his business.

I am not convinced that Congress or the Department of Labor are fully aware of the true impact which these occupational safety and health rules and regulations are having.

Janet F. Clark, of Cheyenne, Wyo., in a brief letter to me, does an outstanding job of expressing just what is going on throughout our country. Janet Clark, the mother of three boys and the sole support of her family, works for Mr. Dwain McCard, a small businessman who runs McCard Construction, Sand, and Gravel.

Mrs. Clark is worried about the loss of her job.

Mr. President, I ask unanimous consent that Clark's letter of April 19 to me be printed in the RECORD.

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

APRIL 19, 1972.

Senator CLIFF HANSEN.

DEAR SIR: I am writing in regards to your Health and Safety Act. This law is the most dictatorial, unfair, unjust, unnecessary law possible.

I am Secretary-Bookkeeper for McCard Construction, Sand and Gravel and thanks to your ignorant law I am just about out of a job along with others employed by Dwain McCard. I have overheard countless numbers of conversations from other Construction Companys who are faced with the same possibility of closing up completely as there is no way a small company can comply completely to your laws. We have a shop and office which are very suitable to work in. Everything is going fine, they have had one accident in 20 years which your safety laws would not have helped anyway (a smashed finger in a truck tailgate). According to this Safety Act we are completely illegal, which is very unjust as long as our employees do not complain and we do not have accidents other than a scraped finger now and then who is to say we are not safety minded. We are not a big company but pay a payroll of $28,319.29 and paid over $8,000.00 in taxes last year.

If our Employers are forced to close up only because of this law you will be faced with a great number of unemployed people for a very unnecessary reason.

*I just hope something can be done about this before its too late and were all out of jobs. I am the sole support of my three boys and my job is very important to me.

Sincerely:

JANET F. CLARK.

TERRESTRIAL IMPACT OF TRANS-ALASKA PIPELINE

Mr. PACKWOOD. Mr. President, while the final Environmental Impact Statement filed by the Department of the Interior on the proposed Alaska pipeline has not been easily accessible to the general public, and no forum for public debate has been granted or encouraged by the Department, I believe opposing views should be heard. For that reason, I ask unanimous consent to have printed in the RECORD a part of volume II, "Terrestrial Impact—Comments on the Environmental Impact Statement for the Trans-Alaska Pipeline," compiled by the Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth. The statement, by Dr. Thomas J. Cade, Cornell University, is a review of the Final Environmental Impact Statement on the proposed Trans-Alaska pipeline, as it relates to birds.

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

COMMENTS ON THE ENVIRONMENTAL IMPACT STATEMENT FOR THE TRANS-ALASKA PIPELINE

(Compiled by: The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth)

REVIEW OF "FINAL ENVIRONMENTAL IMPACT STATEMENT PROPOSED TRANS-ALASKA PIPELINE" AS IT RELATES TO BIRDS, BY TOM J. CADE

My name is Dr. Thomas J. Cade. My professional qualifications and experience in Alaska are as folows. I hold a Ph.D degree in vertebrate zoology and ecology from the University of California, Los Angeles, and I am currently Professor of Ornithology in the Section of Ecology and Systematics and Research Director of the Laboratory of Ornithology at Cornell University. I first knew Alaska in 1949 as a student at the University of Alaska, where I received my bachelor's degree in 1951. I have done ecological field work on St. Lawrence Island, the Seward Peninsula, in the Alaska Range, along the Yukon River, and I have spent fourteen summers since 1952 working on the Arctic Slope. My research work in northern Alaska has resulted in the publication of more than 20 scientific papers on the ecology of land vertebrates in Alaska, mainly dealing with birds.

This critique of the *Impact Statement* reviews Interior's estimate of environmental impact by the trans-Alaska pipeline from four complementary perspectives, as follows: (1) Failure of the statement to indicate what the environmental savings would be, with respect to birdlife, of a combined transportation corridor for oil and gas pipelines through Canada, (2) failure to give any real estimate of risk involving the bird populations inventoried in the *Impact Statement*, (3) failure to evaluate the distinctive characteristics and unique values of the bird populations along the pipeline route and along the marine transportation route, and (4) failure to recognize the integral roles that bird populations play in the functioning of ecosystems.

1. *The question of alternative routes.*—Since the *Impact Statement* clearly points out that the trans-Alaska oil pipeline would inevitably be followed by the construction of a gas pipeline through Canada, the Nation is actually faced with the need for an evaluation of the relative impacts of a combined gas and oil corridor from northern Alaska through Canada versus separate corridors for oil and gas. The *Impact Statement* makes no such comparison.

As pointed out in Vol. 2 of the *Impact Statement*, there are more than 350 species of birds known to occur in Alaska and adjacent waters. At least 194 of these species occur along the proposed pipeline right-of-way, and an unspecified number of others—chiefly oceanic and aquatic birds—exist in large aggregations along the tanker route from Prince William Sound south.

Avifaunas of major concern are the following: (a) The waterfowl, marine birds, and shorebirds of the Beaufort Sea region, where the barrier islands, reefs, sandspits, and beaches adjacent to Prudhoe Bay constitute a major nesting and migratory habitat for many thousands of birds. Such habitats are particularly vulnerable to oil spills into the sea. (b) The tundra-inhabiting birds of diverse kinds that nest along the Sagavanirktok River, especially such relatively rare species as Whistling Swans, Yellow-billed Loons, Gyrfalcons, and Peregrine Falcons; (c) the boreal forest birds south of the Brooks Range, especially those in the Yukon River basin; (d) the birds of the Copper River, the lower reaches of which comprise one of the major areas for waterfowl and especially the Trumpeter Swan, which has made a dramatic comeback after having been greatly reduced

in numbers 30 years ago; (e) the birds of the Lowe River, which is an important habitat for Bald Eagles, among others. Finally, (f) the extremely rich and in many ways unique marine and waterbird fauna—pelagic feeders—of Prince William Sound and the coastal waters of southeastern Alaska and British Columbia along the tanker route. Past experiences with oil spills at sea indicate that these pelagic birds, more than any others, would be subject ot hazards from transporting oil out of the Prudhoe field by the proposed route.

If one adds to these impacts on birdlife the comparable impact of constructing a gas pipeline from Prudhoe Bay through Canada by some route along the Mackenzie Corridor, then additional, separate and distinct populations of some 250 species of birds would be subject to some degree of hazard just within the tundra and taiga regions transected by the gas line to Edmonton. As far as terrestrial birds are concerned, the impact would at least be doubled by having separate routes for gas and oil. The most important point is that, except for possible spills or leaks that might reach the Beaufort Sea from a pipeline, an Arctic Alaskan-Canadian route for gas and oil would *not subject any major marine ecosystem to the dangers of oil pollution.* Secondly, although the Mackenzie River valley shelters major habitats for Arctic and Subarctic birdlife, including significant numbers of nesting pairs of the endangered Peregrine Falcon, there are no bird species that are peculiar to the region or found nowhere else in North America, as there are in Alaska and its coastal waters. In Arctic Alaska, for example, a number of Asiatic species reach their eastern limits of breeding distribution — Rufous-necked Sandpiper, Curlew Sandpiper, Yellow Wagtail, Arctic Warbler, Red-spotted Bluethroat, among other. Furthermore, the pelagic birdlife of the Bering Sea and North Pacific region is distinctive, and a high percentage of the species are endemic to these waters, especially members of the family Alcidae.

An Arctic Alaskan-Canadian route also makes most sense in terms of long range, continental strategy for the conservation of nature and the wise use of resources. Major oil discoveries in the Canadian Arctic will also require transportation corridors for development. If the Mackenzie Corridor should prove to be strategic for several major fields, then both economy and esthetics dictate the use of one corridor rather than multiple corridors.

Of the several possibilities that have been suggested for reaching the Mackenzie Corridor with a pipeline from Prudhoe Bay, it is my conclusion, which is based on considerable knowledge of the regions and avifaunas involved, that a direct route across the Arctic Slope from Prudhoe Bay to Fort McPherson is preferrable to any other and would cause the least impact on bird populations and other wildlife, notwithstanding the fact that more than half of this route in Alaska would cross through the Arctic National Wildlife Range. The protected status of the Arctic Wildlife Range should not blind the Nation to the fact that the proposed trans-Alaska pipeline route would place in jeopardy far more and, in many places, far richer natural habitats and wilderness areas than exist in the Wildlife Range. In fact, the Arctic Wildlife Range has practically no exceptional or unique natural values in its northern foothills and narrow coastal plain sections. The great natural assets of the Wildlife Range lie from the north front of the Brooks Range—the Shubelik and Richardson Mountains—southward across the divide into the tributary drainages of the Porcupine River. It is in these portions of the Wildlife Range, rather than along the coast, that a pipeline and road would have a major impact on the wildlife and on scenic wilderness values.

2. *Estimates of risk and hazard to birdlife.*—Although Vol. 2 of the *Impact Statement* devotes considerable space to inventories of the "bird resources" along the pipeline route (but not along the tanker route, except for Fig. 22, p. 162, which shows the location of some of the major seabird nesting colonies), Vol. 4 deals very lightly with estimates of impact on bird populations along the pipeline route, only 5 pages including one page of references. The marine tanker route and problems of oil spills at sea are given 14 pages. Spills along the tanker route are certainly the most serious dangers to consider as far as potential hazard to birdlife is concerned.

There can be little doubt that the recent history of massive bird kills from oil spills at sea would be continued along this tanker route, for it is impossible to ship oil by sea with no loss to the environment. The waters from Prince William Sound to Seattle are extremely rich in birdlife, especially during the winter months after the birds have left their nesting colonies with the young of the year and lead a more strictly pelagic existence. These birds include many unique species such as the Yellow-billed Loon, the Slender-billed Shearwater, the Fork-tailed Petrel, and Black Brant, many other geese and ducks, jaegers, gulls, and terns, and some 12 species of auks (family Alcidae). Many of these species are narrowly restricted in their ranges to the coastal waters of Alaska and British Columbia, and a large oil spill such as occurred with the *Torrey Canyon* disaster could destroy a major segment of the population of a whole species.

3. *Uniqueness and special values of the birdlife that would be affected by the pipeline and tanker route.*—The Impact Statement inventories Alaskan birdlife in some detail, but it fails to place Alaskan birds in perspective with respect to continental or worldwide distributions of bird species. It fails to evaluate any of the unique, distinctive, or special attributes of the birdlife that would come under the impact of the pipeline and tanker route. Several points have already been made in this regard and will only be enumerated here: (a) The Arctic Slope of Alaska constitutes the only true, high arctic tundra environment within the territorial limits of the United States and nowhere else within our borders does a true Arctic avifauna exist; (b) the Alaskan Arctic is a breeding ground for a number of Asiatic species that are not found anywhere else in North America; and (c) the pelagic seabirds of Alaskan and British Columbia coastal waters—particularly species of the family Alcidae—constitute one of the most massive aggregations of bird populations anywhere in the world. For sheer numbers of individuals, for diversity of species, and for degree of endemism no other marine avifauna occupying a region of comparable size can compare with the avifauna of the Bering Sea and North Pacific.

The *Impact Statement* singles out the Peregrine Falcon for special consideration in several places, because it is an "endangered species." In 1970 the Bureau of Sport Fisheries and Wildlife contracted Dr. Clayton M. White and Mr. J. H. Streater to do a helicopter survey of the pipeline route for nesting birds of prey, particularly the Peregrine.

Their work was done in the nesting season between 15 July and 11 August; they found six active falcon nests along the route, but they may have missed some others, particularly any that failed before the young hatched or fledged. Since then, portions of the route have been changed, and the State of Alaska considers that this survey provides inadequate information regarding the current status of raptor populations along the proposed pipeline route (Vol. 2, p. 183). Certainly additional details about the nesting sites of birds of prey and the denning sites of carnivores are badly needed in order to obtain a true estimate of impact on predator populations and in order to project schedules for construction and other work in ways that would cause the least disturbance to these vulnerable and shy animals. This is but one example of the kind of detailed information that is still lacking for a meaningful assessment of impact.

4. *The role of birds in the functioning of ecosystems.*—Most birds are either secondary or tertiary consumers, basically predators of one sort or another; only a few species are primary consumers, feeding directly on materials produced by plants. The effects of oil pollution or other man-induced disturbances on the food base of insectivorous and carnivorous birds could have far-reaching deleterious effects on their populations. On the other hand, the removal of large numbers of birds by oiling or other hazards associated with production and transport could change the niche relationships of species at the lower trophic levels of the ecosystem with unpredictable and possibly drastic results. For example, the loss of large numbers of pelagic seabirds could change the niche relations and population densities and distributions of the aquatic organisms (fish and crustaceans) on which they feed. The *Impact Statement* fails to treat the inter-relationships of organisms that make up ecosystems that would be affected by oil development in Alaska or to consider impact at all in terms of possible disturbances to the many negative feed-back or regulatory mechanisms that constitute what is usually referred to as "the balance of nature."

Conclusion.—From the standpoint of impact on birdlife, an alternate route from Arctic Alaska through Canada for both oil and gas appears highly preferable to a trans-Alaska oil pipeline and a separate gas line through Canada. If a trans-Alaska pipeline is to be constructed at all, it should be deferred until a great deal more specific data are at hand on the locations of aeries of predatory birds such as Peregrines, Gyrfalcons, and Golden Eagles, and on important nesting grounds for such species as swans, loons, geese, and cranes—large, shy birds that will be most vulnerable to development. Such information could be obtained in about two summers of intensive field work. Surveys to date have been extremely superficial.

As the proposal now stands, the 361 miles of haul road north of the Yukon River would become a part of the State of Alaska Highway System with full public access. The same is true for three proposed permanent airfields. These two stipulations for the pipeline project are by far the most dangerous features for the future of wildlife and wilderness in northern Alaska. They far outweigh the actual gross destruction of habitat that would result from construction and the potential environmental damage from oil leaks or spills. These two stipulations mean the uninhibited entry of people into a fragile wilderness. They mean additional development by private enterprise of the messy sort that can be seen along the Alaska and Richardson highways. How rapidly such development occurs in today's world is readily evident along the new highway between Anchorage and Fairbanks, where filling stations, lodges, laundromats, and all sorts of little establishments sprang up over night and began degrading the natural environment even *before* the highway was open to traffic! Alaska north of the Yukon River should be saved from this fate. If there must be a road and airfields north of the Yukon River, they should remain under federal control and they should be kept as limited public access facilities. There is no other way to keep the northern wilderness and wildlife in their present state of natural perfection.

Some of my friends argue that the appreciation and recreational use of wilderness requires man's presence and therefore some access is necessary. The question is one of "degree" of access, of restraints on modes of travel, habits of living, and types of activities. Aldo Leopold placed the problem of wil-

derness use in its correct perspective over 20 years ago, when he said: "Recreational development is a job not of building roads into lovely country, but of building receptivity into the still unlovely human mind." (*A Sand County Almanac*).

IN SIGHT—A DRY POTOMAC RIVER

Mr. BEALL. Mr. President, one day in the not too distant future, unless proper steps are taken now, the District of Columbia and its surrounding environs will face a crisis of the highest proportions—a dry Potomac River. Soon, with mathematical certainty, our demand will outdistance the capability of the river to supply us with the water we so crucially need. Already that day has theoretically occurred on paper. On September 10, 1966, the water flow in the river at Great Falls fell to a low of 388 million gallons a day, before it reached the first of the area's water intakes. Then, last summer, on July 17, those same intakes drew 402 million gallons per day from the river. One needs only to compare these two figures to realize the enormous problem facing the metropolitan area.

Washington has found itself caught in this coming crisis in spite of the fact that it is located in one of the most water rich areas of the Nation. On an average day, the Potomac contains approximately 7 billion gallons. Yet, all of this water flows by, unhindered by dams, on its way to the sea. As a result, while other cities develop plans for reserve supplies of water, the District remains almost totally dependent on the presumed abundance of its river, a supply that is woefully inadequate for the rising demands of the coming years.

The answer lies in the construction of facilities that will conserve our vital resource. I have in the past supported efforts to build dams, such as the Sikes Bridge Dam on the Monocacy River above Frederick, Md., and the Verona Dam at Staunton, Va., that will enable the metropolitan area to meet the increasing needs of its people. Soon, the Senate Committee on Public Works will begin hearings on these projects, and it is my every hope that the committee will give them early and favorable consideration. Five to 11 years are needed to build a dam, so time is indeed of the essence.

Mr. President, the Washington Sunday Star of May 7, 1972, published an article by John Fialka which illuminates the possible catastrophic consequences should action not be initiated soon. I ask unanimous consent that this fine piece be printed in the RECORD, so that Senators may have the opportunity to study its conclusions.

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

DRY DOOMSDAY—THE DAY THE WATER RUNS OUT

(By John Fialka)

One day soon, a day coming with a mathematical certainty, the Potomac River will run virtually dry.

It will most likely be a hot summer day in a period of prolonged drought. At first, Washington suburban jurisdiction won't feel the crisis because they have some water storage capacity.

But the District of Columbia will be in serious trouble.

At best, Washington has a 12-hour reserve supply of water. After that, parts of the system simply will have to be shut off to supply water to more vital areas. Some sink taps, toilets and fire hydrants will be empty.

This waterless doomsday already has occurred—on paper. On a hot day in 1966, Sept. 10, the flow in the river above Great Falls fell to a new low of 388 million gallons a day (mgd) before it reached the first of the area's water intakes.

Last summer, on July 17, another hot day, those intakes drew 402 mgd from the river. Another record.

Engineers from a variety of local and federal agencies concerned with the problem are now praying that these conditions will not coincide on one day this summer.

They say the crisis is inevitable. It could occur sporadically in the 1970s. It will happen frequently in the 1980s, when the area's daily appetite for water is expected to soar to above 900 mgd.

The crisis is so near that the engineers are now considering making Washington one of the first major cities in the world to recycle water from its own sewage system.

They are already preparing the hardware for drawing water from the upper end of the Potomac estuary, parts of which are grossly polluted.

This use of treated estuary water could begin under emergency conditions this summer, although the U.S. Army Corps of Engineers is still conducting research on how to identify and kill the large concentrations of viruses it believes exist in the estuary, which is the same body of water that receives most of the area's sewage.

How did Washington get into this predicament?

The Capital is located in one of the most water-rich areas of the nation. On an average day, the Potomac has about 7 billion gallons in it, or, as one engineer put it, "enough water for the whole East Coast."

But all of this largess flows by, unhindered by dams, from the tributaries into the Potomac, over Great Falls and Little Falls, and into the river's broad estuary, where it sloshes back and forth under the influence of the tides on its way to the sea.

While other cities have planned to store water—Baltimore has a one-year reserve supply, New York City has a three-year supply—the Washington area is still dependent on the presumed abundance of its river.

The Metropolitan Area Council of Governments estimates that 75 percent of the area's present and future water the Washington Suburban Sanitary Commission, which supplies Montgomery and Prince Georges Counties; Washington Aqueduct, operated by the Corps of Engineers, which supplies the District, Arlington and Falls Church; and the city of Rockville, Md. Water authorities for Fairfax City and Fairfax County, which also supplies Alexandria, obtain most of their water from impoundments on Goose Creek and Occoquan River.)

It is not that the Washington area suffers from a lack of planners. The water supply has been one of the most planned, argued, calculated and arbitrated problems among all of its urban concerns.

Specifically, the question of whether to dam the Potomac may be the oldest standing political feud in Washington.

And it is not that the Corps of Engineers, which is responsible for collecting and purifying the District's water, hasn't tried.

In 1948 it presented Congress with an ambitious plan to discipline the Potomac with a series of massive hydroelectric dams.

The proposal was attacked by a small army of farmers, conservationists and friends of the coal mining industry and, eventually, was shelved.

In 1963 the corps gave birth to a new $500 million plan for a system of 16 dams on the upper Potomac and its tributaries. These, the corps said, would provide water for fishing, swimming, boating, for municipal water supplies, and for flushing sewage down the Potomac during low water levels.

The presentation of the plan was the occasion for one of the area's all-time great civic hearings. More than 1200 people jammed an auditorium, most of them to complain about dams.

At that point, CITPERCON, the Citizens Permanent Conference on the Potomac, a heterogeneous coalition of conservation groups, farm groups, labor unions, garden clubs, canoeists and citizen associations, formed to keep a constant watch on proposals to tamper with the Potomac.

Every two years since then, CITPERCON has clashed with the corps when Congress prepares its ominbus water resources authorization bill, which has been described as a huge "pork barrel" of dam projects for individual representatives.

Only one of the 16 dams has been authorized by Congress. It is the Bloomington Dam, about to be constructed near Keyser, W. Va., on the North Branch of the Potomac.

Plans for the others have been repeatedly torpedoed by CITPERCON and other conservationist-minded groups who have argued that the Potomac is "The National River," and should be preserved in its natural, unfettered state.

Over the years, the corps has performed a slow, grudging retreat from its original plan, cutting the request to six dams and, most recently, to two.

In Senate hearings to be scheduled this month or in early June, the corps will ask for funds to construct a dam on the Middle River near Staunton, Va., and to dam the Monocacy above Frederick, Md., at a point called Six Bridge.

According to Gen. Kenneth B. Cooper, deputy director of civil works for the corps, the two dams were picked because they have generated the most local enthusiasm from among the 16.

"Frankly, we picked the ones where we have the most backing. It's a start anyway," he said, noting that the corps still hopes to build 6 of the original 16.

Washington is the only place in the world where the corps is charged with purifying a metropolitan water supply. The dams, Cooper believes, are vitally needed to supplement the Potomac flow during dry spells.

"Normally we try not to be specific advocates for projects," the general said, referring to the corps' repeated battles with CITPERCON. "Here we are in a little bit different position."

"They (the conservationists) are not responsible for the final quality of the water," he added. "We are."

Thinking about the one dam that has been authorized irritates Dr. Spencer Smith, the chairman and registered lobbyist for CITPERCON, who is proud of the group's record. "I still don't know how that got through. It was a fluke, that's all."

Smith, a former administrator for the Office of Price Administration during the Truman era, estimates that CITPERCON can get support from 20,000 people in times of crisis, when letters opposing dams have been known to shower down on key committee members.

Driving through much of Virginia and Maryland to pass out leaflets and speak at citizens meetings, he has worn out two station wagons in ten years.

I've grown old testifying against this thing," he said.

This year, the battle is continuing. On April 5, a spokesman for CITPERCON appeared before Junior Jaycees of Waynesboro, Va., which was holding a forum on the proposed dam near Staunton.

In working paper CITPERCON left the Jaycees, it pointed out that the major beneficiary of the dam would be the Washington area water supply system.

"Have local residents really considered the fact that they are being asked to sacrifice farms, fields and a free-flowing river for the benefit of an area more than 100 miles (as the crow flies) distant?" the working paper asks.

"In the case of Washington, D.C., it is entirely possible that by the time the Verona Dam at Staunton is completed, technology will have been developed to provide for the recycling of waste water," it adds.

Smith and other CITPERCON spokesmen also have attacked the Corps' claim that localities near the dams will be able to use reservoirs for recreation. They point out that in the late summer, when water is needed for Washington, the level of the reservoirs will be lowered, leaving wide stretches of parched, cracked mud to greet fishing and boating enthusiasts.

Smith blames most of the local enthusiasm for dams on potential contractors, land speculators and recreational lobbyists, including the "fishing tackle lobby."

He has repeatedly argued that it would be much cheaper for Washington to take water from the Potomac Estuary, which begins just below Chain Bridge.

"Once they (the Corps) argued that it (the estuary) was saline. We brought in an expert and showed that the salt water didn't begin until below Ft. Belvoir."

Recently, Smith has been wondering about the latest reason for the Corps' reluctance to pipe water from the estuary: possible contamination from viruses.

I've had an almost Pavlovian response up to this time. Whatever they say, you look for the gimmick. I usually find it. But I hope that some day, if they ever come in with a legitimate reason, I'll see it," he said.

Smith believes the Corps is growing weary of the battle, but it is obligated to continue proposing dams every two years because of local support generated from previous years.

"It's too bad you can't get them the hell out of the way so you can plan for the area," he added.

Late this spring, the Corps and CITPERCON will come before a Senate subcommittee like two aged pugilists who have studied and battered each Council of Governments and a team of other over the years.

This year the metropolitan area's other business and civic leaders, being organized by the Metropolitan Board of Trade, will be backing the Corp's plan.

'We have no selfish interest in this at all," said William G. Russell, head of the Board of Trade's effort. "We just think it is too bad when a city has come to the point where it has to drink water from its own sewage system."

While the battle continues, there is mounting evidence that it has lasted so long that the dams are no longer feasible as an immediate solution to the problem.

It takes from five to eleven years to build a dam, according to the Corps. Assuming Congress approves the Staunton and Six Bridge dams this year, it could be 1980 before they are built.

Projections made by the federal Environmental Protection Agency and by the District's Department of Environmental Services, show the area is likely to have water shortages before that.

And according to a recent report by EPA, the two dam projects being pushed by the Corps would provide the smallest proportion of water for Washington.

Because of the distance of the dam from the city, Washington would have to anticipate a water crisis at least two weeks in advance. It would take that long for extra water to reach the city from the nearest reservoir, the one behind the proposed dam at Six Bridge.

Water from the Bloomington dam, which has the most storage capacity, would take 28 days to reach Washington. The dam will not be ready until 1977, at the earliest.

Furthermore, according to a study released by the District's Department of Environmental Services, assuming the Bloomington dam and the other two dams pending before Congress are built and operating by 1980, the area will face another water crisis by 1984 because of the continuing increase in water use.

Finally, assuming that three dams will be built to protect Washington's supply of fresh water, there may be still another problem. Montgomery County, weary of fighting with the District and Prince Georges County over where it should pump its sewage, has let it be known that it is looking for locations for one or two sewage treatment plants on the Potomac, above the District's water intakes.

The county has assured interested parties that the plant or plants will provide the most up-to-date form of tertiary treatment, which means an effluent of almost drinking water quality.

If and when the waterless doomsday approaches, area governments have agreed upon a water restriction plan, which will go into effect when the flow in the river drops to within 100 mgd of the demand.

At that point, voluntary controls will be suggested, including the curtailment of lawn sprinkling and car washing. When the flow decreases to within 50 mgd of demand, the controls will become mandatory.

The Corps' Gen. Cooper is somewhat optimistic about the restrictions:

"People could paint rings on their bathtubs, reminding them to use only so much water, they could take Navy showers (using water only for final rinse). You could cut consumption quite a bit."

What if water rationing doesn't work and the engineers do not come up with a safe way of purifying water from the estuary or of recycling water from the Blue Plains sewage treatment plant?

All the agencies who "planned" Washington's water supply system including Congress, the Corps of Engineers, area governments and an assortment of conservationists, have not come up with an answer to this question.

There is an obscure hint in one engineering study of the problem that the matter may then rest upon the whim of even a more powerful agency:

"This situation is now. There is no margin of safety except that as may be provided by heavenly benediction in the form of . . . rainfall . . ."

COMMISSION ON REVISION OF FEDERAL APPELLATE SYSTEM

Mr. HRUSKA. Mr. President, yesterday the Senator from North Dakota (Mr. BURDICK), the chairman of the Subcommittee on Improvements in Judicial Machinery, added this Senator as a cosponsor of Senate Joint Resolution 122, a joint resolution to create a Commission on Revision of the Federal Court Appellate System of the United States. Hearings on this matter opened yesterday and will continue all week. This is a most important proposal to insure the effective functioning of the Federal judicial system, and I am grateful to Senator BURDICK for his action.

As the size of the U.S. courts of appeals grows and the number of cases filed therein takes dramatic jumps yearly, the need for a reexamination of the structure and functioning of these very important institutions becomes more paramount. The figures tell the tale most effectively: while judicial personnel in these courts climbed from 78 to 97, or 24 percent, in the 10-year period 1961–71, the number of cases filed jumped from 4,204 to 12,788, or 204 percent. Filings per judge increased from 54 in 1961 to 132 in 1971, or a 144-percent increase. While these judges have been working with extreme diligence to meet the increased caseloads, the end result—a perfectly predictable one—has been that the number of cases pending at the end of 1971 was a 288-percent increase over the number pending at the end of 1961.

Some assistance must be given these judges if the judicial business of this Nation is to function effectively and quickly.

More is obviously needed than a simple realinement of the geographic structure of the several circuits. While some—notably the Fifth and the Ninth—may be too large, none of the existing circuits is in a position to absorb with facility a large increase in caseloads. My own State of Nebraska is a member of the Eighth Circuit, one of the medium-sized circuits in this country, with eight judges. It happily is the one with the smallest caseload per judge, 89 in 1971. However, this represents a 154-percent increase over 1961. Filings in the Eighth Circuit increased 189 percent during this period, from 246 in 1961 to 713 in 1971; there was a 21-percent increase in 1971 alone. Quite obviously, the Eighth Circuit is an exceedingly busy one which would be greatly handicapped by the addition of new case sources.

The solution is therefore not simply to readjust the makeup of the circuit courts, but to probe deeper into some of the procedural aspects of the question. No one would want to suggest that litigants should be restricted in their rights of appeal from decisions of the Federal district courts, but some changes may be possible which would provide alternative procedures or forums, or other reforms, which would serve to lighten the circuit court caseload. In addition, changes in the internal manner in which the circuit courts decide their cases might be a fruitful area for reform.

Senate Joint Resolution 122 encompasses all of these matters within its scope. Senator BURDICK's joint resolution would create a 12-member Federal Court Appellate System Revision Commission with authority to: First, study the present division of the United States into the several judicial circuits; second, study the problems attendant upon prehearing screening of appeals, en banc hearings, intracircuit and intercircuit disparity in interpretation of Federal law, and other appellate procedures and problems; third, study the present and anticipated caseloads of these circuits, the workloads of the judges, the time required for appellate review, and the alleviation of the problems arising therefrom by redividing the United States into several judicial circuits or by restructuring the appellate court system, or by other feasible court reforms; fourth, study the problems arising from present and anticipated caseload of the

Supreme Court and the possible alleviation of these problems; fifth, study other areas of court reform related to the problems specified herein; and sixth, recommend to the President, the Chief Justice of the United States, and Congress such alternative changes in the appellate court system of the United States as may be most appropriate for the expeditious and effective disposition of the present and anticipated caseloads of Federal appellate courts, consistent with fundamental concepts of fairness and due process.

I would hope that such a Commission would examine all of these subjects before reporting its recommendations back to Congress.

TRIBUTE TO MRS. J. L. HARGRAVE

Mr. THURMOND. Mr. President, one of South Carolina's few women mayors is Mrs. Jessie Blackwell, of Bennettsville, S.C. Her achievements as the top-elected official of that town have been numerous, and I have said so on many occasions.

It has come to my attention that Mrs. Blackwell shares her talents with other members of her family. I learned recently that her sister, Mrs. J. L. Hargrave, has been named to receive the Distinguished Teacher Citizen Award which is presented annually by the South Carolina Educational Association.

This award cites Mrs. Hargrave's many activities and contributions in civic, educational, and religious activities.

Mr. President, I wish to take this opportunity to express my admiration for this lady and to commend her for her fine record which led to this award.

An article reporting Mrs. Hargrave's receipt of this award appears in the April 27 issue of the Marlboro Herald-Advocate, of Bennettsville, S.C. I ask unanimous consent that the article, entitled "Mrs. Hargrave Is Honored Teacher Citizen," be printed in the RECORD.

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

MRS. HARGRAVE IS HONORED TEACHER CITIZEN

The Civic Education Committee of the SCEA presented the Distinguished Teacher Citizen award to Mrs. Ellen M. Hargrave at the annual meeting of the South Carolina Education Association.

This citation includes activities in civic, education and religious areas.

She was notified on April 13 that she was one of four finalists. Dr. Claude Kitchens, past president announced Mrs. Hargrave's name at the meeting.

Mrs. Hargrave, choral director and teacher of arts and crafts in Hartsville Junior High, is a charter member of Alston Wilkes Society for rehabilitation of parolees and their families, president of Marlboro County Heart Association, pianist of Bennettsville Lions Club, and member of Hartsville Music Study Club.

Her membership in the state, local and national education associations and delegate to Representative Assembly for two years are included in education activities. She has served as Hartsville ACT president for three years.

St. Paul's Episcopal Church of Bennettsville has recently employed her as organist and choir director, although she is a member of First Presbyterian Church.

"I have always been very interested in politics and could hardly wait until I became twenty-one so that I could vote. Never have I missed one election in many years. The evaluation sheet had me list the ways in which I helped in local, state, and national elections. I've driven voters to the polls, made telephone calls, acted as a poll watcher, and also a tabulator. One of my hobbies is politics," remarked Mrs. Hargrave enthusiastically.

A holder of Bachelor of Music degree from Flora Macdonald College, she served as director of music for five years at Leadership Training School for Presbyterian women.

"Teaching is a wonderful experience and I love to see the changes that take place in my students, a kind of metamorphosis.

I will admit that the rockbeat is somewhat difficult but we learn from each other; the students teach me and I'm willing to try to learn but it is hard sometimes. My heart swells with pride when young people decide to become teachers," added Mrs. Hargrave.

Principal Fred Staton commented, "Mrs. Hargrave believes in democracy. I see it in her classes because she recognizes her students as individuals and listens to their suggestions concerning planning and work. As building representative, she has displayed a concern for new teachers and also for our profession."

POSSIBLE ENVIRONMENTAL DAMAGE BY OIL-LADEN TANKERS

Mr. PACKWOOD. Mr. President, last week I brought to the attention of Senators the editorial, published in the Christian Science Monitor, which questioned the wisdom of not allowing public hearings on the environmental impact statement filed by the Interior Department on the proposed trans-Alaska pipeline. Today, I invite the attention of Senators who may have missed it to an article entitled "The Darkness at the End of the Pipeline," written by C. Robert Zelnick, and published in the Washington Post of Sunday, May 7, 1972.

As a Senator from the west coast, who cherishes Oregon's beautiful coast, Mr. Zelnick's analysis of that portion of the environmental impact statement pertaining to possible environmental damage caused by oil-laden tankers as they move from Valdez to the west coast ports struck fear in my heart.

Mr. Zelnick further questions the wisdom of the proposed route thusly:

Would Alyeska, assuming a right-of-way is granted for the trans-Alaska pipeline, then be stuck with a $2 billion to $4 billion Edsel, given the bearish west coast market for Alaskan crude? A few energy economists believe so and have privately experssed surprise that the oil industry has been able to maintain so united a front on the issue while both the East and Midwest hunger for additional crude oil.

Mr. President, I could go on pulling out the challenging statements made by Mr. Zelnick which must cause anyone reading his article to pause and reflect on the future ramifications of the currently proposed route, but I would prefer to share his entire article with Senators who may have missed it. I ask unanimous consent that it be printed in the RECORD.

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

THE DARKNESS AT THE END OF THE PIPELINE

(By C. Robert Zelnick)

Among those who care about such things, the conviction runs deep that the battle over the trans-Alaska pipeline has become the Interior Department's Vietnam Ill-conceived from its inception, fraudulently surveyed, divisive in its political repercussions and disastrous in its consequences, the project has little to recommend itself other than the enormous quantity of resources already poured into its accomplishment.

Yet Interior continues to see light at the end of the pipeline. That it will issue the right-of-way needed by the Alyeska Pipeline Company—a consortium of seven oil industry giants—to cross federal lands in Alaska seems a foregone conclusion. On March 20, the day his department released its massive "final" impact statement—which conceded every significant ecological objection ever voiced against the 789-mile Prudhoe Bay-to-Valdez route, Interior Secretary Rogers C. B. Morton promised a decision "within about 45 days." Eight days later, after meeting with Morton, Peter Flanigan and other administration officials to express his country's desire "for the construction of a Mackenzie Valley pipeline," Donald S. Macdonald, Canada's Minister of Energy, Mines, and Resources, told reporters at a Washington news conference: ". . . . I had the impression that, with so much effort and study invested in the trans-Alaska pipeline, that it rather looks as though they would be giving that priority in their consideration."

Actually, as Morton conceded in an appearance on the "Today" show the morning after Interior released its report, his department could not have decided anything with finality within 45 days. Since April, 1971, Interior has been blocked by an injunction issued by the federal district court in Washington from issuing the permit. Two weeks advance notice is required, during which time Judge George L. Hart Jr. will have to satisfy himself that Interior has complied with the National Environmental Policy Act of 1969. The act requires a complete statement of the consequences of any agency action significantly affecting the quality of the human environment," plus a thorough examination of alternative courses.

Hart, a model of judicial self-restraint, is expected to rule for Interior, The Wilderness Society, Friends of the Earth, and the Environmental Defense Fund—the three environmental group plaintiffs—would then probably appeal to the more assertive U.S. Court of Appeals, with the loser, in all likelihood, taking the case to the Supreme Court. The ultimate result is almost certain to be a landmark decision in environmental—or, for that matter, administrative—law.

THE CHOICES

The nub of the social issue involved is not whether Alaskan oil should be brought to market. Rather the choice is between an 1,800-mile overland route, 1,500 miles of which would traverse Canada's Mackenzie Valley, and a shorter land route from Prudhoe Bay to Valdez, with the oil then moving via tankers to ports on the U.S. West Coast. The nub of the legal issue is whether Interior has considered the Canadian alternative to the degree necessary to satisfy the environment law, and whether, regardless of Interior's diligence, the evidence favoring the Canadian route is not so overwhelming as to make any right-of-way grant through Alaska a clear abuse of administrative discretion.

Environmentalists are convinced that the Mackenzie Valley route is superior, in part because it involves a single pipeline corridor rather than two, and that should Morton decide otherwise, they can beat him in court. They maintain that abundant support for their position can be found in Interior's own impact statement of March

20. The stakes are high. The pipeline project would be the largest undertaking in the history of private enterprise. The oil industry claims to have invested almost $100 million to date in studying the Alaskan terrain and in procuring pipe and construction materials. That figure, even if exaggerated, is a mere pittance compared to the profits they expect to reap from the venture.

The known oil field in the Prudhoe Bay area—three giant pools running inland from a 40-mile stretch along the Beaufort Sea and covering an area the size of Massachusetts—exceeds 10 billion barrels. This, however, is only a fraction of what the industry eventually hopes to find. Forty billion barrels is a more realistic estimate. In September, 1969, an assortment of producers paid Alaska more than $900 million for the privilege of looking for more North Slope oil. A barrel of oil sells for about $3.25 on the West Coast, more in the Midwest and East.

NO "GOOD" WAY

Despite years of study and volumes of "stipulations" designed to protect the environment, there remains no "good" way of running 2 million barrels of oil a day through 48 inches of pipe at a temperature of 145 degrees Fahrenheit over and under a vast stretch of Arctic wilderness. You have to begin by building gravel service roads and air strips large enough to accommodate the big Hercules aircraft. You must find more gravel for 12 camp sites and 6 pumping stations, each 50 acres; this means gouging about 50 million cubic feet of gravel out of riverbeds and off the tops of hillsides along the way. Stream siltation and land erosion are the inevitable results. Some 350 streams would be crossed by the route. Many are spawning grounds for salmon and grayling. Oil spills can be a problem there. They can be even more of a problem if the oil gets carried out to the Beaufort Sea and trapped under the ice. Then the oil becomes a permanent part of the marine ecology.

If you decide to bury the pipe all the way, its heat melts the permafrost, causing slides and differential settlement, eroding the support for the structure and eventually causing a break. When you are forced to build part of it on stilts, you erect a barrier that blocks caribou and other migrating animals and subjects the line to greater risks of surface damage. When you dig a ditch to catch expected oil spills, the ditch becomes a moat, entrapping other animals.

Your service road extends civilization where it has never reached before. The construction activity, the planes landing and taking off and the helicopters hovering overhead frighten bear and caribou, rare birds and sheep. When these move to other areas, they die or cause other animals to die. The ecological balance in the Arctic is fragile. In the winter, a caribou uses almost all its energy just staying alive. A single timberwolf can exhaust and kill the stoutest buck in the herd. So can a bulldozer.

What we get in return for the partial destruction of our nation's largest wilderness area is more oil, a lot of natural gas, the corresponding need to spend fewer U.S. dollars buying foreign sources of energy, and, arguably, a mild, temporary improvement in our national defense posture. This latter case has been stated so often and with such apparent conviction by both the Interior Department and the oil industry that one wonders how we would have survived had not the Prudhoe Bay field been discovered in 1968. Statistical projections provide a clue.

THE EARTHQUAKE PROBLEM

By 1980, the United States is expected to be using about 22 million barrels of oil daily and producing some 10.4 million barrels, excluding what is to be drawn from the North Slope. Part of our expected deficit can be made up by importing an estimated 4 million barrels a day from nations in the Western Hemisphere. The rest will have to come from Indonesia and the Middle East.

Alaska 2 million barrels daily could reduce this dependency somewhat for about five years. After that, our demand is expected to so outstrip domestic production that North Slope oil will be of little strategic value. In the case of a minor outbreak in the Middle East, say between 1980 and 1985, the benefit is obvious. But if the problem were big and with Russia, an exposed pipeline can offer small comfort to our military strategists. Prudhoe Bay is only 600 miles from Siberia.

While conservationists—at least those involved in the pipeline battle—accept the reality that 10 billion to 40 billion barrels of oil are going to find their way to market, they believe that even if oil was the only resource involved and even if big tankers weren't needed for the remainder of the Alaskan route, the Canadian route, while longer, is preferable. For one thing, the Alaskan area involved is renowned for its extreme seismic activity. In the past 70 years, some 23 major earthquakes have clobbered the terrain over and under which the Alaskan pipeline would go; any one of the quakes could have caused a catastrophic break in the pipe. Valdez itself, where a 900-acre, 510,000-barrel-capacity "tank farm" is planned, is a "new" city, about four miles northwest of its predecessor. The "old" Valdez was substantially washed into the sea as tidal waves of up to 170 feet rolled ashore following the great Alaskan earthquake of 1964.

The route through Canada poses no comparable seismic problems. It has fewer miles of unstable soil and more existing roads, even railroads. From Edmonton, the proposed Canadian terminus, existing pipelines now extended both to the Midwest (Chicago) and the West Coast (Seattle). Certainly less environmental damage is involved in expanding existing facilities or building parallel facilities than in constructing new ones.

THE GAS LINE

The relative merits of one land route versus another, however, are matters about which a court is unlikely to substitute its judgment for that of an administrative agency with admitted expertise in the field. But what about *two* land routes versus one land route? Environmentalists claim that this is the fatal legal weakness in Interior's position. Buried, almost lost in the department's six-volume statement, and totally lacking from its consideration of alternatives to the Alaska route, is the acknowledgment that "at some time during the operation of the proposed trans-Alaska pipeline, it would become necessary to transport to market the natural gas that would be produced with the Prudhoe oil."

Indeed it would. In fact, it is estimated that 26 trillion cubic feet of gas are under the Prudhoe Bay fields waiting to be developed with the oil. Moreover, Interior says, "route selection and construction procedures would be similar to those for an oil pipeline but with some simplifications resulting from reduced pipe weight and lower operating temperatures."

Yet logistics militate against the likelihood of a trans-Alaska gas pipeline. The gas would have to be liquefied at Valdez prior to shipment. Interior estimates that operational costs of a liquefaction plant would run to half a billion dollars a year. Additionally there are only about a dozen liquefied natural gas tankers operating in the world, while some 20 to 40 would have to be built to handle the Valdez traffic alone. Thus, Interior concludes, "A gas pipeline across Alaska appears to be a remote possibility because of the problems involved in shipment from the southern terminus; a gas pipeline through Canada to the Midwest seems to be much more feasible."

Of the various Canadian possibilities, Interior leans toward the Mackenzie Valley, noting, "The Mackenzie River is a valuable artery for use in the construction of a trans-Canada gas pipeline. Good all-weather roads and some railway mileage also exist, and existing winter trails would be valuable at the right time of year." So much does Interior favor the Canadian route when it comes to natural gas—where neither oil industry prestige nor money is on the line—that in March Secretary Morton set aside a 300-mile corridor on federal lands in northern Alaska along the route the natural gas would travel from Prudhoe Bay to Fort McPherson atop the Mackenzie Valley.

If Interior is a bit circumspect about confessing that, in effect, it plans to grant two rights-of-way instead of one, it is far less bashful in assessing the environmental impact of 41 oil-laden tankers as they steam between Valdez and West Coast ports. Here, in fact, the report takes on a quality of terrifying candor, much like Yukio Mishima standing on the balcony, coldly describing the act of harikari he is about to perform.

The sea journey poses exceptional hazards, particularly for the crews of oil tankers. Port Valdez is a 3-mile-wide, steep-walled glaciated fjord that extends east-west about 14 miles. It narrows to less than a mile before dumping out into the Valdez Arm section of the 2,500-square-mile Prince William Sound. The coastline is rocky and treacherous, not entirely free of icebergs and blasted by frequent gale-force winds. A special pilot must guide each vessel through the narrow neck of the port.

The area, moreover, is one of extreme seismic activity. Prince William Sound was the epicenter of the 1964 Alaskan earthquake during which, as Interior notes, "74 lives were lost mainly as a result of submarine landslides, sudden large-scale tectonic displacements, destructive waves, and, to a lesser extent, vibration of structures."

From Prince William Sound the tankers would run into the Gulf of Alaska and down the foggy northern Pacific coast. "During the cool months," Interior says, "the Gulf has the highest frequency of extratropical cyclones in the Northern Hemisphere." From Octobed through February, it is rocked by waves of 12 feet or better about 20 per cent of the time. Moreover, "the 1964 Alaskan earthquake was but one of a large number of earthquakes of moderate and high intensity that have occurred in or near the Gulf of Alaska, and there is no geologic basis to assume that other equally devastating earthquakes will not occur in the near future."

"REHABILITATING" BIRDS

Plans call for about 10 per cent of the tankers to pass through the narrow Strait of Juan de Fuca—where again navigational hazards will require the assistance of a pilot—and into the 40 miles of beautiful waterway known as Puget Sound, a recreational haven for 2 million Americans and Canadians. The remaining vessels would head for San Francisco, Los Angeles and points further south.

Again, seismic dangers will be extreme. Interior recalls that "on April 13, 1949, an earthquake with an intensity of 7.1 on the Richter scale and an epicenter between Olympia and Tacoma resulted in approximately $25 million damage to the Puget Sound area. More recently, on April 29, 1965, an earthquake of slightly less intensity (6.5) with an epicenter between Seattle and Tacoma caused an estimated $12.5 million damage to the Seattle area. These are the two largest of the numerous earthquakes that have occurred in this region during the last hundred years; the level of seismic activity has increased substantially during the last few decades."

Interior estimates that if the performance of the oil tankers on the Valdez run was no better than the worldwide average, we can

anticipate spills averaging 384 barrels a day, or about 140,000 barrels a year. Better vessels may reduce these numbers somewhat, but the damage per spill would likely exceed the worldwide average since "large spills in the area would be more difficult to contain, clean up and restore because of the distances from sources of ships and cleanup gear and the generally limited manpower in the region."

Interior details the impact all this filth would likely have on the huge salmon runs of the Northern Pacific, and how it would probably impede, and perhaps wipe out, fishing in the Port Valdez-Prince William Sound area, where the coastal waters are today as pristine as any on earth. On a cheerier note, while chronicling the devastating effect an oil spill might have on the many rare migratory bird species that inhabit Alaska-Canadian coastal areas during certain months, Interior records for posterity Alyeska's pledge to "rehabilitate" those birds belonging to endangered species. The term seems peculiarly appropriate. In this forgiving society we "rehabilitate" drunkards, junkies, whores, and others who have gone astray. Clearly the murres, murrelets, loons, grebes, albatrosses, gulls, terns, ducks, geese and shore birds who fall victim to the oil industry's determination to bring its goods to market along the route it deems best are out of step with the natural order of things and gravely in need of "rehabilitation." Unfortunately, only about one in seven of the poor creatures doused in the San Francisco Harbor spill a year ago lived long enough to profit from the experience.

SHOCKING OMISSIONS

If the six volumes of Interior's report dealing with the environmental impact of the combination overland-tanker route contain some shocking revelations, the three-volume economic analysis shocks by what it fails to disclose. Simply stated, a careful reading of Interior's economic analysis provides no clue as to why Alaskan crude should go to the West Coast in the first place, certainly none justifying an iota of increased environmental risk.

The West Coast is second only to the Southwest in the production of petroleum. It will not need any Alaskan crude for the next few years, will not be able to absorb 2 million barrels a day from the North Slope until well into the 1980s, and, if as expected, Alaskan production increases to 5 million barrels a day, the West Coast will not be able to absorb the surplus during the life of the pipeline.

Thus, even ignoring the greater hazard of the tanker route from Valdez, it is nonsense to say, as Secretary Morton did on his March 21 "Today" show appearance, that "if the pipeline went through Canada and if it ended up in the middle of the country, you would then have to bring oil into the West Coast by tanker. So the same amount of oil would be arriving by tanker."

The West Coast simply does not need as much oil as Alyeska wants to provide. And, if it did, the obvious source would be the Southwest or Canada, a fact Canadian minister Macdonald has been pressing upon his Washington counterparts without apparent success. On April 19, for example, Macdonald was questioned in the Ottawa House of Commons by David Anderson, a Vancouver MP active in the battle against Alaskan tanker traffic, as to whether Canada was willing to supply the United States with enough oil to compensate for the anticipated additional two years it would take to complete the trans-Canada route. Macdonald's reply:

"Both in my discussions with Secretary Morton and other officials of the United States administration in Washington and recently with Secretary Rogers last week, I made it perfectly clear that Canada was prepared to supply additional quantities of oil to the United States not only for a two-year period, but a longer period, and that this would be facilitated by their lifting their quota system."

Would Alyeska, assuming a right-of-way is granted for the trans-Alaska pipeline, then be stuck with a $2 billion to $4 billion Edsel, given the bearish West Coast market for Alaskan crude? A few energy economists believe so and have privately expressed surprise that the oil industry has been able to maintain so united a front on the issue while both the East and Midwest hunger for additional crude oil. More probably, Arco and British Petroleum, the two companies with the biggest positions in the pipeline, would be able to trade their excess crude to Japan in exchange for Japanese rights to Middle East oil, rights purchased long in advance. The Middle East crude oil could then be sold at a good profit on the East Coast, bailing the two companies out of their predicament but making an utter shambles of any national defense arguments for trans-Alaska route.

WINNING IN THE COURTS?

There is a reasonable chance that the environmentalists will ultimately prevail in the courts. Perhaps they will persuade the courts that Interior's failure to consider adjacent oil and gas pipelines rendered its statement procedurally inadequate. Perhaps they will win an even more significant point by forcing Interior to abide by the results of its own research, thus introducing important substantive requirements, as well as procedural ones, into the environment law.

Interior, meanwhile, hopes that its "final" impact statement on the trans-Alaska pipeline will at last get the environmental monkey off its back. From the outset it seems to have regarded the environment statute as an unwelcome encumbrance to a predetermined course.

Two years ago the department attempted to grant the oil consortium a right-of-way to build a service road adjacent to the pipeline, arguing, incredibly, that the road and the pipeline were unrelated. Its impact statement on 361 miles of gravel carved into the middle of Alaska's wilderness totaled four pages, and became the subject of the court injunction still in effect.

Interior's second attempt at compliance with the environmental law was a bit more sophisticated, but not much. Its multivolume "draft" impact statement, produced in January, 1971, during the interregnum between the Hickel and Morton secretaryships, was basically a collection of data and arguments compiled by Alyeska itself. In that report, the department found it unnecessary either to consider the impact of tanker traffic from Port Valdez to the West Coast or to assess the feasibility of a trans-Canada pipeline route. Even today, Secretary Morton can be heard arguing from time to time that consideration of the Canadian alternative is superfluous because "no application for a Canadian route is pending." Since the 1965 *Scenic Hudson* case, however, federal courts have held that an administrative agency charged with protecting the environment has a duty to consider alternatives not placed before it by the parties. It cannot only "sit as an umpire blandly calling balls and strikes," the court found. In any event, Interior's 1971 statement was sufficiently derelict so that even the Corps of Engineers, in its formal comment, warned that the Department had failed "fully to comply with the letter and spirit of the Environmental Policy Act."

SCARCE STATEMENT

The Justice Department, fighting the pipeline case for Interior in court, has also shown a greater zest for adversaria than guardianship of the public domain. Last summer, more than a year after the first lawsuit was filed, Justice tried unsuccessfully to remove the case from the District of Columbia to the friendlier confines of the U.S. District Court in Anchorage, Alaska. This past April when MP Anderson and several Canadian residents of the Puget Sound area sought to intervene in the case, Justice opposed the motion.

Now we have Interior's third attempt at compliance with the environmental act. Legally, the department hopes that by confessing the devastating results of its proposed action, it can achieve what it failed to get by denying those results in its two earlier efforts. Politically, it appears anxious to present the public with a *fait accompli*. In the weeks since March 20, only seven copies of the impact statement have been made available to the public without cost in six cities across the entire "lower 48" states. For others, the volumes cost $42.50 a set. Faced with a demand for public hearings, Under Secretary William Pecora claimed that "a public hearing would be a circus" and would "interfere with a more thoughtful and rational analysis of this complex document."

"Clearly the department has not tried to encourage hearings or informed debate," complained the Christian Science Monitor on May 2, in what might pass as the editorial understatement of the year. The Monitor went on to wonder "how much 'thoughtful and rational analysis' the Interior Department has itself given to the study." Before too long the federal courts may themselves be wondering the same thing.

PLAY THE GAME STRAIGHT

Mr. PROXMIRE. Mr. President, the Hartford, Conn., Times resently told its readers in an editorial about the waste inherent in a memo from Admiral Zumwalt. That memo ordered the Navy to get money spent before the end of the fiscal year.

The editorial gave special attention to a quotation from David Packard, former Deputy Secretary of Defense, which read:

It will be a very major disaster to the country if we cannot get the military-industrial complex to play the game straight. Until and unless we can stop this attitude, we are going to continue to waste the taxpayers' dollars, get less defense for the dollars we spend.

The Hartford Times was very kind, and accurate, in saying that the quotation "sums up Senator PROXMIRE's efforts of the last 5 years."

Mr. President, I ask unanimous consent that the editorial of April 21 and an article of April 16 be printed in the RECORD

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

SENATOR PROXMIRE

A bouquet to Senator William Proxmire (D-Wisconsin) for his persistent efforts to uncover and reverse wasteful methods in defense procurement.

His latest disclosure, for instance, was a memorandum sent by Admiral Zumwalt, Chief of Naval Operations, to his subordinates in naval procurement, urging them hurriedly to spend up fiscal year appropriations in order not to jeopardize Congressional appropriations for the following year.

The memo suggested settling disputed claims for payment without waiting for detailed examination (despite consistent experience that contractors overstate their

claims for extra-cost payments); use of unpriced purchase orders (a practice the Navy theoretically frowns on), and other short-order procedures to get money spent.

In the course of digging into the memo, Senator Proxmire called attention to a recent speech by David Packard, former deputy secretary of defense, at the time he received the Forrestal Award. One passage is worth quoting at length; it sums up Senator Proxmire's efforts of the last five years:

"It will be a very major disaster to the country if we cannot get the military-industrial complex to play the game straight. Until and unless we can stop this attitude, we are going to continue to waste the taxpayers' dollars, get less defense for the dollars we spend."

GRUMMAN, LITTON

A few days later, Senator Proxmire heard testimony that a General Accounting Office study showed the Navy's new Grumman F-14 jet fighter (which is now running $16 million per airplane) may not be significantly better than the F-4 ($3 million per airplane) it is designed to replace.

On the heels of that announcement, Grumman Aircraft announced it is losing money on the first 48 F-14s it is building, and cannot build the next 48 it is contracted to produce unless the price is renegotiated—and that the price needed to produce the 313 planes planned would require an extra $545,000,000. That's a cool half-billion.

And at almost the same time, the House Armed Services Committee was told that Litton Industries is losing money on its billion-dollar contract to build five assault ships, and is seeking $400 million more.

Which is what the skeptics expected when a loan guarantee was voted to bail out Lockheed Aircraft: Bail one huge company out of its own business inefficiencies, and the line will quickly form.

LET'S DO MAKE ONE THING CLEAR

(By Charles A. Betts)

I had a surprise phone call recently from Sen. William Proxmire, Wisconsin Democrat. Sen. Proxmire has spent a great deal of time and energy on investigating the Defense Department, with a special eye on spending, waste and questionable procurement practices.

Proxmire said he was calling because he had just conducted hearings that he said disclosed an incredible pattern of disregard of the tax dollar by the Navy.

And why me? Well, he thought we would want to know about his hearings—and we do indeed—because the Electric Boat Division in Groton figured in them.

What particularly outraged the Senator—and me, too, I admit—was a memo from Admiral Zumwalt, Chief of Naval Operations, to his procurement people to, as Proxmire put it, hurry up and spend up to the hilt this year so we can have more funds to spend next year.

Another Proxmire target is the Navy's penchant for quick settlement of claims from contractors that end up costing the taxpayers more millions.

Finally, the senator took a dim view of the Navy's allowing Electric Boat a profit of $28 million on an investment of a little over $52 million.

"Why," asked Proxmire, "is the Navy allowing such high profits? Again, do you (a Navy witness) intend to do anything to remove excessive profits?"

Your income tax deadline is tomorrow. I thought the Navy's spending saga might be particularly interesting to you as you survey this year's tax bite.

As for me, I wish the Senator happy hunting.

PRESIDENT NIXON'S CHILD NUTRITION PROPOSALS

Mr. PERCY. Mr. President, I welcome and applaud President Nixon's initiatives in the field of child nutrition. I believe this administration, with the strong support of Congress, has made great strides toward the goal of eliminating hunger and malnutrition from our country.

In recent weeks the Select Committee on Nutrition and Human Needs, on which I serve as the ranking Republican member, has held hearings on both the non-school summer food program for needy children and the school breakfast program. In the understandable absence of the chairman, Senator MCGOVERN, these hearings were ably presided over by the senior Senator from California (Mr. CRANSTON) and the senior Senator from Michigan (Mr. HART), respectively.

These hearings, I believe, demonstrated very clearly the success of these programs in reaching and feeding the needy. The hearings also demonstrated the readiness of many communities throughout the country to expand the reach of both the summer program and the school breakfast program.

President Nixon has acted responsibly and forthrightly in the face of the overwhelming evidence presented in these hearings. In doing so he adds greatly to the administration's record in expanding and improving the range of feeding programs. If future hearings indicate an unmet need, then I am sure President Nixon will again act creatively to meet it.

The President has requested an additional $25 million for the summer program this year. This increases the total for the program to $50 million and will in effect permit funding of all applications now on hand. In city after city across the country significantly more children will receive the benefits of this vacation time substitute for the school lunch program. We estimate that the program should reach a total of 1 million more this year than last.

For the school breakfast program the President has requested an additional $19.5 million to allow some 3,000 more schools serving perhaps an additional 600,000 children to participate in the program during the next school year. These schools are ones ready to implement the program, according to State plans submitted to the Department of Agriculture.

I urge the Appropriations Committee to act favorably on the President's budget amendments.

The record of achievement is clear. In 4 years we have gone from $1.5 to $50.5 million for the summer non-school-food program and from 100,000 participants to over 2 million. In 4 years we have gone from $5.5 to $52.5 million for school breakfasts and from 200,000 participants to about 1 million participants. We can take pride in this record as we can take pride in the concurrent expansion of the food stamp and school lunch programs.

The President has also submitted a major piece of legislation revising the school lunch and school breakfast programs. This is a complex bill and I reserve judgment on it until I have had an opportunity to study it in detail. Without hesitation, however, I share the basic goal of the legislation—to expand and improve Federal efforts to provide food for needy children.

President Nixon's initiatives have drawn wide attention in the press. I ask unanimous consent that several news stories be incorporated in the RECORD at this point.

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

[From the Wall Street Journal, May 8, 1972]

NIXON TO SEEK SCHOOL LUNCH REFORM, ASK $44.5 MILLION MORE FOR CHILD NUTRITION

WASHINGTON.—President Nixon today will ask Congress for more money to feed needy children and for an incentive-based system for allocating school lunch funds among the states.

The White House over the weekend released a presidential statement outlining a three-part legislative proposal that is being sent to Capitol Hill today. The legislation asks $44.5 million in additional funds for child nutrition programs, besides reforming the way school lunch money is parceled out to the states.

To expand a program that provides meals to needy children in cities during the summer, Mr. Nixon requested an additional $25 million for the fiscal year starting July 1, raising to $50.5 million the amount earmarked for this purpose in the coming fiscal year. The amount budgeted for the current fiscal year is $20.1 million.

The President said the extra money for the summer feeding program would enable the government to support all the applications that meet eligibility criteria.

The President also asked for an additional $19.5 million to extend the school breakfast program to another 3,000 schools in the coming fiscal year. That amount would raise proposed fiscal 1973 spending on subsidized breakfasts to $52.5 million, about double the current year's $26.5 million.

SALE OF MORE LOAN ASSETS

To prevent these extra outlays from raising the overall Agriculture Department budget for the coming year, Mr. Nixon directed the department to offset the $44.5 million total by other action. The offset will be achieved by the sale of more loan assets of the Farmers Administration than initially budgeted; for federal budget purposes, sales of assets are treated as reductions in outlays rather than as revenues.

The proposed change in the school lunch aid system affects a politically sensitive program in which previous Nixon Administration proposals for change have caused controversy. Last year, faced by a balky Congress, the administration abandoned an attempt to change eligibility rules for the program that critics said would have prevented many needy children from participating.

Mr. Nixon proposed in his statement that Congress adopt a "performance system" for allocating school lunch money. Such a system, he said, would "establish an incentive for states to insure that all needy children will be fed." Mr. Nixon said that "under the performance system, the more pupils served in a state, the more federal assistance it receives."

The new system, which is intended to reflect increases in participation by the states, would replace an allocation formula based on population, poverty and other factors.

NEW ELIGIBILITY STANDARDS

The proposed legislation also would set new eligibility standards for both the lunch

and breakfast programs. The rules would require free lunches for any child from a family below the official poverty line (currently $4,110 for a family of four) and would permit states to serve free meals for pupils from families with incomes up to 115% of the poverty standard.

In some states, children from poverty-level families currently pay part of the lunch cost, up to 20 cents a meal, rather than receiving the food free.

The proposed legislation also would establish an eligibility standard for reduced-price lunches—those costing the pupil up to 20 cents. Children from families with incomes up to 130% of the official poverty level would be eligible for the reduced-price lunch.

The Nixon proposals on eligibility are less generous than those outlined in bills sponsored by some liberal Democrats, and a Senate Agriculture Committee source said specialists would want to look closely at the potential impact of the complex new formulas in the administration proposal.

[From the New York Times, May 7, 1972]

NIXON SEEKS MORE FOR PUPIL MEALS; HE ACTS ON BREAKFAST AND SUMMER LUNCH PROGRAMS

(By Robert B. Semple, Jr.)

WASHINGTON, May 6.—President Nixon announced today that he would ask Congress next week to provide extra money for the summer lunch and school breakfast programs for needy children.

The move, which caught some of his opponents on Capitol Hill by surprise, drew immediate praise from even so resolute a critic of the Administration's nutrition programs as Senator George McGovern, Democrat of South Dakota, whose hunger committee had been pressuring Mr. Nixon to take precisely the step he took today.

In Albany, Governor Rockefeller said that the President's announcement was "good news for New York State." He said that the new Federal aid would increase substantially the effectiveness of the State's own lunch program, which is budgeted for the 1972–73 fiscal year at $2.5-million.

State officials said that New York State could obtain as much as $10-million from the new program.

Mr. McGovern and another contender for the Democratic Presidential nomination, Senator Hubert H. Humphrey of Minnesota, expressed fears that some of Mr. Nixon's other recommendations, aimed at basic structural changes in the program, might result in more money being spent to feed fewer children.

Under the Administration's new proposals, spending for the summer feeding program for needy children would more than double this summer to a new level of $50.5-million. The number of children participating would also double, by the Administration's estimates, from 1.1 million to 2.1 million.

[From the Washington Post, May 7, 1972]

UNITED STATES LUNCH FUND RISE IS SOUGHT

(By Carroll Kilpatrick)

President Nixon announced yesterday that he would ask Congress this week for an additional $44.5 million to "expand and improve" the food-for-needy-children program.

In a statement, the President said he would propose legislation to:

Revise and reform the school lunch and school breakfast programs to simplify and improve federal funding procedures and provide incentives for state participation.

Provide an additional $25 million for a total of $50.5 million to be allocated for feeding needy children in the cities this summer.

Provide an additional $19.5 million for a total of $52.5 million to extend the school breakfast program to $3,000 additional schools in the coming school year.

The President said he had directed Secretary of Agriculture Earl L. Butz to cut expenditures in other areas by $44.5 million, so that the increased spending does not affect his overall budget.

At a White House news conference, Butz denied that the increased spending was due to criticism of administration policy by Sen. George S. McGovern (D-S.D.), who has said the program is not being expanded rapidly enough or covering all who should be receiving free lunches.

Two Democratic presidential hopefuls responded that the President's plans, while good in some areas, would deny food to millions of children.

Sen. Hubert H. Humphrey (D-Minn.) said it would "remove nearly 2 million children from the school lunch program because of inadequate funding" and unrealistic eligibility standards.

It contains no additional funding, Humphrey said, just the "$1.4 billion . . . the President proposed in January . . . Again, the President is serving up cold promises instead of hot lunches."

McGovern said that while "more funds are being requested, they are not sufficient to make up for the funds authorized by Congress but unspent by the administration over the past several years."

"There are still at least 3 million children who are poor but who are not receiving the free lunch guaranteed to them by the President and by the Congress two years ago," he said.

Assistant Secretary of Agriculture Richard E. Lyng said about 8 million children now receive free lunches and that the number should be raised to cover another 1 million.

But Lyng said the ideal figure might never be reached because some schools do not wish to cooperate. The new rules the President will propose in the legislation are designed to stimulate increased school participation in the program.

The President said that "in the last three years, with the cooperation of the congress, we have made immense strides toward reaching" the goal he set three years ago "to put an end to hunger in America."

He said the budget he submitted in January allocated "nine times as much money for food stamps and seven times as much money for school lunches for needy children as was allocated in fiscal year 1969."

[From the Chicago Tribune, May 7, 1972]

NIXON ASKS FREE LUNCH EXPANSION

WASHINGTON, May 6.—President Nixon said today that he will send Congress a three part program Monday to reform and expand the federal program of feeding needy children.

The legislative package will include:

A proposal to revise the present school lunch and breakfast programs for needy children to provide incentives for expanding the program and to keep a closer check on dollars spent.

A request for an additional $25 million for a summer program providing meals to disadvantaged children this summer.

A request for an additional $19.5 million to expand the breakfast program to an additional 3,000 schools beginning in September.

URGES SPEEDING LIMIT

In a statement today, Nixon said he has directed Secretary of Agriculture Earl Butz to reduce his outlays by the additional $44.5 million asked so that federal spending will not increase due to the program.

Nixon's legislation would establish a minimum and maximum income eligibility for federal reimbursement of free or reduced meals. The law now states that either free or reduced price lunches may be served to children from families below the poverty level.

The new legislation would require free lunches to be served children from such families [$4,110 in 1973 for a family of four] with the states free to offer such lunches to children from families whose income is up to 115 percent of the poverty level.

The states then could offer reduced price lunches to children from families whose income is up to 130 per cent of the poverty level.

DOUBLES AMOUNT AVAILABLE

Nixon said the $25 million being asked for the summer program will increase to $50.5 million the amount available for the program. Last year $20 million was spent on the summer program.

The $19.5 million asked for an expansion of the program for next year will bring to $52.2 million the cost of the school year program, he said. This compares with $31 million budgeted for the current school year.

One of the most important aspects of the legislation, according to the President, "would substitute a performance system for the traditional apportionment system in allocating federal funds for both the school lunch and breakfast programs. Under the performance system, the more pupils served in a state the more federal assistance it receives."

RUMANIAN INDEPENDENCE

Mr. BROOKE. Mr. President, once again we are called upon to observe the occasion of Rumanian Independence Day.

The 10th of May should be a joyous day, for it marks the triple anniversary of the founding of the Rumanian dynasty, the inauguration of the first king of Rumania, and the proclamation of independence from the Ottoman Empire.

How grateful we should all be if this May the 10th marked the independence of that brave land and people from the Soviet Empire as well. All of Rumania's people are not completely free. But those of us who live in the free world, and can commemorate this date, should keep alive its meaning and its promise, and extend to all the peoples of Rumania our admiration for their courage and our share in their great faith.

UNANSWERED QUESTIONS ABOUT TRANS-ALASKA PIPELINE

Mr. PACKWOOD. Mr. President, several Senators and many Members of the House are joining their efforts to bring before the public the many unanswered questions surrounding the proposed trans-Alaska pipeline. We have not preferred this means of making public this critical information, but it appears to be the only alternative left to us.

At a press conference in Washington yesterday, conservation groups announced they had forwarded to Secretary Rogers Morton a four-volume compilation of 56 separate studies by environmental scientists, engineers and economists. Those individuals all worked without compensation, under the strict 45-day time limitation placed by the Interior Department to analyze the official environmental impact statement. Mr. President, so that the entire Congress may be aware of the significance of the 56 separate studies done by the abovementioned scientists, engineers, and economists, I ask unanimous consent that the letter to Secretary Morton, trans-

mitting those documents, be printed in the RECORD.

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

CENTER FOR LAW AND SOCIAL POLICY,
Washington, D.C., May 4, 1972.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: The attached comments, together with those forwarded under separate cover by our colleagues Dienelt and Stoel, represent the culmination of a very hectic period in which our clients, The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth, were compelled, because of your default, to assume primary responsibility for public dissemination of the *Final Environmental Impact Statement, Proposed Trans-Alaska Pipeline.* Your totally unrealistic 45-day deadline, the price you placed on the Impact Statement ($42.50), and the Statement's inaccessibility to the public not only hampered our efforts but appear to have been designed to discourage public contributions to the decision-making process.

It is indeed ironic that whereas the oil industry's highly paid consultants have had virtually unrestricted access to your staff for almost three years, the public's experts, working at great personal sacrifice for no remuneration other than the satisfaction of their sense of civic responsibility, have been allotted 45 days to search for, digest, and comment upon your Impact Statement. The time-honored public hearing process in which these public experts might be questioned in depth about their conclusions (and, hopefully, the oil company and Interior experts on theirs) has been cavalierly dismissed by your Under Secretary as a "circus."

Apart from our still-valid objections to this project under the public land laws, we do not believe that either the procedures you have established or the Impact Statement you have released comply with the provisions of the National Environmental Policy Act. The Impact Statement contains much new material that was not mentioned in your earlier statement of January, 1971. To cite but one of many examples, the oil companies' Project Description—which you once described in awe as constituting some 120 pounds of technical data—was not even made available to the public until August, 1971. This alone requires that your latest Impact Statement be opened up to public hearing and comment.

Apart from the moral imperative that you do, given your role as trustee of the public lands, you are in our judgment required to do so as a matter of law. But, however you interpret your legal obligations, we would hope that the comments we are submitting will convince the President and you that it would be irresponsible to issue permits for the Trans-Alaska Pipeline at this time.

For your convenience, the comments we have received have been divided into four general areas: (1) Technical, (2) Terrestrial Impact, (3) Marine Impact, and (4) Economics, National Security, and Systematic Evaluation and Balancing of Alternatives (submitted under separate cover). Because of the unrealistic time pressures you have placed on us, the divisions are not inclusive, with many experts making contributions in more than one area. Time constraints have also prevented us from attempting anything more than the most general synthesis of the comments we have received. But, what follows are at least some of the highlights of those comments.

GENERAL SUMMARY

While many valid points are made by the various experts, a few general threads run through the comments.

First, insufficient information now exists on which to base a rational decision. The Interior Department and the oil companies are partially responsible for this regrettable situation because they have failed over the past three years to establish a systematic approach to the problem. The Impact Statement addresses itself neither to the steps that right now be taken to fill some of the more significant gaps nor to the risks of proceeding in the face of so many unknowns. (You may find the comments of Blumer, Brandt, Curry, Hakala, Warner, Gray, Thomson, Hickock, Henshaw, Cade and Cronin particularly helpful in this regard). And, what is even more distressing, on many occasions the Impact Statement uses these gaps as a camouflage, fails to make full use of the information that *is* available, and presents the reader with a needlessly vague array of non-conclusions. (Here, comments of Brandt, Curry, Warner, Milgram, and Vagners may be helpful).

Second, the Impact Statement is a passive document that blandly accepts at face value the fundamental premises of the oil companies. (We invite your attention to this regard to the comments of Donnelan and Chapin, both of whom have worked on this project for the oil companies, and Brandt, Curry, Cronin and Gray). Moreover, the Impact Statement scrupulously avoids discussion of the practical problems that will be faced *in the field* if this project is approved. You may be especially interested in the comments of John Hakala, a former employee of yours, who had an unparalled opportunity to observe first-hand what pipeline construction has done to the once beautiful Kenai Range. (The comments of Brandt, Lewellan, Curry, Wenk, Hickok, Vagners, and the Arctic Company may also be useful to you in this regard).

Third, the Stipulations that you have publicly described as giving you unprecedented control over this project are, on the whole, so vague and imprecise as to be meaningless for the terrestrial portion of the route, and non-existent for the potentially disastrous marine leg of the project. The experts find that the proposed Stipulations do not contain enforceable standards either for the Authorized Officer or for the oil companies. (The comments of Hakala, Brandt, Curry, Henshaw, Wenk, Vagners, Milgram, Warner, Hedgpeth, Foster, Brumm and Blumer may also be useful to you in this regard).

Fourth, alternatives (particularly a common transportation corridor through Canada's MacKenzie Valley, but also other routes, a suspended pipeline system (Brown), a railroad (Rice), etc.) were not adequately explored and considered, nor was the total impact of the project realistically evaluated. (This thread runs through virtually every comment we have received, and is developed in greater depth in the fourth volume of these comments). As we read the Impact Statement, the only argument now seriously put forward in favor of the Alaskan route over a combined oil-gas transportation corridor through Canada is that the Alaskan route could be completed two to four years earlier. But, much of this delay is due to the short-sightedness of your Department in adamantly concentrating its efforts from the very beginning on the oil companies' proposals.

TECHNICAL COMMENTS

The following comment by Lewellan aptly summarizes his conclusions, as well as those of Brandt, Curry, Donnellan, and Gray:

"The Impact Statement largely accepts the engineering proposed, and fails to deal with either practical engineering problems, or misplaced theory."

Brandt, Chairman of the Department of Mechanical Engineering, University of California at Davis, concludes that contrary to the oil companies' publicity barrage, the steel pipe, purchased in haste almost three years ago, is not of "exceptional quality." It is merely a common, low-alloy steel without any unusual properties. The pipe has not been designed in accordance with the "highest engineering standards." Rather, at the oil companies' insistence, the Interior Department has (1) accepted as the governing standard a code that was never intended to apply to the unusual environmental conditions found in Alaska, and (2) permitted the oil companies to exceed the requirements of that Code. Do you realize that the pipe has been so under-designed that we already know that it will wrinkle?

Brandt's critique takes on added significance in view of Curry's comments regarding the serious hydrological deficiencies in the oil companies' design (and the equally serious failure of your Impact Statement to disclose the doubts expressed about the project by your own experts, including Mayo, Emmett, and Childers) and the oil companies' failure even at this late date to accurately locate and design for potentially active faults along their proposed route. Equally troubling questions are raised by Gray regarding the probability of slope failure due to inadequate identification of critical areas and erroneous design criteria. Finally, Donnellan, speaking from his experience with Alyeska, casts serious doubts upon the basic engineering premises of the entire project, concluding that the very first principles of permafrost construction have been violated.

All of these reviewers foresee large stresses being placed on the pipeline by unique natural forces which occur suddenly and which are difficult to guard against except at the design stage. The Impact Statement's failure to come to grips with these problems is especially mystifying since your own Technical Advisory Board, under the chairmanship of Dr. Frederick Sanger, raised a number of fundamental technical questions as far back as September, 1971. For the most part, these questions have not yet been answered by the oil companies. A partial summary of these questions and the oil companies' responses to date is contained in Mr. Barnes' submission. One would have expected the Impact Statement to have done at least as much as Mr. Barnes has done.

Similarly, the comments of Thomson and Chapin indicate much more realistically than does the Impact Statement the implications of the failure of the oil companies' revegetation programs. The implications are substantial not only insofar as the integrity of the pipeline is concerned, but also because of their far-reaching impacts on the ecosystem.

TERRESTRIAL IMPACT

The Impact Statement fails entirely to analyze or even describe the irreversible deterioration of wilderness that would be caused by pipeline construction. In their statements, Wheatland and Dufour demonstrate that the Impact Statement ignores the commonly accepted, objective definitions of the term "wilderness," fails to place in perspective the exceptional wilderness values that will be destroyed by this project, and makes no attempt to establish the value to society of maintaining these areas as wilderness.

Moreover, the treatment of the project's impact on fish (Warner, Curry, Dickman), wildlife resources, and birds along the route is woefully deficient.

Every wildlife expert who has furnished us comments (Henshaw, Clough, Underwood, Hakala, Clark-Shon) finds that the pipeline as currently designed will prove a disaster to a broad range of animals. They point out that negative results of tests performed by the oil companies' own consultants on the effect of the pipeline on caribou migration are neither mentioned nor analyzed in the Impact Statement. All agree that the design proposed for much of the northern portion of the route is intolerable and that revised

stipulations and design are prerequisites to the granting of any permit. None can understand why there should be two pipeline routes—one through Alaska and the other through Canada—which will more than double the disastrous impacts on wildlife.

These views are shared by the ornithologists who have reviewed the Statement. The bird resources that will be damaged by the pipeline itself are immense. But, when one adds to that damage the even more severe destruction that will be caused by the totally unnecessary marine transport leg and the second pipeline route through Canada, the potential impact is truly staggering. The statements of Cade, Paulsen, Warner, and White identify four principal deficiencies in the Impact Statement's treatment of these incomparable bird resources: (1) Failure to indicate what the environmental savings would be of a combined transportation corridor for oil and gas pipelines through Canada; (2) failure to give any realistic estimate of the risk of the project to the bird populations that are inventoried in the Statement; (3) failure to evaluate the distinctive characteristics and unique values of the bird populations along the pipeline route and along the marine transportation route, and (4) failure to recognize the integral role that bird populations play in the functioning of the delicate Arctic ecosystem.

MARINE IMPACT

The comments on marine impact are especially significant because this is an area of impact—at least as it relates to the still-pristine waters of Prince William Sound and the Northeast Pacific—that could be totally avoided by an all-land route through Canada. The comments of Warner, Hedgepeth, Foster, Hickok, Duxbury, Codispoti, and Morrow are especialy troublesome. As they indicate, the drafters of the Impact Statement have in essence thrown up their hands in despair and have avoided making any conclusions about what the potential impact of this project may be on marine resources. Yet, is that not the very purpose of an *Impact* Statement?

The lengthy descriptive material in Volume 3 is not used in Volume 4 to elucidate the potential impacts of this specific project. The Impact Statement acknowledges many of the vast gaps of information concerning the effect of oil on marine life and birds, but fails to acknowledge the significance of those gaps.

Warner discloses that there was readily available to your staff a study of an oil spill in Chedabucto Bay, Nova Scotia, that would have served as a useful model for simulating possible impacts in Prince William Sound, but was not, apparently, reviewed by your staff.

Blumer, Hedgpeth, Foster, Kohn, Hickock, Warner and Duxbury describe the types of research that could—and must—be done in order for you (and us) to have any idea of what damage this project will inflict on marine life. If the research they recommend is not carried out prior to the issuance of permits it will be impossible to monitor the effect which this oil transportation is having on the environment. Consequently, there will be no way of determining if intolerable pollution limits are being approached or surpassed. As Blumer, Hedgpeth, and Foster ask, why does the Impact Statement contain no standards as to what might be an "acceptable" level of marine pollution in connection with this project? Apparently, once a decision is made to go ahead with the project any level of pollution is acceptable, so long as the oil keeps flowing. Blumer suggests a manageable, short-term project that could, at least, give some indication as to what an acceptable level of pollution might be. As he points out, the methodology he suggests is not substantially different from that proposed by your Department in connection with possible oil shale development.

In almost every area of its treatment of problems related to marine transport, the Impact Statement studiously avoids concrete analysis. As is so often true of the Impact Statement as a whole, it accepts the fiat of the oil companies as to what the components of the system will be. We are given a sketch of the navigational equipment that the oil companies propose to use, but no indication of what the environmental risks are of its use and how those risks might be lessened by use of alternative equipment (Wenk, Milgram, Vagners, Codispoti, Duxbury, Arctic Company).

Why does the Impact Statement create the misleading impression that industry will be able to design and implement effective oil spill contingency plans? There are no such effective plans and there will be none in the reasonably foreseeable future (Milgram, Vagners, Warner, Hickok). As Cronin—Chairman of the Corps of Engineers Task Force on the Ecological Aspects of Deep Port Creation and Supership Operations—asks, why does the Impact Statement accept the oil companies' plans to discharge effluent into Port Valdez from its tanker ballast treatment facility? Why is there no analysis of a treatment facility that would be contamination free? Why is there no discussion of the possibility of using tanker ships incorporating bladders that would separate ballast water from oil residue? (Milgram, Cronin, Vagners, Wenk)?

And, as Wenk, Vagners, Crutchfield, and Flajser ask, where is the discussion of the hazards of single hull and single bottom tankers, the ability of supertankers to negotiate either Valdez Narrows or Rosario Strait, or the limitations of Harbor Advisor Radar systems that were so strikingly reflected in the the collision of two tankers in the San Francisco Harbor in early 1971?

The Impact Statement blandly represents that nine supertankers of the 250,000 dwt class will be used to carry North Slope oil to destination ports. But, there are currently no U.S. harbors capable of accommodating ships of this size. What are the environmental (and economic) implications of the substantial dredging of existing harbors or construction of entirely new deep port facilities to accommodate them? In fact, the Impact Statement does not even tell us where these supertankers will off-load (Wenk, Cronin).

Devanney, Wenk, Crutchfield, Vagners, Flajser, Codispoti, and The Arctic Company demonstrate that the key estimate contained in the Impact Statement of the quantities of oil that might be spilled as result of tankership accidents is a meaningless figure and by no means a "worst case." This casualty analysis did not even attempt to take into account the specific conditions for the marine transport system which is supposed to be the subject of the Impact Statement.

Finally, risk of damaging the marine environment is aggravated by the lack of authority to regulate every aspect of the marine transport system including ship traffic in ports, dumping of dirty ballast at sea, avoidance of adverse weather conditions, mandatory training of ship crews, and ship inspection. As mentioned before, this situation is compounded further by the non-existence of stipulations governing marine activities.

CONCLUSION

The comments we have summarized have, on the whole, been made by individuals who do not desire to be placed in the role of adversaries. Most would have welcomed the opportunity to participate in the process, rather than submit post mortems on a process from which they have been largely excluded. Warner has most clearly expressed the obvious discomfort that he and his colleagues are experiencing:

"At the outset I wish to state unequivocally that I very much regret the necessity of having to review the Impact Statement in this particular fashion. The existing circumstances and pattern of events surrounding this issue have forced scientists into the unwanted and undesirable role of adversaries. This is an inefficient and damaging use of the processes of science, and should be avoided at all costs in the future. Science and scientists function best in an atmosphere of open give and take, where issues are debated, data exchanged, and solutions sought in an arena of common interest and concern."

The experts whose comments we have summarized do not necessarily share the views of The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth on the pipeline. Many have forwarded courtesy copies of their comments to us solely because we were the source (and in most cases the only source) through which copies of the Impact Statement were available to them. All would have preferred, we are sure, to have been more directly a part of the process.

Respectfully submitted,

DENNIS M. FLANNERY,
SAUNDERS C. HILLYER,
JAMES N. BARNES,
Attorneys for The Wilderness Society, Environmental Defense Fund, Inc., Friends of the Earth
KENNETH KAMLET,
Legal Intern.

EXORBITANT FUNDING INCREASE FOR UPPER COLORADO RIVER BASIN

Mr. PROXMIRE. Mr. President, yesterday the Senate passed legislation authorizing an increase in funding of $610 million to continue work in the Upper Colorado River Basin by the Bureau of Reclamation.

In 1956 the Secretary of the Interior requested and received the authority to spend $760 million to begin construction of storage units, power transmission facilities, and associated projects along the Colorado River Basin. At that time the Congress understood that additional funds might be required to complete the project. Now we are told that the only way to "finish the job" is to appropriate an additional $610 million, an 85 percent increase in funds.

Any authorization contemplating the expenditure of more than half a billion dollars should merit careful scrutiny by Congress and be approved only when the cost/benefit ratio indicates positive action. However, the House Committee on the Interior held only 1 day of hearings on the request before approving the authorization and passing it on to the Senate. The Senate Interior Committee held no hearings at all before approving this authorization for more than half a billion dollars. The Senate passed the bill 2 legislative days after it was reported. Is this the kind of careful consideration which the taxpayer deserves?

Nowhere in the Senate committee's meager seven-page report is there any cost/benefit analysis. Nowhere is there any indication that the Government and the taxpayers are getting value for their money. What degree of productivity or constructive service are we getting out of our past expenditure that merits an additional commitment of this magnitude? The essential figures are missing from the report, and it is impossible to make an intelligent assessment of this authorization without them.

What the report does say is that of the $610 million authorized by the committee, estimates indicate that over the next 5 years only $352,195,000 will be required to meet the construction schedule. This means that the Senate is authorizing the appropriation of funding for a project without even considering a second look after 5 years.

Certainly an authorization of this size deserves more than the scant attention of Congress. It deserves more than 1 day of hearings and it demands more in the way of documented support. Too much money flows all too freely from the pockets of the taxpayer, via administration spending, and we should scrutinize this and every other request that comes before us as if each dollar came from our personal savings.

NORTH SLOPE OIL WILL NOT BE EXPORTED TO JAPAN

Mr. STEVENS. Mr. President, it has been alleged that Alaska's North Slope oil might be exported in great quantities to Japan once the trans-Alaska pipeline is built. Several factors, however, make it improbable, if not impossible, that any North Slope oil will ever go to Japan.

There is little question that west coast States will be able to use all of the oil produced on the North Slope once the trans-Alaska pipeline is built. In the Environmental Impact Statement, the Department of the Interior has estimated that the crude oil deficit in 1980 is District V—west coast States—will be between 1.6 and 2.6 million barrels per day with a middle projection of 2.1 million barrels per day. If previous experience with crude oil demand can be used as a guide, the middle, or more likely, the high projection will turn out to be closer to reality than the low projection. If that is indeed the case, there is no question that all the oil from the trans-Alaska pipeline would go to the west coast. Certainly, there would be no business incentive to make sales to Japan so long as anything like current prices prevail. Los Angeles prices for crude oil are currently some 75 cents to a dollar per barrel over Japanese prices.

This is, of course, the same basic business reason that has prevented American crude oil from being exported in recent years: American crude oil is higher in cost than Middle East crude oil and cannot compete pricewise in the world market. It is also important to remember that there is now in the United States a critical and growing shortage of domestic crude oil.

Only assuming that the low deficit projection on the west coast should prove true will there be any excess oil available for shipment to any area outside District V. No more than 100,000 to 300,000 barrels per day would be available under these circumstances, and that for only a very brief time, say 1980–82. None of that excess would go to Japan because of the projected deficits in the southern part of our Nation. Besides that, the amount or even the existence of any such excess is so speculative at this time that it would not be possible for any company to make plans for specific foreign sales.

The erroneous assumption that there might be an excess of North Slope oil available for export was, apparently, based on the fact that the ultimate capacity of the proposed trans-Alaska pipeline will be 2 million barrels per day. If pipeline construction were to start next year, the pipeline could be completed in 1976 with an initial capacity of 600,000 barrels per day.

All of this amount will be required on the west coast.

Within 2 years, 1978, the capacity of the pipeline could be brought to 1.2 million barrels per day, and if the actual throughput was at capacity—and it may not be—the west coast could still use all of the oil.

By 1983, the pipeline capacity could be at 2 million barrels per day, and there is no doubt that the west coast will be able to use the full amount.

With these realistic circumstances, there is absolutely no reason for anybody to believe that North Slope oil could be sent to Japan.

THE FEDERAL MINIMUM WAGE

Mr. FANNIN. Mr. President, we will soon take up legislation to increase the Federal minimum wage.

Such an increase at this time will do great harm to our economy because it will further fuel inflation and erode America's ability to compete in the world marketplace.

And this legislation is a cruel hoax on the poor because it will make their economic lot worse, not better. They will find not only higher prices, but fewer jobs.

Mr. President, the Scottsdale Daily Progress ran a very good editorial on this subject on April 25, 1972. I ask unanimous consent that this editorial be reprinted in the RECORD.

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

A PUSH FOR INFLATION

The President and all the politicians have been calling for checks on inflation. Yet Congress, without Administration opposition, is considering a big new push for inflation.

Under consideration is a bill which would raise the minimum wage to $2 by 1974.

Somehow the politicians think that the wage and price boards can hold down inflation, yet they would raise the minimum wage by 25 per cent.

This would push all other wages up, and in turn there would be another big round of price increases.

In addition to speeding inflation, the measure would add to unemployment. Business would hesitate to hire unskilled and young workers for $2 per hour. And higher wages would speed up automation, which would reduce the number of available jobs.

The proposal is hard for politicians to oppose in an election year. But its passage would be irresponsible and would wreak havoc with the United States' economy.

DRUGS, NARCOTICS, AND GUNS

Mr. KENNEDY. Mr. President, the anguish caused by the separate tragedies of drug abuse and firearms deaths is sorrowful. But the human disaster created by a combination of those two are devastating.

Thomas Thompson, in Life magazine on May 5, recounted the terribly heartrending story of a 17-year-old boy who was murdered by his father because drugs had turned the boy's life into a series of nightmarish episodes that his parents could not comprehend. The boy had become a victim of our society's inattention to the widespread use of barbiturates.

On the one hand, this is a story that castigates our society for failing to produce adequate treatment for those who suffer from the abuses of drugs and narcotics. We force fathers like George Diener to turn to the police for help with addicted youngsters because we have refused to produce a network of effective treatment centers.

Locking up a youngster on drugs is like putting handcuffs on a victim of heart disease. Communities like the ones the Dieners live in simply are not equipped to cope with the problem of drug abuse. On the other hand, this is a saga that needs to be told so it will not be repeated in the homes of other Americans.

America allowed young Richie Diener to succumb to drug abuse because we have refused to squarely face the problem in its proper perspective. We have not taken the steps required to eliminate the misuse of narcotics and other drugs.

For young Richie, America resolved the problem of drug abuse through our historic inability or unwillingness to resolve the problem of widespread firearms ownership. Because we have not yet established the proper role of firearms in our society, guns are too often involved in acts of passion.

Young Richie is dead today not because he misused drugs, but because a gun was at hand at the time when his parents were frightened, bewildered, and desperate. George Diener fired the gun that killed his son. But America has made it convenient and easy for too many Americans to own firearms.

Young Richie is now part of the statistic that totals over 10,000 U.S. deaths each year caused by firearms.

What would have happened had the gun not been around? What is to happen now to the life of Richie's parents and to his younger brother?

Mr. President, it is this kind of tragedy that easily gets tucked away in statistical accounts and is soon forgotten. But, if we intend to prevent other families from that kind of suffering then let this tragedy stimulate our concern to eliminate drug abuse and to establish effective the proper sale of firearms in our society.

I request unanimous consent that the article be printed in the RECORD.

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

THIS FATHER LOVED HIS SON BUT HATED WHAT HIS SON BECAME: THE END WAS NIGHTMARE—RICHIE

(By Thomas Thompson)

This is the story of a terrible thing that happened between one decent man and the son he loved. It took place on a Sunday

afternoon in a fine lemon-colored house on a maple-lined street hard in the middle of the American dream. The woman who was wife to the man and mother to the son could only stand by as an agonized witness.

Seventeen years ago, on June 6, 1954, their first child, a son, was born to George Edward Diener and his wife, the former Carol Ring. They had been childhood sweethearts in Brooklyn on a row of houses which Carol remembers as "like the ones you see at the beginning of *All in the Family*." When people would ask later how they met, George Diener would grin. "I was lazy," he would always say. "I fell for the girl next door."

During their five-year courtship Carol finished high school and became a receptionist on Wall Street. But George dropped out and joined the merchant marines at 16, hoping to catch a piece of the tail end of World War II. He sailed the seas for seven years before Carol suggested—firmly—that if he wanted her to marry him, he would have to settle down and stay at home.

Carol was petite and red-haired and willful, like her Scotch and English ancestors. She was proud of her family history and paid a genealogist to trace her line back to a 16th-century Norman knight. George countered by tracing his line, which went back, he said, only as far as a saloon in Ridgewood, N.J. about 1916. Carol also joined the DAR and hung the membership certificate on the living room wall. Efficient and good with money, she paid the bills and kept up the cramped apartment they took in Queens.

George Diener was a muscular, compact fellow with thick and dark wavy hair. If you saw him in a bar, you would notice the U.S. flag tattoo on his strong arm, affixed there by a drunken tattooist in the Bowery when George was only 15. He had a Jimmy Cagney air about him. You would guess he had been a scrapper as a kid, maybe a welterweight boxer. He always seemed uneasy at rest. In conversations his eyes would dart about a room. his hands chopping the air. He was never one to sit at home on Sunday and watch the games. "I only like things that I can *do*," he would say. Much more to his liking was a hike in the woods or a day of target practice at an indoor pistol range. He was a good enough marksman to be rated expert.

They named their first son George, after his father, but to distinguish between the two, the child quickly became known by his middle name, Richard. Soon he was Richie. He was a fine son, wtih a lustry cry and bright red hair. George Diener adored him.

When Richie was 2, George's new job as salesman for a food company required him to travel each day the far reaches of Long Island, from Huntington to Orient Point, stopping in on hundreds of grocery stores and restaurants, persuading them to stock his brands of coffees, teas and spices. He longed to move his wife and son from the congestion of a city apartment out into the land. How could a man who had seen the sun turn the white cliffs of Dover gold at dawn, how could a man who had traded a carton of cigarettes to an Eskimo for six huge lobsters in Greenland raise his own boy on the anonymous floor of an apartment house?

There was no literature in George Diener's life, no poetry, not even great ambition. Like most men, he was willing to settle for ordinary dreams: a woman, some money, a house with land that is owned, trees, work that does not paralyze the mind, recognition. And, above all, sons. A son is the mirror image, the blank piece of paper before our inkblots soil it, the continuation of life. There is joy in a daughter, but there is power in a son.

George and Carol chose East Meadow in the heart of Nassau County, Long Island, once a place of potato farms but after World War II the definitive example of exploding suburbia. To the young couple who had grown up in Brooklyn, there was a delicious feel of newness about East Meadow. The houses were new and painted warm pastels, the people young and industrious and—like the Dieners—politically conservative. Policemen and firemen from the city were buying and moving in, and aircraft workers, and union men who took off their hard hats and turned to pruning rose bushes. East Meadow was 98% white. The sea was near, near enough to catch a breeze in summer. There seemed to be a boat in every other driveway. And everybody agreed the schools were excellent.

They lived for five years in the first house, and when a second son, Russell, appeared, it was time to move to a larger one. George had always wanted a basement to store his tools and do his home carpentry. On Longfellow Avenue, they found just the house, with a spacious wooded backyard and room for a pool.

Carol remembers that Richie was never happy in the new house. "There was only one other little boy on the block, and he moved away, and there were only girls around then." Richie was chubby and hated it when the girls called him "Fatty." He took refuge, found friends, in animals. Carol had had a Boston terrier named Boots who died when Richie was very small. He loved the dog so much that she bought another one for him, which he also named Boots. There followed a skunk, a rabbit, a crow, hamsters, gerbils, fish, alligators, a coati, even a boa constrictor that grew to five feet and suddenly vanished within the house. It was never found.

AT 15, RICHIE'S LIFE BEGAN TO COME APART

George encouraged his son's interest in animals. The father had always preached reverence for any form of life. "George wouldn't even let me step on a spider," said Carol. "He said spiders did more important work than people, and when I found one in the house I'd get Richie to pick it up and take it outside." When Richie wanted books on animals, his father bought them by the dozens. Richie became almost expert in animal diseases and he personally doctored all of his pets. The squirrels in his backyard would spring onto the new redwood deck and wait for their friend to feed them peanuts by hand when he got home from school.

Even when he lost his childhood fat and grew into a well-built lad of 5'8", 145 pounds, with strong legs and a muscled chest, Richie had no interest in sports. George encouraged him to try wrestling, Carol suggested football and baseball. "But he always refused," his mother said. "He was so insecure. He told me that if he ever got on a team and made a mistake that caused his side to lose, he couldn't be able to stand it."

Nevertheless, for the first 15 years of his life, Richie was a satisfying, average boy, very much a part of George's ordered life. The father recognized Richie's insecurity—but what 15-year-old is secure, anyway? He accepted his son's preference for animals over human friends, tolerated his periods of moodiness, his silences, his middling grades, his occasional breaking of midnight curfew on Saturdays. None of these particularly alarmed his parents: they seemed the classic problems of any adolescent.

When the first real trouble appeared in the summer of 1970, it was therefore as startling as a crack of lightning on a clear night. Twice Richie had been away to summer camp, but on this, his third session, Carol received a long-distance telephone call. Richie had become disruptive and belligerent with the counselors. And he had been caught smoking marijuana. Could his father come immediately and get him?

On the long drive back from the Adirondacks, George questioned his son. Richie said it was only "the first, maybe the second time" he had ever tried grass. "All the kids were doing it," he said. "Some brought it up, and others found it growing wild in the woods." He promised never to use it again.

The next year, when Richie was a junior in high school, his grades tumbled. He took the nature books and animal pictures that used to decorate his room and put them in his closet. "This is what my son used to be," his father said one day to a visitor, pointing to the forgotten books. "And this is what he is now." His arm swept the room in bewilderment.

Richie had transformed his room into a lair of the counterculture. Ticket stubs from rock concerts were pinned to the window ledge. Black light cast an eerie glow on replicas of rock stars. A game called "Feds 'n Heads" was pinned to the wall. When Richie lay in bed, he could look directly ahead at several bizarre and frightening drawings, grotesque demons, creatures with bulging eyes, hair tossed by electrical storms, hands of reptiles. One such creature sat in a bathtub of blood, holding a dagger.

Richie had discovered a tiny space, some six feet long, behind a panel at the back of his closet. He put a cheap mattress in it and took to lying there to escape his parents' calls. George found the secret place in May 1971 and decided to dismantle it. He came across a small cube of something brown wrapped in aluminum foil, neatly hidden behind a picture. "What is this?" he demanded of his son. Richie answered that it was hashish he was keeping for a friend. Then he said it was only mud that somebody was passing off as hashish. Whatever, George threw it out.

Not long after, Carol found a sandwich bag full of marijuana in Richie's room and threw that out too. This time the boy freely admitted that it was his. Moreover he was furious at his mother for what she had done. Carol tried to discuss the matter with him calmly. If he opposed her cigarette smoking, why did he smoke marijuana?

"Because the other kids do," he would say, or "Because I want to, that's why," or, shyly, almost a mumble, "Because it helps me talk to girls." Carol found a book in his room, *How to Talk to Girls*. Richie was undeniably shy. His longtime friend Sue Bernstein, whom he had dated since he was 14, said it took Richie three years to get up the courage to kiss her goodnight.

When Richie turned 16, the changes came faster. Carol and George learned that he had become a heavy user of marijuana and hash—and more, though they would not discover this for some time. He began staying out until 2 a.m. on weekends, two hours past his curfew. He told his parents never to enter his room, and if they did, there would be a yelling row. He rarely joined them for dinner. "I'm just not hungry," he would say, but Carol could see the haunting red eyes and hear his tongue tripping over the words, new profane words, that rushed out of the boy who had been so quiet so long.

HEAVILY INTO SECONAL, HE FAILED EVERY SUBJECT

Richie now had friends, disturbing ones. He began running with an East Meadow boy who was on probation for using marijuana and who was suspected of dealing in heroin. Ironically, Carol learned, Richie had met the boy on a Methodist Church retreat. For a time, Richie had been active in church, and he had been confirmed when he was 15. The new friend, whom we will call Eddie, tried to interest Richie in heroin. Apparently he refused. "Richie said he wasn't going to stick any needle in his body. No way," said one of the friends.

George discovered that he now could not talk to Richie without yelling at him, and the boy yelled back. When George ordered him not to see Eddie, and to be home at a certain hour, and to stop using foul language, Richie disobeyed every order. Finally

George took his son to Family Court and charged him with being incorrigible. "I don't want him to have a police record, but he's only 16 and all the proceedings are secret," he told Carol. After the session in court, Richie suddenly changed. He found a sumber job at Burger King and began saving money to buy a car. George Diener informed the court of his son's improvement and the case was dismissed.

Last October, a severe case of bronchitis developed into pneumonia and Richie stayed home from school for three weeks. He fell behind. He failed *every* subject the first quarter. Carol was upset because on his Scholastic Aptitude Tests for college he had scored well. When Richie returned to class in November, Carol received a call from the assistant principal. Richie was ill. Could she come and pick him up?

When Carol arrived at the assistant principal's office, Richie "was very talkative, his eyes were red and heavy. He was abusive," she told George that night. "He cursed me and everybody else." Carol talked privately that morning with the nurse. "Richie told me he took some pills on the school bus, but he insisted they were pills the doctor gave him for pneumonia," the nurse said. But her voice was skeptical.

"Do you think it was something else?" Carol asked.

The nurse nodded.

The "something else" was Seconal. The kids called them "downs" or "goofers" or "reds." With all the horror stories about heroin and speed, somehow Seconal has not received much attention. It is a powerful barbiturate, a mental depressant used as a sleeping pill. Tens of millions are manufactured every year in America. Marilyn Monroe died from an overdose of them. So have countless others. In the late 1960s, kids discovered that Seconals produced a quick and curious feeling, an hour of dreamy lethargy.

"If you become dependent upon Seconals," explains one New York doctor, "you actually *need* the drug to function, just as an alcoholic needs a drink first thing in the morning. Without Seconal, a dependent person becomes nervous, jittery, agitated. Withdrawal from Seconal is more severe than withdrawal from heroin." Because Seconal is a depressant which interferes with nervous transmissions from the central nervous system, it can so affect the brain's functions that one can become hostile and aggressive.

The market for Seconal thrives, particularly in high schools. A Nassau County narcotics officer said that the dangerous pills can be bought in the corridors or bathrooms or lunchrooms of "any school in this district, including parochial ones." They sell for prices ranging from 25 cents each to three for a dollar. "The kids like them because they are cheap, clean—no needles—and plentiful," said the New York doctor. "They don't think they are addictive. But God, are they ever. They don't think they are dangerous. I wish word could get around that at least six Long Island kids have died in the past year from Seconal abuse."

Last autumn, Richie began using Seconal heavily. He told one girl that he had a bottle of 100 pills, that he was tempted to sell them, but he thought he would keep them for his own use. "Why don't you stop doing drugs?" said the girl. "I can," answered Richie. "Anytime I want. I just don't want to stop right now."

FATHER AND SON RAGED AT EACH OTHER

No one could say for certain why Richie became so deeply involved with drugs. One "perhaps" was his being thrown into a massive high school with 3,000 students and wanting desperately to be accepted. When a shy, socially insecure youngster discovers that drug use will admit him to at least one circle, however pathetic that circle may be, the temptation can be great.

There were other signs that Richie was pleading, in his way, for status and friendships. He became an expert on rock music, not the standard Fillmore East pop groups, but obscure ones which Richie would "discover" and tell his friends about. He fretted constantly about his appearance. He took at least two showers a day and his clothes had to be clean and freshly pressed. Detesting his tight, curly red hair, Richie spent hours in front of the mirror attacking it. Finally he went to a barber and had it straightened. "Now it looks like a Brillo soap pad," he said in despair. He announced he was going to grow an Afro, which did not please his father.

His childhood nickname of "Fatty" was replaced by the time he was 17 with a new one, "The Kid." He hated this name so much that he once bloodied a friend's nose for calling him that. But when the fight was over, he invited the friend to come by his house anytime and listen to music. He told all his friends that. "Whenever the light in my room is on, that means come on in," he said. "I really mean it."

There were many signs that Richie was not totally comfortable in the drug world. He very carefully divided his friends into "straights" and "heads" and he never mingled the two. One of the straights, a boy who did not use drugs or even smoke pot, described this period of Richie's life: "We all knew Richie was doing drugs—a really heavy pill scene—but he'd never bring anything with him when he went out with us. He wouldn't take the chance of getting us busted along with him. I think he respected our way of life."

Once last summer Richie had arrived at Jones Beach with a group of "heads." A hundred yards away were two couples who were "straights." Richie waved at the couples, then started walking toward them. But midway he stopped. He glanced back at his "head" friends, then looked forward toward the others. Finally he sat down on a dune mid-distance between them, not able to commit to either side.

By Christmas last the rupture between George and his son became complete. They passed each other silently in the house. Occasionally anger would flash and they raged at one another. But George had decided that he could no longer deal with Richie. Perhaps Carol could achieve something. As long as she talked to the boy quietly, gently, he would listen. And promise. And go out and break his promise.

Late at night, George and Carol would lie in bed and search their lives for reasons. Carol assured her huband that it was not his fault. He had tried in his brusque, do-as-I-say way to interest Richie in scuba diving or in becoming a marine biologist. "What did I do wrong?" George would say, not content with his wife's murmurings. "What did I do wrong?" He had built up the walls of his life so that he knew exactly who he was, what he believed and where he belonged. That his son had no ambition, that his son lay in his room listening to loud music with confusing lyrics, that his son had covered his boyish face with a scraggly red beard and long shaggy red sideburns and was letting his hair grow in the directions of a windstorm was more than he could understand.

George was growing more and more politically conservative. He grouched often about welfare abuses, a "no-win" policy in Vietnam, and how "'liberal' to me is a dirty word." It was not difficult for him to affix part of the blame for Richie's troubles on these villains. "It's this permissive liberalism," he told Carol. "The kids do just what they want because they know the courts won't punish them." Indeed, there had recently been a large narcotics raid on a house in the neighborhood which involved several arrests. But, George raged, "the pushers were back on the streets the next day." Carol agreed. She also felt Richie's school was partly to blame. "He has *three* free periods to do just what he wants," she said. "He can leave the campus or buy drugs or go into the bathroom and smoke pot. The teachers are afraid to go to the bathroom because they know what's going on in there."

On Christmas Eve, Richie was in his room and Carol went to call him. The house was full of relatives and it was time to open gifts. She opened his door and the smoke of marijuana assaulted her. "Put that out immediately," she said. "Everybody is waiting for you so we can open the presents." Richie shook his head. He would not join the family celebration. "I think he was so possessed of guilt," Carol told George later, "that he couldn't bear to face all those people who loved him. He couldn't let them see him stoned."

George Diener's ordinary dreams were being menaced in other areas. The taxes on his house had originally been $300 a year. Now, in less than seven years, they had quadrupled. Even though George and Carol together earned $15,000 a year, there was rarely enough money for an evening out. Carol liked good restaurants, but the best George could normally do was hamburgers at McDonald's. Crime seemed to be encircling him. The house across the street was robbed, then one behind him, finally his own—in broad daylight. Because he worked part-time as a night security guard, George had a police permit for two pistols. One of them was taken by the afternoon burglar and the house was ransacked. Even though many of the parents in the Dieners' circle of friends knew their own children were using drugs, it was rarely discussed. Perhaps it should have been. District Attorney William Cahn publicly estimated that 75% of the youth in his county had at least experimented with marijuana and/or pills.

George worked ten hours at one job and often at another, he coached Little League baseball and was a committeeman with the Boy Scouts, but he had to come home from labor and civic endeavor to discover his own son stoned and red-eyed and mute. "Jesus God in Heaven, what's happening to us?" he would cry.

During one of their flashes of anger which was the only way they communicated anymore, George grew so exasperated that he snapped to Richie, "All right son, you believe in the law of the streets. You believe strong is best. Put up your dukes."

Richie looked at his father in surprise: his hands were closed into fists. Richie picked up a piece of chain to defend himself. George, perhaps remembering his own Brooklyn street days, perhaps thinking he could "slap some sense into the boy," threw a roundhouse punch at his son. It exploded on his cheek. For days Richie had an angry, swollen bruise on his face. Later George apologized, but Richie did not accept it.

George began to suspect that his son was not only using drugs but selling them. He told Carol that the only way to find out for sure was to tap the family telephone. If his suspicious were true, he wanted to stop the business before it grew larger. Carol was reluctant at first—"How can we spy on our own child?" she said—but George insisted. He installed the bug secretly, but Richie found out and told his friends.

One girl friend remembers those days: "I'd call up Richie and I'd start off the conversation by saying, 'Hi there, Mr. Diener,' or 'Hello, Tape,' and we'd talk in code so he couldn't dig anything anyway."

But before Richie discovered the tap, George heard things that staggered him. His son seemed a budding expert at the art of "ripping off." The boy's telephone conversations with friends were peppered with requests to "front me," which George learned was a plea for enough money to buy, say, a half pound of marijuana which might cost

as much as $100. Richie then broke it down into "nickels" and "dimes"—$5 and $10 sandwich bags—and sold it. Usually he sold an ounce that was either short-weighted or mixed with oregano.

George and Carol's younger son Russell was taking medication prescribed by a doctor, and Richie bragged on the telephone of stealing some of the pills and selling them to friends. He told one girl that his customers were "dumb kids, like only 13."

George also heard, on the tapped phone, that Richie was developing enemies who had discovered they were being cheated. "Richie told one contact that he was unable to sell a big batch of marijuana because he had ripped off so many customers that nobody trusted him anymore," George told Carol. "He says that people are out to get him, but he isn't worried because he will shoot them. Or stab them."

The police of Nassau County knew Richie was a marijuana user, but they did not know he was a large-scale dealer. "The pattern is typical," said one narcotics officer. "If a kid gets some grass, he sells it to friends at small profit and keeps his own use going. A lot of kids even *give* it away. It seems to be an element of social status, of making and keeping friends."

One day toward the end of 1971, Richie came home stoned, his eyes red, his speech fast but slurred. George challenged him once more. "I have done everything I know to do," said the father. "I have tried to reason with you, I have forbid you to see kids who take dope. I have asked you to stay home, I have taken you to Family Court, I have cried, I have told you I love you, I have told you I'll do anything in my power to find you help. Your mother and I cannot talk to you any more. So this is the way it's going to be. You're going to stay home Friday and Saturday nights if I have to lock you in your room."

Richie made a counterproposition. "I promise to stop doing drugs," he said slowly, "I really do promise . . . if, IF you'll let me go out with the kids on weekends and drink beer."

George answered quickly. "As much as I want you to stop taking drugs, I can't bargain with you. You're only 17, and I can't give you permission to go out and drink."

Richie began to yell. He shouted, as children so often do, "You don't love me! You don't understand me!"

"Of course we love you," Carol put in softly.

"You never even wanted me," Richie raged. "The only reason I'm here is that you two were fooling around one night. I didn't ask to be born."

George blew up. He hit his son in the mouth and blood gushed out. Richie took the blood from his mouth and flung it against the wall of the living room. While George watched the blood trickle down, Richie rushed out into the night.

Once again, George Diener took his son to Family Court, and this time Richie endured two sessions with a psychological counselor. After the second meeting, the counselor told Carol that he was going on a two-week vacation and when he returned, he would resume his work with Richie. "When the counselor returned," said Carol, "he called me and said he had been promoted, that another man would take over Richie's case. This new man would call me and make an appointment. I never heard from them again."

On Feb. 12, a Sunday, Richie was in a Walgreen's drugstore at the huge Roosevelt Field Shopping Center. The manager noticed him loitering near the drug counter and suspected him of shoplifting. He told Richie that he would have to stay until the police came to investigate. A punch-up occurred in which, according to the manager, Richie threw a display basket and a wooden table at him, tried to choke him with his necktie, and kicked him in the knee. The manager charged Richie with assault and a trial was set for Feb. 28. It was Richie's first arrest.

Two days later, Valentine's Day, George was working at home. The school called. Richie had been expelled for fighting and cursing at a teacher. George waited for his son to come home. He dreaded the confrontation. Richie pulled up in front of the house with a carload of friends. They noticed George's car in the driveway and hurriedly sped on. George knew that they would not come in with him as long as he was there, so he got into his car and drove away. Some time later he circled back and, sure enough, the boys were inside the house. George made a decision. He telephoned the police and asked them to raid his own son's room. "I thought that maybe if Richie was arrested, it would scare him out of it," he told Carol later.

When the police arrived and searched the room, there was no marijuana. The boys were only drinking. After the police had left, and after George had ordered the boys out, Richie began to scream at his father. George yelled back. It was the same ground they had gone over a hundred times before. Only this time Richie seized a pair of scissors (gold ones which his mother had once used to make elaborate Halloween costumes for him) and threatened to kill his father.

George checked his clenched fists and left the house. Richie called his mother at the junior high school where she worked in the cafeteria and sobbed into the telephone. "I must be crazy," he said. "I just tried to kill my father." Carol's mind raced. She figured this, at last, was Richie's cry for help. "You're not sick," she said. "You're just tired. Lie down on your bed and rest and I'll come home."

GEORGE GOT HIS PISTOL FROM THE BEDROOM

She telephoned a relative who put her in touch with a community health psychiatrist. The psychiatrist gave Richie a preliminary "screening" and told Carol that, yes, he would take the case, but that he would have to wait until the Walgreen incident was disposed of in court. Since that trial was only two weeks off, Carol felt the delay could be borne.

Toward the end of the week Richie had a conference with the principal of East Meadow High. If Richie agreed to stop using drugs and stop cutting classes he could come back on probation.

"The next week was almost miraculous," according to Carol. "Richie was a changed boy. He stayed in at night. He did his homework. He was sweet to me. He was our boy again. I think he realized this was his last chance. That Friday afternoon—I would learn later—a big shipment of drugs hit the school. Richie bought some pills. A lunchroom lady spotted him and some other kids and told them she was turning in their names to the office. Richie probably felt this was the end."

On Friday night, Feb. 25, Richie went to a Long Island bar called Ryan's which is popular with young people. In New York State, the legal drinking age is 18. Police raided Ryan's that night and checked ID cards. Richie had none. He and a few others were taken to the police station, questioned and released. This was Richie's second arrest.

On Saturday, Richie, oddly mute and peaceful, asked his mother to drive him to a girl friend's house. She agreed. Four hours later when he returned home, Carol suspected he had been smoking marijuana. But she said nothing. That night, Richie and two friends, two "straight" friends, went out and—for a few happy hours—played in the snow.

The next noon, Richie asked his mother if he could borrow the car. Carol had forbidden him use of the car but, as she remembers: "He had been acting so nice all week that I gave in. In fact, I made a bargain with him. 'If you stay this way,' I said, 'I'll give you my old car rather than trading it in on a new one as I had planned. You'll have to find a job to pay for the insurance.' " Carol watched as Richie happily left. She had always "lived with hope." She thought her lectures were getting through to him. Maybe.

Richie and a friend went to a local hamburger shop. As they left, Richie backed his mother's car into another one. There was negligible damage to both, but the other car's owner telephoned George and Carol. Assured that their son was not hurt, they waited for him to come home with an explanation. Richie had taken some Seconals. He pushed the car up to 60 mph on a quiet residential street in his neighborhood. Suddenly a tire blew out and the car bounced across the street, hit a station wagon, careened into a yard and knocked down a fence. Neither Richie nor his friend was hurt, but the car was destroyed.

George was summoned to the scene, and he told his son they would discuss the accident later. Richie went home while George stayed to discuss insurance matters with the police.

At 4 p.m. George and Carol sat down at the dining room table with Richie to talk about the accident. Carol had told George that it must be a calm meeting with no raised voices. But Richie seemed strangely remorseless. "You don't act the least bit sorry," said Carol. Finally she spoke sharply. "Don't you realize you just totaled my car? Besides that, you could have killed somebody! You could have killed yourself!"

Richie raised his head and looked through the glass patio door to the yard. "Maybe that would have been even better," he said softly.

George remained silent during the dialogue. But he was shaking his head sadly. Richie noticed this. "That's right," the boy shouted, "shake your f---ing head."

Trying to avoid another scene, George rose and left. He went to his basement shop and began working on his salesman samples, sorting out broken packages and returns.

Richie and his mother continued to talk, but the boy kept jumping up and making telephone calls. Finally Richie went into his room, flipped on a rock tape, and shut the door. Carol took her younger son to a bowling alley and returned half an hour later. Richie came out of his room and his mother gasped. He was staggering. His eyes were red slits. He slurred his words. "What in God's name have you taken?" she cried. He confessed that he had taken four Seconals.

Ignoring her, Richie made a date on the telephone with a friend for 6:30. He hung up and shouted at Carol. "And don't go down in my room when I'm gone and look for pot."

"You're in no condition to go anywhere," said Carol. Richie began to walk past her. Suddenly he fell over a chair and onto the floor.

The two crashes—boy and chair—brought George racing up from the basement. Now Richie was standing up. He saw his father. "Did you tell the cops at the accident scene that I was on dope?" he cried.

George did not want to talk to the boy in this condition. He turned without speaking and started out. Richie ran after him. "Answer me! Answer me! I asked you a f---ing question," the boy shrieked, "and I want a f---ing answer!"

Richie's face was so contorted, his body so quivering with rage that George felt he and his wife were in physical danger, the kind that could not be handled with parental authority or even with fists. This was the last scene of the long painful drama and all the emotions were out. All reason was gone.

"SHOOT" RICHIE CRIED—"GO AHEAD, SHOOT"

George went to his bedroom to get his pistol. The .32 was hidden behind a night stand. Weeks before, Carol had urged George

to conceal it. She had been afraid that Richie would find the gun in a heated moment and use it on them as they slept. On the taped telephone calls, George had heard his son brag of being ready to shoot or stab any dissatisfied customer who was out to get him. And more than once Richie had shouted at George, "I'll get you . . ."

George tucked the .32 into his belt. He walked down the stairs into the basement.

Richie appeared on the stairs leading to the cellar. Unsteadily he made his way down. He saw an ice pick on a work bench and picked it up. When he was 15 feet from his father, Richie raised it and cried, once more, "I want an answer! Answer me!"

George's answer was to take the gun from his belt and to point it at his first-born son. Perhaps this would frighten him. Perhaps this would send him away.

Richie threw out his arms like a crucifix. "You've got your ——— gun. Go ahead and use it." The boy walked slowly toward his father. When he was five feet away, the ice pick trembling in his hand, George cocked the .32. Richie stopped and flung out his arms once more. "Go ahead. . . . Shoot!"

Richie dropped his arms and somehow the ice pick fell to the floor. George lunged forward, grabbed his son by both shoulders, and kicked the ice pick into a corner. Carol had appeared by this time, paralyzed with fear. Richie broke loose from his father and rushed upstairs, shouting behind him, "I'm going up to get the scissors." He rushed past his mother. "Oh my God! What can we do?" Carol moaned.

"I don't know," George answered. "Maybe he won't come back down."

While they waited in the cellar, George and Carol could hear Richie rummaging in the kitchen above their heads. He pulled out a drawer too far and it crashed to the floor, utensils rattling about like hailstones on a metal roof.

Instantly the boy appeared at the head of the stairs with a steak knife in his raised hand. George pushed his wife behind him and faced his son. With each step he took down the stairs, Richie cried, "Shoot! Use your gun!"

George's finger trembled on the trigger. The frustrations of his life were suddenly telescoped. His seed had produced a son, but the son was no longer his. The son was a million miles away. The son was a childman with a beard, with a knife, with obscenities on his lips, with drugs in his brain.

What God spared Abraham from doing to Isaac, what the makers of myth and literature could scarcely even imagine, George Diener at last did.

He fired.

The bullet tore directly into Richie's heart. He slumped backward onto the stair in a sitting position. He brought his young hands to his chest and he saw his blood. He was puzzled. He stood straight up and raised the knife again. Now its handle was soaked with the life draining from him.

Incredibly, George Diener fired again. This time the bullet went wide, screaming past his son and ripping a hole in the wall of the house that had been George's dream.

Richie sat down and toppled forward, down the stairs, onto the cement floor.

George grabbed Carol and pushed her up the stairs to the living room. He called the police and an emergency ambulance number.

He went back downstairs. Richie was quiet. He was not moving. George touched his throat. There was no pulse.

Slowly he dragged himself up the stairs.

George went to his wife and knelt beside her chair. "He's dead. I've killed our son. Can you ever forgive me?"

Then they sat and cried and waited for the police.

Several things quickly happened.

They carried out Richie's body in a canvas sack. An autopsy disclosed that his vital organs contained six times the amount of Seconal given by doctors in a therapeutic dose.

George was arrested and charged with murder, but he pleaded self-defense and the grand jury did not indict him. The police *did* want to know why George, an expert marksman, shot to kill, rather than to wound. "All I could think of was that if I only wounded the boy, he would come back and kill Carol and me," he answered. "There had been so many threats."

George vowed to lead a community war against drugs, in particular barbiturates.

The night before the funeral, many of Richie's friends went to the funeral home to pay their respects. George thanked most of them for coming, although he would not even speak to some he considered part of Richie's "head" crowd. In particular Eddie, who was sobbing almost hysterically. Carol was shocked to see that more than one of the young mourners came to the funeral parlor stoned.

When Richie's friends looked at him in the casket, they were stunned to see that his beard has been shaved off, his sideburns trimmed and raised, his hair neatly, forever cut. Sue Bernstein, his longtime friend, said that Richie looked "exactly the way he looked when I first met him, when he was 14, before the trouble started."

There was criticism of the barbering, but George dismissed it. "This is the way I wanted Richie to look," he said. And the father, at last, had his way.

Lately George has taken to going into Richie's room and shutting the door and stretching out on the bed. It is his way of getting through one sleepless midnight. There are others to come.

And the father, at last, had his way.

A PAPER ON AMNESTY

Mr. THURMOND. Mr. President, Ed Bell III is currently a student at Wofford College, Spartanburg, S.C. During the past winter, Ed worked in my Washington office as an intern.

While serving as an intern, Ed researched and prepared for me a paper entitled "The Question of Amnesty." The paper deals with the issue of granting amnesty to draft evaders and deserters from the armed services.

Amnesty has been advocated by some and criticized by many. The Subcommittee on Administrative Practice and Procedure, of which I am a member, recently held hearings on administrative amnesty. Polls across the country have upheld President Nixon's stand on this matter, with which I also concur. Amnesty should not even be considered until our men who are being held as prisoners of war are returned, and then each case should be considered on its own merits.

Mr. President, Ed Bell has prepared a most commendable discussion on the question of amnesty which I recommend to the Senators. I ask unanimous consent that his paper be printed in the RECORD.

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

THE QUESTION OF AMNESTY

(By Ed Bell, III)

In the last several years there have been over 70,000 young men who have dodged the draft during the Vietnam war and have fled to exile in Canada, Sweden, or other countries. Most of them, an estimated 50,000, are in Canada. With the War now winding down, pressure is mounting for a general amnesty for these fugitives and an official policy of forgiveness for their crimes.

The rationale for this is that the war was immoral and unjust, or at least unpopular, and that therefore the continued separation of these young men from their families and homeland is also unjust. A few even say that it was the federal government which acted criminally.

The amnesty question is a thicket of thorny moral issues. One school would interpret amnesty as a generous pardon from the state for youthful transgressions. Others insist that it is the government, not the exiles, that should be seeking pardon.

Under legislation introduced by Ohio Senator Robert Taft, Jr., those who have fled the United States to avoid the draft could come back without fear of prosecution—if they agree to a three-year tour of duty in the military or in some other designated federal agency, such as the Public Health Service, VISTA, etc.

Those already serving prison terms for resisting induction would get the same choices. As much as two years of their prison time could be deducted from their three-year obligation.

The Ohio Republican may have served well if he precipitated a clearer understanding of the amnesty question.

Most simply, amnesty will involve release of the more than 500 draft resisters now in our federal jails, immunity from prosecution for the 70,000 or more refugees from the draft who are living as exiles in Canada and other nations and freedom for the 9,500 soldiers either serving sentences in military stockades or confined there awaiting trial for violation of the military code. Ironically, the word "amnesty" comes from the Greek word for forgetfulness.

On the other hand, amnesty is not really a way of bringing potentially valuable citizens back home, even though some people try to present it, as such, to blunt emotional resistance to the idea. Men who fled to escape military service are not likely to be useful candidates for that service, even if they have a change of heart. It would be foolish to say that all or even most of those who have refused service have done so with high moral purpose.

Among those who fled were acknowledged cowards and those who would shirk their responsibilities whatever the circumstances. But even if they were all motivated by philosophical and moral objections, they cannot be let off with nothing more than the inconvenience of living in Canada for two or three years. It would be a gross injustice to all those who stayed and did their duty or served their time.

Moreover, is it fair to send 500 men to jail for draft evasion and then forgive 70,000 others simply because the law could not reach them? The jailed men at least had the courage of their convictions.

Thus the argument against amnesty shades into one based, really, on equity: how do you justify letting dodgers and deserters off scot-free when other young men in the same situation have, usually against their wishes, gone off to fight and sometimes die?

Perhaps an amnesty requiring a period of alternative service in VISTA, hospital work or other community efforts might satisfy the claims of equity. But still, any amnesty seems to some a bit like changing the rules after the game has begun. And if there are (alternative service) government jobs available, we must first fill them with American men who served their country in the military. So many of Vietnam War Veterans are unemployed and we should give them any available government job supported by loyal Americans' taxes before any draft dodger who has refused to serve his country.

Another practical question is who should be eligible for amnesty—only draft evaders

or should it extend also to deserters, and perhaps even to war criminals such as First Lt. William Calley and roughly 5,000 other United States troops now confined to stockades for offenses in Vietnam? And when should amnesty be declared—immediately, or after American troops are finally withdrawn from Vietnam?

Senator Taft says the legislation he has introduced would not apply to those who deserted after they were in service. Technically, there may be a difference, but not morally.

The question of amnesty is, of course, a controversial one; consequently the measure drew immediate opposition. At a subsequent news conference Senator Richard S. Schweiker (Rep., Pa.) expressed his distaste by saying that "an awfully lot of men faced up to their responsibilities" under the draft law and "some of them died in doing so."

President Nixon commented that "it would offend the most rudimentary sense of justice to pardon some men for avoiding the draft at a time when others are still being sent off to fight."

Senator John Stennis, head of the Senate Armed Services Committee, fears a general amnesty now would set a dangerous precedent that would be remembered in the event the United States ever faces another emergency requiring military mobilization.

Several others, including his own state's senior senator, William B. Saxbe (Rep., Ohio), have taken sharp exemption to Taft's proposal.

Saxbe, for instance, was quoted in one newspaper as calling draft evaders "A bunch of dogs" who deserved jail rather than amnesty.

"I'm not yet ready to forgive and forget that these evaders have skipped service while thousands of others served and died. They made their bed, let them lie in it."

Among his Senate colleagues, Taft has found only one so far, Senator Frank Moss (Dem., Utah), willing to join him on the bill.

Many others in the public eye either avoid comment or go soft on the matter. By way of illustration of softness, take the stand of Senator McGovern, who is an avowed presidential hopeful. He predictably has called for amnesty with no questions asked for draft evaders, and leniency for those who fled in uniform.

Senator McGovern seeks historical precedent for his case by recalling that Abraham Lincoln granted amnesty after the Civil War "even to those who fought against the Union cause." The Senator's implication that what he is proposing is somehow similar to what Lincoln did is at odds with the facts and appears that the former South Dakota professor of political science has not read the Lincoln amnesty proclamation. Lincoln did not let draft dodgers or deserters go unpunished. True, many Confederate soldiers were freed to return to their homes. But this was a dispensation to a defeated enemy in the tradition of honorable war. Mr. Lincoln did pardon deserters, but only on the condition that they return to their units within 60 days and serve for the remainder of their enlistment plus a period of time equal to their desertion. Thus, for McGovern to couch his amnesty proposal in rhetoric about bringing people together when in fact the enactment of such a plan might well create severe new divisions in the country is, to say the least, anomalous.

Appeals like this one tend to be stigmatized as the crying of liberals and bleeding hearts. It seems that McGovern would rather be President than to be right. Fortunately, the South Dakotan is not President. By my reckoning he won't be, either.

Of paramount importance is the matter of priorities. The first should be to end United States participation in the war in Vietnam and complete the withdrawal of American troops. To grant amnesty to draft evaders while draftees are still fighting and dying in Vietnam would be an intolerable distortion of fair and reasonable values.

McGovern overlooks that, whatever they thought of the war, hundreds of thousands of young Americans fulfilled their obligations to their country and accepted military service, more than 50,000 of them losing their lives as a consequence. They have been taken forever from American life and any consideration given the draft skip-outs certainly must take this into account.

The families of men lost in the war are not likely to react sympathetically to a general pardon for those who sinfully dodged their obligation. The country owes these families a debt it never can repay.

Other thousands sought the status of conscientious objectors and served as medics or otherwise gave of their time. Still others, while disagreeing with the war and this nation's laws, were willing to pay the price of that disagreement by going to jail.

American prisoners of war, captives of the North Vietnamese or the Vietcong, also rate consideration. It should be unthinkable to welcome draft evaders home while POWs are languishing in Communist prison camps.

The wounded and the disabled who have come home from Vietnam, many with missing limbs or lost eyesight or both, require the government's continuing attention. It is essential hospital facilities and rehabilitation programs be adequately financed. A country that seeks to be fair and just to draft evaders should first be sure it is doing all that fairness and justice demand for those who did not refuse their government's call and have made personal sacrifices.

To be considered, too, are the draft dodgers who did not run away but stayed with the courage of their convictions and served jail terms. The Taft bill would grant immediate freedom to the 500 or so draft dodgers now in jail, with credit given for time served, but what about those who already have served their full terms? Is amnesty to favor those who fled the law at the expense of those who did not?

It is frequently said in defense of draft evaders who fled the country that they opposed the Vietnam War on grounds of conscience and morality. For those who choose neither to fight nor to run out, but to serve, there is the honorable way in the status of conscientious objector. But for each who is earnest in his conviction, there are many more who would pose as conscientious objectors. Last year there were 100,000 applications filed for that status 19,000 were granted—less than one in five.

If political, sociological or philosophical views or merely personal moral codes are not, by United States Supreme Court definition, legal grounds for the role of conscientious objector, surely high-tailing across the Canadian border, as an estimated 50,000 did, deserves no consideration.

In addition to the Canadian ex-patriates, more than 7,000 men were charged with draft evasion from 1965 to 1970. The average sentence of 4,042 convicted was almost three years. To grant amnesty to the draft dodgers would be to profane the memory of those who chose, distasteful and dangerous though it was, to do their duty.

A fundamental question of public morality is raised by the effects of the act of evasion. Loyalty is the heart of the question for many Americans who staunchly believe that every citizen, like it or not, has a basic duty to his country that he must perform or else be branded a renegade. Those who ran away from the draft, in broad terms, caused other law-abiding countrymen to go to war in their places.

Draft quotas are not simply reduced when prospective draftees refuse to serve. Substitutes are called.

When Congress considers an amnesty bill, at some appropriate time in the future after all our troops and prisoners of war have returned from Vietnam, the details will need to be weighed carefully.

It may be difficult to justify, for example, the trade-off proposed by Senator Taft that would make three years of post-war military or civilian service equitable to two years of war-time service. The latter entails a risk of being wounded or killed, in addition to the hardships of combat duty. If prospective draftees are to have the option of sitting out wars and serving later, even on a ratio of three years to two, that is not very fair to those who are willing to serve their country when it needs them instead of when it does not. They did not fulfill an obligation others accepted, despite their personal feelings.

The tragedy of America's unwise involvement in the Vietnam War plus the mistake to commit them under the unrealistic restrictions imposed by civilian planners who did not understand the horrors of war will not be made any less tragic by showing compassion for the exiles.

As long as we have fighting men in Vietnam defending our country against Communism; as long as there are any POW's held by the North Vietnamese, and as long as it is an honor and a privilege to serve your country, there should not be any amnesty for those who deserted their country. Somewhere along the line more young people have to find a heart in America.

SPACE SHUTTLE

Mr. MONDALE. Mr. President, the Miami Herald of April 12, 1972, contains an article on NASA's proposed Space Shuttle, written by Peter N. James. Mr. James, a space-system analyst, was employed until recently at Pratt and Whitney's Florida Research and Development Center. During his employment, he planned and analyzed aviation and military space systems, including the Shuttle and other recoverable space vehicles.

According to Mr. James:

The space shuttle program as currently conceived by NASA is not in our national interest. NASA's space shuttle expenditures thus far run into the millions of dollars and a good percentage of these expenditures has been wasted because of poor planning and impatience to get the program under way. There is no evidence to indicate that things will improve, while there is supporting evidence to indicate things are getting worse.

Mr. James believes that congressional approval of the Shuttle at this point will contribute "to one of the most wasteful and poorly planned, dead-ended multi-billion dollar space age boondoggles of this century."

The Senate will soon be faced with a crucial vote on the Shuttle. I urge all Senators to give careful consideration to Mr. James' arguments, keeping in mind that his views are based on 9 years of experience working in the space program.

Mr. President, I ask unanimous consent that Mr. James' article be printed in the RECORD.

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

WE MUST REORGANIZE OR POSTPONE IT

(By Peter N. James)

Former Space-System Analyst, Pratt and Whitney's Florida Research and Development Center

Most citizens and Congressmen are not aware that the space shuttle program is in deep technical trouble due to bizarre planning decisions by NASA officials.

Support for the program is righteously based on the idea that low cost space transportation systems must be good and we must forge ahead in space. Unfortunately, what the shuttle ideally represents and what is being offered are two different things.

Another problem area is that the public and Congress have been led to believe that "low cost transportation" means a "low cost national space program." Unfortunately these terms are not synonymous.

The space shuttle program as currently conceived by NASA is not in our national interest. NASA's space shuttle expenditures thus far run into the millions of dollars and a good percentage of these expenditures has been wasted because of poor planning and impatience to get the program under way. There is no evidence to indicate that things will improve, while there is supporting evidence to indicate things are getting worse.

The urgency to get this program under way at the risk of developing the wrong system cannot be justified. We are talking about a multi-billion dollar, 20-year program (7–10 years development and approximately 10 or more years of operation).

It is time to stop and either get reorganized or consider the project at a later date. Congressional support of this program in fiscal 1973 without advisory guidelines and restraint will endorse NASA's "sketchy" space shuttle record and in my opinion will contribute to one of the most wasteful and poorly planned, dead-ended, multi-billion dollar, space age boondoggles of the century.

By late 1970, the logic that prevailed within the industry was that the shuttle had to be sold to Congress and the public, or the future of the space industry was in jeopardy.

Official spokesmen began promoting the shuttle, hoping to convince Congress and the public that the shuttle had to be built on the grounds that it would reduce space costs.

Numerous cost studies appeared, showing the advantages of reusable shuttle-type systems over expendable systems. While most studies emphasized cost savings if a space shuttle were developed, few studies made it clear that the total annual space expenditures for this nation in the shuttle era would be considerably greater than NASA's current space expenditures.

Congressional resistance to increased space expenditures during 1970 dictated that the projected total cost of our national space program not be publicized as frequently as in the past, so as to not scare off any supporters of our space program. The emphasis was to be on cost savings, rather than on total cost. All planning to date was based on an integrated space program. Suddenly, for political expediency officials were talking about delaying some programs and breaking up the integrated space program concept to make it more palatable to Congress. The logic that prevailed was: Let's get the shuttle approved first, then the rest will follow. If we lose the shuttle, we lose everything anyway.

After reading the record and testimony on the U.S. space shuttle program, I concluded that members of the Senate were not given sufficient background information to intelligently assess the program.

NASA witnesses, for example, presented the official NASA Headquarters position, which did not reflect the raging controversy and serious differences in expert opinion within NASA and private industry over the shuttle program. Witnesses against the shuttle program—mostly scientists—presented information from the scientific point of view.

The missing testimony was from the aerospace engineers and systems analysis who have been studying reusable launch vehicles for almost a decade. Generally speaking, these persons cannot surface their inner feelings about the space shuttle program as currently conceived by NASA or criticize their government publicly without jeopardizing their jobs and careers.

Shuttle cost estimates: Predicting cost estimates only several years in advance is a very difficult task, let alone a span of almost 20 years. Modern day examples of cost overruns include the C–5 military jumbo jet transport and the F–111 fighter aircraft. And these systems were developed only a few years ago.

To justify the shuttle, however, cost estimates must show a span of approximately 20 years, due to the 7–10 year development cycle and the 10–15 year operational cycle. On a statistical basis one would expect to find just as many high cost estimates as low estimates.

The record shows that aerospace cost estimates—regardless of the reasons—have characteristically been biased on the low side. Projecting costs 20 years in advance—and I've seen this done on numerous shuttle projects—is essentially equivalent to President Harry Truman in 1949 estimating the cost of landing men on the moon and bringing them back home safely in 1969; and Truman would have made his calculations based on the technology of the 1940's. In other words, while shuttle cost estimates must be made over approximately a twenty-year period, we should place these estimates in the proper context.

By mid-1971 NASA had undertaken measures to make the shuttle acceptable to Congress on a dollar basis. Plans for developing a space station were deferred. The grandiose plans of an expedition to Mars, lunar orbiting space stations, lunar bases, and logistic support missions for manned space activity were shelved. These developments were construed within the engineering community as a bad planning decision by NASA. The original integrated national space program envisioned by the Space Task Group and other officials in 1969 was being dismembered. The programs that once were used to justify the shuttle during 1969 and 1970 were either cancelled or deferred. Against all cost principles, the shuttle is being presented to Congress on its own merits and tied in with payload cost savings.

The dilemma the engineering community faced was as follows: A space shuttle would probably be "cost-effective" relative to any throw-away launch vehicle if a large number of launches were required. However, if a large number of launches were required it meant that we would dramatically increase the number of payloads launched into orbit relative to our current launch rate. Because the cost of payloads has a significant influence on the total cost of our national space program, the cost of our space program would increase dramatically.

And if people are not willing to support a costlier space program, then it would not be cost-effective to develop the space shuttle. It is impossible to launch more payloads than we are currently launching without significantly increasing annual space expenditures. In short, we know that the shuttle can only be justified if our nation commits itself to a large space program—in excess of what we are already doing. So the option for the 1970's is to either maintain a status quo without a shuttle or greatly increase space expenditures to accommodate an aggressive space program with a shuttle.

The shuttle was originally conceived as part of an integrated total national space program. Everyone agrees that low cost space transportation is needed if we are to pursue an aggressive manned and unmanned space program for the next two decades. Most shuttle design studies conducted during 1969 and 1970 proceeded on the assumption that annual space expenditures during the '70's and especially the '80's would greatly exceed current expenditures. This assumption was necessary to justify the shuttle on an economic basis.

In other words, the cost savings from low cost space transportation systems would not reduce current annual space expenditures; they would help keep down the costs for a greatly expanded space program. The cost for a greatly expanded space program—even with low cost transportation systems—would be considerably more than we are currently spending in space, and this is mostly due to the exorbitant costs to design and develop payloads. It costs $50,000 to $200,000 per pound of payload: spacecraft or satellites to be launched.

Because Congress authorizes space expenditures, the public and Congress participate in the planning of our space program. Congressmen who do not favor a greatly expanded national space program, regardless of their reasons, should vote against the shuttle. To support a shuttle program at this time and then withdraw this support at a later date, when costs escalate, would be wasteful. I would rather see this money spent on health and education than on a dead-end program.

For the space shuttle to have a chance—even if it is technically and economically feasible—it must have strong support throughout its duration. It is fairly obvious that the shuttle as presently conceived does not have this support—even within the engineering community. Unfortunately, the shuttle program has been separated from the concept of a total national space program to make it palatable to Congress. Such an approach is no longer cost effective by any stretch of the imagination.

It is worth repeating what NASA learned in 1969: "The lesson is that we need to develop our concepts of low cost transportation within the context of a total national space program rather than in the more limited context of launch vehicle and transportation alone."

For our country to develop an effective low cost space transportation system let us recognize that three conditions must be met:

(1) The space transportation system must be an inseparable part of a total national space program.

(2) We must plan better than we have in the past.

(3) We must spend considerably more on space on an annual basis during the next two decades than we are currently spending.

NASA's space shuttle program does not satisfy conditions 1 and 2 above, and NASA has not made it clear to Congress and the public that condition 3 was always a prerequisite for the space shuttle to be an economic success regardless of technological considerations.

I urge Congress not to support the space shuttle program as currently conceived and propose that a one year moratorium be declared with the idea of considering the space shuttle program for fiscal 1974. As the rocket engine program for the shuttle's orbiter stage requires a long time to develop. I would recommend that it be retained as a separate entity with minimum funding until fiscal 1974, when a go-no go shuttle decision can be made.

A one-year moratorium would allow NASA to get reorganized, solve its internal differences, and start with a clean slate. It would also give our country the benefit of "in-house" studies by aerospace corporations (i.e., studies conducted at the corporation's expenses). Many corporations invested a great amount of time and money into studying shuttle configurations, but have had their ideas suppressed by NASA's intervention and initiation of premature detailed design studies.

If the shuttle goes down the drain, the organization itself falls. NASA is trying to hurry the shuttle through to keep it alive. I'm in favor of giving NASA the funds to stay alive, but let's not blow it on the shuttle until they've done more homework.

NOMINATION OF RICHARD G. KLEINDIENST TO BE ATTORNEY GENERAL

Mr. TAFT. Mr. President, in February the President of the United States nominated Richard G. Kleindienst to be Attorney General.

More than 2 months later, we are still awaiting an opportunity to act on that nomination. Now, after 24 days of hearings by the Judiciary Committee, this matter has not come to the Senate floor. Now, following not one but two endorsements of this nominee by the committee, we delay in giving the President the Cabinet member of his choice, and we delay in giving permanent leadership to the Department of Justice.

I support the President's selection as a matter of personal conviction and confidence in the man named, both as to character and ability. But no matter what one feels in this regard, we are remiss in carrying out our responsibilities so long as we fail to take Senate action on this nomination.

In the last 2 months the business of the Judiciary Committee has been unduly delayed; hearings on legislative matters have been scheduled only to be postponed with inconveniences to witnesses. In addition, Acting Attorney General Kleindienst has performed admirably under constant pressure while carrying the responsibility for both the Office of the Attorney General and that of the Deputy Attorney General as well.

Mr. President, I see no reason to justify further delay. I respectfully urge that the Senate confirm the nomination of Richard Kleindienst now. The hearing record justifies it; the need for an Attorney General requires it; and responsibility in the execution of our constitutional authority demands it.

RUMANIAN INDEPENDENCE DAY

Mr. ALLOTT. Mr. President, today is a great day of celebration for Rumanians everywhere.

The three events commemorated on May 10 attest to the great history and continuing vigor of the Rumanian people.

On May 10, 1866, the Rumanian dynasty was founded, thereby giving the Rumanian people a source of unity and independence.

On May 10, 1877, the Principality of Rumania proclaimed her independence from all remaining ties to the Ottoman Empire.

On May 10, 1881, Charles I was crowned King of Rumania. The Rumanian nation enjoyed six subsequent decades of health and sovereignty.

Sovereignty was ended when the Soviet Union's imperialism washed over Rumania. But the vigor of the Rumanian people has withstood the yoke of Soviet domination. And Rumanians everywhere join today with all men of good will in pledging renewed dedication to the cause of Rumanian independence.

LONG ISLAND SOUND STUDY

Mr. RIBICOFF. Mr. President, the New England River Basins Commission is at present completing its first full year of its study of the future of Long Island Sound. When completed, this study will offer the first complete inventory of the Sound's resources and a comprehensive plan for preserving them.

While I was disappointed by the administration's budget proposal last year, the $1.6 million requested for fiscal year 1973 represents a growing awareness on the part of the Government of the seriousness of the dangers facing the Sound.

This morning I testified in support of that request before the Senate Appropriations Subcommittee on Public Works. I ask unanimous consent that my statement be printed in the RECORD.

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

TESTIMONY OF SENATOR ABE RIBICOFF

I am pleased to be here this morning to support the budget request for the New England River Basins Commission's Long Island Sound study. It is clear from the size of this request that the notion of cleaning up and preserving Long Island Sound is an idea whose time has come.

Just two short years ago, we were holding hearings in Connecticut trying to convince the government that by saving Long Island Sound, we would be preserving a great national resource.

But today the government, which is rarely out front in anything, has come over to our side with enthusiasm and is supporting my request for full funding of this important project. The Administration has sent to the Congress a request for the coming fiscal year of $1.6 million for planning the restoration and preservation of the Sound.

This budget request represents a realistic appraisal of our problems in the Sound and the money needed to map out a program to solve them.

Long Island Sound holds a unique position among this nation's natural resources. It is really the first urban sea—a thin offshoot of the Atlantic Ocean which is surrounded by the most densely populated and heavily industrialized area of America.

The Sound is used and abused in many ways by the 12 million residents of Connecticut and New York who live along its shore. For some it is a prime recreation area—a place to swim, sail and fish. For the commercial fishermen and oystermen, it is a place to earn a living. Unfortunately, the Sound is also a sewer for municipal wastes, a dumping ground for dredged materials and an important sea lane frequented by oil tankers and freighters. In a sense, Long Island Sound represents the full spectrum of man's impact on a marine environment—it is a living laboratory in which we can see what the future holds for our other waterways. Because the Sound is the first urban sea, it is crucial that a prompt and complete study be made of the many demands made on it and plans formulated for its future.

The deteroration of the Sound is the result of public indifference and bureaucratic confusion. With jurisdiction over the Sound shared by innumerable counties and municipalities, two states and 18 federal agencies, we have never been able to develop a single picture of the Sound's environment. That is why I introduced legislation calling for an intergovernmental study of the area. In April, 1970 in response to my proposals, President Nixon by Executive Order enlarged the jurisdiction of the New England River Basins Commission to include all of the Sound and the land on Long Island's north shore which drains into it.

The Commission's study team, based in New Haven, Connecticut, is now near the end of its first full year of study. I have been informed that the study is going well and is keeping close to the original timetable. It is therefore particularly important that this productive pace be maintained by appropriating all the funds necessary.

To illustrate the urgency of the situation, I would like to list some of the events affecting the Sound which first occurred in the last year.

To begin with, the Environmental Protection Agency scheduled a meeting in New Haven to discuss the Sound's water quality and develop steps to improve it. The EPA, however, forgot to invite the New England River Basins Commission, the one agency supposedly studying the problem. After I brought this astonishing oversight to EPA's attention, the Commission was included in the proceedings.

In June I learned that the Federal Aviation Administration had awarded a $390,000 contract to determine the feasibility of building a jetport—or "wetport" as some described it—in the middle of the Sound. For anyone familiar with the Sound's fragile environment, it was almost impossible to comprehend how the FAA could even consider such an undertaking. Fortunately, after some discussion with the FAA, I was informed that the Sound was no longer being considered as a possible location.

In July, I received reports of mysterious drilling off Guilford, Connecticut. Many residents of that area had attempted to find out what was happening, but were unable to get a straight answer from anyone. Finally, they called my office for help. My staff made inquiries with the State of Connecticut, the Army Corps of Engineers and the Coast Guard but each denied authorizing the drilling. Later I learned that the Coast Guard had indeed authorized a private construction company interested in building a liquid natural gas terminal to take core samples in a section owned by the United States.

On another occasion Connecticut town officials, after hearing rumors of an oil depot being built on Long Island, asked my office for assistance. We learned that a Long Island firm was planning to modernize its present oil terminal and that, following, the usual procedure, the New York Office of the Corps of Engineers had notified other New York towns. Connecticut, however, is in the New England District, so none of its shore towns were informed of a project which could affect them all. Because the Sound is divided between the two Corps Districts, I asked that, in the future, notices of pending activities on each shore be sent to the appropriate officials on both sides.

In January a nine month old oil tanker split in half in Port Jefferson, New York harbor. Fortunately, the tanker had just been emptied, but that accident only served to emphasize the dangers facing the Sound. The danger became real on March 24 when another tanker ran aground off New London, Connecticut, spilling 80,000 gallons of oil.

There have been some steps in the right direction. At my request, the Navy, which once discharged its submarine wastes into the Thames River, now has hooked into the local sewage system. In addition, the Pfizer Company has agreed to stop using the Sound as the dumping ground for the fermentation residues from its Groton, Connecticut plant.

This list of events makes clear the need for the New England River Basins Commission study. Until it is finished there will be no real unified effort to save the Sound. Once the study is completed and a single plan developed, the problems in and around the Sound such as sewage disposal, land use planning, shipping lanes, and more, will be considered with one goal in mind—reversing the present deteriorating trend and preserving Long Island Sound for present and future generations.

I know the Committee shares my concern for the future of this area of our country and hope that it will approve in full the Administration's request.

WILDLIFE CONSERVATION—CONCURRENT RESOLUTION OF SOUTH CAROLINA HOUSE OF REPRESENTATIVES, CONCURRED IN BY THE SOUTH CAROLINA SENATE

Mr. THURMOND. Mr. President, on April 27, 1972, the South Carolina General Assembly passed a concurrent resolution endorsing marine mammal legislation which would establish programs based on principles of sound resource management and in cooperation with wildlife agencies of States with an interest therein. This resolution clearly sets forth the position of the South Carolina Legislature on this important area of wildlife conservation.

Mr. President, on behalf of my colleague from South Carolina (Mr. HOLLINGS) and myself, I ask unanimous consent that the concurrent resolution, endorsing the concept of marine mammal legislation, be printed in the RECORD.

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

A CONCURRENT RESOLUTION

Endorsing legislation by the Congress of the United States providing for sound resource management of marine mammals and the cooperation with wildlife agencies of states with an interest therein

Whereas, due to the thrust of civilization many wildlife species have been and continue to be exploited by man; and

Whereas, one form of response has been to ban the taking of all wildlife whether for scientific, sport, or commercial interest; and

Whereas, the total protection of all wildlife without independent consideration would constitute a threat to the balanced preservation of man, species and a serious obstacle to the development of international cooperation; and

Whereas, there are presently pending certain legislative proposals in the Congress of the United States to ban the taking of marine mammals and

Whereas, due to the interdependence between marine mammals and their environment, flexible programs based on principles of sound resource management must be continued and expanded if marine mammals are to thrive and prosper; and

Whereas, under basic conservation practices of mainland in wildlife population which permit maximum sustainable yield, the interest of wildlife and man can be compatible, now, therefore,

Be it resolved by the House of Representatives, Senate concurring:

That the General Assembly fully endorses marine mammal legislation which would establish programs based on principles of sound resource management and urges that any such national policy on marine mammals be conducted in close cooperation with state wildlife agencies in the case of those marine mammals which reside within lands and waters of the State and it opposes legislation which would ignore scientific management methods.

Be it further resolved that each member of the South Carolina Congressional Delegation be urged to assist in the enactment of marine mammal legislation founded upon principles of sound resource management for the good of the marine mammal resource.

NATIONAL SCHOOL BOARD AWARDS PROGRAM

Mr. MOSS. Mr. President, nothing is more uniquely American than our local boards of education who accept the challenge of maintaining and extending an educational program which meets the needs of their own communities. Upon them is lodged the ultimate responsibility to establish the physical facilities, the curriculum, and hire the teachers to provide our youth with the skills and concepts necessary to exist in society.

I was privileged today to attend the national schools board awards program sponsored by the Association of Classroom Teachers, the National Educational Association, and the Thom McAn Shoe Co. This program recognizes the outstanding accomplishments of local school boards that are working cooperatively with the teaching profession to improve public education in their communities.

I pay tribute today to the Granite School District Board of Education, Salt Lake City, Utah, for its national first place award for school systems with enrollments of over 70,000 students. This is the second time in as many years that a Utah school board has been honored for outstanding service. Last year the Tooele Board of Education received the national first place award for systems with enrollments of over 6,000, but less than 70,000. This signal achievement speaks most highly for Utah boards of education.

Faced with the overwhelming problem of not having an adequate program for the district's handicapped and disadvantaged children, the Granite Board of Education received its first-place award for initiating a special education program culminating in a rehabilitation center which treats children who are disadvantaged or who are mentally, physically, or emotionally handicapped. A cooperative program was begun with the Utah State Department of Vocational Rehabilitation, and the Utah State Health Department to provide an adequate program for the students of Granite school district. The program has expanded from 10 teachers for 150 students to 279 teachers for 5,226 students in 1971. The program also provides specialized staff which diagnoses and evaluates the problems of students, and provides vocational instruction and special classes designed to assist them to cope with special disabilities.

The Granite Education Association is to be highly commended for its program which creates a means for assisting handicapped students to develop maximum potential skills to better serve their fellowman and themselves.

Mr. President, it is especially fitting today that we recognize the vital role of local boards of education in our Nation's school system.

FOUR CORNERS REGIONAL COMMISSION

Mr. FANNIN. Mr. President, the Four Corners Regional Commission is a relatively small agency with a very big job. The Commission is helping a vast area of Arizona, New Mexico, Colorado, and Utah in its economic development.

Despite an inadequate budget, the Commission has been having an impact.

Stan Womer, the Federal cochairman of the Commission, has been doing an outstanding job.

Recently newspapers in Phoenix and Albuquerque carried articles which demonstrate the ingenuity of Womer and Commission Aid Kenneth Hamilton.

Through their efforts, the effect of the Federal funding for the Four Corners Commission has been multiplied.

In addition, they are putting to use surplus Government property which otherwise would have deteriorated while costing storage fees.

Mr. President, I ask unanimous consent to have printed in the RECORD articles from the March 16, 1972, Albuquerque Tribune and the April 19, 1972, Phoenix Gazette.

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

[From the Albuquerque Tribune, Mar. 16, 1972]

WOMER HAS GILT-EDGE TOUCH IN DEALING IN "JUNK"

(By Seth Kantor)

WASHINGTON.—Stanley Womer, federal co-chairman of the Four Corners Regional Commission, is known affectionately around the Commerce Department as "The Junkman."

Womer runs the agency charged with supplying development aid to most of the counties in New Mexico, Colorado, Arizona and Utah—an area involving 8.2 per cent of the nation.

But the Four Corners Commission has been provided $6.8 million to do its job this fiscal year and, as New Mexico Gov. Bruce King puts it, "that's many millions of dollars too little to get any kind of real job done."

SUCCESSION OF LEADERS

In the four years that Four Corners has been at work there has been a succession of four co-chairmen.

They have found it anywhere from hard to impossible to create jobs and boons to the economy in a widespread area of people out of work.

But Womer has discovered a system that routes government surplus goods from various parts of the nation's West into the hands of the needy in the Four Corners region.

FOR INSTANCE

For instance, Womer's agency discovered that there were 170 miles of useless steel irrigation pipes piled up in California.

The pipe had been ordered several years ago by the government for use in Vietnam. But then the government found itself with a surplus and the pipes were stacked up with no place to go.

Womer could have them for $200,000—the freight costs for getting the pipes shipped to New Mexico, where they could be used for the massive Navajo Irrigation Project.

The Navajos put up $50,000 and the Bureau of Indian Affairs (BIA) put up $150,000 to swing the deal. "which saved the BIA at least $3 million in having to purchase new pipes for the project in New Mexico," said Womer.

ANOTHER EXAMPLE

Probably the most dramatic example of what Womer's office has pulled off in his role as "junkman," has occurred in recent weeks.

That's when Kenneth Hamilton, a key aide to Womer in Washington, discovered the Army had 158,000 unwanted steel posts, worth $207,500, stockpiled in Utah.

The posts are the kind that screw into the ground. They are used for barbed-wire emplacements in combat areas.

At the same time Hamilton located surplus steel submarine nets—the kind used to safeguard American shores from Japanese underwater attack during World War II—piled up at Stockton, Calif.

LED TO TALKS

That led to talks with the Agriculture Department in Washington, and a decision to string hundreds of miles of the nets on stakes in Utah to eliminate severe land erosion problems that have been caused by flooding in the washes for as far back as man can remember.

In time the protected land can be made useful.

The Agriculture Department is "very excited about it," Womer reports, and Agriculture Secretary Earl Butz is expected to visit Utah, to see a demonstration of how the "Womer Fence" works.

OTHER OPERATIONS

Most of the Four Corners surplus material operations are on a much smaller scale.

For example, outmoded electronic testing equipment in Los Alamos, and unwanted government desks and chairs at the nuclear labs there, have found their way into vocational school classrooms through Womer's office.

Last week, the Four Corners Commission picked up 1,247 amplifiers from Hill AF Base, Utah, to be distributed to vocational schools in the four states. Their value is $256,000.

WATER SYSTEM

There's the little town of Elizabeth, Colo., in need of a water system.

Hamilton located three unused 25,000-gallon liquid oxygen tanks at a Titan missile site in Colorado. Last week, the $330,000 worth of tanks were assigned to do the job in Elizabeth.

Chama had struggled for years without a doctor. Finally the town raised several thousand dollars to finance the arrival of a young physician. But medical supplies were lacking.

Womer's office located a baby respirator for $500 and a resuscitator-inhalator for $1,800 in a General Services Administration (GSA) warehouse in San Francsico. The Four Corners Commission made the needed supplies a grant to the town of Chama.

STRETCHES BUDGET

Womer went to this post 18 months ago. In time he discovered that if he could get his hands on goods gathering dust in federal warehouses he could stretch his limited spending budget.

For about a year, the commission operated as a "finder"—located surplus material and advising other agencies, such as the BIA, about it.

Not long ago Womer received formal authority from Commerce Secretary Maurice H. Stans for the commission to act as an independent federal agency, to deal in surplus properties.

In effect, Womer has a license to wheel and deal in millions of dollars worth of surplus government material now.

NOT A PUTDOWN

They aren't razzing him anymore about being the "Junkman" of the Commerce Department.

Since Feb. 23, the four other regional commissions in the nation have been authorized to deal in surplus goods, as a result of Womer's growing success.

A key aide to Womer's gilt-edged touch with the junk is Hamilton, a white-haired veteran of 36 years in the federal service.

Hamilton spent most of his life in government as a procurer of needed material for the post office department in the Western states before joining Four Corners early in the Nixon administration.

GOVERNOR CITES ACHIEVEMENTS—FOUR CORNERS CHAIRMAN PRAISED

Governor Williams today praised Stan Womer, cochairman of the Four Corners Regional Commission, for initiating new systems that have made available government surplus goods to needy areas in Arizona, Colorado, New Mexico and Utah.

The commission is charged with supplying aid and developing jobs in underdeveloped areas in the four states.

"Womer has developed a system that routes government surplus goods from various parts of the West into the hands of the needy in the Four Corners region," Williams stated.

Womer was an executive assistant to Williams prior to taking the commission post 18 months ago.

He recently received permission from Maurice H. Stans, commerce secretary, for the commission to act as an independent agency in dealing with surplus properties.

Womer located 170 miles of steel irrigation pipe stock-piled in California and paid the freight cost to ship the pipe to the Navajo Indian Reservation.

The massive Navajo Irrigation Project is under way, and the acquisition of the pipe saved the Bureau of Indian Affairs approximately $3 million.

Another of Womer's acquisition projects involved 158,000 steel posts and stock-piled submarine nets which were shipped to Utah to help eliminate land erosion problems.

The town of Elizabeth, Colo., needed a water system, and Womer procured three unused 25,000-gallon tanks at a Titan missile site in that state. The town now has a water system at a much reduced cost.

Williams said that due to Womer's efforts other similar regional commissions around the nation now have authority to deal in surplus property.

TRAGEDY IN ULSTER—XV—THE WIDGERY REPORT ON THE KILLINGS IN LONDONDERRY

Mr. KENNEDY. Mr. President, it is with a deep sense of shock and disbelief that I have read the official report submitted recently by Lord Chief Justice Widgery of Great Britain, in connection with his inquiry into the 13 persons killed by British paratroops in Londonderry on bloody Sunday last January 30.

The best face that can be put on the report is that it is simply another count in the long and constantly expanding indictment of British blindness over Ulster, a lemming-like reaffirmation of the theme that the government is always right, a companion to the tradition established by such other inadequate inquiries as the Compton report on torture in the internment camps, and the Scarman report on the behavior of the Protestant constabulary and B-specials in the 1969 riots. At worst, the Widgery report is a calculated and cold-blooded cover-up for the behavior of British soldiers responsible for the wanton killing of innocent unarmed civilians.

Perhaps the cruelest statement in Lord Widgery's report is the sentence on page 38 that begins his summary of conclusions:

1. There would have been no deaths in Londonderry on 30 January if those who organized the illegal march had not thereby created a highly dangerous situation in which a clash between demonstrators and the security forces was almost inevitable.

Those few words, given such symbolic prominence in the report as conclusion No. 1, speak volumes about Lord Widgery's approach to the entire inquiry.

In a sense, we in the United States have heard it all before, from American Widgeries investigating American tragedies.

Two years ago last Thursday, at the height of demonstrations over the American and South Vietnamese invasion of Cambodia, four young college students fell dead on the playing fields of Kent State University in Ohio, killed in a hail of bullets fired by the Ohio National Guard. Later, an official Ohio investigation exonerated the National Guard from all responsibility, and blamed the tragedy on the students for engaging in a violent demonstration.

You might as well say that there would have been no killings at My Lai, if only the Vietnamese civilians had not been present in that tragic hamlet.

But in the months and years that have passed since Kent State and My Lai, we have learned, I think, that no amount of official whitewash can conceal the true horror of events like those at Kent State or My Lai, and the same is true of Londonderry.

"Res ipsa loquitur," as the lawyers say—"The thing speaks for itself." When unarmed men and women are shot dead in a confrontation with armed soldiers, the clear and overwhelming likelihood is that the soldiers are at fault for using excessive force. Only the most compelling circumstances of mortal danger to the troops could possibly justify resort to the use of deadly force. There were no such circumstances at Kent State. There were none at My Lai. And, so far as the Widgery Report proves, there were none at Londonderry.

It is not my purpose here to offer a full critique of the Widgery Tribunal. I have not seen the many volumes of the transcript of the hearings that took place at Coleraine, or of the closing arguments at the Royal Courts of Justice in London. But on its face, the report itself contains so many obvious inadequacies and inconsistencies, and demonstrates so clear a bias in favor of the paratroops in so many places, that it demands rebuttal and further investigation. Only in this way can the truth of Bloody Sunday at last emerge, and justice be done for the victims of the tragedy and the people of Northern Ireland.

Several aspects of the Report demonstrate the flaws:

The frame of reference of the Widgery Tribunal was too narrow, since it was concerned only with the immediate circumstances of time and space surrounding the Derry killings. No effort was made to document the reputation and prior conduct of the paratroop regiment in Northern Ireland, even though numerous earlier allegations of brutality and misconduct had been made against the regiment. In fact, other British Army units had actually requested that the paratroops be recalled from Ulster, in order to prevent further deterioration in the relations between the Army and the civilian population. Thus, the Widgery Report does nothing to quell the view that the tragedy of Bloody Sunday was the culmination in a series of brutal confrontations between civilian demonstra-

tors and a trigger-happy battalion of paratroops.

On the crucial question of whether the paratroop battalion exceeded its orders in launching the arrest operation that escalated into the killings—paragraphs 26–30 of the report—Lord Widgery accepts the sworn evidence of the three top officers in the chain of command that the order for the operation was properly given and received.

To reach this conclusion, Lord Widgery had to surmount two inconvenient facts. First, the brigade's official minute-by-minute log of events and messages contained no such arrest order. Indeed, it contained a flatly inconsistent order. This fact is simply dismissed by Lord Widgery as a case of a mistake by the log keeper in interpreting and recording the order actually given. Yet, the Tribunal failed to call the log keeper to give evidence on this vital point.

Second, the arrest order in question does not appear "in the verbatim record of wireless traffic on the ordinary brigade net." This fact is explained away by Lord Widgery on the ground that the ordinary brigade net was not secure against eavesdropping, and so a secure wireless link was used for "this one vital order"—the order for the arrest operation.

The report is at its worst—paragraphs 86–88—in dealing with the nail bombs found on one of the 13 victims, Gerald Donaghy, the only victim on whom any weapons were found. According to the evidence, after Donaghy was shot, he was examined by a local doctor in the Bogside and then by an army medical officer who pronounced him dead. Later, while his body lay in a car at the military post, four nail bombs, each the size of a beer can, were found protruding from his pockets. Although admitting the likelihood that the bombs should have been noticed by the two doctors or by Donaghy's friends, Lord Widgery concludes, nevertheless, that the bombs were events in question. With a straight face, Lord Widgery states:

> The alternative explanation of a plant is mere speculation. No evidence was offered as to where the bombs might have come from, who might have placed them, or why Donaghy should have been singled out for this treatment.

On the question of "Who fired first?" Lord Widgery resolved the massive conflict of evidence between the military and civilian witnesses by concluding that the initial shots came from the demonstrators. Why should the soldiers lie, he asks—as he puts it—paragraph 54—in the wide-eyed tone of military innocence so prevalent throughout the report:

> The soldiers' initial action was to make arrests and there was no reason why they should have suddenly desisted and begun to shoot unless they had come under fire themselves. If the soldiers are wrong, they were parties in a lying conspiracy which must have come to light in the vigorous cross-examination to which they were subjected.

At one point, in a passage obviously designed to portray the events as a continuing exchange of gunfire between the troops and demonstrators, Lord Widgery states—paragraph 95:

> I would not be surprised if in the relevant half-hour as many rounds were fired at the troops as were fired by them." But, as we know, thirteen civilians were killed on Bloody Sunday, and thirteen more civilians were wounded, yet there was not a single casualty among the troops. Lord Widgery simply concludes that "The soldiers escaped injury by reason of their special field-craft and training.

The last conclusion, conclusion No. 11, states baldly that "there was no general breakdown in discipline," and goes on to note how hard it is for a soldier always to act "wisely, as well as bravely and with initiative." Yet, three conclusions earlier—in conclusion No. 8—Lord Widgery states that, at least in Glenfada Park, where four of the killings took place, including the killing of Gerald Donaghy, the "firing bordered on the reckless." In the body of the report—paragraph 85—Lord Widgery amplifies this conclusion by finding that:

> The balance of probability suggests that at the time when these four men were shot the group of civilians was not acting aggressively and that the shots were fired without justification.

That is the closest Lord Widgery ever comes to suggesting that some of the shootings were indiscriminate. It does not take a criminal lawyer to draw the conclusion that if the firing by the soldiers bordered on the reckless, then the deaths that resulted from the firing bordered on murder. Nor, given Lord Widgery's own findings on the events in Glenfada Park, does it take much imagination to understand why a few nail bombs might have been planted on Gerald Donaghy's body, or why Donaghy "might have been singled out for this treatment."

Overall, perhaps the most distressing result of the Widgery Report is the congenital bias it demonstrates in favor of the Government's position. Again and again in recent months, we have seen the inability of British justice to deal fairly and impartially with the tragic events unfolding in Northern Ireland. The Compton Report, the Scarman Report, the midnight session of Parliament called last February to reverse an inconvenient high court decision on the power of the troops—these and other events show that in Ulster's years of crisis, the proud tradition of British justice is perennially apt to bend to political expediency and the prevailing official winds of the moment.

The terrible events of "Bloody Sunday" are perhaps the single greatest tragedy in the entire 3 years of the present crisis in Northern Ireland. Surely, a report by Lord Widgery that was both fair and seen to be fair could have done much to win the confidence of the Ulster minority, and to restore the balance of justice in Northern Ireland, especially in these critical days for Prime Minister Heath's new initiative and Mr. Whitelaw's mission.

As it is, there is little hope or optimism that can be gleaned from the Widgery Report. Inevitably, the role of the troops has now become even more difficult, the goals of direct rule have been made more elusive, and unnecessary new fuel has been added to the burning sense of alienation of the minority.

Perhaps the feeling of hopelessness is best summarized in a letter I received last weekend from a Mr. Harry M. of Belfast:

Mr. M. wrote:

> I enclose for your information a copy of the Widgery Report into the killing of thirteen civilians in Derry on "Bloody Sunday."
>
> When you have read the report, I'm sure you will agree with me when I say that Irish Catholics are lucky that Widgery (himself an ex-British Army Major) did not also find that the thirteen committed suicide

Mr. President, I ask unanimous consent that the Widgery Report be printed in the RECORD.

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

REPORT OF THE TRIBUNAL APPOINTED TO INQUIRE INTO THE EVENTS ON SUNDAY, JANUARY 30, 1972, WHICH LED TO LOSS OF LIFE IN CONNECTION WITH THE PROCESSION IN LONDONDERRY ON THAT DAY

(By the Right Honorable Lord Widgery, O.B.E., T.D.)

PART ONE: INTRODUCTION

Appointment of tribunal

1. On Sunday 30 January 1972 British soldiers opened fire in the streets of Londonderry. Thirteen civilians lost their lives and a like number were injured; their names are listed in Appendix A. On the following day I accepted an invitation from Her Majesty's Government to conduct a Tribunal of Inquiry into these events. Both Houses of Parliament adopted a Resolution in the following terms on 1 February:

"That it is expedient that a Tribunal be established for inquiring into a definite matter of urgent public importance, namely the events on Sunday 30 January which led to loss of life in connection with the procession in Londonderry on that day."

In order to ensure that the powers vested in the Tribunal would extend to transferred matters under the Government of Ireland Act, 1920, as well as to matters reserved to Westminster, a Resolution in identical terms was adopted in both Houses of the Northern Ireland Parliament. The Home Secretary, The Right Honourable Reginald Maudling, signed a Warrant of Appointment on 2 February. The Warrant declared that the Tribunals of Inquiry (Evidence) Act, 1921 should apply to the Tribunal and that the Tribunal was constituted as a Tribunal within the meaning of that Act. A Warrant of Appointment in identical terms was signed by the Governor of Northern Ireland, Lord Grey, on 4 February. The Secretary to the Tribunal was appointed on 6 February and left at once for Northern Ireland. Meanwhile the Treasury Solicitor's Department had already started taking statements from witnesses in London.

Terms of reference

2. The terms of reference of the Inquiry were as stated in the Parliamentary Resolutions and the Warrants of Appointment. At a preliminary hearing on 14 February I explained that my interpretation of those terms was that the Inquiry was essentially a fact-finding exercise, by which I meant that its purpose was to reconstruct, with as much detail as was necessary, the events which led up to the shooting of a number of people in the streets of Londonderry on the afternoon of Sunday 30 January. The Tribunal was not concerned with making moral judgments; its task was to try and form an objective view of the events and the sequence in which they occurred, so that those who were concerned to form judgments

would have a firm basis on which to reach their conclusions. The Tribunal would, therefore, listen to witnesses who were present on the occasion and who could assist in reconstructing the events from the evidence of what they saw with their own eyes or heard with their own ears. I wished to hear evidence from people who supported each of the versions of the events of 30 January which had been given currency.

3. I emphasised the narrowness of the confines of the Inquiry, the value of which would largely depend on its being conducted and concluded expeditiously. If considerations not directly relevant to the matters under review were allowed to take up time, the production of the Tribunal's Report would be delayed. The limits of the Inquiry in space were the streets of Londonderry in which the disturbances and the shooting took place; in time, the period beginning with the moment when the march first became involved in violence and ending with the deaths of the deceased and the conclusion of the affair.

4. At the first substantive hearing I explained that the emphasis on the importance of eye witnesses did not exclude evidence such as that of pathologists. Nor did it exclude consideration of the orders given to the Army before the march. The officers who conceived the orders and made the plans, including those for the employment of the 1st Battalion of the Parachute Regiment, would appear before me.

Choice of location

5. My original intention was to hold the Inquiry in Londonderry, since if it were held anywhere else the people of Londonderry might be inhibited from giving evidence. For reasons of security and convenience I reluctantly concluded that other possibilities would have to be considered; and several were. In the end I decided on Coleraine, which had these advantages: it was only about 30 miles from Londonderry, to which it was linked by a good train service; and the County Hall, which the Londonderry County Council kindly put at my disposal, was admirably suited to the job. Nowhere else in the area, except in the City of Londonderry itself, was a suitable building available. The Council Chamber, in which the Tribunal sat, contained an adequate public gallery, so that there was proper accommodation for the public, who, with the Press, were admitted to the hearings.

Sessions of the tribunal

6. The first substantive hearing of the Tribunal was held on 21 February and I continued to sit in Coleraine until 14 March. During these 17 sessions 114 witnesses gave evidence and were cross-examined. The witnesses, who are listed in Appendix B, fell into six main groups: priests; other people from Londonderry; press and television reporters, photographers, cameramen and sound recordists; soldiers, including the relevant officers; police officers; doctors, forensic experts and pathologists. After all the evidence had been taken three further sessions were held in the Royal Courts of Justice in London on 16, 17 and 20 March, at which I heard the closing speeches of Counsel for the relatives of the deceased, for the Army and for the Tribunal.

Representation of relatives' interests

7. Initially there was some doubt as to whether the residents of Londonderry would be prepared to come and give evidence at the Tribunal at all. This was a matter of some concern. As the Army was to be represented by leading Counsel it was highly desirable that other interests should be represented on the same level so that cross-examination of the Army witnesses should not devolve on Counsel for the Tribunal alone. In the event this need was met by my granting legal representation to the relatives of the deceased and to those injured in the shooting, whose interest in the matter embraced that of the citizens of Londonderry generally.

Sources of evidence

8. A large quantity of material had to be examined. As has been mentioned above, the number of witnesses called was 114; but a much larger number of statements, roughly double that number, was taken, all of which were considered in arriving at a decision as to the witnesses to be called. This was in addition to the statements taken from the soldiers by the Royal Military Police on the night of 30 to 31 January. The Northern Ireland Civil Rights Association collected a large number of statements from people in Londonderry said to be willing to give evidence. These statements reached me at an advanced stage in the Inquiry.

In so far as they contained new material, not traversing ground already familiar from evidence given before me, I have made use of them. Seven of the wounded appeared before the Tribunal and gave evidence. I did not think it necessary to take evidence from those of the wounded who were still in hospital. A particularly valuable feature of the evidence was the large number of photographs taken by professional photographers who had gone to Londonderry to cover the march*. Since it was obvious that by giving evidence soldiers and police officers might increase the dangers which they, and indeed their families have to run, I agreed that they should appear before me under pseudonyms. This arrangement did not apply to senior officers, who are well known in Northern Ireland. Except for the senior officers, the individual soldiers and police officers are referred to in my Report by the letter or number under which they gave evidence in the Tribunal.

PART TWO: NARRATIVE

Londonderry: The physical background

9. The City of Londonderry, second in Ulster only to Belfast in size and importance, lies on both banks of the River Foyle. The events with which the Tribunal was primarily concerned took place on the west bank, and indeed wholly within an area about a quarter of a mile square, bounded on the north by Great James Street, on the east by Strand Road, Waterloo Place and the City Wall, on the south by Free Derry Corner and Westland Street and on the west by Fahan Street West and the Little Diamond. (Free Derry Corner is the name popularly given to the junction of Lecky Road, Rossville Street and Fahan Street.) This area, which is shown on the plan at Appendix C and is in the north-east corner of the Bogside district, is overlooked from the south-east side by the western section of the City's ancient Walls, which encircle the old heart of the town and which have major significance in Orange tradition because of the successful defense of Londonderry against James II; and from the west by the Creggan, a largely new district built on rising ground. Creggan and the old town look at one another across the Bogside.

The Bogside and Creggan are predominantly Catholic districts, their population amounting to about 33,000 out of a total population in the City of Londonderry of about 55,000. The Bogside contains a number of old terraced houses and buildings, many of them derelict or nearly so; but also a large number of new blocks of flats and maisonettes. The small area with which the Tribunal was concerned lies on flat ground at a meeting point of old and new buildings. William Street is now largely derelict; and Chamberlain Street is an older street of terraced houses. Eden Place and Pilot Row do not contain any buildings at all; they are merely the sites of former streets which have been completely cleared of buildings. All the flats so frequently mentioned in evidence—the Rossville Flats, Glenfada Park, Kells Walk, Columbcille Court, Abbey Park and Joseph Place—are very modern buildings. The Rossville Flats consist of three blocks each of about 10 storeys high. The others are all low blocks. A notable feature of the area is that it contains a number of large open spaces which have been cleared of buildings, on both sides of William Street and of Rossville Street, as well as the courtyards and the open spaces arising from the layout of the new blocks of flats.

Security Background: Events in Londonderry during the previous 6 months

10. The Bogside and the Creggan, the Republican views of whose people are well known, were the scene of large scale rioting in 1969 and have suffered sporadic rioting by hooligans ever since. In the early summer of 1971 a good deal of progress had been made towards restoring normal life. The Royal Ulster Constabulary was patrolling almost everywhere in the area on foot, the Army was little in evidence, the hooligan element had been isolated and the IRA was quiescent. At the beginning of July, however, gunmen appeared and an IRA campaign began. Widespread violence ensued with the inevitable military counter-action. Nevertheless at the end of August it was decided, after consultation with a group of prominent local citizens, to reduce the level of military activity in the hope that moderate opinion would prevail and the IRA gunmen be isolated from the community.

11. From the end of August to the end of October an uneasy equilibrium was maintained. In a conscious effort to avoid provocation in the Army made itself less obvious. Though parts of the Bogside and Creggan were patrolled, no military initiative was taken except in response to aggression for specific search or arrest operations. The improvement hoped for did not, however, take place. The residents of the Bogside and Creggan threw up or repaired over 50 barricades including the one in Rossville Street which figured prominently in the proceedings of the Inquiry; frequent sniping and bombing attacks were made on the security forces; and the IRA tightened its grip on the district. Thus although at the end of October the policy was still one of passive containment, sniping and bombing had become increasingly common in virtually the whole of Londonderry west of the River Foyle. The Royal Ulster Constabulary had not operated in he Bogside and Creggan since June or July. Apart from one Company location at the Bighs Lane factory in the centre of the area, all military posts were located round the edges of the district. So the law was not effectively enforced in the area.

12. At the end of October, 8 Infantry Brigade, within whose area of command the City of Londonderry lay, was given instructions progressively to regain the initiative from the terrorists and reimpose the rule of law on the Creggan and Bogside. Hooligan activity was to be vigorously countered and arrest operations were to be mounted. As a result, a series of operations was carried out in the Bogside and Creggan at battalion strength with the object of clearing barricades, making arrests and searching premises about which intelligence reports had been received. These operations hardened the attitude of the community against the Army, so that the troops were operating in an entirely hostile environment and as time went on were opposed by all elements of the community when they entered the Bogside and Creggan. The Army's static positions and observation posts were fired on and a large number of youths, many of them unemployed, gathered daily at the points of entry

*Reference is made in subsequent paragraphs to certain of these photographs, which are not, however, published as part of the Report.

into the areas which were guarded by troops in order to attack them with stones and other missiles. Many nail and petrol bombs were thrown during these attacks. Gunmen made full use of the cover offered to them by the gangs of youths, which made it more and more difficult to engage the youths at close quarters and make arrests. The Creggan became almost a fortress. Whenever troops appeared near there at night searchlights were switched on and car horns blazed. The terrorists were still firmly in control.

13. Early in 1972 the security authorities were concerned that the violence was now spreading northwards from William Street, which was the line on the northern fringe of the Bogside on which the troops had for some considerable time taken their stand. Bombing and arson attacks on shops, offices and commercial premises were taking place with increasing frequency in Great James Street and Waterloo Place. The local traders feared that the whole of this shopping area would be extinguished within the next few months. A few figures will show the serious threat not only to the commercial areas of the City but also to the lives of the security forces. From 1 August 1971 to 9 February 1972 in Londonderry 2,656 shots were fired at the security forces, 456 nail and gelignite bombs were thrown and there were 225 explosions, mostly against business premises. In reply the security forces fired back 840 live rounds. In the last two weeks of January the IRA was particularly active. In 80 separate incidents in Londonderry 319 shots were fired at the security forces and 84 nail bombs were thrown at them; two men of the security forces were killed and two wounded. The Londonderry Development Commission has estimated that between 1 August 1971 and about the middle of February 1972 damage amounting to more than £6 million was inflicted in Londonderry. Since then there has been further heavy damage.

14. At the beginning of 1972 Army foot patrols were not able to operate south of William Street by day because of sniper fire, although the Army continued to patrol in the Bogside at night and to enter by day if there was a specific reason for so doing. There were no foot patrols by day during January. The hooligan gang in Londonderry constituted a special threat to security. Their tactics were to engineer daily breaches of law and order in the face of the security forces, particularly in the William Street area, during which the lives of the soldiers were at risk from attendant snipers and nail bombers. The hooligans could be contained but not dispersed without serious risk to the troops.

15. This was the background against which it was learned that, despite the fact that parades and processions had been prohibited throughout Northern Ireland by law since 9 August 1971, there was to be a protest march in Londonderry on Sunday 30 January, organised by the Northern Ireland Civil Rights Association (NICRA). It was the opinion of the Army commanders that if the march took place, whatever the intentions of NICRA might be, the hooligans backed up by the gunmen would take control. In the light of this view the security forces made their plans to block the march.

The Army plan to contain the march

16. The proposed march placed the security forces in a dilemma. An attempt to stop by force a crowd of 5,000 or more, perhaps as many as 20 or 25,000, might result in heavy casualties or even in the overrunning of the troops by sheer weight of numbers. To allow such a well publicised march to take place without opposition however would bring the law into disrepute and make control of future marches impossible.

17. Chief Superintendent Lagan, the head of the Royal Ulster Constabulary in Londonderry, thought that the dangers of interfering with the march were too great and that no action should be taken against it save to photograph the leaders with a view to their beng prosecuted later. His opinion was reported to the Chief Constable of Northern Ireland and to the Commander 8 Infantry Brigade (Brigadier MacLellan) who passed it to General Ford, the Commander Land Forces Northern Ireland. The final decision, which was taken by higher authority after General Ford and the Chief Constable had been consulted, was to allow the march to begin but to contain it within the general area of the Bogside and the Creggan Estate so as to prevent rioting in the City centre and damage to commercial premises and shops. On 25 January General Ford put the Commander 8 Infantry Brigade in charge of the operation and ordered him to prepare a detailed plan. The plan is 8 Infantry Brigade Operation Order No. 2/72 dated 27 January.

18. The Brigade Commander's plan required the erection of barriers sealing off each of the streets through which the marchers might cross the containment line. Though there were 26 barriers in all, the Inquiry was concerned with only three:

No. 12 in Little James Street;

No. 13 in Sackville Street;

No. 14 in William Street.

The barriers, which were to consist of wooden knife rests reinforced with barbed wire and concrete slabs, were to be put in place early in the afternoon of 30 January. At some of them, notably at barrier 14, an armoured personnel carrier was placed on either side of the street close behind and almost parallel with the barrier to reinforce it and to give the troops some cover from stone throwing. Each barrier was to be manned by the Army in platoon strength with representative RUC officers in support. (Photograph EP2/2 by Mr. Morris of the *Daily Mail* and photograph EP27/3 by Mr. Donnelly of the *Irish Times*). The troops at the barriers were to be provided by units normally under command of 8 Infantry Brigade. The following troops and equipment were to be brought in as reinforcements and reserves:

1st Battalion Parachute Regiment (hereafter referred to as 1 Para);

1st Battalion Kings Own Border Regiment;

2 Companies of the 3rd Battalion Royal Regiment of Fusiliers;

2 water cannon.

19. The Operation Order provided that the march should be dealt with in as low a key as possible for as long as possible and indeed that if it took place entirely within the Bogside and Creggan it should go unchallenged. No action was to be taken against the marchers unless they tried to breach the barriers or used violence against the security forces. CS gas was not to be used except as a last resort if troops were about to be overrun and the rioters could no longer be held off with water cannon and riot guns. (These guns, which fire rubber bullets, are also known as baton guns; and the rubber bullets as baton rounds.)

20. Under the heading of "Hooliganism" the Operation Order provided:

"An arrest force is to be held centrally behind the check points and launched in a scoop-up operation to arrest as many hooligans and rioters as possible."

This links up with the specific task allotted to 1 Para which was in the following terms:

"1. Maintain a Brigade Arrest Force to conduct a scoop-up operation of as many hooligans and rioters as possible.

"(*a*) This operation will only be launched either in whole or in part on the orders of the Brigade Commander.

"(*b*) ———

"(*c*) ———

"(*d*) It is expected that the arrest operation will be conducted on foot.

"2. A secondary role of the force will be to act as the second Brigade mobile reserve."

21. The Operation Order, which was classified "Secret", thus clearly allotted to 1 Para the task of an arrest operation against hooligans. Under cross-examination, however, the senior Army officers, and particularly General Ford, were severely attacked on the grounds that they did not genuinely intend to use 1 Para in this way. It was suggested that 1 Para had been specially brought to Londonderry because they were known to be the roughest and toughest unit in Northern Ireland and it was intended to use them in one of two ways: either to flush out any IRA gunmen in the Bogside and destroy them by superior training and fire power; or to send a punitive force into the Bogside to give the residents a rough handling and discourage them from making or supporting further attacks on the troops.

22. There is not a shred of evidence to support these suggestions and they have been denied by all the officers concerned. I am satisfied that the Brigade Operation Order accurately expressed the Brigade Commander's intention for the employment of 1 Para and that suggestions to the contrary are unfounded. 1 Para was chosen for the arrest role because it was the only experienced uncommitted battalion in Northern Ireland. Other experienced units were stationed in Londonderry as part of the normal content of 8 Infantry Brigade, but being committed to barrier and other duties they were not available for use as an arrest force. The arrest operation was vigorously carried out. At the end of the afternoon 54 people had been arrested by 1 Para, about 30 of them by Support Company.

23. Another unjustified criticism of General Ford was persisted in throughout the Tribunal hearing. It was said that when heavy firing began and it became apparent that the operation had taken an unexpected course, the General made no attempt to discover the cause of the shooting but instead washed his hands of the affair and walked away. This criticism is based on a failure to understand the structure of command in the Army. The officer commanding the operation was the Commander 8 Brigade, who was in his Operations Room and was the only senior officer who had any general picture of what was going on. General Ford was present on the streets of Londonderry as an observer only. Although he had wireless equipment in his vehicle he was not accompanied by a wireless operator when on foot. When the serious shooting began the General was on foot in the neighbourhood of Chamberlain Street and had no means of knowing what was going on. Nothing would have been more likely to create chaos than for him to assume command or even to interfere with radio traffic by asking for information. Instead he did the only possible thing by going at once to an observation post from which he could observe the scene for himself.

The march as it happened

24. The marchers assembled on the Creggan Estate on a fine sunny afternoon and in carnival mood. At first amounting to some hundreds only they toured the estate collecting additional numbers as they went and eventually the total may have been something between 3,000 and 5,000 people. At their head was a lorry carrying a Civil Rights Association banner and travelling upon the lorry were some of the leaders of the march. (Mr. Donnell's photograph EP27/1.) The marchers did not move in any kind of military formation but walked as a crowd through the streets, occupying the entire width of the road, both carriageway and pavements. The marchers, who included many women and some children, were orderly and in the main good humoured. (My

Peress's photographs EP25/1 and EP25/3). When in due course they appeared at the west end of William Street it was obvious that their direct route to the Guildhall Square lay along William Street itself and that the march would come face to face with the Army at barrier 14 in that street.

At this stage it became noticeable that a large number of youths, of what was described throughout the Inquiry as the hooligan type, had placed themselves at the head of the march; indeed some of them were in front of the lorry itself. (Mr. Morris's photograph EP2/1.) Some relatively minor exchanges took place between these youths and the soldiers manning the barriers which the march passed on its way to William Street, but nothing of real consequence occurred until the marchers reached the barriers in Little James Street and William Street. When the leaders of the march reached the junction of William Street and Rossville Street the lorry turned to its right to go along Rossville Street and the stewards made strenuous efforts to persuade the marchers to follow the lorry. It is quite evident now that the leaders of the march had decided before setting off from the Creggan Estate, that they would take this course and thus avoid a head-on confrontation with the Army at the William Street barrier.

25. However, this change of direction was not acceptable to a great many of the marchers. The stewards' attempts to divert the march were greeted with jeers and cat-calls. In the event although large numbers of non-violent marchers were persuaded to turn to their right into Rossville Street a substantial number, not all of them youths, continued into the cul-de-sac created by the William Street barrier. The television films made by the BBC and Independent Television News show graphically how this crowd approached to within touching distance of the barrier itself. (Mr. Grimaldi's photograph EP26/2.) The pressure of the crowd from behind was heavy and a densley packed mass formed at the barrier, which was manned by men of the Royal Green Jackets. The television films taken from behind the troops at the barrier show that the conduct of these soldiers was impeccable, despite the ugly situation which developed. The films show at least one middle-aged man making some attempt to move the barrier aside.

Had other members of the crowd followed his example, the results might have been disastrous. A steward managed to divert this particular man from his intention. There is a very illuminating view in the television films of the packed crowd standing at the barrier spitting and shouting obscenities at the troops behind it. If the crowd had made up their minds to make their way through the barrier by sheer force grave injuries must have been suffered both by civilians and soldiers; but happily this point was never reached. After a time the movement of the crowd at the rear reduced the pressure on those at the front in William Street and the crowd in front of the barrier began to thin out somewhat. The hooligans at once took advantage of the opportunity to start stone-throwing on a very violent scale. Not only stones, but objects such as fire grates and metal rods used as lances were thrown violently at the troops in a most dangerous way. (Mr. Grimaldi's photographs EP26/5 and 6.) This scene was observed by millions on television on the night in question and I have myself seen it replayed on three occasions.

Some witnesses have sought to play down this part of the incident and to suggest that it was nothing more than a little light stoning of the kind which occurs on most afternoons in this district and is accepted as customary. All I can say is that if this in any way represents normality the degree of violence to which the troops are normally subjected is very much greater than I suspect most people in Britain have appreciated. The troops responded with controlled volleys of rubber bullets but this was in some degree countered by the hooligans bringing forward an improvised shield of corrugated iron behind which they could shelter from the bullets. (Mr. Morris's photograph EP2/3 and Mr. Grimaldi's EP26/4.) Accordingly a water cannon which had been held in reserve was brought up behind the barrier and proceeded to drench the hooligan crowd with water coloured with a purple dye.

Unfortunately, from the soldiers' point of view, a canister of CS gas thrown by a member of the crowd happened to explode underneath the water cannon incommoding the crew who were not wearing their gas masks. The water cannon was therefore withdrawn for a few minutes and rubber bullets were fired again with little more effect than on the previous occasion. When the gas had cleared from the water cannon it was brought forward a second time and used upon the crowd to some effect. At about 1555 hours the troops appeared to be reaching a position in which they might disperse the rioters and relieve the pressure upon themselves. (Mr. Grimaldi's photograph EP26/7.) It was at this point that the decision to go ahead with the arrest operation, for which 1 Para was earmarked, was made.

The launching of the arrest operation

26. Since the tactics of the arrest operation were to be determined by the location and strength of the rioters at the time when it was launched, the Brigade Order left them to be decided by Lieutenant Colonel Wilford Commanding Officer of 1 Para. He had three Companies available for the arrest operation: A Company, C. Company and Support Company, the latter being reinforced by a Composite Platoon from Administrative Company. (A fourth Company had been detached and put under command of 22 Light Air Defence Regiment for duties elsewhere in Londonderry.) In the event these three Companies moved forward at the same time. A Company operated in the region of the Little Diamond and played no significant part in the events with which the Inquiry was concerned. C Company went forward on foot through barrier 14 and along Chamberlain Street, while Support Company drove in vehicles through barrier 12 into Rossville Street to encircle rioters on the waste ground or pursued by C Company along Chamberlain Street. The only Company of 1 Para to open fire that afternoon—other than with riot guns—was Support Company.

27. Before the wisdom of the order launching the arrest operation is considered it is necessary to decide who gave it. According to the Commander 8 Brigade and his Brigade Major (Lieutenant Colonel Steele) the operation was authorised by the Brigadier personally, as indeed was envisaged in the Brigade Order. The order for 1 Para to go in and make arrests was passed by the Brigade Major to the Commanding Office 1 Para on a secure wireless link, ie one which was not open to eavesdropping. This link was used because the arrest operation depended on surprise for its success and it was known that normal military wireless traffic was not secure. The Commanding Officer 1 Para confirmed that he received the order and all three officers agreed that the order was in terms which left the Commanding Officer free to employ all three Companies.

28. During the Inquiry however it was contended that the Brigadier did not authorise the arrest operation and that it was carried out by Lieutenant Colonel Wilford in defiance of orders or without orders and on his own initiative. The suspicion that Lieutenant Colonel Wilford acted without authority derives from the absence of any relevant order in the verbatim record of wireless traffic on the ordinary Brigade net. This omission was due to the use of the secure wireless link for this one vital order, as mentioned in the previous paragraph.

29. Other circumstances which suggest that 1 Para moved without orders are less easily explained. The Brigade Log, which is maintained in the Brigade Operations Room and is a minute by minute record of events and messages, regardless of the method of communication used, contains the following entries:

"Serial 147, 1555 hours from 1 Para. Would like to deploy sub-unit through barricade 14 to pick up yobbos in William Street/Little James Street."

"Serial 159, 1609 hours from Brigade Major. Orders give to 1 Para at 1607 hours for one sub-unit of 1 Para to do scoop-up op through barrier 14. Not to conduct running battle down Rossville Street."

Serial 159 is identified by the Brigade Major as recording the Brigadier's instruction for 1 Para to move; but its terms are inconsistent with the employment of three Companies. (A sub-unit is a Company.) Further, the Brigade Operation Order said that it was expected that the arrest operation would be conducted on foot and that the two axes of advance were likely to be towards the areas of William Street/Little Diamond and William Street/Little James Street, ie the Order did not contemplate the use of Rossville Street as an axis of advance; and whatever the prohibition of a "running battle down Rossville Street" was intended to imply it at least suggests that a penetration in depth at this point was not intended. It has been contended that the Brigade log shows *prima facie* that the only action which 1 Para was authorized to carry out was the limited one for which permission had been sought in the message recorded in Serial 147. This view is supported by the evidence of Chief Superintendent Lagan, who was in the Brigadier's office at the relevant time and who formed the impression that 1 Para had acted without authority from the Brigadier.

30. It is understandable that these circumstances have given rise to suspicion that the CO 1 Para exceeded his orders, but I do not accept this conclusion in the face of the sworn evidence of the three officers concerned. I think that the most likely explanation is that when the Brigade Major gave instructions to the log keeper to make the entry which appears as Serial 159 the latter mistakenly thought that the order was a response to the request in Serial 147 and he entered it accordingly.

Should the arrest operation have been launched at all?

31. By 1600 hours the pressure on barrier 14 had relaxed. There were still 100 to 200 hooligans in the William Street area but most of the non-violent marchers had either turned for home or were making their way down Rossville Street to attend a meeting at Free Derry Corner where about 500 were already assembled. (Still of Army helicopter film EP 29/16.) On the waste ground between the Rossville Flats and William Street there was a mixed crowd of perhaps 200 which included some rioters together with marchers, local residents, newspapermen and sightseers who were moving aimlessly about or chatting in groups. (Mr. Tucker's photographs EP 28/1 to 4.) This was the situation when Commander 8 Brigade ordered 1 Para to move forward and make arrests.

32. In the light of events the wisdom of carrying out the arrest operation is debatable. The Army had achieved its main purpose of containing the march and although some rioters were still active in William Street they could have been dispersed without difficulty. It may well be that if the Army had maintained its "low key" attitude the rest of the day would have passed off without further serious incident. On the other hand the Army had been subjected to severe stoning for upwards of half an hour; and the

future threat to law and order posed by the hard core of hooligans in Londonderry made the arrest of some of them a legitimate security objective. The presence of 1 Para provided just the opportunity to carry this out.

33. In view of the large numbers of people about in the area the arrest operations presented two particular risks: first, that in a large scale scoop-up of rioters a number of people who were not rioters would be caught in the net and perhaps roughly handled; secondly, that if the troops were fired upon and returned fire innocent civilians might well be injured.

34. Commander 8 Brigade sought to minimise the first risk by withholding the order to launch the arrest operation until the rioters and the marchers were clearly separated. But this seperation never really happened. At 1607 hours when 1 Para was ordered forward a substantial crowd remained on the waste ground between the bulk of the rioters who were in William Street and the bulk of the marchers who had either reached Free Derry Corner or gone home. The Brigade Commander, who could not see the area at all, relied mainly upon information from an officer in a helicopter, which information may have been incomplete. The Brigade Commander in giving evidence told me that he had considered the possibility that if a shooting match developed there would be risk to innocent people but he described this risk as "very bare". On the whole he considered that the arrest operation was essential in the interests of security and gave the order accordingly. Whether the Brigade Commander was guilty of an error of judgment in giving orders for the arrest operation to proceed is a question which others can judge as well or better than I can. It was a decision made in good faith by an experienced officer on the information available to him, but he underestimated the dangers involved.

The first high velocity rounds

35. Shortly before 4 o'clock, and before the Paras had moved across William Street, two incidents occurred there involving the firing of high velocity rounds. Although they are not of particular importance in the context of the afternoon as a whole, they are interesting if only because their circumstances can be ascertained with a fair degree of certainty. The officers of 1 Para had previously been engaged in the morning on reconnaissance of various routes that could be used if the Battalion were called upon to move forward and make arrests in the area of Rossville Street and William Street. Obviously the Battalion could move the barriers and go through them; but at one time it was thought that they might wish to enter William Street somewhat to the west of Little James Street in order to outflank the vacant land at "Aggro Corner" (the corner of William Street and Rossville Street). The Company Commander of the Support Company found a route over a wall by the side of the Presbyterian Church which he considered might be useful for this purpose, but which was obstructed by wire. Accordingly he sent a wire-cutting party to make this route usable if required. Whilst some soldiers from the Mortar Platoon were cutting the wire a single high velocity round was fired from somewhere near the Rossville Flats and struck a rainwater pipe on the side of the Presbyterian Church just above their heads. A large number of witnesses gave evidence about the incident, which clearly occurred, and which proves that at that stage there was at least one sniper, equipped with a high velocity weapon, established somewhere in the vicinity of the Rossville Flats and prepared to open fire on the soldiers.

36. The Company Commander of Support Company had sent a number of men forward to cover the wire-cutting party. Some of these men established themselves on the two lower floors of a three storey derelict building on William Street, just to the west of some open land near the Presbyterian Church. They had not been there very long before their presence was noticed by some of the youths who were throwing stones in Little James Street (Mr. Donnelly's photograph EP 27/2), a substantial party of whom shifted their attention to the soldiers in the derelict building. A hail of missiles was thrown at these soldiers. After a time Soldier A fired two rounds and Soldier B fired three rounds. There is no doubt that this shooting wounded Mr. John Johnson and Mr. Damien Donaghy. Evidence from civilians in the neighborhood, including Mr. Johnson himself, is to the effect that although stones were being thrown no firearms or bombs were being used against the soldiers in the derelict building. Having seen and heard Mr. Johnson I have no doubt that he was telling the truth as he saw it. He was obviously an innocent passer-by going about his own business in Londonderry that afternoon and was almost certainly shot by accident. I have not thought it necessary to take a statement from Mr. Donaghy, who was injured more seriously and was still in hospital when I finished hearing evidence. I am quite satisfied that had he given evidence it would have been in the same sense as that given by Mr. Johnson.

37. What then is the explanation of this incident from the Army side? Soldier A, a Corporal, described the incident as follows. He was on the middle floor of the building. From the window he saw some young men, who were hanging around after the main body of the march had passed, start throwing stones and bottles at the soldiers on the ground floor, some of whom replied with rubber bullets. He then saw two smoking objects, about the size of a bean can, go sailing past the window; and heard two explosions, louder than the explosion of the rubber bullet guns. As the two smoking objects went past the window he shouted 'Nail bombs' as a warning to the men on the ground floor. His platoon sergeant called back an order that he was to shoot any nail bombers. He then saw, about 50 yards away on the other side of the road, a man look around the corner and dart back again. The man reappeared carrying an object in his right hand and made the actions of striking a fuse match against the wall with his left hand. When he brought his two hands together Soldier A assumed that he was about to light a nail bomb, took aim and fired at him. His first shot missed, so Soldier A fired again immediately and this time saw the man fall. Other people at once came out from the side of the building and dragged the man away.

38. Soldier B's description of the incident was in similar terms. He was on the ground floor of the building with his Platoon Sergeant and three other soldiers of the Platoon. A group of about 50 youths was throwing stones at them, undeterred by shots from the two baton guns which the soldiers had with them. Some of the stones came through the window space. He heard the explosion of two nail bombs on the waste ground to the left of the building, but did not see them in flight because he was putting on his gas mask at the time. He noticed one man come out from the waste ground across William Street carrying in his right hand a black cylindrical object which looked like a nail bomb. With his left hand he struck the wall with a match. Thinking that the man was about to light the nail bomb, and that there was no time to wait for orders from his Platoon Sergeant, Soldier B took aim and fired. As the first shot had no effect, he fired two more shots, whereupon the man fell back and was dragged away by two of his comrades. Under cross-examination Soldier B agreed that the wearing of a gas mask made it more difficult to take proper aim.

39. I find it impossible to reach any conclusion as to whether explosive substances were thrown at these soldiers or not. Mere negative evidence that nail bombs were not seen or heard is of relatively little importance in a situation in which there was already a great deal of noise. Baton rounds were being fired from the barrier in Little James Street nearby and there were other distractions for the various witnesses. Having seen Soldiers A and B vigorously crossexamined I accept that they thought, rightly or wrongly, that the missiles being thrown towards them included a nail bomb or bombs; and that they thought, rightly or wrongly, that one of the members of the crowd was engaged in suspicious action similar to that of striking a match and lighting a nail bomb. The soldiers fired in the belief that they were entitled to do so by their orders. Whether or not the circumstances were really such as to warrant firing there is no reason whatever to suppose that either Mr. Johnson or Mr. Donaghy was in fact trying to light or throw a bomb.

Support company in action

40. An ammunition check on return to barracks showed that Support Company of 1 Para had, in the course of 30 January, expended 108 rounds of 7.62 mm ammunition. This is the ammunition which is used in the SLR rifle, with which all ranks in the Company were armed, except three who had submachine guns. Some of the men carried, in addition to the SLR, a baton gun or baton. The only other weapon with which the Company was equipped that day was the Browning machine gun on a Ferret scout car. No Browning or sub-machine gun ammunition had been used. Five rounds of 7.62 mm ammunition had been fired by Soldiers A and B as already described in paragraph 36 above and one had been ejected unfired by a soldier in clearing a stoppage in his rifle. The remaining 102 rounds were fired by soldiers of Support Company in a period of under 30 minutes between 1610 and 1640 hours. About 20 more rounds were fired by the Army in Londonderry that afternoon, but not by 1 Para and not in the area with which the Tribunal was primarily concerned.

41. Support Company advanced through barrier 12 and down Rossville Street in a convoy of 10 vehicles. A photograph taken very shortly afterwards shows the Guildhall clock standing at 10 minutes past 4 (EP35/20). In the lead was the Mortar Platoon commanded by Lieutenant N, comprising 18 all ranks and travelling in two armoured personnel carriers (APCs, colloquially known to the Army as "Pigs"). Next came the Command APC of the Company Commander (Major 236) with a Ferret scout car in attendance. Following Company Headquarters came two empty APCs belonging to the Machine Gun Platoon. The men of this Platoon had been detached earlier and did not rejoin the Company in time to take part in the arrests. The two empty APCs were followed by two soft-skinned 4-ton lorries carrying the 36 all ranks of the Composite Platoon, commanded by Captain SA8. The rear was brought up by two further APCs carrying the Anti-Tank Platoon, which consisted of Lieutenant 119 in command and 17 other ranks.

42. According to Major 236 his orders were simply to go through barrier 12 and arrest as many rioters as possible. As the rioters retreated down Rossville Street he went after them.

43. The leading APC (Lieutenant N) turned left off Rossville Street and halted on the waste ground near to where Eden Place used to be. The second APC (Sergeant O) went somewhat further and halted in the courtyard of the Rossville Flats near the north end of the western (or No. 1) Block. The Platoon immediately dismounted. Soldier P and one or two others from Sergeant O's vehicle moved towards Rossville Street but the remainder of the Platoon started to make arrests near to their vehicles.

44. Meanwhile the remainder of Support Company vehicles had halted in Rossville Street. The Company Commander (Major 236) says that his command vehicle came under fire so he moved it with his scout car in attendance to the north end of No. 1 Block of the Flats to obtain cover. The soft-skinned vehicles of the Composite Platoon halted under cover of buildings at the south-east corner of the junction of William Street and Rossville Street, where the troops dismounted. The Anti-Tank Platoon's vehicles halted behind the 4-ton lorries and the men of that Platoon dismounted and moved to Kells Walk. Some of these men were to appear later in Glenfada Park. The Composite Platoon Commander deployed half of his men to the east in support of the Mortar Platoon, the other half to the west in support of the Anti-Tank Platoon.

45. Thereafter Support Company operated in three areas which require separate examination: the courtyard of the Rossville Flats; Rossville Street from Kells Walk to the improvised barricade; and lastly the area of Glenfada Park and Abbey Park.

(a) The activities of Mortar Platoon in the courtyard of the Rossville Flats

46. As soon as the vehicles appeared in William Street the crowd on the waste ground began to run away to the south and was augmented by many other people driven out of Chamberlain Street by C Company (Army helicopter stills EP29). Some of the crowd ran along Rossville Street on the west side of Block 1 of the Flats, whilst the remainder ran into the courtyard on the north side of the Flats themselves. The crowd ran not because they thought the soldiers would open fire upon them but because they feared arrest. Though there was complete confidence that the soldiers would not fire unless fired upon, experienced citizens like Father Daly recognized that an arrest operation was in progress and wished to avoid the rubber bullets and rough handling which this might involve. One of the photographs taken by Mr. Tucker from his home in the central block of the Rossville Flats shown clearly what was happening at this stage. However, careful study of the photograph (EP28/5) shows that many of the crowd remained under cover in the doorways of the Flats or remained facing the vehicles to see how far they would come.

47. The APCs of Mortar Platoon penetrated more deeply than was expected by the crowd, which caused some panic. The only means of escape from the courtyard was the alleyway between Blocks 1 and 2 and that between Blocks 2 and 3, both of which rapidly became very congested. As soon as the vehicles halted the soldiers of Mortar Platoon began to make arrests. (Photographs EP24/1 to 4 and EP33/1 to 4 by Mr. Coleman Doyle of the Irish Press). But within a minute or two firing broke out and within about the next 10 minutes the soldiers of Mortar Platoon had fired 42 rounds of 7.62 mm ammunition and one casualty (John Duddy) lay dead in the courtyard.

48. This action in the courtyard is of special importance for two reasons. The first shots—other than those in William Street referred to in paragraphs 35 to 38—were fired here. Their sound must have caused other soldiers to believe that Support Company was under attack and made them more ready than they would otherwise have been to identify gunmen amongst the crowd. Secondly, the shooting by the Mortar Platoon in the courtyard was one of the incidents invoked by those who have accused the Army of firing indiscriminately on the backs of a fleeing crowd.

49. I have hear a great deal of evidence from civilians, including pressmen, who were in the crowd in the courtyard, almost all to the effect that the troops did not come under attack but opened fire without provocation. The Army case is that as soon as they began to make arrests they themselves came under fire and their own shooting consisted of aimed shots at gunmen and bomb throwers who were attacking them. This issue, sometimes referred to as "Who fired first?", is probably the most important single issue which I have been required to determine.

50. A representative sample of the civilian evidence is as follows:

(i) *Father Daly* was in the area out of concern for some elderly parishioners who lived there. Having seen the Army carry out arrest operations before on the waste ground he did not think that the vehicles would travel beyond Eden Place. He did not run away until he saw that they were coming further and he was accordingly at the back of the running crowd. He overtook John Duddy as he ran. He heard a shot and looking over his shoulder saw Duddy fall. He saw no weapon in Duddy's hands. Father Daly ran on and after a few yards he heard a "fusillade of gunfire", a "huge number" of shots which he recognized as live bullets; so he dived to the ground. He was convinced that all the shots came from behind and thought that the rest of the crowd also believed this to be the case. Apart from one civilian with a pistol he saw no weapon in other than Army hands. When asked if he had seen any shooting from the roof of the Rossville Flats he answered "I do not think that I am qualified really to say. I cannot say that I looked up there that evening. I certainly was not aware of the sound of anything coming from there."

(ii) *Mr. Simon Winchester, a Guardian* reporter, was walking caross the open ground to the north of Rossville Flats when he met a crowd of people moving away from the William Street area towards Free Derry Corner. He decided to go with the crowd. A very short time later a number of armoured vehicles swept in along Rossville Street and the crowd started running. Some ran along Rossville Street towards Free Derry Corner, others towards the exits between the three blocks of the Rossville Flats. Mr. Winchester heard a number of shots, probably less than 10, coming from behind him. He dropped to the ground, as did everyone else. In the ensuing panic and confusion he saw an injured man, bleeding profusely from the leg. Mr. Winchester did not see or hear any nail bombs or petrol bombs, nor see any weapons other than those carried by the Army. He did not hear firing other than that which he attributed to Army rifles until after he had made his way through to the south side of the Rossville Flats. He came away from the Bogside that day with the impression that he had seen soldiers fire needlessly into a huge crowd.

(iii) *Mrs. Mary Bonnor*, who lives in the central block of the Rossville Flats, said that from her flat she saw a crowd running towards the Rossville Flats from William Street followed by two armoured vehicles. Some soldiers jumped out. One of them knelt down and pointed his gun; another, firing from the waist, shot a boy in the back. Mrs. Bonnor said that she heard no shots until the soldiers shot the boy (John Duddy). That was the first shot she heard.

(iv) *Mr. Derrick Tucker*, who is English by birth and has served in the Royal Navy and the Royal Air Force, also lives in the central block of the Rossville Flats. From his flat he saw people start to run and shout as the armoured vehicles drove up Rossville Street. Soldiers at once jumped out and adopted firing positions beside their vehicle. One of them started firing towards the landings of the flats in Rossville Street. Mr. Tucker saw the shooting of John Duddy and of Michael Bridge, who was injured in the leg. He estimated that the interval between the soldiers getting out of their vehicles and starting to fire was between 30 seconds and two minutes. During that time he heard no explosions nor any firing directed at the soldiers. The only firing he heard was of gas canisters and rubber bullets at the junction of William Street and Rossville Street. He said that he felt sickened and degraded by the action of the British Army against unarmed civilians.

(v) *Mr. Joseph Doherty*, who lives in the Creggan, ran away when he saw the Army vehicles moving up Rossville Street. As he did so he saw some soldiers coming out of the end of Chamberlain Street. One of these soldiers fired a round into the ground in front of the crowd, so Mr. Doherty ran towards the alleyway between the blocks of flats. Looking back he saw the same soldier in the same position fire an aimed shot at someone he could not see. The shot into the ground was the first shot of the day of which he was aware. He did not see shooting at any stage, or hear nail bombs at any time.

(vi) *Mr. Francis Dunne*, a Londonderry schoolteacher, said that he was drifting across the open ground in front of the Rossville Flats towards Free Derry Corner. He was just short of Eden Place when the crowd on the open ground, which was very large, probably some hundreds, began to run. He ran too, as far as the north end of Block 1 of the Rossville Flats. From there he saw the armoured vehicles driving in. He made for the alleyway between Blocks 1 and 2 and found it jammed with people. Up to that stage he was not aware of any shots. He saw three soldiers along the back of the houses in Chamberlain Street and heard firing start. He saw the soldier at the front fire. Those three soldiers were not being molested, though some youths were throwing stones towards the end of Block 1. The front soldier fired at and hit a tall fair-haired young man. Mr. Dunne saw that the alleyway through the flats was no longer jammed and went through it. His impression was that shots were coming through the alleyway towards him (ie from the direction of the soldiers) and he realised that live bullets were being fired. He was certain that there was no firing at the soldiers from the Rossville Flats as he ran across the courtyard towards the flats. Neither were there any nail bombs. He was convinced that as the soldiers came in and immediately afterward there could not have been fire on them from the Rossville Flats without him knowing about it.

51. Evidence from the Army side about the shooting in the courtyard came from Major 236, Lieutenant N, Sergeant O and each of the soldiers who had fired in that area. Although the entire action took place in an area barely 100 yards square the general confusion appears to have been such that, like the civilian witnesses, soldiers spoke only to their immediate and personal experience.

(i) *Major 236* halted his command vehicle in Rossville Street (photograph EP23/5) and said that as he and his driver dismounted a burst of about 15 rounds of low velocity fire came towards them from the direction of Rossville Flats. They immediately moved the vehicle to a position at the north end of Block 1 in order to obtain cover from the shooting. There was, he said, continuous firing for the next 10 minutes. He saw seven or eight members of the Mortar Platoon firing aimed shots towards the Flats but he could not see what they were firing at. He said that these soldiers were under fire.

(ii) *Lieutenant N* on leaving his vehicle was faced by a man throwing stones whom he tried to arrest but failed as the strap of his helmet broke. He then moved towards Chamberlain Street where he was faced by a hostile crowd and fired a total of three shots above their heads in order to disperse them. (Photograph EP2/4 shows him so doing.) He then fired one further round at a man whom he thought was throwing a nail bomb in the direction of Sergeant O's vehicle. By this time the relevant firing in the courtyard was over and he had seen nothing of it.

(iii) *Sergeant O*, with 10 years' experience in the Parachute Regiment, had returned from a training course in Cyprus that very morning. When his vehicle halted he said

that he and his men began to make arrests but were met with fire from the Rossville Flats. He thought that the fire came from four or five sources and possibly included some high velocity weapons. He saw the strike of bullets four or five metres from one of the members of his Platoon. He and his men returned to his APC to secure their prisoners and then spread out in firing positions to engage those who had fired upon them. Sergeant O fired three rounds at a man firing a pistol from behind a car parked in the courtyard. The man fell and was carried away. He fired a further three rounds at a man standing at first floor level on the catwalk connecting Blocks 2 and 3, who was firing a fairly short weapon like an M1 carbine. The flashes at the muzzle were visible. Sergeant O caught a glimpse of Soldier S firing at a man with a similar weapon but his view was obscured by people "milling about". The Sergeant returned to his vehicle, but later fired two more rounds at a man whom he said was firing an M1 carbine from an alleyway between Blocks 2 and 3. He later saw Soldier T splashed with acid and told him that if further acid bombs were thrown he should return fire. He heard Soldier T fire two rounds and saw another acid bomb which had fallen. Sergeant O described the firing from the Flats as the most intense that he had seen in Northern Ireland in such a short space of time.

(iv) *Private Q*, after dismounting from his vehicle, was being stoned and so took cover at the end of Block 1 of the Rossville Flats. There he heard four of five low velocity shots, that is to say shots fired by someone other than the Army, though he could not say from what direction. Shortly afterwards he saw a man throwing nail bombs, two of which simply rolled away whilst another one exploded near to the houses backing on to Chamberlain Street. He shot at and hit the man as he was in the act of throwing another nail bomb. That bomb did not explode and the man's body was dragged away.

(v) *Private R* heard one or two explosions like small bombs from the back of Rossville Flats. He also heard firing of high and low calibre weapons. He noticed a man about 30 yards along the eastern side of Block 1, who made as if to throw a smoking object, whereupon Private R fired at him. He thought he hit him high up on the shoulder, but was not certain what happened to the man because he was at that moment himself struck on the leg by an acid bomb thrown from an upper window in the Flats. A few moments later R saw a hand firing a pistol from the alleyway between Blocks 2 and 3. R fired three times, but did not know whether he made a hit.

(vi) *Private S* said that he came under fire as soon as he dismounted from his vehicle. The fire was fairly rapid single shots, from the area of the Rossville Flats. He dodged across to the back of one of the houses in Chamberlain Street, from which position he saw a hail of bottles coming down from the Flats onto one of the armoured vehicles and the soldiers around it. He fired a total of 12 shots at a gunman or gunmen who appeared, or reappeared, in front of the alleyway between Blocks 1 and 2 of the Flats. The gunman was firing what he thought was an M1 carbine. He thought that he scored two hits.

(vii) *Private T* heard a burst of fire, possibly from a semi-automatic rifle being fired very quickly, about 30 to 45 seconds after dismounting from his vehicle. It came from somewhere inside the area of the Rossville Flats. He was splashed on the legs by acid from an acid bomb and noticed a person throwing acid bombs about three storeys up in the Flats. On the order of his Sergeant he fired two rounds at the acid bomb thrower. He thought that he did not score a hit.

(viii) *Lance Corporal V* heard two explosions, not baton rounds or rifle fire, before his vehicle stopped. As soon as he jumped out he heard rifle fire and saw several shots spurting into the ground to his right. He thought that this fire was coming from the alleyway between Blocks 1 and 2 of the Rossville Flats. He saw a crowd of about 100 towards the end of Chamberlain Street who were throwing stones and bricks. Corporal V moved further forward and shot at and hit a man about 50 or 60 yards away from him in the act of throwing a bottle with a fuse attached to it.

52. A number of soldiers other than those of 1 Para gave evidence about the opening of fire. Captain 028, a Royal Artillery officer attached to 1 Para as a Press Officer, saw the leading vehicle struck by a round before it came to a halt and saw a man open fire with a sub-machine gun from the barricade as the soldiers jumped out of their vehicles. A few minutes later, during the gun battle, he saw a man armed with a pistol come out from the south end of Block 1 of the Rossville Flats, and another man with a rifle at a window in the Flats. Lieutenant 227 of the Royal Artillery, who was in command of an observation post on the City Walls, heard two bursts of automatic fire from the Glenfada Park area after the arrest operation had begun and before he had heard any other sort of ball ammunition. He subsequently heard three or four pistol shots from the Rossville Flats area. Gunner 030, who was in a slightly different position on the City Walls, saw a youth fire five or six shots with a pistol from the south-east corner of the Rossville Flats courtyard in the direction of Rossville Street. This was before 030 heard any fire from the Paras. Later on he heard a burst of automatic fire and saw a man with a machine gun running in Glenfada Park.

53. There was also a considerable body of civilian evidence about the presence of gunmen in the Bogside that afternoon, including some to the effect that they were the first to open fire. Father Daly saw a man armed with a piston fire two or three shots at the soldiers from the south end of Chamberlain Street. Mr. Dunne saw the same gunman. Father O'Gara saw a youth armed with a pistol fire three shots at the soldiers from Kells Walk. Both these episodes took place after the soldiers had opened fire. Mr. Donnelly, a photographer of the Dublin newspaper the *Irish Times*, heard a single revolver shot in William Street 20 minutes before the Paras appeared on the scene; and Mr. Capper, a BCC reporter, heard a single revolver shot fired from the crowd he was with at Kells Walk in the direction of soldiers in William Street. He heard this shot after the shooting of Mr. Johnson and Mr. Donaghy in William Street, but before the Paras moved into Rossville Street.

Mr. Beggin, a BCC cameraman, who went through the William Street barrier with soldiers of C Company and watched the soldiers of Support Company crossing the open ground in front of the Rossville Flats, heard a number of shots fired apparently from the Flats before the soldiers themselves opened fire. Mr. Phillips, Mr. Seymour, Mr. Wilkinson and Mr. Hammond, members of an Independent Television News team, who also went through the William Street barrier behind the Paras, all heard machine gun fire as the soldiers went across the open space. They also heard single shots but were not unanimous as to whether or not the automatic fire came first.

It has been established that the troops did not use automatic weapons. So though the ITN men were not able to throw much light on the question of who fired first, their evidence did add considerable weight to the probability that the soldiers were fired on very soon after getting out of their vehicles. After the initial firing at the Rossville Street barricade, Mr. Mailey, a resident of Londonderry and a free-lance photographer, heard three shots of a much lower calibre than that of the Army's weapons. Mr. Winchester of the *Guardian* heard a single rifle shot from the direction of the Little Diamond some time before the Paras came through the barriers. A few minutes later and still before the Paras appeared, he saw youths clearing people away from an entrance to Columbeille Court in a manner which suggested to him that they were clearing a field of fire for a sniper. After he had reached the south side of the Rossville Flats he heard some low calibre fire in answer to the Army's fire and also some automatic fire from the general direction of the Flats.

Mr. Winchester and Mr. Wade of the *Daily Telegraph* were fired at by a gunman armed with a low calibre weapon, possibly a .22 rifle, as they made their way out of the Bogside at the end of the afternoon after the main shooting was over. Mr. Bedell, a Londoner who was on holiday in Northern Ireland, was present at the meeting at Free Derry Corner. From there he saw the armoured vehicles arrive in Rossville Street and heard firing. Some minutes later he saw several cars drive down from the Creggan. About two dozen men armed with rifles and automatic weapons got out, dispersed amongst the flats on the north side of Westland Street and fired about 50 rounds at the soldiers. When the gunmen withdrew, Mr. Bedell saw a crowd of about 50 civilians surround and give cover to one of the gunmen who had been separated from the main body, so that he was able to rejoin the others in safety. Mr. Kunioka, a Japanese student at the London Film School, saw a man armed with a rifle in Westland Street.

54. To those who seek to apportion responsibility for the events of 30 January the question "Who fired first?" is vital. I am entirely satisfied that the first firing in the courtyard was directed at the soldiers. Such a conclusion is not reached by counting heads or by selecting one particular witness as truthful in preference to another. It is a conclusion gradually built up over many days of listening to evidence and watching the demeanour of witnesses under cross-examination. It does not mean that witnesses who spoke in the opposite sense were not doing their best to be truthful. On the contrary I was much impressed by the care with which many of them, particularly the newspaper reporters, television men and photographers, gave evidence. Notwithstanding the opinion of Sergeant O I do not think that the initial firing from the Flats was particularly heavy and much of it may have been ill-directed fire from pistols and like weapons. The soldiers' response was immediate and members of the crowd running away in fear at the soldiers' presence understandably might fail to appreciate that the initial bursts had come from the direction of the Flats. The photographs already referred to in paragraph 47 confirm that the soldiers' initial action was to make arrests and there was no reason why they should have suddenly desisted and begun to shoot unless they had come under fire themselves. If the soldiers are wrong they were parties in a lying conspiracy which must have come to light in the rigorous cross-examination to which they were subjected.

(b) The action in Rossville Street

55. When the vehicle convoy halted in Rossville Street the Anti-Tank Platoon and one half of the Composite Platoon deployed to their right in the vicinity of the flats known as Kells Walk. From this point it is possible to look due south down Rossville Street to the rubble barricade in that street and beyond it to Free Derry Corner. (Mr. Morris's photograph EP 2/8.) The distance from Kells Walk to Free Derry Corner would be of the order of 300 yards. A considerable number of rounds was fired from Kells Walk in the direction of the barricade, at which at least four of the fatal casualties occurred.

56. It will be remembered that when the vehicles entered Rossville Street a densely

packed crowd of perhaps 500 people was already assembled round the speakers' platform at Free Derry Corner and that the arrival of the soldiers caused some of the crowd on the waste ground also to run towards Free Derry Corner.

57. The barricade in Rossville Street running across from Glenfada Park to Block 1 of the Rossville Flats had fallen into disrepair and was only about three feet high. There was a gap to allow a single line of traffic to go through but there were also reinforcements of barbed wire on wooden knife rests. (Mr. Coleman Doyle's photograph EP 24/12). Although it would present no great obstacle to an athletic young man it would be a significant one to a crowd of people fleeing in panic down Rossville Street. Perhaps the most ugly of all the allegations made against the Army is that the soldiers at Kells Walk fired indiscriminately on a large and panic-stricken crowd which was seeking to escape over the barricade. The principal witness to support this allegation was Mr. James Chapman, a civil servant who had previously been a regular soldier in the British Army with the rank of Warrant Officer Class 1. He had been a resident of Londonderry for 36 years, 30 of them in the Bogside itself. He lived at No. 6 Glenfada Park, so that his sitting room window directly overlooked the Rossville Street barricade.

He described how the main crowd of marchers, which he estimated at 5 to 6,000, had passed peacefully down Rossville Street before the soldiers' vehicles appeared. When the armoured personnel carriers appeared and the rest of the crowd began to run some 50 to 100 soldiers deployed from their vehicles and according to Mr. Chapman immediately opened fire into the crowd trying to flee over the barricade. Mr. Chapman is reported as having said in a television interview on 3 February "I watched them shooting indiscriminately into a fleeing crowd of several thousand people, not just as some people say a few hundred hooligans." In fairness to Mr. Chapman there may have been some confusion here and at the Inquiry his estimate of the crowd crossing the barricade was of the order of 200 to 300. He maintained, however, that the Army fired indiscriminately upon the backs of that number of people who were scrambling over the barricade in an effort to escape and that no firearms or bombs were being used against the soldiers at that time.

58. Mr. Robert Campbell, the Assistant Chief Constable of the Renfrew and Bute Constabulary, who was observing the scene from the City Wall, gave a very different account of events at the barricade. He could not see the entry of the vehicles but he had a clear view of part of the barricade in Rossville Street and of the whole of the area to the south of it down to Free Derry Corner (RUC photographs EP 1/1 to 5). He described how people streamed through the barricade on their way to the meeting at Free Derry Corner, but he also observed a group of demonstrators who detached themselves from the main crowd and remained close to the barricade from which they threw stones and other missiles in the direction of the Army vehicles. Mr. Campbell described their stone throwing as very active. After a time he heard automatic fire from the direction of the Rossville Flats. As this did not deter the stone-throwers he assumed that the rounds did not go near them. The automatic fire was followed by a single high velocity shot which caused them to take cover. Within two or three minutes however the militants were throwing stones again. Then came a cluster of 10 or 12 high velocity rounds which finally scattered them, leaving three or four bodies lying at the barricade. Father O'Keefe, a lecturer in philosophy at the University of Ulster in Coleraine, gave a version of this incident which supported Mr. Campbell rather than Mr. Chapman. He said that when the armoured personnel carriers arrived the bulk of the marchers had already moved to Free Derry Corner. He held back to make contact with friends and when the soldiers arrived he was part of a group of 25 to 30 people standing near the Rossville Street barricade. Whilst he and others took cover behind the gable end of the Glenfada Park Flats, some five or six remained at the barricade and he had the impression that stones were being thrown. (Mr. Mailey's photograph EP 32/1.) He said that the soldiers opened fire on the people at the barricade and he saw one of them hit and three bodies on the ground. At the end of his evidence I put Mr. Chapman's account to him:

"Q. One witness has told me that when the soldiers fired and hit the three young men standing at the barricade of whom you speak at that time 100 or 150 people were trying to make their way over and through the barricade in order to get to Free Derry Corner and that the three who were shot were shot as they were endeavouring to climb over the barricade. I take it that that is not the picture as you saw it?

A. That is not the picture I have at all."

Mr. Ronald Wood, an English born citizen of Londonderry, who had served in the Royal Navy, also spoke of 30 to 40 people near the barricade, some of whom were throwing stones. Mr. Donnelly, an *Irish Times* photographer, spoke of a thin line of about 20 youths and men behind the barricade. (His photographs EP 27/6 to 9.) Further, the pathologist's evidence about the four young men who were casualties at the barricade, namely Kelly, Young, Nash and McDaid, was that they were not shot from behind.

59. I am entirely satisfied that when the soldiers first fired at the barricade they did not do so on the backs of a fleeing crowd but at a time when some 30 people, many of whom were young men who were or had been throwing missiles, were standing in the vicinity of the barricade.

60. It was not alleged that the shots fired in Glenfada Park, which are dealt with in paragraphs 83 to 85 below, constituted firing on the backs of a fleeing crowd. But it was alleged that the crowd at Free Derry Corner was so fired on. What really happened at Free Derry Corner is clear because the evidence is almost all one way. If the line of fire from Kells Walk to the Rossville Street barricade is projected southward it comes dangerously close to Free Derry Corner. (Photograph EP 2/8.) When the soldiers began to fire at the barricade the crowd around the speakers' platform, though agitated by the sound of the shooting, did not immediately break up. A second burst however caused the crowd to fall flat on their faces and at the next lull in the firing they quickly dispersed. There is no evidence that any soldier deliberately fired at this crowd. Lord Brockway, who was attempting to address the meeting at the time, acknowledged as much. No one in this crowd was injured, though some of the shots aimed at the barricade which missed their mark may have come uncomfortably close.

PART THREE: RESPONSIBILITY

61. Having dealt with the allegations of a general character made against the conduct of 1 Para on 30 January I turn to consider the conduct of the individual soldiers who fired and the circumstances in which the individual civilians were killed.

62. The starting point of this part of the Inquiry is that 108 rounds of 7.62 mm ammunition were expended by members of Support Company. The Browning gun on the Company Commander's scout car was not fired nor were the three sub-machine guns. No shots were fired by the other Companies of 1 Para. I have no means of deciding which soldiers fired or how many rounds each fired except the evidence of the soldiers themselves. According to that evidence the allocation is as follows:

	Rounds
Corporal A	2
Private B	3
Private C	5
L/Corporal D	2
Corporal E	3
L/Corporal F	13
Private G	6
Private H	22
L/Corporal J	2
Sergeant K	1
Private L	4
Private M	2
Lieutenant N (4 plus 1 ejected unfired)	5
Sergeant O	8
Corporal P	9
Private Q	1
Private R	4
Private S	12
Private T	2
Private U	1
L/Corporal V	1
Total	108

The Army case is that each of these shots was an aimed shot fired at a civilian holding or using a bomb or firearm. On the other side it was argued that none of the deceased was using a bomb or firearm and that the soldiers fired without justification and either deliberately or recklessly.

63. To solve this conflict it is necessary to identify the particular shot which killed each deceased and the soldier who fired it. It is then necessary to consider the justification put forward by the soldier for firing and whether the deceased was in fact using a firearm or bomb. It has proved impossible to reach conclusions with this degree of particularity. In two instances a bullet was recovered from the body, so that the rifle, and thus the firer, was positively identified. But several shots fired by the same rifle cannot be distinguished from one another and there is no certainty that a bullet hit the person at which it was aimed and whose conduct had caused the soldier to fire.

64. Another difficulty is that there is no certainty that the known casualty list is exhaustive. According to the Army evidence at least 25 civilians were hit, possibly more, of whom five or six were hit whilst firing from buildings or doorways. The Army's estimate of the number hit corresponds closely to the total number of known dead and wounded. But all the known dead, and all the wounded who gave evidence or about whom evidence was given, were hit in the open. Furthermore some of those whom the Paras were confident they hit (eg the man hit by Sergeant O behind the Cortina car in the forecourt of the Rossville Flats) cannot be identified with any of the known dead or wounded. In addition, soldiers of the Royal Anglian Regiment and the Royal Artillery believe that they hit six or seven gunmen on whom they returned fire in other parts of Londonderry on 30 January; and nothing more is known about these casualties. There is a widely held belief that on some previous occasions when shots have been exchanged in Londonderry, casualties amongst the IRA and their supporters have been spirited away over the border into the Republic. Even a remote possibility that this occurred on 30 January increases the difficulty of trying to match a soldier's account of why he fired with other evidence of the conduct of an individual deceased.

A. Were the deceased carrying firearms or bombs?

65. Mr. Campbell, the Scottish police officer, and a substantial number of soldiers gave evidence that they heard nail bombs exploding. The civilians were at one in denying that there were such explosions. I did not conclude that some of the witnesses were necessarily lying on this point. Soldiers under attack, or expecting to be attacked, might well be quick to identify as nail bombs

bangs otherwise unexplained. Conversely the civilians, hearing bangs at a time of confusion and panic and to the accompaniment of shouts and other loud noises, might be just as quick to attribute the bangs to the Army. Although a number of soldiers spoke of actually seeing firearms or bombs in the hands of civilians none was recovered by the Army. None of the many photographs shows a civilian holding an object that can with certainty be identified as a firearm or bomb. No casualties were suffered by the soldiers from firearms or gelignite bombs. In relation to every one of the deceased there were eye witnesses who said that they saw no bomb or firearm in his hands. The clothing of 11 of the deceased when examined for explosive residues showed no trace of gelignite. The two others were Gerald McKinney, whose clothing had been washed at the hospital and could not be tested, and Donaghy, in the pockets of whose clothing there had, on any view, been nail bombs and whose case is considered later.

66. The only other relevant forensic test applied to the deceased was the so-called paraffin test. When a firearm is discharged minute particles of lead are carried by the propellant gases. The particles carried forward through the muzzle may be deposited over a distance of 30 feet in front of the weapon. Some gases escape from the breach however, and deposit lead particles on the hands or clothing of the firer. This phenomenon is particularly marked with revolvers and automatic weapons and with bolt-action rifles if the bolt is withdrawn after firing. If swabs are taken from the firing hand of a man who has fired such a weapon they may be expected to show an even distribution of minute lead particles on the back of that hand and between the forefinger and thumb. Such a deposit, if not otherwise explained, is strong if not conclusive evidence of firing.

67. Before such a conclusion is accepted other possible sources of the lead contamination must be examined. Among these are: (*a*) being close to someone else who is firing; (*b*) being within 30 feet of the muzzle of the weapon fired in one's own direction; (*c*) physical transfer of lead particles on contact with the body or clothing of someone who has recently fired a weapon; (*d*) the passing at close range of a bullet which has been damaged by contact with a hard substance and which may spread lead particles from its damaged surface; (*e*) direct contact with lead in, say, the trade of a plumber or whilst loading a firearm.

68. In deciding whether lead found on a subject's hand or clothing should be attributed to his having fired a weapon or to some other cause much depends upon the pattern of the deposit itself. The characteristic of lead deposit from a weapon is an even distribution of minute particles, whereas the deposit from the handling of a body or object contaminated with lead is more likely to be in the form of a smear. According to the expert evidence of Dr. Martin of the Northern Ireland Department of Industrial and Forensic Science and Professor Keith Simpson a concentration of minute particles on the hand creates a "strong suspicion" that the subject has been firing.

The deceased considered individually

John Francis Duddy

69. Age 17. He was probably the first fatal casualty and fell in the courtyard of Rossville Flats. (Mr. Grimaldi's photographs EP 26/12, 13 and 14.) As already recounted (paragraph 50(i)) he was seen to fall by Father Daly. Mrs. Bonnor and Mrs. Duffy both spoke of seeing a soldier fire at him. According to Mrs. Bonnor he was shot in the back. In fact the bullet entered his right shoulder and travelled through his body from right to left. As he ran he turned from time to time to watch the soldiers. This fits in with Father Daly having overtaken him while running and explains the entry wound being in his side. No shot described by a soldier precisely fits Duddy's case. The nearest is one described by Soldier V who spoke of firing at a man in a white shirt in the act of throwing a petrol bomb, but Duddy was wearing a red shirt and there is no evidence of his having a bomb. His reaction to the paraffin test was negative. I accept that Duddy was not carrying a bomb or firearm. The probable explanation of his death is that he was hit by a bullet intended for someone else.

Patrick Joseph Doherty

70. Age 31. His body was found in the area at the rear of No. 2 Block of Rossville Flats between that Block and Joseph Place. His last moments are depicted in a remarkable series of photographs taken by Mr. Peress which show him with a handkerchief over the lower part of his face crawling with others near the alleyway which separates No. 2 Block from No. 3 (EP 25/7, 8, 9, 11 and 12.) He was certainly hit from behind whilst crawling or crouching because the bullet entered his buttock and proceeded through his body almost parallel to the spine. There is some doubt as to whether he was shot when in the alleyway or at the point where his body was found. On the whole I prefer the latter conclusion. If this is so the probability is that he was shot by Soldier F, who spoke of hearing pistol shots and seeing a crouching man firing a pistol from the position where Doherty's body was found. Soldier F said that he fired as the man turned away, which would account for an entry wound in the buttock. Doherty's reaction to the paraffin test was negative. In the light of all the evidence I conclude that he was not carrying a weapon. If Soldier F shot Doherty in the belief that he had a pistol that belief was mistaken.

Hugh Plus Gilmore

71. Age 17. Gilmore died near the telephone box which stands south of Rossville Flats and near the alleyway separating Blocks 1 and 2. According to Miss Richmond he was one of a crowd of 30 to 50 people who ran away down Rossville Street when the soldiers appeared. She described his being hit just before he reached the barricade and told how she helped him to run on across the barricade towards the point where he collapsed. A photograph of Gilmore by Mr. Robert White (EP 23/9A), which according to Miss Richmond was taken after he was hit, shows no weapon in his hand. The track of the bullet is not constant with Gilmore being shot from directly behind and I think it likely that the statement of Mr. Sean McDermott is more accurate on this point than the evidence of Miss Richmond. Mr. McDermott put Gilmore as standing on the barricade in Rossville Street when he was hit and in a position such that his front or side may have been presented to the soldiers.

72. Gilmore was shot by one of the soldiers who fired from Kells Walk at the men at the barricade. It is impossible to identify the soldier. Gilmore's reaction to the paraffin test was negative. There is no evidence that he used a weapon.

Bernard McGuigan

73. Age 41. This man was shot within a short distance of Gilmore, on the south side of No. 2 Block of the Rossville Flats. According to Miss Richmond a wounded man was calling for help and Mr. McGuigan, carrying a white handkerchief, deliberately left a position of cover to attend to him. She said that he was shot almost at once. Other civilian witnesses confirmed this evidence and photographs of McGuigan's body show the white handkerchief in question. (Mr. Peress' EP 31/2 and 3 and EP 25/18.) Although there was some evidence that the shot came from Glenfada Park, which means that the soldier who fired might have been Soldier F, another possibility is that the shot came through the alleyway between Blocks 1 and 2. I cannot form any worthwhile conclusion on this point.

74. Although the eyewitnesses all denied that McGuigan had a weapon, the paraffin test disclosed lead deposits on the right palm and the web, back and palm of his left hand. The deposit on the right hand was in the form of a smear, those on the left hand were similar to the deposits produced by a firearm. The earlier photographs of McGuigan's body show his head uncovered but in a later one it is covered with a scarf. (Mr. Grimaldi's EP 26/25.) The scarf showed a heavy deposit of lead, the distribution and density of which was consistent with the scarf having been used to wrap a revolver which had been fired several times. His widow was called to say that the scarf did not belong to him. I accept her evidence in concluding it is not possible to say that McGuigan was using or carrying a weapon at the time when he was shot. The paraffin test, however, constitutes ground for suspicion that he had been in close proximity to someone who had fired.

John Pius Young

75. Age 17. This young man was one of three who were shot at the Rossville Street barricade by one of the cluster of 10 to 12 shots referred to by Mr. Campbell (paragraph 58 above refers). (Mr. Malley's EP 23/4. Mr. Mailey said that two men fell immediately after he took this photograph.) Young was undoubtedly associated with the youths who were throwing missiles at the soldiers from the barricade and the track of the bullet suggests that he was facing the soldiers at the time. Several soldiers, notably P, J, U, C, K, L and M all said that they fired from the Kells Walk area at men who were using firearms or throwing missiles from the barricade. It is not possible to identify the particular soldier who shot Young.

76. The paraffin test disclosed lead particles on the web, back and palm of the left hand which were consistent with exposure to discharge gases from firearms. The body of Young, together with those of McDaid and Nash, was recovered from the barricade by soldiers of 1 Para and taken to hospital in an APC. It was contended at the hearing that the lead particles on Young's left hand might have been transferred from the hands of the soldiers who carried him or from the interior of the APC itself. Although these possibilities cannot be wholly excluded, the distribution of the particles seems to me to be more consistent with Young having discharged a firearm. When his case is considered in conjunction with those of Nash and McDaid and regard is had to the soldiers' evidence about civilians firing from the barricade a very strong suspicion is raised that one or more of Young, Nash and McDaid was using a firearm. No weapon was found but there was sufficient opportunity for this to be removed by others.

Michael McDaid

77. Age 20. This man was shot when close to Young at the Rossville Street barricade. The bullet struck him in the front in the left cheek. The paraffin test disclosed abnormal lead particle density on his jacket and one large particle of lead on the back of the right hand. Any of the soldiers considered in connection with the death of Young might equally well have shot McDaid. Dr. Martin thought that the lead density was consistent with McDaid having handled a firearm, but I think it more consistent with his having been in close proximity to someone firing.

William Noel Nash

78. Age 19. He also was close to Young and McDaid at the Rossville Street barricade and the three men were shot almost simultaneously. The bullet entered his chest from the front and particles of lead were detected on the web, back and palm of his left hand with a distribution consistent with his having used a firearm. Soldier P (who can be seen in Mr Mailey's photographs EP 23/7 and 8; he is

looking up the alleyway in No. 7) spoke of seeing a man firing a pistol from the barricade and said that he fired four shots at this man, one of which hit him in the chest. He thought that the pistol was removed by other civilians. In view of the site of injury it is possible that Soldier P has given an accurate account of death of Nash.

79. Mr. Alexander Nash, father of William Nash, was wounded at the barricade. From a position of cover he saw that his son had been hit and went to help him. As he did so he himself was hit in the left arm. The medical opinion was that the bullet came from a low velocity weapon and Soldier U described seeing Mr. Nash senior hit by a revolver shot fired from the entrance to the Rossville Flats. The soldier saw no more than the weapon and the hand holding it. I think that the most probable explanation of this injury is that it was inflicted by a civilian firing haphazardly in the general direction of the soldiers without exposing himself enough to take proper aim.

Michael Kelly

80. Age 17. Kelly was shot while standing at the Rossville Street barricade in circumstances similar to those already described in the cases of Young, Nash, and McDaid. The bullet entered his abdomen from the front which disposes of a suggestion in the evidence that he was running away at the time. The bullet was recovered and proved that Kelly was shot by Soldier F, who described having fired one shot from the Kells Walk area at a man at the barricade who was attempting to throw what appeared to be a nail bomb. (Kelly is probably the man lying on the ground in Mr. Mailey's photograph EP 32/2. It is probably he who is being carried in Mr. Donnelly's EP 27/10; and certainly his body round which the crowd is clustered in Mr. Mailey's EP 23/10 and 11.)

81. The lead particle density on Kelly's right cuff was above normal and was, I think, consistent with his having been close to someone using a firearm. This lends further support to the view that someone was firing at the soldiers from the barricade, but I do not think that this was Kelly nor am I satisfied that he was throwing a bomb at the time when he was shot.

Kevin McElhinney

82. Age 17. He was shot whilst crawling southwards along the pavement on the west side of No. 1 Block of Rossville Flats at a point between the barricade and the entrance to the Flats. The bullet entered his buttock so that it is clear that he was shot from behind by a soldier in the area of Kells Walk. Lead particles were detected on the back of the left hand and the quantity of particles on the back of his jacket was significantly above normal, but this may have been due to the fact that the bullet had been damaged. Dr. Martin thought the lead test inconclusive on this account. Although McElhinney may have been hit by any of the rounds fired from Kells Walk in the direction of the barricade—eg by Soldiers L and M, who are to be seen in Mr. Morris's photograph EP 2/8—it seems probable that the firer was Sergeant K. This senior NCO was a qualified marksman whose rifle was fitted with a telescopic sight and who fired only one round in the course of the afternoon. He described two men crawling from the barricade in the direction of the door of the flats and said that the rear man was carrying a rifle. He fired one aimed shot but could not say whether it hit. Sergeant K obviously acted with responsibility and restraint. Though I hesitate to make a positive finding against a deceased man, I was much impressed by Sergeant K's evidence.

James Joseph Wray, Gerald McKinney, Gerald Donaghy and William McKinney

83. These four men were all shot somewhere near the south-west corner of the more northerly of the two courtyards of the flats at Glenfada Park. Their respective ages were 22, 35, 17 and 26. The two McKinneys were not related. Three other men wounded in the same area were Quinn, O'Donnell and Friel. I deal with the cases of these four deceased together because I find evidence too confused and too contradictory to make separate consideration possible. One important respect in which the shooting in Glenfada Park differs from that at the Rossville Street barricade and in the forecourt of the Rossville Flats is that there is no photographic evidence.

84. Four soldiers, all from the Anti-Tank Platoon, fired in this area, namely E, F, G and H. Initially the Platoon deployed in the Kells Walk area and was involved in the firing at the Rossville Street barricade. It will be remembered that at this time some 30 or 40 people were in the region of the barricade, of whom some were engaging the soldiers whilst others were taking cover behind the nearby gable end of the flats in Glenfada Park. (Mr. Mailey's photographs EP 23/10, 11 and 12.) Corporal E described how he saw civilians firing from the barricade and then noticed some people move toward the courtyard of Glenfada Park. He said that on his own initiative he accordingly led a small group of soldiers into the courtyard from the north-east corner to cut these people off. The recollection of the Platoon Commander (Lieutenant 119) was somewhat different; he said that he sent Soldiers E and F into the courtyard of Glenfada Park to cut off a particular gunman who had been firing from the barricade. The result in any event was that Soldiers E and F advanced into the courtyard and Soldiers G and H followed shortly afterwards. In the next few minutes there was a very confused scene in which according to civilian evidence some of the people who had been sheltering near the gable end of Glenfada Park sought to escape by running through the courtyard in the direction of Abbey Park and the soldiers fired upon them killing the four men named at the head of this paragraph. Soldiers E, F and G gave an account of having been attacked by the civilians in this group and having fired in reply. Soldier H gave an account of his activities with which I deal later. From the forensic evidence about a bullet recovered from the body it is known that Soldier G shot Donaghy. It is clear that the other three were shot by Soldiers E, F, G or H. Although several witnesses spoke of having seen the bodies there was a conflict of evidence as to whether they fell in the courtyard of Glenfada Park or between Glenfada Park and Abbey Park. The incident ended when the 20 to 30 civilians remaining in the courtyard were arrested on the orders of the Platoon Commander, who came into Glenfada Park just as the shooting finished.

85. In the face of such confused and conflicting testimony it is difficult to reach firm conclusions but it seems to me more probable that the civilians in Glenfada Park were running away than that they were seeking a battle with the soldiers in such a confined space. It may well be that some of them had been attacking the soldiers from the barricade, a possibility somewhat strengthened by the forensic evidence. The paraffin tests on the hand swabs and clothing of Gerald McKinney and William McKinney were negative. Dr. Martin did not regard the result of the tests on Donaghy as positive but Professor Simpson did. The two experts agreed that the results of the tests on Wray were consistent with his having used a firearm. However, the balance of probability suggests that at the time when these four men were shot the group of civilians was not acting aggressively and that the shots were fired without justification. I am fortified in this view by the account given by Soldier H, who spoke of seeing a rifleman firing from a window of a flat on the south side of the Glenfada Park courtyard. Soldier H said that he fired an aimed shot at the man, who withdrew but returned a few moments later, whereupon Soldier H fired again. This process was repeated until Soldier H had fired 19 shots, with a break for a change of magazine. It is highly improbable that this cycle of events should repeat itself 19 times; and indeed it did not. I accepted evidence subsequently given, supported by photographs, which showed that no shot at all had been fired through the window in question. So 19 of the 22 shots fired by Soldier H were wholly unaccounted for.

86. A special feature of Gerald Donaghy's case has some relevance to his activities in the course of the afternoon although it does not directly bear on the circumstances in which he was shot.

87. After Donaghy fell he was taken into the house of Mr. Raymond Rogan at 10 Abbey Park. He had been shot in the abdomen. He was wearing a blue denim blouse and trousers with pockets of the kind that open to the front rather than to the side. The evidence was that some at least of his pockets were examined for evidence of his identity and that his body was examined by Dr. Kevin Swords, who normally worked in a hospital in Lincoln. Dr. Swords' opinion was that Donaghy was alive but should go to hospital immediately. Mr. Rogan volunteered to drive him there in his car. Mr. Leo Young went with him to help. The car was stopped at a military check-point in Barrack Street, where Mr. Rogan and Mr. Young were made to get out. The car was then driven by a soldier to the Regimental Aid Post of 1st Battalion Royal Anglian Regiment, where Donaghy was examined by the Medical Officer (Soldier 138) who pronounced him dead. The Medical officer made a more detailed examination shortly afterwards but on neither occasion did he notice anything unusual in Donaghy's pockets. After another short interval, and whilst Donaghy's body still lay on the back seat of Mr. Rogan's car, it was noticed hat he had a nail bomb in one of his trouser pockets (as photographed in RUC photographs EP 5A/26 and 27). An Ammunition Technical Officer (Bomb Disposal Officer, Soldier 127) was sent for and found four nail bombs in Donaghy's pockets.

88. There are two possible explanations of this evidence. First, that the bombs had been in Donaghy's pockets throughout and had passed unnoticed by the Royal Anglians' Medical Officer Dr. Swords, and others who had examined the body; secondly that the bombs had been deliberately planted on the body by some unknown person after the Medical Officer's examination. These possibilities were exhaustively examined in evidence because, although the matter is a relatively unimportant detail of the events of the afternoon, it is no doubt of great concern to Donaghy's family. I think that on a balance of probabilities the bombs were in Donaghy's pockets throughout. His jacket and trousers were not removed but were merely opened as he lay on his back in the car. It seems likely that these relatively bulky objects would have been noticed when Donaghy's body was examined; but it is conceivable that they were not and the alternative explanation of a plant is mere speculation. No evidence was offered as to where the bombs might have come from, who might have placed them or why Donaghy should have been singled out for this treatment.

B. Were the soldiers justified in firing?

89. Troops on duty in Northern Ireland have standing instructions for opening fire. These instructions are set out upon the Yellow Card which every soldier is required to carry. Soliders operating collectively—a term which is not itself defined—are not to open fire without an order from the Commander on the spot. Soldiers acting individually are generally required to give warning before opening fire and are subject to other general rules which provide *inter alia:*

"2. Never use more force than the *minimum* necessary to enable you to carry out your duties.

"3. Always first try to handle the situation by other means than opening fire. If you have to fire:

"(*a*) Fire only aimed shots.

"(*b*) Do not fire more rounds than are absolutely necessary to achieve your aim".

The injunction to fire only aimed shots is understood by the soldiers as ruling out shooting from the hip—which they in any case regard as inefficient, indeed pointless—except that in a very sudden emergency, requiring split second action, a shot from the hip is regarded as permissible if it is as well aimed a shot as the circumstances allow.

90. Other stringent restrictions apply to soldiers who have given warning of intention to fire. But the rule of principal significance to the events of 30 January is that which contemplates a situation in which it is not practicable to give a warning. It provides:

"You may fire without warning

"13. Either when hostile firing is taking place in your area, and a warning is impracticable, or when any delay could lead to death or serious injury to people whom it is your duty to protect or to yourself; *and then only:*

"(*a*) against a person using a firearm against members of the security forces or people whom it is your duty to protect; or

"(*b*) against a person carrying a firearm if you have reason to think he is about to use it for offensive purposes."

The term "firearm" is defined as including a grenade, nail bomb or gelignite-type bomb.

91. Though no-one has sought to criticise the spirit and intention of these orders, it would be optimistic to suppose that every soldier could be trained to understand them in detail and apply them rigidly. Even if he could, the terms of Rule 13 leave certain questions unanswered and, perhaps, unanswerable:

(i) In the conditions contemplated by Rule 13, is fire to be opened defensively and restricted to that which is necessary to cause the attacker to desist and withdraw, or is he to be treated as an enemy in battle and engaged until he surrenders or is killed?

(ii) In the like conditions, is fire to be withheld on account of risk to others in the vicinity who are not themselves carrying or using firearms? Suppose that in a crowd of youths throwing stones one is identified as holding a nail bomb. Is the soldier then to hold his fire because of risk to those who are only throwing stones?

(iii) When hostile fire is taking place how certain must the soldier be in identifying an object as a firearm? From the front a camera with a telescopic lens may look very much like certain types of sub-machine gun. A television sound recordist holding his microphone aloft could well be taken for someone about to throw a nail bomb. Faced with such a situation does the soldier wait or does he give himself the benefit of the doubt and fire?

92. Furthermore, anomalous situations could arise from the Yellow Card's definition of a firearm. Although the definition does not embrace the petrol bomb, the soldier is authorised to fire against a person throwing a petrol bomb, but only after due warning and if petrol bomb attacks continue and if the thrower's action is likely to endanger life. There is no specific mention of other types of missile, including acid bombs. However, the soldier is authorised to fire, after due warning, *"against a person attacking . . .* if his action is *likely to endanger life,"* or "if there is no other way" for the soldier to protect himself or others "from the danger of being killed or seriously injured". So it would presumably be in order under the Yellow Card rules for a soldier to fire on a person hurling bricks or acid bombs or pieces of angle iron from high up on a tall building, but only after giving due warning, which it might not be easy to give.

93. Many people will be surprised to learn that it is not open to the soldier to give warning by firing warning shots. As has already been seen, the soldier is required to "fire only aimed shots". Whilst the Yellow Card does not in terms forbid a soldier hard pressed by an advancing mob to fire over their heads, to do so is certainly a breach of the orders. The justification put forward for this somewhat surprising provision is that hooligans would rapidly note and take advantage of the regular firing of shots meant to pass harmlessly by; the carrying of firearms would cease to deter.

94. Soldiers will react to the situations in which they find themselves in different ways according to their temperament and to the prevailing circumstances. The more intensive the shooting or stone-throwing which is going on the more ready will they be to interpret the Yellow Card as permitting them to open fire. The individual soldier's reaction may also be affected by the general understanding of these problems which prevails in his unit. In the Parachute Regiment, at any rate in the 1st Battalion, the soldiers are trained to take what may be described as a hard line upon these questions. The events of 30 January and the attitude of individual soldiers whilst giving evidence suggest that when engaging an identified gunman or bomb-thrower they shoot to kill and continue to fire until the target disappears or falls. When under attack and returning fire they show no particular concern for the safety of others in the vicinity of the target. They are aware that civilians who do not wish to be associated with violence tend to make themselves scarce at the first alarm and they know that it is the deliberate policy of gunmen to use civilians as cover. Further, when hostile firing is taking place the soldiers of 1 Para will fire on a person who appears to be using a firearm against them without always waiting until they can positively identify the weapon. A more restrictive interpretation of the terms of the Yellow Card by 1 Para might have saved some of the casualties on 30 January, but with correspondingly increased risk to the soldiers themselves.

95. In the events which took place on 30 January the soldiers were entitled to regard themselves as acting individually and thus entitled to fire under the terms of Rule 13 without waiting for orders. Although it is true that Support Company operated as a Company with all its officers present, in the prevailing noise and confusion it was not practicable for officers or NCOs always to control the fire of individual soldiers. The soldiers' training certainly required them to act individually in such circumstances and no breach of discipline was thereby involved. I have already stated that in my view the initial firing by civilians in the courtyard of Rossville Flats was not heavy; but the immediate response of the soldiers produced a brisk and noisy engagement which must have had its effect on troops and civilians in Rossville Street. Civilian, as well as Army, evidence made it clear that there was a substantial number of civilians in the area who were armed with firearms. I would not be surprised if in the relevant half hour as many rounds were fired at the troops as were fired by them. The soldiers escaped injury by reason of their superior field-craft and training.

96. When the shooting began every soldier was looking for a gunman and he was his own judge of whether he had identified one or not. I have the explanation on oath of every soldier who fired for every round for which he was required to account. Were they truthfully recounting the facts as they saw them? If so, did those facts justify the action taken?

97. Those accustomed to listening to witnesses could not fail to be impressed by the demeanor of the soldiers of 1 Para. They gave their evidence with confidence and without hesitation or prevarication and withstood a rigorous cross-examination without contradicting themselves or each other. With one of two exceptions I accept that they were telling the truth as they remembered it. But did they take sufficient care before firing and was their conduct justified, even if the circumstances were as they described them?

98. There were infringements of the rules of the Yellow Card. Lieutenant N fired three rounds over the heads of a threatening crowd and dispersed it. Corporal P did likewise. Soldier T, on the authority of Sergeant O, fired at a person whom he believed to be throwing acid bombs and Soldier V said he fired on a petrol bomber. Although these actions were not authorised by the Yellow Card they do not seem to point to a breakdown in discipline or to require censure. Indeed in three of the four cases it could be held that the person firing was, as the senior officer or NCO on the spot, the person entitled to give orders for such firing.

99. Grounds put forward for identifying gunmen at windows were sometimes flimsy. Thus Soldier F fired three rounds at a window in Rossville Flats after having been told by another soldier that there was a gunman there. He did not seem to have verified the information except by his observation of "a movement" at the window. Whether or not it was fired by Soldier H a round went through the window of a house in Glenfada Park into an empty room. The only people in the house were an old couple who happily were sitting in another room. In all 17 rounds were fired at the windows of flats and houses, not counting Soldier H's 19 rounds.

100. The identification of supposed nail bombers was equally nebulous—perhaps necessarily so. A nail bomb looks very much like half a brick and often the only means of distinguishing between a stone-thrower and a nail-bomber is that a light enough stone may be thrown with a flexed elbow whereas a nail bomb is usually thrown with a straight arm as in a bowling action.

101. Even assuming a legitimate target, the number of rounds fired was sometimes excessive. Soldier S's firing of 12 rounds into the alleyway between Blocks 1 and 2 of the Rossville Flats seems to me to have been unjustifiably dangerous for people round about.

102. Nevertheless in the majority of cases the soldier gave an explanation which, if true, justified his action. A typical phrase is "I saw a civilian aiming what I thought was a firearm and I fired an aimed shot at him." In the main I accept these accounts as a faithful reflection of the soldier's recollection of the incident; but there is no simple way of deciding whether his judgment was at fault or whether his decision was conscientiously made. Some of the soldiers showed a high degree of responsibility. Examples of this are the experienced Sergeant K, already referred to, and the 18 year old Soldier R. At the other end of the scale are some of the soldiers who fired in Glenfada Park in the circumstances described in paragraphs 83 to 85 above. Between these extremes a judgment must be based on the general impression of the soldiers' attitudes as a whole. There is no question of the soldiers firing in panic to protect their own skins. They were far too steady for that. But where soldiers are required to engage gunmen who are in close proximity to innocent civilians they are set an impossible task. Either they must go all out for the gunmen, in which case the innocent suffer; or they must put the safety of the innocent first, in which case many gunmen will escape and the risk to themselves will be increased. The only unit whose attitude to this problem I have examined is 1 Para. Other units may or may not be the same. In 1 Para the soldiers are trained to go for the gunmen and make their decisions quickly. In these circumstances it is not remarkable that mistakes were made and some innocent civilians hit.

103. In reaching these conclusions I have not been unmindful of the numerous allegations of misconduct by individual soldiers which were made in the course of the evidence. I considered that allegations of brutality by the soldiers in the course of making arrests were outside my terms of reference. There is no doubt that people who resisted or tried to avoid arrest were apt to be roughly handled; but whether excessive force was used is something which I have not investigated.

104. There have also been numerous allegations of soldiers firing carelessly from the hip or shooting deliberately at individuals who were clearly unarmed. These were all isolated allegations in which the soldier was not identified and which I could not investigate further. If, and insofar as, such incidents occurred the soldier in question must have accounted for the rounds fired by giving some different and lying story of how they were expended. Though such a possibility cannot be excluded, in general the accounts given by the soldiers of the circumstances in which they fired and the reasons why they did so were, in my opinion, truthful.

SUMMARY OF CONCLUSIONS

1. There would have been no deaths in Londonderry on 30 January if those who organised the illegal march had not thereby created a highly dangerous situation in which a clash between demonstrators and the security forces was almost inevitable.

2. The decision to contain the march within the Bogside and Creggan had been opposed by the Chief Superintendent of Police in Londonderry but was fully justified by events and was successfully carried out.

3. If the Army had persisted in its "low key" attitude and had not launched a large scale operation to arrest hooligans the day might have passed off without serious incident.

4. The intention of the senior Army officers to use 1 Para as an arrest force and not for other offensive purposes was sincere.

5. An arrest operation carried out in Battalion strength in circumstances in which the troops were likely to come under fire involved hazard to civilians in the area which Commander 8 Brigade may have under-estimated.

6. The order to launch the arrest operation was given by Commander 8 Brigade. The tactical details were properly left to CO 1 Para who did not exceed his orders. In view of the experience of the unit in operations of this kind it was not necessary for CO 1 Para to give orders in greater detail than he did.

7. When the vehicles and soldiers of Support Company appeared in Rossville Street they came under fire. Arrests were made; but in a very short time the arrest operation took second place and the soldiers turned to engage their assailants. There is no reason to suppose that the soldiers would have opened fire if they had not been fired upon first.

8. Soldiers who identified armed gunmen fired upon them in accordance with the standing orders in the Yellow Card. Each soldier was his own judge of whether he had identified a gunman. Their training made them aggressive and quick in decision and some showed more restraint in opening fire than others. At one end of the scale some soldiers showed a high degree of responsibility; at the other, notably in Glenfada Park, firing bordered on the reckless. These distinctions reflect differences in the character and temperament of the soldiers concerned.

9. The standing orders contained in the Yellow Card are satisfactory. Any further restrictions on opening fire would inhibit the soldier from taking proper steps for his own safety and that of his comrades and unduly hamper the engagement of gunmen.

10. None of the deceased or wounded is proved to have been shot whilst handling a firearm or bomb. Some are wholly acquitted of complicity in such action; but there is a strong suspicion that some others had been firing weapons or handling bombs in the course of the afternoon and that yet others had been closely supporting them.

11. There was no general breakdown in discipline. For the most part the soldiers acted as they did because they thought their orders required it. No order and no training can ensure that a soldier will always act wisely, as well as bravely and with initiative. The individual soldier ought not to have to bear the burden of deciding whether to open fire in confusion such as prevailed on 30 January. In the conditions prevailing in Northern Ireland, however, this is often inescapable.

APPENDIX A: LIST OF DEAD AND INJURED

Dead

Patrick Joseph Doherty.
Gerald Donaghy.
John Francis Duddy.
Hugh Pius Gilmore.
Michael Kelly.
Michael McDaid.
Kevin McElhinney.
Bernard McGuigan.
Gerald McKinney.
William Anthony McKinney.
William Noel Nash.
James Joseph Wray.
John Pius Young.

Injured

Michael Bradley.
Michael Bridge.
Patrick Campbell.
Margaret Deery.
Damien Donaghy.
Joseph Friel.
John Johnson.
Joseph Mahon.
Patrick McDaid.
Daniel McGowan.
Alexander Nash.
Patrick O'Donnell.
Michael Quinn.

APPENDIX B: LIST OF WITNESSES

Civilians from Londonberry and Area

Mrs. M. Bonnor.
J. G. Bradley.
M. P. Bridge.
J. Carr.
J. Chapman.
J. Doherty.
Mrs. I. Duffy.
F. P. Dunne.
J. Friel.
J. Gorman.
W. V. Hegarty.
J. Johnson
F. Lawton.
Mrs. M. McCartney.
G. McCauley.
C. McDaid.
P. McDaid.
Mrs. B. McGuigan.
A. Nash.
P. O'Donnell.
W. O'Reilly.
J. W. Porter.
M. Quinn.
Miss G. F. C. Richmond.
R. M. Rogan.
Brother F. B. Sharpe.
J. Stevenson.
D. T. Tucker.
R. A. Wood.
H. L. Young.

Priests

Father D. Bradley.
Father E. K. Daly.
Father J. Irwin.
Father M. McIvor.
Father V. A. Mulvey.
Father T. O'Gara.
Father T. M. O'Keefe.

Other Civilians

L. Bedell.
Lord Brockway.

Press and Television Reporters, Photographers, etc.

P. E. C. Beggin.
J. D. Bierman.
D. Capper.
B. Cashinella.
C. Cave.
J. A. Chartres.
C. J. Donnelly.
C. Doyle.
F. Grimaldi.
R. E. Hammond.
C. Haslett.
N. Kunioka.
W. J. Mailey.
J. P. Morris.
G. Peress.
D. Phillips.
G. W. H. K. Seymour.
D. S. Tereshchuk.
N. H. Wade.
P. F. Wilkinson.
S. B. A. Winchester.

Soldiers

Major General R. C. Ford, CBE.
Brigadier A. P. W. MacLellan, MBE.
Lieutenant Colonel M. C. M. Steele.
Lieutenant Colonel P. M. Welsh.
Lieutenant Colonel D. Wilford.
A, B, C, D, E, F, G, H, J, K, L, M, N, O, P, Q, R, S, T, U, V, Y, AA, SAP, 015, 028, 030, 104, 119, 127, 138, 150, 201, 227, 236.

Police officers

Assistant Chief Constable R. G. Campbell.
Chief Superintendent F. Lagan.
Superintendent S. McGonigle.
Police Constable H. B. McCormac.
Police Constable J. Montgomery.
PN7.
PN93.
PS34.

Doctors, forensic experts and pathologists

Dr. D. J. L. Carson.
Dr. T. K. Marshall.
Dr. J. Martin.
Dr. J. R. Press.
Prof. K. Simpson.
Dr. P. J. K. Swords.

APPENDIX C [(MAP OF AREA) OMITTED]

APPENDIX D: LEGAL REPRESENTATIVES

1. *Counsel for the Tribunal:* Mr. J. Stocker QC, Mr. L. Read, Mr. T. W. Preston (instructed by the Treasury Solicitor).

2. *Counsel for the Ministry of Defense:* Mr. E. B. Gibbens QC, Mr. M. Underhill (instructed by the Army Legal Services).

3. *Counsel for the next of kin of twelve of the deceased and for the injured:* Mr. McSparran QC, Mr. R. C. Hill (instructed by Mr. C. Napier on behalf of the next of kin and by Mr. B. McCluskey on behalf of the injured).

4. *Counsel for the Londonderry priests:* Mr. W. McCollum QC, Mr. P. Mooney (instructed by Messrs. Maxwell & Co.).

5. *Counsel for Mr. S. B. A. Winchester:* Mr. G. P. M. Gibson (instructed by Messrs. Johns, Elliot and Wallace).

6. *For Independent Television News:* Mr. C. F. B. Winder of Messrs. Biddle and Co.

SMOKERS SEPARATED FROM NONSMOKERS UNDER ICC ORDER

Mr. SCHWEIKER. Mr. President, the Interstate Commerce Commission has decreed that beginning April 17 separate seating for smokers and nonsmokers must be provided on interstate buses.

This represents a significant victory for nonsmokers who have sought this kind of regulation for years.

On February 28, 1972, I introduced S. 3249, a bill to require airplane, buses, and trains to set aside special seating areas for smokers. I introduced my legislation partly because earlier this year the U.S. Surgeon General found that nonsmokers are significantly affected by the smoke generated by smokers. Thus, the problem has gone far beyond being a matter of inconvenience or irritation to nonsmokers. It is clearly a matter of health.

The problem, of course, is that nonsmokers have in the past had no control over their breathing of smoky air. You do not have a choice of whether to breathe or not, and on a crowded airplane, train or bus, even with air conditioning, the air can get pretty polluted.

I believe the question of whether to smoke or not should be a matter of individual choice. But, those who choose not to smoke should not be made to breathe smoke generated by others against their wishes.

For that reason, my bill does not ban smoking entirely. It simply requires that all airplanes, trains, and buses do what the ICC has ordered buses to do after I introduced my bill. Several airlines have done this on a voluntary basis already. I might add, however, that the bus owners have not supported this idea. Not only did they fight the ICC proposal, but it is reported that the National Association of Motor Bus Owners plans to appeal it to the courts.

I am encouraged by the action of the ICC. But, I strongly believe that my legislation, which would apply across-the-board, is necessary. The fact that the bus owners intend to fight the ICC order is clear evidence that legislation is needed. I hope the Senate will act soon on my bill.

Mr. President, I ask unanimous consent that the ICC regulation adopted, and a Philadelphia Inquirer article of March 31, 1972, be printed in the RECORD.

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

ICC PUTS SMOKERS IN REAR OF THE BUS

WASHINGTON.—In a victory for Ralph Nader, the Interstate Commerce Commission has cleared the way for rules separating smokers from non-smokers on interstate buses, despite opposition from bus owners.

That means that starting April 17, smokers must sit in the back 20 percent of the bus unless bus owners are successful in their plans to appeal for a delay, first to the commission and if necessary to the courts.

It also means non-smokers have won another round in their fight to clear the air around them.

Last month, a public health professor at Tulane University sued National and Delta Airlines in Small Claims Court in New Orleans, charging he "suffered eye and nose irritation and headache" from tobacco smoke while flying those lines.

Last month, too, Sen. Richard S. Schweiker (R., Pa.) introduced a bill which would require planes, trains and buses to set aside special sections for smoking. Rep. C. W. (Bill) Young (R., Fla.) has a similar bill pending in the House and hopes for hearings before the House Interstate and Foreign Commerce Committee during this session.

The National Association of Motor Bus Owners plans to appeal on grounds that ICC lacks jurisdiction over such matters. The association has just lost a move seeking reconsideration for those reasons at the commision level.

ICC denied its petition, saying "that no sufficient or proper cause appears for reopening the proceedings."

Nader originally asked that smoking be banned from buses altogether, saying they "are inadequately ventilated and, as a consequence, contain tobacco smoke in noxious quantities."

The ICC rule does not apply to charter buses because this service involves "voluntariness."

REGULATION ADOPTED

SEC. 106.1 PROVISION FOR SEPARATE SEATING FOR SMOKERS AND NONSMOKERS ON INTERSTATE PASSENGER CARRIERS BY MOTOR VEHICLE

(a) All motor common carriers of passengers subject to part II of the Interstate Commerce Act, which desire to permit smoking of cigars, cigarettes, or pipes, shall, where smoking on passenger-carrying motor vehicles is otherwise permitted by law, provide a smoking section, consisting of a number of seats in the rear of the passenger-carrying motor vehicle, not to exceed 20 percent of the capacity of the said vehicle. Except as otherwise permitted under paragraph (b) of these rules, smoking of cigars, cigarettes, or pipes shall not be permitted in any portion of the motor vehicle other than the smoking section required by (1) above.

(b) The provisions of paragraph (a) shall not be construed to apply to charter operations performed by motor common carriers of passengers subject to part II of the Interstate Commerce Act.

(c) In the event of any unusual circumstances arising under paragraph (a), the operator (driver) of the motor vehicle involved (or other carrier employee) may exercise reasonable discretion to the extent permitted by the carrier, by making minor modifications in the special seating sections established by paragraph (a) in order to assure the comfort of all passengers and the provision of safe, adequate, and expeditious transportation service.

114 M.C.C.

VIETNAM VETERANS NEED INCREASED UNEMPLOYMENT BENEFITS

Mr. EAGLETON. Mr. President, this morning's Washington Post reminds us that although Vietnam veterans claimed almost one-fourth of the new jobs created in the past 12 months, their unemployment rate remained at 8.6 percent, well above the national average.

Despite the considerable efforts being made on behalf of the returning veteran to try to aid him in employment, the fact remains there are 340,000 veterans still without work. This is only 12,000 fewer unemployed veterans than when I introduced my bill, S. 1741, last May 3—more than a year ago—which would have provided increased unemployment benefits for our veterans.

I recently received a letter from the student body president of the University of Tennessee, Charles Huddleston, transmitting a resolution in support of S. 1741 and urging that it be enacted. I ask unanimous consent that the letter, the resolution, and this morning's Washington Post article entitled "U.S. Seeks Jobs for Veterans" be printed in the RECORD.

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

[From the Washington Post, May 9, 1972]

UNITED STATES SEEKS JOBS FOR VETERANS

Although Vietnam veterans claimed almost one-fourth of the new jobs created in the nation during the past 12 months, their unemployment rate remained at 8.6 per cent, well above the national average, the administration said yesterday.

President Nixon ordered Labor Secretary James D. Hodgson to continue for another year the Jobs for Veterans program began almost a year ago.

"I regard this effort as of the highest priority in federal manpower and training programs," Mr. Nixon said in a letter to Hodgson.

Hodgson reviewed for newsmen the results of the program during the first year. He said one of its most difficult targets was to overcome "a public indifference to the obligation we owe to Vietnam-era veterans."

Hodgson said Vietnam veterans accounted for a net increase of 538,000 jobs in the 12-month period that ended April 30. That was almost 25 per cent of the 2.2 million increase in total employment throughout the nation.

Despite the advances, there were 340,000 veterans without work, 8.6 per cent of the total in the work force, down from 9.7 per cent a year ago, but still above the national average of 5.9 per cent.

KNOXVILLE, TENN.,
April 14, 1972.

Senator THOMAS EAGLETON,
Senate Office Building,
Washington, D.C.

SENATOR EAGLETON: The enclosed Resolution was passed by the Student Senate at the University of Tennessee, Knoxville, April 4, 1972.

We felt it would be of interest to you.

Sincerely,

CHARLES HUDDLESTON,
Student Body President.

RESOLUTION

Whereas: 5 million Vietnam-era veterans have come back to America and have ended up looking for unemployment assistance, including 95,000 Vietnam veterans in Tennessee alone and several hundred at U.T.;

Whereas: Many of these veterans, including a number of GI Bill students at U.T. have "lost" their earned unemployment benefits because of an obscure one-year-drawing limitation ("benefit year") in Tennessee law, and believing that veterans need more financial assistance while looking for jobs or completing school;

Whereas: U.S. Senator Thomas Eagleton of Missouri introduced a bill on May 3, 1971 (S. 1741) to provide for Vietnam-Era Veterans' Supplementary Unemployment Compensation, for 52 weeks at $75 per week; but the bill is still in the Senate Committee on Labor and Public Welfare;

We the Student Senate of the University of Tennessee, Knoxville, do hereby respectfully request Labor and Public Welfare Committee Chairman Harrison Williams to hold hearings on S. 1741, and urge Sens. Howard Baker and William Brock to help procure such hearings on S. 1741.

In addition, we respectfully request that Governor Winfield Dunn, and the U.T. area's State Representatives, Richard Krieg and Victor Ashe, do all within their influence to extend the one-year Tennessee limitation on exservicemen's unemployment compensation to *two years* (similar to Maine, California, et al), with a retroactive provision back to 1965, the year the Vietnam War began, so as to reimburse several thousand Vietnam vets who "lost" their earned benefits, due to poor Claims Office information and trying to get an education on the GI Bill (unable

by law to draw unemployment simultaneously); and to end present confusion and discrimination in the Unemployment Compensation Act.

THE PORNOGRAPHY OF VIOLENCE

Mr. SAXBE. Mr. President, many people feel that organized crime is becoming a phenomenon of the past. Numerous nations are free of it as are entire regions of this country. However, the recent assassination of Mafia Chief Joseph Gallo jolts us back to reality. Today, organized crime penetrates broad segments of American life. However, the Cosa Nostra can thrive only when and where the public tolerates it. Organized crime syndicates provide goods and services desired by the consuming public—narcotics, prostitutes, loan sharking, and gambling. These are consensual crimes.

The American public not only supports the Mafia, we also find its leaders amusing and admirable and the heroes of recent literary works. The shooting of Joseph Gallo blends fact with fiction. Gallo served as the inspiration for the book and the movie, "The Gang That Couldn't Shoot Straight." The plot deals with the rivalry between the south Brooklyn gang led by Kid Sally Palumbo and the Mafia establishment. They slaughter one another with every means at their disposal. The attempted comedy is funny, I suppose, to those capable of laughing at shooting, stabbing, blowing up, and strangling. The subject matter is even less amusing when it becomes reality and a four-gun battle takes place in a public restaurant.

Following the shooting of Gallo, an onlooker standing across from Umberto's Clam Bar in Little Italy was reported to comment that—

It's just like *The Godfather*. They filmed it down the block, you know. Yeah, Corleone [the crime chieftan played by Marlon Brando] got hit right over there.

The plot of "The Godfather" revolves around gang warfare, and the names of the leading characters might well be Genovese, Gallo, and Profaci. People are currently flocking to see this movie which portrays a family that uses guns, axes, garrotes, and fear to achieve dominance over the entire Mafia in the United States. It is intended to shock, and it does. But what truly is frightening about "The Godfather" is the reaction of the spectators. I could not help feeling despondent when the audience laughed at the sight of a Hollywood film producer waking up to find the severed head of his prize race horse staring blindly at him and cheered at the sight of Michael Corleone shooting a police captain and a rival Mafioso in a restaurant. The heroes of "The Godfather" scorn law as impotent, and they create and administer their own code of ethics. They share a conviction that street justice is preferable to the justice practiced in the courts. And the audience loves it.

History and culture are expressed in literature. What will future generations say of our society when they read "The Godfather" and "The Gang That Couldn't Shoot Straight"? Our culture not only tolerates violence, we glorify violence. We must commit ourselves as a nation to exposing the true character of violence and to supporting more positive values. This is why I have joined with 12 other Senators in introducing the Omnibus Criminal Justice Reform Amendments of 1972.

THE FBI IN PERSPECTIVE

Mr. HRUSKA. Mr. President, it seems very likely that the Federal Bureau of Investigation, one of the Nation's most effective and most respected organizations, may become a common topic of political discussion in the months ahead.

Such an occurrence will be particularly unfortunate, because the FBI is, as it was during Mr. Hoover's long and dedicated tenure, a professional organization. As such, it should not be, nor was it embroiled in partisan politics.

I know those of us in this body are united in the hope that the agency, during the period of transition which it must now undergo, will be spared the discomfort of being dragged into partisan political debate.

In this connection, the eminent Washington Columnist Richard Wilson has written a timely and interesting column which places the national role of the FBI into the proper perspective.

The article capsules clearly and concisely the role of the FBI in the entire scheme of national law enforcement. It also points up the problems which the Acting Director, L. Patrick Gray, will have to face as he takes over the reins of the organization which knew only one Director for nearly five decades.

Mr. Wilson's column is worthy of our attention. It should be particularly noted by those who in an election year will be faced with the temptation to make political capital of the agency.

I ask unanimous consent, Mr. President, that the text of Mr. Wilson's column as it appeared in Monday's Washington Star under the headline, "Coming Dispute on FBI Put in Perspective," be printed in the RECORD.

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

COMING DISPUTE ON FBI PUT IN PERSPECTIVE

(By Richard Wilson)

The role of the FBI in the general scheme of things in the nation has always been exaggerated. It is not a national police force. Its jurisdiction is circumscribed.

By far the greater responsibility for law and order resides in state, local and other federal agencies. The latter includes the United States Secret Service as well as numerous federal enforcement agencies operating in conjunction with the Justice Department's Criminal Division.

Of the $2.3 billion budgeted for 1972–73 federal anti-crime programs, $330 million, or less than one-sixth, is directly for the FBI.

These facts are recited in an effort to put into perspective a kind of hysteria which will soon evidence itself on how the post-Hoover FBI shall be run, who shall head it, and what its philosophy shall be.

The hysteria rises from one major source, those who imagine that the FBI is or will soon become a secret police used for political repression. This bugaboo is regularly paraded in Congress and the liberal community, which must now be astounded by the statement of Interim Director L. Patrick Gray that he has as yet discovered no secret files or dossiers, a la the European secret police, on political figures and prominent Americans.

If Gray finds no such incriminating files in the future, he will have destroyed the cherished convictions of thousands of liberals and radicals that they are under constant surveillance. Their megalomania and status will have undergone a shattering deflation with the disclosure that the FBI did not even think it worthwhile to tap their telephones.

In fact, the FBI is very exclusive, having in operation about 50 telephone taps in national security cases at any particular time on the scores of millions of phones in the country. In view of the politically inspired violence and threats of violence in the era of dissent and the many bombings and depredations, a figure of 50 wiretaps (actually 36 in 1970) does not seem out of proportion.

Gray has undertaken, as one of his first responsibilities, dispelling such distrust of the FBI as was based on hatred of Hoover. He tries to appear in the role of a reasonable and accessible official who will effect changes in style if not in substance, contrasting with Hoover's adamancy and remoteness.

This may be useful in the beginning but in the end Gray will have to undertake, because he is required by law to do so, the type of inquiries which made Hoover so unpopular in radical intellectual circles. These inquiries extend to college campuses where dissent crosses the perilous boundary into overt action against the government, and to the ghettos where the creed of armed violence challenges established authority.

If Gray receives reports of plots to blow up the Capitol, or destroy its heating system, or to kidnap prominent federal officials, he will have to look into them, regardless of how juries have reacted to such charges in the past.

And if such inquiries result in renewed charges that the FBI is an agency of political repression, Gray will have to live with it, as did Hoover—having at the same time the general support of the vast majority.

If Gray is looking for an example of how to extract a leading government agency from the field of controversy, he might examine the tactics of the U.S. director of intelligence, Richard P. Helms.

CIA Director Helms, before he ascended to a higher role, managed to extricate the CIA from a position of prominence which did not become it.

CIA is managing to keep out of the news, except in those cases where it might be expedient to let it be known that it was not entirely in agreement with the Defense Department.

Otherwise, very little is heard anymore of the CIA's shadier side, although it stretches credulity to believe that this agency has abandoned an active role in shaping the world's affairs.

A mild manner and lowered profile has aided Helms, and something like this may be valuable in the case of the FBI now that it is no longer necessary to support the Hoover personality cult.

If Gray succeeds he may become the permanent director of the FBI, although that would depend to a great extent on Nixon's re-election.

THE MASSIVE NEW BOMBING OF NORTH VIETNAM

Mr. KENNEDY. Mr. President, it now appears that the outrage of the President's decision to mine Haiphong is being compounded by massive new bombing over North Vietnam.

According to current press reports, waves of American bombers are raining down new death and destruction on

Hanoi, Haiphong, and other parts of North Vietnam, and the port of Haiphong is undergoing heavy American naval bombardment. It appears that this Nation is now engaged in the most massive bombing and bombardment in the entire history of the war.

We know the outcry in the Nation against the raids 3 weeks ago on Hanoi and Haiphong. Can it be that the President is using the present national outcry over the mining of Haiphong as a cover for a saturation bombing of the North, bombing that in any other circumstances would be condemned by every American citizen and every nation of the world?

Where is our compassion, our mercy, our respect for human life? How can we possibly justify this descent into pure brutality, this scorched earth policy against North Vietnam?

History may well condemn this terrible new bombing—as a cruel retaliation against North Vietnam for the continuing reverses being suffered by the army of South Vietnam on the battlefield—as though, somehow, a systematic infliction of excruciating punishment on countless civilian victims in North Vietnam can turn the tide of battle in the South. To me, any possible strategic value of such bombing is vastly overwhelmed by the terrible price in human life that is being exacted of innocent men and women and children, whose families and home and schools and hospitals are being obliterated minute by minute by American bombs and shells, all because they happen to be located in the vicinity of a road or rail line of some supposed importance in the movement of supplies.

The President who speaks of a generation of peace is now in the process of bringing us the bloodiest days in the history of the war. I yield to none in my condemnation of the invasion from the North, but how can we close our eyes to the daily massacre of innocent noncombatants, or to the mortal danger for thousands of American fliers who may be killed or wounded or taken prisoner as the raids continue?

ALASKAN OIL PIPELINE

Mr. BROCK. Mr. President, while I am very much aware of the potential energy crisis in this country and agree that there are compelling reasons for building the Alaskan oil pipeline as soon as possible, there are also compelling environmental, security, and economic advantages favoring a Canadian route.

The environmental advantages of the Canadian alternative must be weighed. The most important of these include the avoidance of seismically active regions, terminal, and tanker operations in Valdez and crossing the Alaska Mountain Range.

Mr. S. David Freeman, who, until September 1971, served as Assistant Director for Energy and the Environment in the Office of Science and Technology, effectively refutes, in a letter to Secretary Morton, the argument that delay of construction of the trans-Alaska pipeline would seriously threaten our national security. I ask unanimous consent that the letter be printed in the RECORD.

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

BETHESDA, MD.,
May 2, 1972.

Re: Comments on Trans-Alaskan Oil Pipeline and Alternatives

Hon. ROGERS C. B. MORTON,
Secretary, Department of the Interior, Interior Building, Washington, D.C.

DEAR MR. SECRETARY: I am submitting my personal comments on the pending applications for the Trans-Alaskan Oil Pipeline because the decision will make such a lasting imprint on the shape of this nation's energy policy, as well as the quality of the environment.

The central comment which I made—and it is crucial to your decision—is that the Canadian alternative is not only environmentally superior and economically more attractive but that it would materially strengthen our national security as compared with the Trans-Alaskan alternative.

The Canadian route would provide the incentive and the means for marketing the vast oil resources of the Canadian North, as well as the Alaskan oil, and thus lessen our future dependence on insecure Eastern Hemisphere sources.

Any decision to grant a permit for the Trans-Alaskan route in the name of national security would be a mistake which would throw away a unique opportunity to strengthen our secure supplies of energy by opening up all of North America to the early development. The Impact Statements issued by your Department to date have failed to spell out these opportunities for strengthening the security of U.S. energy supply.

There is no longer any serious question that the Canadian alternative is environmentally superior. It skirts the intense earthquake zone in Alaska, eliminates water transportation and consequent oil spills in the Pacific, avoids the unplanned development and probable desecration of the Alaskan North, and by occupying the same right-of-way as the natural gas pipeline causes far less damage to the land than would the Trans-Alaskan route.

Neither is there much doubt as to which route can most economically transport the oil to the U.S. markets where it is most needed. I have made no independent cost calculation but your Department's own figures confirm that the "Transportation Costs" for the Canadian route are lower to Chicago and New York (Table C–2, p. C–17, Vol. 1–Summary). Even to the West Coast your Department's finding is that "Data does not exist to definitely state the relative efficiencies of TAPS and McKenzie Valley pipeline system." Moreover, the transportation costs for the Trans-Alaskan route may include a large federal subsidy for the tankers to move the oil from Valdez to the West Coast. The Impact Statement reveals no information on this point.

The Canadian alternative will deliver Alaskan oil to the markets in the Midwest and the East, where it is really needed, at a lower cost than the Alaskan route and may even result in savings to the taxpayer as well.

National security—those magic words which mean so much but often reveal so little—thus emerges as the only consideration advanced to override the obvious superiority of the Canadian route on environmental and economic grounds.

The vagueness of the term national security makes it essential that we define its meaning and then examine each alternative in light of that definition. The most recent authoritative definition of national security in this context was set forth in President Nixon's Cabinet Committee Report on the Oil Import Question as:

"Protecting military and essential civilian demand against reasonably possible foreign supply interruptions that could not be overcome by feasible replacement measures in an emergency." (Section 115, p. 8.)

Imported oil is, of course, not an automatic threat to our national security and the Administration has recently rejected the notion that a certain "peril point" existed as an absolute ceiling on the percent of U.S. oil consumption we could safely import at any given time.

It is crucial to any discussion of national security to recognize that Canadian oil is considered secure (the Oil Import Question Section 335b, p. 94, p. 362.) It is imports from insecure Eastern Hemisphere nations which are said to pose a threat to our national security. The gravest danger lies not in this decade when Eastern Hemisphere imports are relatively small but rather in the 1980's when most oil companies now project that about half of U.S. supply will be imported from the Eastern Hemisphere.

Prudhoe Bay, where oil has been discovered in Alaska, is located near the Western edge of a large number of petroleum provinces to the southeast in Canada. Reliable, conservative estimates are that the Canadian Arctic contains some 44 billion barrels of oil resources, about the same as the estimates for the entire oil resources of Alaska.[1]

Total oil resources for Canada are estimated at over 100 billion barrels, not to mention the over 300 billion barrels in the Canadian Tar Sands. It is therefore of prime importance to our national security that we encourage the exploration and development of the rich petroleum resources in Canada, as well as those in the United States, and thus lessen our reliance on less secure imports from the Middle East.

Building a pipeline "land-bridge" from Alaska down the MacKenzie river valley would be the strongest possible measure to further the exploration and development of secure North American petroleum. It would thus succeed in strengthening our security of supply for the decades ahead by lessening our dependence on Arab petroleum and by bringing secure supplies to the areas most vulnerable, the East and Midwest.

The Trans-Alaskan route, rather than moving through the oil country in Canada, would go away from it. It would fail to provide the incentive and means for developing the Canadian oil and bringing it to U.S. markets. It would only tap the Alaskan oil and direct it toward the West Coast market which is not large enough to consume all of it. Meanwhile, the large oil resource in the Canadian North would lie undeveloped for lack of a pipeline to market.

It might be suggested that if there is so much oil in Canada a Canadian pipeline will also be built. But if Trans-Alaska is approved it will dampen the incentive for exploration in the Canadian North and no one can be sure when, or if, the Canadian oil would even reach U.S. markets. Perhaps some day this would happen but in the intervening years the United States security of supply would suffer. And of course if a Canadian line is to be built anyway, why not bring the Alaskan oil along the same route now and avoid the grave threat to the environment of Alaska and the North Pacific?

The Canadian alternative would provide a pipeline corridor to bring all available North American oil and natural gas to the large U.S. markets in the Midwest and the East. It could thus add several million barrels of oil per day to U.S. supplies over and above the Trans-Alaskan route in the 1980's.

In addition, as the Impact Statement found, a land-based pipeline through Canada

[1] DeGolyer and McNaughten. Report on Estimates of Additional Recoverable Reserves of Oil and Gas for the United States and Canada, June 1969, p. 17, 27.

provides a safer route than the tankers from Alaska to the West Coast in the event of hostilities or natural disasters.

The national security thus very much favors the Canadian alternative in the decade of the 1980's and beyond when the projections suggest the East Coast and Midwest will otherwise be heavily dependent on insecure Eastern Hemisphere imports. The only national security consideration that could be considered as negative for the Canadian alternative would be if there were a problem during the relative short period of 2 to 4 years in the late 1970's when in theory Alaskan oil might be available through Trans-Alaska while the Canadian line may not yet be completed.

This consideration, even if it required more imports from insecure Eastern Hemisphere sources during the period would be outweighed by the positive advantage of large Canadian supplies beginning in 1980 that would avoid much larger imports from these same sources.

The delay however poses no threat to our nation's security by any stretch of the imagination. This is true because, as we shall show, the delay doesn't pose any threat to "military and essential civilian demand" and in any event there are "feasible replacement measures" for the Alaskan oil during the period in question.

There are a promising variety of alternatives that make clear there is no "national security" problem posed by the delay:

(1) *Military Needs.* To place in perspective the quantities of oil which Alaska would supply, they would be about 4 percent of our total energy consumption when full capacity of 2 million barrels per day could be achieved. It would represent less than 10 percent of our total oil supply even if the delay stretched out 4 years to 1980. No one even claims the military needs for oil would be in question. Military needs are a small fraction of oil consumption and could not be affected by a delay in the Alaskan oil.

(2) *Imports from Canada.* Alaskan oil could be replaced with additional imports from Canada until the Canadian pipeline is completed. The Impact Statement contains information that 2 million barrels per day of additional oil from Alberta in Canada could be obtained at a cost (not price but cost) of $1.65 per barrel. (Vol. I—p. F-g). In addition to the oil resources in Alberta, new projects to produce oil from the Canadian Tar Sands could be completed in the late 1970's if it were clear there was a U.S. market for the oil.

Canada has the resources to replace the volumes of oil that TAPS claims it would supply in the years until the pipeline corridor through Canada is completed. And the Canadian government has recently assured the U.S. government that it would be willing to supply the U.S. with additional quantities of oil (Statement by Canadian Minister of Energy and Resources, April 9, 1972).

(3) *Increased Domestic Production.* Domestic production of oil could be increased substantially to replace the Alaskan oil during the several years of potential delay by price increases or other measures to permit secondary and tertiary recovery of oil wells, if that became necessary to meet essential civilian demands. Recovery, which averages only 30 percent in reservoirs could be doubled if measures were taken to cover the added costs. Thus, if a decision were made now that the national security really required additional domestic oil in the late 1970's, secondary and tertiary recovery could supply the oil.

(4) *Stand-By Reserves.* The government could decide to enlarge the petroleum reserves it now owns and provide stand-by capacity in the needed amounts so that essential civilian supplies would be met in an emergency. One such reserve—Elk Hills—already exists with a capacity of 350,000 barrels per day.

(5) *Additional Imports.* There are ample supplies of oil available for purchase from friendly nations that could replace the Alaskan oil for the 2 to 4 year period of possible delay. Venezuela, Iran, Indonesia, and other nations have proven to be secure suppliers. Equador and Peru are promising new sources for the West Coast market. In combination they could easily supply the oil to replace TAPS for this limited period. Diversifying the imports from a variety of nations combined with an enlarged stockpile for emergencies would make imports a most secure alternative from a national security perspective.

(6) *Conservation of Energy.* It is quite plain that "military and essential civilian demand" for energy could be met without the Alaskan oil for several more years if we began to practice what we are preaching about energy conservation. A government policy of saving energy could easily reduce demand by the 4 percent of total energy which the Alaskan oil would supply during the interim. The national security is not going to be endangered if we fully insulate our homes and buildings, use smaller cars, drive and fly less, and use more mass transit.

A decision to conserve the 5 to 10 percent of our oil supply in question is a perfectly feasible, even attractive, alternative that would lessen our dependence on Arab oil in the decade of the 1980's and thereby greatly strengthen our national security. In fact a combination of energy conservation and opening up all of the Arctic North to development offers the best available prospect of lessening our dependence on Arab oil and thereby maintaining our national security of energy supply in the decades ahead.

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

The Canadian government has now openly committed itself to expediting the Canadian route. Environmentalists have endorsed the Canadian route. I urge you, in the name of environmental protection and national security, to announce that the Trans-Alaskan route will not be approved and that you will cooperate with the Canadian government in expediting an energy corridor across Canada to deliver the natural gas and oil from our Alaskan and Canadian North to the United States.

Sincerely yours,

S. DAVID FREEMAN.

ENERGY AND OIL SHALE

Mr. MOSS. Mr. President, recognizing that new sources of clean fuels must be found to offset the deficits in useful U.S. energy supplies, the "Oil Daily" sponsored a Forum on Synthetic Energy—the Immediate Outlook. The forum met on May 4, in New York City. My administrative assistant represented me at the conference where top executives from the energy industries spoke on such pressing topics as "Meeting the Energy Crisis": "Present Day Technology in the Production of Substitute Natural Gas;" "Nuclear Energy"—"Present Prospects," "Growth, Energy, and Oil Shale;" "Oil and Gas from Coal;" "Crude from Tar Sands;" and "Costs and Economics of the Energy Crisis."

I was particularly interested in the address delivered by Morton M. Winston, president of the Oil Shale Corp., TOSCO participates in the Colony Development Operation with Atlantic-Richfield Co., Sohio-Petroleum Co., and the Cleveland Cliffs Iron Co. in a joint venture for shale oil production. It is estimated by the Department of Interior that there are some 80 billion barrels of oil shale producing 30 gallons or more per ton recoverable by modern mining methods in the Piceance Basin of Colorado, Utah, and Wyoming. This is approximately twice the present domestic crude oil reserves, exclusive of Alaska.

In western Colorado, some 250 miles from Denver, the Colony Development Corp. has maintained a research development facility designed to mine and process up to 1,000 tons of shale per day. Recently, the announcement was made as to the successful establishment by field operations both of the technology and required environmental safeguards for oil shale development. Plant operations were terminated on April 28.

Now, in his address, Mr. Winston made the promising announcement that final economic analysis for the commercial development of oil shale will be in hand about the year's end, and that TOSCO expects the first commercial production of shale oil in the United States to begin in the calendar year 1976. Mr. Winston stated it will take approximately 3 years from commercial decision to put the first plant on stream but that it is expected the plant will have the capacity to produce approximately 50,000 barrels per calendar day of shale oil products. He also stated that, assuming the first commercial plant is in operation in 1976, a target of 1 million barrels per day of production by 1985 is not unreasonable.

Mr. President, I have conducted numerous hearings on the problem of oil shale development, and am most hopeful that the long-awaited day is at hand for commercial development for our Nation's oil shale reserves. Commencement of oil shale commercial production by 1976 will have significance far beyond the contribution of so many daily barrels of a new product. It will signify that the viability of the U.S. oil shale reserves is now established and the world's largest known hydrocarbon reserves will have been opened to use. Because of the significance of Mr. Winston's remarks, I ask unanimous consent that address be printed in the RECORD.

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

AN ADDRESS BY MORTON M. WINSTON

My subject, "Growth, Energy, and Oil Shale" might be subtitled, in this age of renewed interest in silent films, The Mad Projectionist.

The kaleidoscopic rate at which industry and public awareness of energy shortage has lately grown, brings to mind the mad, magic accelerations of the Keystone Cops. The old projectionist made life faster and funnier than it really was; the Mad Projectionist, with his dazzling array of worsening statistics, makes it seem only as disturbing as it really is.

So much has been said recently about deficits in useable United States energy supplies, that a detailed repetition of the statistics before an audience such as this would be pointless. A few highlights show the way. Among the most recent is the Department of

Interior's revision of near-term forecasts. The Office of Oil and Gas, as you all doubtless know, revised sharply downward its forecast of United States oil production for 1975, and so predicted that in that year 36.5% of petroleum liquids will come from foreign sources.

Longer range, there are of course some differences in view; but it seems to make little difference, in measuring urgency, whether our net reliance on imports of petroleum liquids in 1985 threatens to be 57 or 58%, as the National Petroleum Council and the Office of Oil and Gas have recently projected, or only 50% as in some other estimates; 15 million daily barrels or "only" 12 million. Any such magnitude of reliance on foreign supplies must mean heavy involvement with insecure sources. For the foreseeable future, such involvement therefore means deep uncertainty about the reliability of supply, and virtual certainty of its steadily increasing cost.

Today the East Coast, which has for some time been heavily dependent on foreign supplies, has already become significantly dependent on the Eastern hemisphere. That dependence must in due course spread.

In addition to the obvious resulting problems of increasingly grave petroleum-related deficit in international trade- and payments-balances, such sharply increasing dependence on insecure energy supplies can be—perhaps a'ready is—a restraint on domestic investment in new capital facilities. It is therefore a factor tending sharply to arrest growth.

Surely then it is the Mad Projectionist who picked this time for a public debate concerning the need to *limit growth*: The Keystone Cops were fond of running backwards. The problem ahead of us is how to maintain at least that orderly minimum growth which is necessary to meet the imperative expectations of our enlarging population. That problem would persist even if means were immediately found to slow the national birthrate materially.

To maintain orderly growth in the face of large deficits in useable domestic energy supplies we must accomplish three objectives:

The first is to learn to live for a time with genuine insecurity about the cost and reliability of energy. We must learn to anticipate and digest the obvious cost of higher energy prices, and the less obvious one of energy interruptions. An early training ground is perhaps already at hand in industrial gas interruptions.

Second, as a nation we must provide leadership in the framing of international institutions which hold the promise of providing equitable, reliable and peaceful means of allocating the world's energy resources to end uses.

Finally, we must buy time for these achievements, by a maximum domestic effort to slow the rate at which we become energy-dependent on others. It is in buying that time that oil shale has a significant role to play.

I would like to talk to you briefly about three aspects of oil shale: First, the present status of oil shale development; Second, the economics of shale oil production, which involves a brief consideration of the nature of shale oil and shale oil products; and Third, the contribution which a developing oil shale industry may be expected to make to energy needs in the foreseeable future.

I. PRESENT STATUS OF DEVELOPMENT

In brief: The development and field demonstration of the TOSCO II System for oil shale production is complete; final economic analyses are underway and will be in hand about year-end; consideration of the first commercial shale oil project will be before us at that time, and TOSCO expects that the first commercial production of shale oil in the United States will begin in the calendar year 1976.

These briefly summarized results are the product of long labors. TOSCO participates with Atlantic Richfield Company, the Operator who joined in 1969, Sohio Petroleum Company and The Cleveland-Cliffs Iron Company in a joint venture for shale oil production. In the course of the venture, TOSCO's 25-ton per day pilot plant at Denver has been scaled up to a 1,000-ton per day, semi-works plant and mine at Parachute Creek. Those facilities have been extensively utilized since their completion in 1965, and particularly since 1969, when Atlantic Richfield joined the program as Operator.

A few days ago, on April 25, 1972, Arco announced the "successful establishment by field operations both of the technology and the required environmental safeguards" and stated that semi-works operations would therefore shortly be shut down. Plant operations were actually completed on April 28; mining field work will continue for a few more weeks.

Process design and operability, and environmental safeguards have now been fully demonstrated in extensive engineering and field operations costing, from the inception of TOSCO's process development, more than $55 million. Final economic evaluations of full-scale commercial production will, as I have said, be in hand before year-end.

In field work since 1964, long before it was customary, increasingly intensive attention has been given to maintenance of environmental quality in commercial development. Protection of air and water quality, safe and esthetically satisfying disposal of solid residues, revegetation, protection of forage, and a host of other objectives have been defined. For each objective, technologically satisfactory solutions have been designed. We have carried out extensive demonstrations in field operations. We expect to satisfy every reasonable environmental inquiry.

It will take approximately three years from commercial decision to put the first plant on-stream. We expect that it will have the capacity to produce approximately 50,000 barrels per calendar day of shale oil *products* from the selected reserves for approximately 20 years. The jointly owned reserves of our Venture will support approximately 225,000 barrels per day of production. TOSCO and other venture participants have separate reserves holdings as well.

II. ECONOMICS

The first plant we expect to build will be more than a shale oil production facility, and in reviewing economics, even in general terms, that fact needs some explanation. The raw or crude shale oil first produced by the TOSCO II System is a 25° API gravity, 0.7% sulfur and 1.7% nitrogen crude oil, clean and transportable, and amendable to all of the normal forms of crude oil processing.

The producer of crude shale oil has all of the normal options for further processing, utilizing conventionally available refining processes. In our first project we expect to utilize net gas produced from the retorting operation for upgrading in the field and to produce and market not crude oil, but petroleum products.

There are many product options, but two are front runners in TOSCO's economic analyses. One is the production of approximately 28,000 daily barrels of premium quality fuel oil, containing less than .01% sulfur and .25% nitrogen—virtually no-sulfur fuel; and 22,000 daily barrels of non-aromatic naphtha, ideal for Synthetic Natural Gas production. In quantity, naphtha production from a single shale oil plant of the contemplated size would supply virtually the entire feedstock requirement of the largest single-train SNG units yet proposed. In longevity, security and uniform quality of supply, shale oil naphtha will be unique in the domestic market.

The fuel oil, we believe, complies with all present and foreseeable environmental specifications. Under present law governing fuels specifications it has premium value, since it is a desulfurizing agent, permitting use of higher sulfur materials by blending to meet specifications. The blend can be with higher-sulfur residual fuels or other liquids, or even with high-sulfur, mid-western coals for utility boiler use.

Moreover, with presently available desulfurizing technology, the differential value of "no-sulfur" shale fuel oil will increase if and when sulfur emissions specifications are decreased, since as you know, the unit cost of sulfur removal increases sharply as removal of the last fractional amounts is sought.

To the buyer, the advantage of no-sulfur fuel is of course its dependable availability as a clean fuel supply regardless of changing specifications; and that utility is further increased by our ability to forecast the production life and level over twenty years with a degree of accuracy not customary in conventional production operations.

The second alternative is an attractive process variation of the first. It increases fuel oil production so that it is the entire plant product. A wide range of specification adjustments together with reductions in capital and operating costs is available and is currently under detailed study.

Regardless of the final selection among these product alternatives for the first plant, and there are differences both of cost and value, TOSCO conservatively evaluates the present competitive mid-western market for these end-products at more than $5.10 per barrel.

Almost a year ago TOSCO estimated the capital and operating costs of a commercial plant to produce a premium-grade shale crude oil, a premium product which we evaluated as having plant gate value of between $3.73 and $3.93 per barrel, by comparison with posted field prices in the region and refinery netback values of other crude oils in middle-western refineries. The plant product we are discussing today is a different product; and, as you know, today's markets are materially changed from those of only a year ago, and we are still changing.

A few words about costs may also be useful, although I stress that our final analysis is not yet complete. As product value has increased, so have cost estimates.

A year ago TOSCO estimated the costs of a plant to produce premium shale crude oil. Current estimates on a comparable basis, are higher for three reasons: first, plant facilities are modestly altered; second, additional inflation has occured; and third, substantial allowances for contingencies have been included, above those of earlier estimates. The present cost generalizations that I will mention to you are TOSCO's. I repeat that they encompass the commercial production of liquid petroleum products, not of crude oil. They include operations from mining through the recovery of raw shale oil and upgrading of it into useable products, and all environmental protection systems. Such a plant, designed to process 66,000 tons per day of high-quality ore averaging approximately 36 gallons per ton, will produce approximately 50,000 barrels of products per calendar day without employing, as did prior designs, any purchased fuels other than electrical power. By-products will be coke, sulfur and ammonia.

The capital cost of such a plant, installed and operating, including working capital and substantial allocation for contingencies, is between $4,000 and $5,000 per daily barrel of finished product capacity, depending chiefly on product selection. Total operating cost is less than $2.40 per barrel, including straight line depreciation and by-product credits.

Final product selection and economic evaluation is, as I have said, presently underway, and scheduled for completion before year-end.

This brief summary is intended as a conservative generalization, subject to the details of particular reserves, and to substantial variations of cost and value related to end-product decisions. All costs and product values are expressed in current dollars; and no costs are included for utilization of reserves or for a license to use the TOSCO Processes.

We believe that these finished product costs compare favorably with the costs of equivalent capacity from any new domestic source.

III. OIL SHALE AND FUTURE ENERGY REQUIREMENTS

It is easy to generalize from the mere size of known oil shale deposits of the tri-state area of Colorado, Utah and Wyoming, that shale oil will play an important role in meeting the nation's forward energy requirements. Colorado's Piceance Basin alone has been estimated to contain more than 450 billion barrels in good-quality ore. But the possible timing and the character of that contribution are worth some brief closing discussion here.

First, as to timing. Assuming that the first commercial plant is in operation in 1976, a target of one million barrels per day of production by 1985—approximately 4% of forecast demand—is not unreasonable. We believe that that target is attainable solely by use in the mining, retorting and environmental protection technology that has been demonstrated in our semi-works facilities operations and that will be applied in the first commercial plant. Only adaptation to particular sites would be required.

Whether that goal is attainable depends of course on important matters other than technology. One outstanding matter is governmental policy concerning the availability of a relevant portion of the public domain reserves to supplement reserves now privately owned. There is reason for optimism in the steady progress being made by the Department of the Interior in its Oil Shale Leasing Program. Site selections for the first leaseholds were announced on April 25th; hearings are tentatively scheduled for early summer; and competitive bidding for December of this year.

Of course each additional plant must stand on its own environmental merits; and to achieve such a target production level, close cooperation among industry, local, state and federal governments, private groups, and others having an interest, will be required in order to assure that the related growth of public and private facilities will provide the model for industrial development that this new industry is capable of being. Our own pioneering work with our co-venturers has provided and will continue to provide an invaluable base for the charting of further development.

Whatever production level is achieved by 1985, it may be expected to have the unique characteristic of long life—approximately 20 years per project—and uniform production levels and qualities. It is reasonable to assume that such production will, by normal market action, move preferentially to those consumers who have the most imperative need for security and longevity of supply. Examples, of course, include electric generating and gas distributing companies.

Ultimately the tri-state area reserves can of course make a much larger daily contribution, and it is too early to forecast limits. Improvements in processing and in mining techniques which we have under development, and to which it may be expected that others will contribute, will assure the development of reserves found at greater depth and under more difficult operating circumstances than those which will be utilized initially. Moreover, the Colorado oil shale deposits contain at some locations large quantities of recoverable alumina for which TOSCO has developed and patented recovery processes. Relatively early in the development of shale oil production these and other mineral values will play a significant role, both in determining the rate of increase of production and in relieving our growing national dependence on foreign supplies.

The commencement of commercial shale oil production in 1976 will therefore have significance far beyond the initial contribution of 50,000 daily barrels of new product. The viability of the United States oil shale reserves in contemporary markets will have been established, and the world's largest known hydrocarbon reserve will have been opened to use. With its demonstrated oil shale capacity the United States will have gained time and a more persuasive voice for the framing of workable international energy arrangements.

DIGESTIVE DISEASE

Mr. KENNEDY. Mr. President, the legislation that the Senate cleared for the President's signature last Friday is intended to emphasize the need for a greater Federal effort in a badly neglected area of medical research and training—digestive disease.

The major digestive diseases are: peptic ulcer, ulcerative colitis, hepatitis, cirrhosis of the liver, gallstones, ileitis, infectious diarrhea, cancer of the colon or rectum, and malabsorption.

I would emphasize that we are not speaking of a minor, obscure area of health care. On the contrary, digestive disease chronically afflicts almost 13 million people in this country.

One out of every six illnesses suffered by our people is a digestive disease.

Digestive disease is the major or contributing cause of the hospitalization of over 5 million persons each year. As such, it is the Nation's No. 1 cause of hospitalization, exceeding heart disease, accidents, and even childbirth.

Diseases of the digestive tract include several of the most common forms of cancer which account for about 30 percent of all cancer deaths.

One of the digestive diseases, cirrhosis of the liver, is, by itself, one of the leading causes of death in this country.

Not only is digestive disease marked by high incidence, but it is the No. 2 cause of disability in this country. Some 400,000 people are totally disabled from digestive diseases, while another 800,000 are limited in their ability to work. Each day, digestive disease results in 200,000 absentees from work—the leading cause of absenteeism among men.

Among veterans, nearly 140,000 men receive payments for service-connected digestive disease conditions. This alone costs the Nation $100 million annually.

The total economic cost to the Nation of these diseases is truly staggering. Dr. Thomas Almy, a past president of the American Gastroenterological Association, recently estimated the total cost to be $10 billion per year, based on HEW figures. Just the cost to the American people of surgery for one digestive disease—gallbladder disease—is estimated to be a half billion dollars.

From examining any number of indexes, therefore, it is clear that digestive disease is a very major disease category which is taking a great toll in this Nation in terms of lives, suffering, incapacitation, and economic cost.

The obvious next question is: What can be done to reduce this toll?

The answer, as with most health problems, is more research into the causes of these diseases coupled with an increase in the number of practitioners specially trained to treat the conditions.

In recent years, the National Institutes of Health have been doing relatively little research in the digestive disease area. The NIH Institute charged with the principal responsibility for these diseases, the National Institute of Arthritis and Metabolic Diseases, allocated only about $12 million per year to digestive diseases between 1964 and 1971. For fiscal year 1964, $11.051 million was allocated by the NIAMD for this purpose. By fiscal year 1971, this figure had risen to only $13.069 million—an average increase of just 2.6 percent per year. The cost of conducting biomedical research is conservatively estimated to have increased by at least 5 percent per year over that period, resulting in a substantial net decrease of actual research effort in the digestive disease area.

Fortunately, the Congress increased the NIAMD budget for the current fiscal year by a substantial amount above the administration's request. This resulted in a $3.5-million increase of funds for digestive disease programs—the first real increase in many years. Much more needs to be done, however. Governmentwide, including all the other NIH Institutes and all other Federal departments and agencies, less than $30 million is being spent on digestive disease research and training.

The real crux of the problem, Mr. President, is that digestive disease, despite its enormously high incidence and cost, is buried in the NIH's "catchall" Inspite its enormously high incidence and tis and Metabolic Diseases. The Institute encompasses a total of 11 fields of study: Article, dermatology, diabetes, endocrinology, hematology, metabolism, orthopedics, nutrition, urology and kidney diseases, and gastroenterology—digestive diseases.

What is clearly needed is increased visibility for the important disease category of digestive diseases.

Last year I introduced legislation, S. 305, which would have established a separate National Institute of Digestive Diseases and Nutrition within the National Institutes of Health. The Subcommittee on Health of the Committee on Labor and Public Welfare held hearings in late 1970 on legislation identical to S. 305. After careful consideration, and in recognition of the increased budget requests for digestive diseases programs by NIH, the committee has concluded that now is not the appropriate time for the legislative establishment of a separate Institute. The need for greater visibility remains clear, however.

For this reason, we are in favor of H.R. 13591, a bill passed by the House a few days ago. H.R. 13591 would change the name and the structure of the National Institute of Arthritis and Metabolic Dis-

eases in such a way as to emphasize digestive diseases.

The new name of the Institute would be the National Institute of Arthritis, Metabolism, and Digestive Diseases.

In addition, the position of Associate Director for Digestive Diseases would be established within the renamed Institute.

Finally, the Institute's advisory council would be appropriately renamed and a special digestive diseases committee of the council could be established to advise the Institute Director on matters relating to digestive diseases. This committee would also review applications for research grants relating to digestive diseases.

Mr. President, I would hope that if and when H.R. 13591 becomes law one of the first actions of the new digestive diseases committee would be to sponsor a national conference of medical experts in cooperation with the relevant professional associations to take a close look at the whole digestive diseases field. Such a conference was last held in 1967 and proved to be enormously successful in measuring the scope of the problem and in identifying possible approaches to finding solutions.

We all know it is impossible to predict which specific diseases will be eliminated or alleviated by a program of accelerated biomedical research. However, the prospects for some early successes in the digestive diseases field appear quite good.

For example, there has been a recent, dramatic breakthrough in the area of viral hepatitis—one of the digestive diseases. As a result, it is now possible to identify one of the two types of viruses which cause that disease. This finding has already been put to very practical, life-saving use in the area of blood banking, where hepatitis is often spread through the transfusion process. Many lives are being saved by our new-found ability to detect the one type of virus in blood samples—blood containing such viruses is no longer being used in transfusions. Even more lives will be saved, however, when scientists are able to identify the other type of virus. For this, more research is needed.

Similarly, there has been some dramatic progress made in the field of gallstone control. Researchers at the Mayo Clinic think a way may have been found to "dissolve" gallstones without surgery. Practical application of these findings, however, will require substantially more work.

The list could go on and on. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a "White Paper" on Digestive Diseases as a National Problem which describes in greater detail the need for additional research in particular areas.

The main point is, however, that scientists in this field are convinced that they are on the verge of some real breakthroughs in research into the causes and cures of the various digestive disease conditions.

H.R. 13591 is intended to give the unglamorous—but critical—digestive disease field the increased visibility and emphasis it needs to reduce the devastating toll taken by these diseases.

I urge Senators to give this legislation their full support.

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

DIGESTIVE DISEASE AN UNRECOGNIZED NATIONAL PROBLEM: A REPORT IN THE PUBLIC INTEREST BY THE AMERICAN GASTROENTEROLOGICAL ASSOCIATION, 1967

The American Gastroenterological Association is the nation's oldest society of medical specialists, having been founded in 1897. Its 701 members presently include most of the nation's certified specialists, most of the active research workers, and nearly all of the directors of recognized training programs in digestive disease in the United States.

Its activities heretofore been limited to annual scientific meetings, postgraduate medical education, publication of *Gastroenterology*, its official journal, and the encouragement of cooperative research. Recently its members, concerned by the lack of public recognition of the impact of digestive disease on the nation's health, have sought up-to-date information on this subject and closer liaison with other agencies having related interests. In February 1967 it sponsored, jointly with the National Institute of Arthritis and Metabolic Diseases and the Digestive Disease Foundation, a Conference on Digestive Disease as a National Problem, held at Bethesda, Maryland. There for the first time leading representatives of industry, governmental health agencies, the armed forces, and scientific and educational organizations met to bring together from many sources accurate facts on digestive disease.

To the participants in that conference and the organizations they represented we are intended for many, but not all, of the authoritative data presented in this report. The opinions expressed are those of the American Gastroenterological Association, for which this report has been prepared by Thomas P. Almy, M.D., and fellow members of our Governing Board and its National Liaison Committee.

MORTON I. GROSSMAN, M.D.,
President, American Gastroenterological Association.

Digestive Disease (DD) includes disorders of the stomach, intestines, biliary passages, liver, and pancreas. Their causes are various—infection, cancer, alcoholism, genetic defects, and reactions to life stress.

Half the population of the United States has digestive complaints, and one-sixth of all illnesses are in this category. It causes one-third of all deaths from cancer, and its the leading cause for hospitalization and for inability to work due to illness. The estimated economic loss the nation is $8 billion yearly.

Yet this major national health problem is the special concern of only 2,000 physicians and a smaller number of research workers, and programs to augment this number are lagging far behind the efforts in other fields. DD research receives but 5% of the extramural budget of the National Institutes of Health, much smaller amounts from other federal agencies, and virtually no categorical support from nongovernmental sources,

A survey of the major digestive diseases reveals many urgent needs for new knowledge which can and should be met by larger-scale, better organized research and training at the laboratory bench, at the bedside, and in the community. It is proposed that this effort be organized by the joint actions of professional societies, a national voluntary health agency, and agencies within the federal government made especially responsible for the problems of digestive disease.

I. THE MEASURE OF THE PROBLEM: THE SOCIAL AND ECONOMIC COST OF DIGESTIVE DISEASE (DD)

Prevalence

(1) *DD is highly prevalent in our population, accounting for one out of every six illnesses.* Here are the facts:

In a sample of 1 million Americans, a health survey revealed that 44% of the men and 55% of the women had *complaints* referable to the digestive tract.[1]

In the same study, 22% of the men and 17% of the women had had *specific digestive diseases*, such as peptic ulcer, colitis, or gallstones.[1]

From a careful study of a cross section of the U.S. population, the National Center for Health Statistics estimates that chronic DD affects 12,800,000 Americans.

Footnotes at end of article.

TABLE 1.—NUMBER OF CHRONIC DIGESTIVE CONDITIONS, AND DEGREE OF ACTIVITY LIMITATION, UNITED STATES, JULY 1963–JUNE 1965

[Number in millions]

Condition	Total reported digestive diseases	Persons with no limitation	Persons limited			
			All limitations	With limitation but not in major activity [1]	With limitation in amount or kind of major activity [1]	Unable to carry on major activity [1]
All digestive conditions	12.8	10.8	2.1	0.4	1.2	0.4
Ulcer of stomach	3.5	3.0	.6	.1	.3	.1
Hernia	2.9	2.4	.6	.1	.4	.1
Diseases of gallbladder	1.8	1.6	.2	.06	.15	.04
All other digestive conditions	4.6	3.9	.7	.15	.4	.2

[1] Major activity refers to ability to work, keep house, or engage in school or preschool activities.

Source: Modified from Lawrence, P. S.: Morbidity and Mortality from G. I. Disease, ref. 2.

It is the major cause or contributing cause of *hospitalization* in 5,100,000 persons each year—more than are affected by any other disease category.[2]

TABLE 2.—COMPARISON OF DISEASES OF BODY SYSTEMS AS PRIMARY CAUSES OF HOSPITALIZATION, UNITED STATES, 1964

[In millions]

Condition category	Conditions hospitalized	Days of hospitalization
All conditions	19.7	181.0
Digestive	[1] 3.4	29.4
Respiratory	2.9	16.2
Circulatory	2.0	24.4
Genitourinary	2.0	15.7
Musculoskeletal	1.0	11.0
Impairments	2.2	24.4
All other	6.0	59.9

[1] Data from a national sample of hospitals show that the 1st listed cause of hospitalization constitutes 3/5 of the total digestive diseases entered in the records. Thus about 1,700,000, secondary or contributory conditions should be added, making a total of approximately 5,100,000 per year.

Source: Modified from Lawrence, P. S.: Morbidity and Morality from GI Disease, ref. 2.

Among 500,000 patients referred annually to a group of major medical centers for diagnosis and treatment, DD is the largest single category of disease, accounting for 16% of all patients. The number of patients hospitalized in such centers for DD is 1.5 to 3 times as large as for cardiovascular disease, and 4 times as large as for blood disorders.

TABLE 3.—*Clinic Admissions due to gastrointestinal disease*

[Percent of patients]

Mason	21
Kelsey-Seybold	9.3
Scott-White	17.8
Cleveland	9.5
Lahey	17
Browne-McHardy	14.7
Mayo	18
Average	16

(From Cain, J. C., 1967: Presented at Conference on Digestive Disease as a National Problem, Bethesda, Maryland, February 5, 1967)

DD is of major importance as a cause for confinement in Veterans' Administration Hospitals—about 110,000 patients per year, or 16.9% of all admissions.[3]

TABLE 4.—*Veterans' Administration hospitals—Data from all patients discharged during calendar year 1965*

Patients with Gastrointestinal Disease as the Principal Diagnosis, 59,219.

Patients with Gastrointestinal Disease as an Associated Diagnosis, 50,556.

Total Number of Patents with Gastrointestinal Disease, 109,775.

Total Number of Hospital Patients (All Diseases), 650,000.

Percent of Hospitalized Patients with Gastrointestinal Disease, 16.9%.

(From Bernstein, L., 1967: Ref. 3)

Acute DD, in the form of infectious diarrhea, is currently the most common cause of morbidity in our Army in Viet Nam, with rates as high as 685 per thousand troops.

Yet its frequency has been underestimated, because:

In the examination survey conducted by the National Center for Health Statistics, in which clinical and laboratory tests were used to document both known and unrecognized disease in a representative sample of the population, procedures which would have revealed unsuspected *digestive disease* were *omitted*, as unsuitable for mass application,[2] and

Many cases of active DD, such as peptic ulcer, gallstones, hiatal hernia, and diverticular disease, are not detected for lack of specific symptoms. For example, x-rays of a large group of executives disclosed that 18% had peptic ulcer, but *only half* of these had had *symptoms* of this disease.[4]

Disability

(2) *DD is an important cause of disability due to illness, ranking second among all disease categories, in the U.S. population.*

According to the National Center for Health Statistics, *over 2 million persons* in the United States are wholly or partially disabled by DD.[2] (Table 1).

Each year, Americans spend nearly *300 million man days away from work* (and 116 million in bed) because of acute and chronic DD.[2] (Table 5).

Each day, 190,000 Americans are unable to work because of DD.[2]

TABLE 5.—DISABILITY DUE TO DIGESTIVE DISEASE, UNITED STATES, JULY 1963–JUNE 1965

	Chronic DD	Acute DD	Total
Disability, days per year	245,000,000	52,000,000	297,000,000
Bed-disability, days per year	86,000,000	30,000,000	116,000,000
Number of persons absent from work each day	150,000	40,000	190,000

Source: Modified from Lawrence, P. S.: Morbidity and Mortality from GI Disease ref. 2.

In studies of representative large industries, DD is the *leading cause of disability due to illness* among *male* employees, accounting for nearly one-fifth of all such illnesses. Since these studies excluded illnesses causing absence of less than one week, the total impact of DD on industrial productivity is greater than indicated by these figures.[5, 6]

TABLE 6.—INSURANCE CLAIMS FOR DISABILITY LASTING 7 OR MORE DAYS

[Per 100 persons]

	Annual incidence	Days of disability	Benefits paid	
			Amount	Percent
All causes	10.4	616.7	$7,345	100
Digestive	1.9	81.7	1,261	17
Respiratory	1.8	45.9	694	9
Circulatory	1.6	185.1	1,160	16
Accidental	1.7	69.2	761	10
Neoplasms	.4	22.8	353	5
Other	3.0	212.0	3,116	43

Note: Based on claims of males of all ages.

Source: Modified from Cunnick, Eide, and Smith, ref. 5.

DD is one of the *leading causes of non-effectiveness,* and of days lost from active duty, among our *military personnel.* Even in 1960, over 100,000 days were lost from active duty in the U.S. Army, due to peptic ulcer alone. Outbreaks of viral hepatitis suddenly immobilize entire military units.

Among nearly 2 million disabled veterans, 131,500 (or 6.6%) are disabled by digestive disease.[3]

TABLE 7.— *Veterans' Administration: Service-connected disabilities due to gastrointestinal disease*

Number of veterans with service-connected disabilities	1,993,987
Number of veterans with any degree of service-connected disability due to gastrointestinal disease	131,498
Percent of veterans whose service-connected disabilities are due to gastrointestinal disease (percent)	6.6

(From Bernstein, L., 1967—Ref. 3)

Mortality

(3) *DD, including gastrointestinal cancer, is the third most important cause of death from cancer in the United States; and the total contribution of DD to morality is currently underestimated.*

According to the National Center for Health Statistics, 163,000 deaths in the U.S. each year are attributable to DD as primary cause of death, and an additional 98,000 as a contributing cause.[2]

Such estimates, derived from coding of death certificates, fail to indicate the full significance of chronic digestive diseases as *contributing causes of death,* because of greater emphasis on terminal events likely to involve the circulatory or other systems. Using only the available uncoded information on death certificates related to contributory causes, the frequency of *DD as a cause of mortality* is shown to be *at least 40% higher than official figures.*[2]

31.4% of all cancer deaths are due to cancer of the digestive organs. Cancer of the colon and rectum is the second most common cause of death from cancer in our population.[7]

Economic and social cost

(4) *DD is responsible for tremendous economic loss, amounting to about one percent of our gross national product.*

The total cost of DD in the United States, representing the expenses of medical care, the loss due to disability, and the income loss due to premature death, is calculated at *8.1 billion dollars* annually. Of all disease categories, DD ranks third in causing economic loss, exceeded only by cardiovascular disease and accidents.[8]

TABLE 8.—PROJECTED NUMBER OF DEATHS FROM CANCER AND NUMBER OF NEW CASES IN UNITED STATES, 1967

Site of cancer	Estimated deaths		Estimated new cases	
	Number	Percent	Number	Percent
All sites	305,000	100.0	580,000	100.0
All gastrointestinal	95,900	31.4	131,000	22.6
Stomach	17,500	5.7	20,000	3.4
Colon-rectum	43,600	14.3	73,000	12.7
Pancreas	17,400	5.7	17,500	3.0
Liver and biliary	9,300	3.0	9,500	1.6
Other	8,100	2.7	11,000	1.9
Other sites	209,100	68.6	449,000	77.4
Lung	51,800	17.0	59,000	10.2
Leukemia	14,400	4.7	18,000	3.1
Breast	27,150	8.9	63,600	11.0
Uterus	13,500	4.4	44,000	7.6
Skin	4,600	1.5	90,000	15.4
All other	97,650	32.1	174,400	30.1

Source: Adapted from American Cancer Society, ref. 7.

Footnotes at end of article.

TABLE 9.—TOTAL ECONOMIC COST OF ILLNESS, BY DIAGNOSIS, UNITED STATES, 1963

[Amount in millions]

Category	Total	Direct expenditures	Earnings loss from— Morbidity	Earnings loss from— Mortality
Diseases of circulatory system	$20,948.4	$2,267.3	$2,919.7	$15,761.4
Injuries	11,810.6	1,702.8	1,810.7	8,297.1
Neoplasms	10,589.9	1,279.0	850.7	8,460.2
Diseases of digestive system, excluding neoplasms [1]	7,873.3	4,158.7	1,220.1	2,458.5
Diseases of respiratory system	7,412.8	1,581.1	3,166.3	2,665.4
Mental, psychoneurotic and personality disorders	7,276.6	2,401.7	4,624.0	250.9
Diseases of nervous system and sense organs	6,795.4	1,416.4	1,525.5	3,853.5
Allergic, endocrine, metabolic, nutritional diseases	$2,623.1	$902.9	$539.5	$1,180.7
Diseases of genitourinary system	2,559.9	1,210.2	497.8	851.9
Infective and parasitic diseases	2,135.3	501.9	858.0	775.4
Diseases of blood and blood-forming organs	372.6	155.9	41.3	175.4
Miscellaneous	13,138.3	4,952.1	2,988.7	5,197.5
Total	93,500.2	22,530.0	21,042.1	49,927.9

[1] Above figure of $7,800,000,000 for digestive disease includes $2,400,000,000 for expense of dental care; but excludes expenditures for, and indirect costs of, gastrointestinal cancer, estimated at $2,700,000,000. Hence corrected estimate of cost of digestive disease, as defined in this report, is $8,100,000,000 yearly.

Source: Adapted from Rice, D. P., Estimating the Cost of Illness, ref. 8.

The loss to one large corporation, solely, for disability benefits for DD among its employees, is $12 million each year.[6]

Estimated annual cost of DD to the Veterans' Administration is nearly $175 million—$83.7 million for medical care and $91 million for disability payments.[3]

TABLE 10.—*Estimate of Veterans' Administration costs for gastrointestinal disease**

Estimate of per diem costs in hospitals treating patients with gastrointestinal disease	$30
Estimated daily costs for hospital patients with gastrointestinal disease	$229,230
Estimated annual costs for hospital patients with gastrointestinal disease	$83,668,950
Annual payments to veterans for all service-connected disabilities	$1,867,211,000
Annual payments to veterans for disabilities due to diseases of the digestive system	$91,171,000
Percent of all service-connected disability payments due to diseases of the digestive system (percent)	4.9

*Based on 1966 costs, and 1965 hospitalization rates. From Bernstein, L. 1967: Ref. 3.

The economic loss to the U.S. due to *peptic ulcer* alone is calculated at just under *one billion dollars a year.*[9]

(5) *The greatest impact of DD is on the health of men in the middle years of life.* This means illness of the head of the family, the breadwinner, the taxpayer, on whose shoulders the increasing burden of the needs of children and the aged are being placed. Such illness has wider implications for the well being of the family and of the community than can be measured by the indices used above.

II. THE MEASURE OF OUR NATIONAL EFFORT

Manpower

A. Manpower in Gastroenterology: Numbers, Types and Distribution.

1. *For every 100,000 U.S. citizens, there is but one physician specially concerned with DD.*

—A survey in 1966 by the American Medical Association revealed that among 200,000 U.S. physicians, 2004 had a primary or secondary specialty interest in DD.[10] Fewer than this are actually available and fully qualified.

TABLE 11.—"GASTROENTEROLOGISTS" AND "CARDIOLOGISTS" IN THE UNITED STATES

	Gastroenterologists	Cardiologists
Total	2,004	7,387
Private practice	1,550	5,739
Full-time hospital	76	377
Full-time academic	158	528
Other	220	743
Certified by specialty boards	537	803

Source: From Clifton, J. A., 1967, ref. 12.

Of this number only 537 had been certified by the American Board of Internal Medicine as specialists in DD.

The remainder include general practitioners, radiologists and even hospital administrators. Only 1550 of the 2004 physicians are in private practice.

24 States have less than 10 physicians specially interested in DD, and 4 states have *none.*[11]

(2) *In comparison with the need and with the activity in other fields, present effort in training of specialists in DD is woefully small.*

In 1966, the number of trainees in DD supported by the National Institutes of Health (141) was less than one-eighth the number in cardiovascular diseases (1146), and 15% less than in blood diseases.[12]

In the average medical school there are 6 full-time teachers in the field of cardiovascular disease, 4 in blood diseases and 3 in DD.

Only 16% of our medical schools have 5 or more full-time teachers of DD in Departments of Medicine, whereas 26% have this number of teachers interested in blood diseases, and 60% have as many in the field of cardiovascular disease.

TABLE 12.—DEPARTMENTS OF MEDICINE OF U.S. MEDICAL SCHOOLS, FULL-TIME STAFF

	Gastroenterology	Cardiology	Hematology
Total	192	395	242
Mean	2.9	6.0	3.6
Range	0–12	1–20	1–10

Source: From Clifton, J. A., 1967, ref. 12.

In the entire nation, 70 full-time teachers of pediatrics apply themselves to cardiovascular diseases affecting children, 45 to blood diseases, but only 4 to DD!

Present teachers of DD are overworked, as average scheduled teaching hours in this specialty are equal to those in cardiovascular disease, and 20% greater than in blood disease.

In contrast to other fields of internal medicine, neurology, and psychiatry, there are *no* national programs, either governmental or privately sponsored, to encourage young physicians to become practicing specialists in DD.

Dollars

B. Dollar Resources for Support of Research and Training in Digestive Disease.

1. *Support by the Federal Government for DD totals less than $30 million annually,* disbursed chiefly through the following agencies.

National Institutes of Health, $22.2 million.

National Institute of Arthritis and Metabolic Diseases, $12.8 million.

Other Institutes, $9.4 million.

Army Research and Development Command, $1.7 million.

Veterans Administration, $1.0 million.

National Science Foundation, $0.6 million.

National Center for Chronic Disease Control, USPHS, $0.25 million.

Navy Bureau of Medicine and Surgery, $0.25 million.

Epidemic Intelligence Service (CDC) $0.5 million.

Total (FY 1966) $26.5 million.

The above figures include all programs and projects in which study of DD is either a major or a minor aim. Included are all projects in overlapping categories, such as cancer or infectious disease.

2. *The only specific intramural program in DD at National Institutes of Health has an annual budget of $140,000, and supports only one permanent physician-scientist.* This represents 1% of the total intramural budget of the National Institute of Arthritis and Metabolic Diseases. To this may be added the cholera project of the National Institute of Allergy and Infectious Disease, three GI cancer projects at the National Cancer Institute and five projects at the National Institure of Dental Research.

(3) Support of DD from non-governmental sources is meager.

There is as yet no nationally organized voluntary health agency devoted to the broad problems of DD—an indicator of the *lack of public awareness,* over many years, of the importance of DD to the nation's health and economy. The Digestive Disease Foundation though wisely arranged and currently expanding, cannot now provide major financial support.

There are *no large philanthropic foundations* for which DD is a major field of interest.

Support from *industry* has been largely for applied research and development.

Thus, the pharmaceutical industry estimates that $18.5 to 37 million (5 to 10% of their annual $370 million expenditure for research and development) is related to products useful in DD . . . but little of this is

Footnotes at end of article.

devoted to original research or to the training of physician-scientists. Neither the *major industries,* which sustain high losses from absenteeism caused by DD, nor their *disability insurance carriers* have yet moved to support extramural research into the causes of these losses.

In summary, our national effort in Digestive Disease is held back by shortages both of manpower and of funds. This health problem, which accounts for about one-sixth of the total disease experience of our population, and which causes economic loss equal to about 1% of the gross national product, is being attacked by only 2000 physicians and receives but 5% of the total extramural research support of NIH, with much smaller contributions from other agencies.

III. THE STATE OF OUR KNOWLEDGE

Recent progress in our knowledge of important digestive disorders has been impressive in some instances, but generally uneven. The diseases briefly discussed below have been selected to illustrate the great variety of problems encountered in this field, and to indicate ways in which an augmented national effort would probably yield socially and economically useful results.

Peptic ulcer

Is a chronic disease known to afflict about *10 million* Americans, yet we are probably detecting only half of those affected.

Is most common in *men* between the ages of 20 and 60.

Costs the nation just under *one billion dollars* a year.

We know that the formation of ulcer requires acid and pepsin secretion by the stomach, and that excessive acid and pepsin secretion is a cause of ulcer in some patients, and that one important stimulus for the secretion of acid is the hormone, gastrin. In the last few years this hormone has been isolated, chemically identified, and synthesized. Other important stimuli derive from the nervous system.

We know that in many other patients with ulcers, the stomach does not secrete excessive quantities of acid. *We believe,* from fragmentary evidence, that these patients have a reduced capacity to resist the erosive action of gastric juice on their own stomachs.

We have many unanswered questions; for example:

(1) Can we chemically synthesize a "tailor-made" compound, to antagonize gastrin, or can we favorably alter the activity of the nerves? If so, possibly we could "turn off" gastric acid secretion for limited periods, almost at will, and save many lives threatened by perforation or hemorrhage from peptic ulcer.

(2) Can we identify clearly the mechanisms by which the normal stomach defends itself against erosion by acid, and learn how to strengthen their defenses?

(3) In the causation of peptic ulcer, what is the relative importance of genetic factors, of smoking, of drugs such as aspirin, and of psychological stress? Clear answers might make possible an intelligent campaign for prevention of the disease by the techniques of genetic counseling, health education in schools, and/or mental hygiene programs.

(4) Which of the commonly used methods of treatment for peptic ulcer are truly effective? Diet? Antacids? Anticholinergic drugs? Which of the surgical procedures we now employ yields best results, and when is surgery necessary? The answers to these simple but vexing questions can be obtained by methods we now possess, but would require a well-organized, large scale, expensive effort.

Ulcerative colitis

Is only moderately prevalent in our population (about 1 in 1000)—but for the individual affected and his family it is devastating physically, emotionally, and financially. Among several hundred patients with colitis coming to the Mayo Clinic the average expenditure for the care of the disease is about $3,000 per year.

We are able to recognize the disease with increasing accuracy both clinically and pathologically.

We are able in most instances to reduce the severity of the disease with steroid hormones, but not to shorten its course.

We lack fundamental knowledge about its natural history and its epidemiology, and we have no secure knowledge of its cause.

For further progress *we need:*

(1) continued studies of the relation between the human host and the microbes normally present in his colon.

(2) better definition of antigen-antibody reactions in the colonic wall.

(3) studies of the nonspecific responses to injury of the colonic mucosa.

(4) studies of genetic, psychological, and dietary influences on this disease.

Hepatitis

Occurs in two clinical forms, serum hepatitis (following injection of blood or blood serum) and infectious hepatitis.

24,000 cases of serum hepatitis occur annually in the United States with a death rate of 12%.

50,000 cases of infectious hepatitis are reported each year; because of the large number of unreported cases the true frequency is probably about half a million.

Both are clearly transmissible diseases, but their infectious agents have escaped identification.

The persistence of infectious hepatitis is an important sanitary problem, comparable to typhoid fever as it was 50 years ago. In military units, epidemics of hepatitis are a major cause of noneffectiveness.

The persistence of serum hepatitis is a deterrent to the full effective use of blood products in surgery, following injuries, and for other important purposes.

We have a great deal of knowledge about the clinical picture of hepatitis and laboratory tests useful in its recognition. *We know* that it is infectious. *We have* partial knowledge of its epidemiology and of methods of prevention.

We need:

(1) to isolate the causative agents

(2) to develop a vaccine

(3) to develop specific diagnostic tests

(4) to develop better means of killing the causative agent in human blood and other biological products

(5) to determine the duration of the carrier state in patients recovering from the disease

(6) to study the conditions under which hepatitis, even in the absence of jaundice, will lead to chronic liver injury, or cirrhosis

(7) to improve the treatment of severe hepatitis, with its high mortality from liver failure.

Cirrhosis of the liver

Causes over 23,000 deaths per year in the United States, and is the third most important cause of death in men in the fifth decade of life.

Has increased progressively in frequency in the U.S. population during the last 30 years.

We know that the frequency and severity of cirrhosis is strikingly related in the U.S. to the consumption of alcohol, and we have direct experimental evidence that alcohol damages the liver.

We know, however, that only one out of 11 chronic alcoholics develops cirrhosis; that the disease is common in other countries among whole populations which for ethnic or religious reasons abstain from alcohol; and that the frequency of cirrhosis in nonalcoholics in our own population is likewise increasing.

We need:

(1) extensive epidemiologic studies of variables other than alcohol which may be related to cirrhosis—particularly nutritional deficiency, toxins, infections, and genetically determined metabolic abnormalities.

(2) to develop agents which will regulate the regeneration of the liver after injury, and to identify the causes of carcinoma of the liver in persons with cirrhosis.

(3) a method of early detection of the alcoholic who is likely to develop cirrhosis, so that he may be singled out for intensive treatment.

(4) a better understanding of the biochemical basis of hepatic coma and of renal failure in liver disease.

(5) to overcome the obstacles to successful transplantation of the liver in man.

(6) to extend our knowledge of the causes of cirrhosis in children.

Gallstones

Is a condition affecting about 15 million United States citizens.

Occurs in 15% of all persons (and 20% of all women) aged 55 to 64.

Is responsible for medical care expenses estimated at over *0.5 billion dollars annually.*

Has jeopardized the health of four of our last six Presidents, each of whom has required surgical removal of his gallbladder.

We know that gallstones are more common in women particularly in those who have borne children. *We know* the frequency of the symptoms and the complications of gallstones, and that they are usually symptomless in the early stages of the disease.

We know that gallstones can be produced in animals by a chemically altered constituent of normal bile.

We need:

(1) to study the biophysical mechanisms underlying gallstone formation.

(2) to detrmine the relationship of human gallstones to chemical changes in the bile acids brought about by intestinal bacteria.

(3) to study possible alterations in these factors produced by sex hormones and by pregnancy.

(4) to study the relationship of diet and obesity to gallstones in man.

(5) to determine the prevalence of gallstones in American Indians; and if this is truly increased, to seek correlation with identifiable genetic and environmental factors, including those mechanisms mentioned above.

(6) to conduct an extensive survey to detect the presence of gallstones in a relatively young and outwardly healthy population, and to carry out a controlled clinical trial of elective cholecystectomy for the truly "silent" gallstones thus discovered.

Infectious diarrhea

Is highly prevalent as a cause of absence from work in civilian life and of noneffectiveness in the Armed Forces.

Has a diversity of microbial causes, most of which are difficult to identify rapidly enough to direct urgently needed therapy, and only some of which are susceptible to antibiotic drugs.

We have important new methods for the control of cholera, derived from well organized research. In addition to the application of sanitary measures indicated by earlier knowledge of its mode of transmission, we know that mortality and morbidity can be drastically reduced by the intensive administration of intravenous fluids and by the use of antibiotics. The recent discovery and partial isolation of a soluble exotoxin of the cholera vibrio has brought us within sight of a truly effective cholera vaccine or toxoid.

We need to learn more about the specific and nonspecific mechanisms responsible for

types of acute diarrhea more common in the United States than is cholera—for example, those due to salmonella and staphylococcus organisms (and their toxins) and to viruses—with a view to the development of more effective symptomatic and curative treatment.

Cancer of the colon and rectum

Is the most common form of internal cancer in the United States—estimated frequency, 73,000 new cases per year.

Is second only to cancer of the lung as a cause of deaths from cancer (43,600 deaths per year, or 1 out of every 7 cancer deaths).

Is more prevalent in the United States than in most other countries of the world, and is slowly increasing. Persons immigrating to the United States from areas of low prevalence soon develop the disease with increased frequency, suggesting an important environmental influence here.

We have fairly simple and effective diagnostic measures for fully developed lesions. Two-thirds of all colon cancers can be seen through a sigmoidoscope. *We know* that the frequency of colonic cancer is increased, and that the tumor develops at an earlier age, in patients with multiple polyposis or with long standing idiopathic ulcerative colitis. *We need:*

(1) further epidemiologic studies of the disease from the points of view of genetic influences and of environmental factors such as diet, smoking, laxatives, and other drugs.

(2) A satisfactory understanding of the comparative suceptibility to carcinoma of the small and large intestine, and of various locations in the large bowel. To this end, extensive knowledge of the kinetics of cell populations, of mutations within epithelial cells, and of enzyme synthesis at various ages, will be required.

(3) to settle the controversy regarding the precancerous nature of colonic polyps, from the point of view of case finding and clinical management.

(4) A controlled trial of various surgical procedures, including cautery and cryosurgery, in rectal lesions—Is permanent colostomy necessary?

Malabsorption

The picture of starvation, in the peoples of countries less fortunate than ours, always gives rise to the thought that it can no longer happen here. *But it does:* In a small but unfortunate group of Americans we recognize the wasted limbs, the sunken eyes, the bloated belly, the sore mouth, the rickets that spell *famine*. Having plenty of food, they cannot absorb it from their intestine—they have *malabsorption*.

Malabsorptions is caused by a great variety of diseases affecting the small intestine, and in the last fifteen years extraordinary progress has been made in their recognition and their treatment, as the result of well-supported clinical and laboratory studies. For example:

We know that an important cause of malabsorption, celiac sprue, is due to abnormal sensitivity of the intestine to partially digested cereal protein, specifically the gliadin protein of wheat and other grains; that elimination of these grains from the diet will *usually* lead to complete recovery of the patient.

We know that other cases of malabsorption and diarrhea are due to incomplete digestion of milk (lactose), because of specific lack of lactose-splitting enzyme in the small intestinal lining; and that elimination of milk and milk-products will relieve this condition.

We know that excessive growth of certain bacteria in the small intestine, the result of sluggish emptying of the bowel due to disease or surgical operations, will interfere with the absorption of fat and of Vitamin B_{12}; and that the resulting malnutrition of the patient can be alleviated by certain antibiotics, and in some instances by surgical relief of stasis in the intestine.

Yet many important questions remain regarding the underlying mechanisms of these conditions, and much needs to be learned about many other diseases causing malabsorption. *We need to know:*

(1) Whether celiac sprue is due to an allergy to wheat products, or to an inherited enzyme defect.

(2) The cause of the great prevalence among Negroes of intolerance to milk products, and the means of relieving this.

(3) The mechanism by which alcohol ingestion leads to chronic pancreatitis, an important cause of malabsorption.

(4) The cause of the chronic inflammatory diseases of the small intestine, such as regional enteritis and Whipple's disease.

(5) The factors which control the growth of cells in the lining epithelium, a tissue which is constantly replacing itself, and atrophy of which leads to striking impairment of absorption.

(6) The best dietary management of persons who have lost much of their intestine through surgical removal.

A NATIONAL PROGRAM FOR THE CONTROL OF DIGESTIVE DISEASE

1. Leadership and organization: This should involve the closely coordinated efforts of:

A. Leading professional societies: The American Gastroenterological Association, the American Association for the Study of Liver Disease, the American Society for Gastrointestinal Endoscopy, the Society for Surgery of the Alimentary Tract, the American College of Gastroenterology, and others.

B. A National Voluntary Health Agency concerned specifically with digestive disease, and broadly representative of scientists and concerned laymen.

C. A permanent administrative body responsible for the continuing stimulation, review, and coordination of all NIH activities in the field of DD.

2. Broad objectives:

A. *Increase skilled manpower* in the field of DD, through—

Support of medical school faculty members to provide research training in relevant basic disciplines and fields of clinical investigation.

Enlargement of existing support for research trainees, both pre- and post-doctoral.

Greatly augmented programs of clinical training, including support for both trainors and trainees.

Training of epidemiologists, clinical pharmacologists, and behavioral scientists with special interest in DD.

Continuing education for physicians through regional medical programs, formal courses, pamphlets, and other media.

Public education with respect to DD, as an aid in future recruiting.

B. Promote large scale cooperative research programs in relatively underdeveloped fields.

Prevalence and epidemiology of DD. Collaboration needed with National Center for Health Statistics, National Center for Chronic Disease Control, Communicable Disease Center, American Cancer Society, State Health Departments, and the Armed Forces. Prospective studies of DD should be planned in collaboration with industry and with labor union health organizations.

Clinical Trials of drugs and surgical procedures. Develop large scale cooperative trials, in concert with Food and Drug Adiminstration, Pharmaceutical Manufacturers Association, and other agencies.

Life stress and Digestive Disease. Needed is a coordinated effort by physiologists and clinical investigators, neuro-physiologists, behavioral psychologists, and human ecologists, to plan and execute interdisciplinary research in DD, and to train investigators to competence in two or more of these fields.

C. Intensification of ongoing *basic and disease-oriented research*, with special reference to:

1. *Peptic Ulcer*, and related aspects of the function of the stomach:

Clarify the electrical and chemical events occurring as concentrated acid is secreted by living stomach cells.

Study effects of changes in blood flow to the stomach on formation and healing of ulcers.

Expand the breakthrough in the molecular biology of scretion; develop antagonists to gastrin, and study effects of secretin and other compounds in suppressing acid secretion; seek abnormal forms of pepsin and other enzymes.

Determine significance of heredity and various factors in the environment (smoking, diet, emotional stress, aspirin and other drugs) by epidemiological studies.

2. *The small intestine*, and diseases affecting it:

More information on the movements of ions across the intestinal membrane, including the basic conditions of absorption, disturbance of which may cause diarrhea.

Learn the mechanisms by which certain foods cause malabsorption in susceptible persons—e.g. cow's milk in many Negroes, wheat in patients with celiac disease or sprue.

Search for the cause of chronic inflammations of the intestine, such as regional enteritis.

Define the manner in which ordinarily harmless bacteria, acting on components of bile in the small intestine, cause malabsorption, and may cause liver and gallbladder disease.

3. *Diseases of the Colon:*

Study the interaction between man and his colonic microbes—effects due to toxins, to antigen-antibody reactions, to chemical changes produced by bacteria, which are relevant to ulcerative colitis and other diseases.

Determine the significance of genetic, dietary, and other influences on colonic cancer, diverticulitis, and ulcerative colitis, by epidemiological studies.

Study the behavior of newborn infants and young children, and follow them for many years, to explore suspected correlations between parent-child interactions and the later development of ulcerative colitis and other bowel disorders.

4. *Liver Disease:*

Isolate the agents causing hepatitis, and use them for development of a vaccine, for specific diagnostic tests, for precise recognition of carriers of the disease, and for reduction in the risks of blood transfusion.

By both epidemiologic and laboratory studies, define the importance of factors leading to chronic liver disease—dietary deficiency, alcohol, drugs, pesticides, industrial toxins, fungi, and metabolic abnormalities. Special attention should be paid to causative factors in children.

Study influences upon growth and regeneration of the injured liver for the ultimate purpose of prevention of liver cancer.

Improve the medical treatment of advanced liver disease, especially its complications of coma and uremia.

Remove the obstacles to successful transplantation of the liver.

5. *Gallstones:*

By epidemiologic studies, determine the relationship of genetic factors, diet, obesity, pregnancy, and other factors to the frequency of gallstones.

Study the physical and chemical changes in the liver and gallbladder which affect the formation of stones, including the absorption of ions, chemical alteration of bile acids, and the motility of the organ.

6. *Pancreas:*

Seek the causes of pancreatitis, and the exact mechanisms by which it develops:

genetic factors, alcohol, gallstones, and other influences.

Expand our knowledge of the control of pancreatic secretion, as the basis of effective treatment of pancreatitis. Exploit the recent synthesis of secretin by preparing and testing specific antagonists to this hormone. Develop synthetic pancreozymin, another pancreatic stimulant, as well as its antagonists.

FOOTNOTES

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[7] Deaths projected by Epidemiology and Statistics Department, American Cancer Society, from cancer mortality data from U.S. National Vital Statistics Division. Cited by Hammond, E. C. at Conference on Digestive Disease as a National Problem, Bethesda, Maryland, February 5, 1967.

[8] Rice, Dorothy P., 1966: Estimating the cost of illness. Health Economics Series Number 6. U.S. Public Health Service Publication No. 94[illegible]-6. U.S. Government Printing Office, Washington, D.C.

[9] Blumenthal, I. S., 1967: Social cost of peptic ulcer. *Gastroenterology*, in press. See also, Blumenthal, I. S., Research and the ulcer problem. The Rand Corporation, R–336–RC, June, 1959.

[10] Green, F. W., Division of Scientific Activities, American Medical Association, Chicago, Illinois. Personal communication to Dr. James A. Clifton.

[11] Data from Medical Mailing Service, Inc., 426 South Clinton St., Chicago, Illinois.

[12] Clifton, J. A., 1967: Manpower in Gastroenterology. *Gastroenterology* 53:353, August.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The ACTING PRESIDENT pro tempore. As this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, S. 3526, which the clerk will please read by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

MODIFIED AMENDMENT NO. 1187

Mr. ROBERT C. BYRD. Mr. President, on yesterday I offered an amendment in the second degree to the Church-Case amendment which is in the nature of a perfecting amendment to the language proposed to be stricken by the amendment by Mr. STENNIS.

At this time I send to the desk a modification of my own amendment in the second degree, and ask that it be stated by the clerk.

The ACTING PRESIDENT pro tempore. The clerk will please read the modification.

The assistant legislative clerk read the modification, as follows:

On page 1, after the word "reaching" insert "an internationally supervised ceasefire and".

Mr. ROBERT C. BYRD. Mr. President, overnight I thought about the amendment I had offered rather hurriedly and impromptu yesterday afternoon just before the Senate adjourned. I felt that the verbiage therein was rather vague and that it should be more precise, and I reviewed the President's speech, which he had made on television the night before. I noted that he himself used the words "internationally supervised ceasefire," and I thought that I should modify my amendment to bring it into conformity with his words and also to make it more precise and less ambiguous than the language I had previously offered.

Mr. STENNIS. Mr. President, will the Senator yield for a question in the nature of a parliamentary inquiry?

Mr. ROBERT C. BYRD. Yes. I yield the floor, Mr. President.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STENNIS. The question is, Just what is the pending matter, the pending business most immediately before the Senate?

The ACTING PRESIDENT pro tempore. The pending question is the amendment by the Senator from West Virginia (Mr. ROBERT C. BYRD), as modified, to amendment No. 1186, the Church-Case amendment, modifying language sought to be stricken from the bill by amendment No. 1175 by the distinguished Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. I thank the Chair. I think the Chair has spoken very clearly.

The amendment offered by the Senator from Idaho and the Senator from West Virginia goes to the language, in effect, of the present section in the bill that my amendment seeks to strike.

The ACTING PRESIDENT pro tempore. Would the Senator state his inquiry again?

Mr. STENNIS. I say, as I understand it, the language of the amendment of both the Senator from Idaho and the Senator from West Virginia seeks to change language presently in the bill as reported.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. STENNIS. The very section which my amendment seeks to strike.

The ACTING PRESIDENT pro tempore. And the language that remains after those amendments have been disposed of would then be the language which would be sought to be stricken by the amendment proposed by the Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. The language which is left.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Mississippi would seek to strike from that section of the bill whatever language was in that section after the amendments were acted upon.

Mr. STENNIS. Whatever language is left after action on the amendments will become the language my amendment seeks to strike.

The ACTING PRESIDENT pro tempore. Yes, whatever is left in that section of the bill.

Mr. STENNIS. Is any other amendment presently in order to the language of the amendment of the Senator from Idaho and the Senator from New Jersey as proposed to be amended by the Senator from West Virginia?

The ACTING PRESIDENT pro tempore. Not at this time; only after the disposition of it would another amendment be in order.

Mr. STENNIS. I thank the Chair.

QUORUM CALL

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

The ACTING PRESIDENT pro tempore. The clerk will please 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.

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 2:30 p.m. today.

The motion was agreed to; and at 1:23 p.m. the Senate took a recess until 2:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BUCKLEY).

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

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

WITHDRAWAL OF A NOMINATION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. BUCKLEY), as in executive session, laid

before the Senate a message in writing from the President of the United States, withdrawing the nomination of Louis Patrick Gray III, of Connecticut, to be Deputy Attorney General.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9292) entitled "an act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

ESTABLISHMENT OF VOLUNTEERS IN THE NATIONAL FORESTS PROGRAM

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1379.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1379) to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes, which were on page 2, line 12, strike out "provision" and insert "provisions".

On page 3, line 1, strike out "$200,000" and insert "$100,000".

On page 3, line 4, strike out "of 1971" and insert "of 1972".

Mr. TALMADGE. Mr. President, the House, on May 1, passed S. 1379 with two technical amendments and an amendment reducing the appropriation authorization from $200,000 annually to $100,000 annually. I have checked with Senators MILLER and BELLMON, who had expressed views in committee with respect to the $200,000 authorization, and am advised that neither of them has any objection to agreeing to the House amendments. The $100,000 authorization was recommended by the Department of Agriculture.

I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. TALMADGE. 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.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of all Senators? May we have order in the Senate? I do not wish to proceed until the Senate is in order.

The PRESIDING OFFICER. The Senate will be in order.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the distinguished Senator from Kentucky (Mr. COOPER) will very shortly offer a number of amendments to the bill, provided the pending amendment can be temporarily laid aside. It is my further understanding that the distinguished Senator from Indiana (Mr. BAYH) is willing to agree to consider en bloc all those amendments with the exception of two.

Then it is my understanding that it is their desire that there be a vote—possibly a rollcall vote—on each of the remaining two amendments. Consequently, the unanimous-consent request which I shall now propound will take into consideration this situation, as I have understood it to be.

Mr. President, I ask unanimous consent that the pending question before the Senate, to wit, the amendment of the junior Senator from West Virginia (Mr. ROBERT C. BYRD), be temporarily laid aside for not to exceed 1 hour and 30 minutes; that, in the meantime, the distinguished Senator from Kentucky (Mr. COOPER) be recognized to offer his amendments to which I have already referred; that the time on each of the two amendments to be offered by Mr. COOPER—which are to be excepted from the en bloc request, and any substitutes therefor or perfecting amendments—be limited to 30 minutes, to be equally divided between the Senator from Kentucky (Mr. COOPER) and the Senator from Indiana (Mr. BAYH); that upon the final disposition of those amendments, the Senate then return to the consideration of the pending question, the amendment by the junior Senator from West Virginia (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Is there objection?

Mr. BAYH. Mr. President, reserving the right to object, and I shall not object——

Mr. ROBERT C. BYRD. Will the Chair kindly indulge me briefly?

Mr. President, I thank the Chair.

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

Mr. ROBERT C. BYRD. Mr. President, let me make sure that we all are in agreement with what we have just entered into.

The pending question will be laid aside temporarily for not to exceed one hour and a half. The total time consumed on the discussion of all the amendments and substitutes, together with perfecting amendments, if there be such, will be 1 hour. Thirty minutes is allotted to each of the two amendments on which there apparently will be separate votes. With a 15-minute rollcall vote on each, if such should occur, this would just consume one hour and a half. If we need an extra few minutes, we will hope to get it.

Mr. COOPER. Mr. President, reserving the right to object, we have taken care of every issue we can anticipate. Suppose another Senator desires to offer an amendment.

Mr. ROBERT C. BYRD. If any Senator should offer an amendment thereto, he would have to wait until all time on the amendment had been yielded back or had expired. He would then have the right to offer an amendment, but there would be no time for debate of his amendment. He would merely get a vote thereon.

I ask the Chair whether I am correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

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

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

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? Will the Chair instruct staff members to take their seats, unless they are consulting with a Senator?

The PRESIDING OFFICER. Staff members will clear the aisles and return to the lounges.

Will the Senator from Kentucky send his amendment to the desk?

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 12, strike out line 4 and insert in lieu thereof the following:

"(1) Informal procedures for the resolution of grievances in accordance with the purposes of this part, shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not resolved under such procedures within 60 days, a grievant shall be entitled to file a grievance."

On page 13, line 13, beginning with the period, strike out through the period in line 18 and insert in lieu thereof the following "from a roster of 12 independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service."

On page 14, line 2, strike out "at the same rate" and insert in lieu thereof a comma and the following: "for each day they are performing their duties as members of the board (including travel time), at the daily rate".)

On page 14, between lies 8 and 9, insert the following: "The members of the board shall elect, by a majority of those members present and voting, a chairman from among the members for a term of two years."

On page 14, line 9, before "The", insert the following: "In accordance with this part, the board may adopt regulations governing the organization of the board and such regulations as may be necessary to govern its proceedings."

On page 14, line 21, strike out "six" and insert in lieu thereof "eight".

On page 15, line 19, before the period, insert the following: "unless the board finds such interrogatory irrelevant or immaterial".

On page 17, line 14, after "relevant" insert "and material".

On page 17, line 19, before the period, insert the following: "and which shall be made a part of the record of the proceeding".

On page 18, line 3, strike out "in the case of a grievance not relating to the" and insert in lieu thereof "and determines that relief should be provided that does not directly relate to the".

On page 18, line 8, strike out "and" the second time it appears and insert in lieu thereof "or".

On page 18, line 9, strike out "in the case of a grievance relating to any such" and insert in lieu thereof "and determines that relief should be granted that directly relates to any such".

On page 18, line 17, after "recommendation," strike "only" and add "upon the record of the hearing or."

Mr. COOPER. Mr. President, the pending business may be found on page 11, beginning with line 9, Foreign Service Grievances.

I will not take much time to discuss the section, except to say that this legislation arose out of a tragic event which occurred last year, when a member of the Foreign Service committed suicide. His family and others including members of the Foreign Service attributed it to the fact that he had not been able to pursue grievance procedures in the Department of State. After that sad event, Senator BAYH, Senator SCOTT, and I, and others introduced a bill providing for the establishment of a grievance procedure for the Department of State. I said on the floor at the time the bill was introduced that I did not agree with all its provisions, but that I joined as a cosponsor because I thought a grievance procedure should be established and that due process should be assured.

The Committee on Foreign Relations held 2 days of hearings. After that, because I was interested in the bill, I consulted with Senator BAYH almost continuously since that time, to see if we could reach agreement on a bill which would provide a just and impartial grievance procedure. In addition, Mr. Miller of my staff consulted with members of the staff of Senator BAYH. I know that they discussed the details of a grievance procedure with the affected parties, members of the Foreign Service, the State Department, and the respective employee groups such as AFSA and AFGE.

In addition to reviewing their drafts while we were considering this matter, I have talked with representatives of the State Department, with representatives of the Foreign Service, with representatives of the union, and with lawyers who have been employed in grievance cases now in process, in addition to hearing and studying the evidence before the committee.

The section before the Senate is not supported by the Department of State, and some members of the Foreign Service have some objections to some portions of the section.

My interest, as a former judge, was in assuring that members of the Department of State shoulde be provided with a grievance procedure, and that the procedures assured them of full due process.

In this procedure we provide for the definition of a grievance. We provide that the grievants have the right to present their cases to the grievance board after informal procedures have been exhausted, which, by formal measures, will attempt to resolve any issue.

With respect to grievances other than promotion, assignment to posts, and selection out—which is really separation from the service— the decision of the grievance board will be final. In the case of selection out—that is, separation from the service—or assignment to posts or promotion, the board shall make recommendations ot the Secretary, who shall make findings and report to the grievance board. But even in that case, the grievant has a right to go to the courts under the Administrative Procedure Act, with appeal to the district court of the District of Columbia.

I appreciate very much the work that has been done by Senator BAYH and his staff and their willingness to work together with my staff and me. Their purpose and ours was to provide a just and fair grievance procedure. We have not agreed on everything but we have, I think, written a fair and just procedure. So the amendment which I sent to the desk to amend the section as reported by the committee—there are 12 amendments—the Senator from Indiana (Mr. BAYH) and I have agreed on all of the amendments except amendment 2 and amendment 12.

I ask unanimous consent that I may place in the RECORD an explanation of these amendments.

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

First, this provides for the establishment of an informal procedure for the resolution of grievances. These procedures to be worked out by agreement between the employee representative and the Department. If a grievance is not resolved within 60 days, a grievant shall be entitled to file a grievance.

Second, this provides that in the event that the two members of the board cannot agree upon a third that the "third" member shall be appointed by agreement between the two from a roster of twelve appointed by agreement between the employee organization and the Secretary—a roster which shall be kept current.

Third, this provides for payment of members of the board who serve on a less than fulltime basis.

Fourth, this provides for the election of the chairman of the grievance board.

Fifth, this provides that the board may establish its own rules and regulations as may be necessary for effective functioning.

Sixth, this provides for two months for informal procedures and six months for filing a formal grievance.

Seventh, this permits the board to limit interrogatory to relevant and material evidence.

Eighth, this provides that the material provided by the Department to a grievant shall be relevant and material.

Ninth, this classifies (A) on P. 18 that relief shall be provided that does not directly relate to promotion assignment or selection out.

Tenth, this strikes "and" and inserts "or".

Eleventh, this clarifies how "relief" should be granted in cases directly related to promotion, selection out or assignment.

Twelfth, this provides that the Secretary may reject a recommendation of the board upon the record of the hearings.

Mr. COOPER. Mr. President, I ask unanimous consent that the amendments, with the exception of No. 2 and No. 12, be considered and agreed to en bloc.

The PRESIDING OFFICER (Mr. BUCKLEY). Without objection the amendments are considered and agreed to en bloc.

Mr. COOPER. Mr. President, now, Mr. President, I send to the desk amendment No. 2—which is No. 2 on the first page of the amendment—and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOPER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD at this point.

The text of the amendment is as follows:

On page 13, line 13, beginning with the period, strike out through the period in line 18 and insert in lieu thereof the following "from a roster of 12 independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service."

Mr. COOPER. Mr. President, I assume that we are now on controlled time?

The PRESIDING OFFICER. The Senator is correct.

Mr. COOPER. Mr. President, this amendment deals with the establishment of the panel, the board which will consider grievances. It is an important matter.

After considering a number of proposals, the committee agreed upon this—it was not my proposal but the committee thought it was all right—and that was that the elected representative of the Foreign Service should nominate one member of the panel. The Secretary should nominate the second member of

the panel, and then the two should agree on the third member. In the event they could not agree, then the language of the section as the bill now stands provides that the Chief Judge of the Court of Appeals of the District of Columbia should select the third member.

I must say, I did not like that at the time. After due consideration, it seemed to me it was wrong, for these reasons: First, that the judiciary should not be concerned with the administrative procedures of the executive branch. Second, as this amendment for fair grievance procedures provides for an appeal to the ultimate decision of the court, the appeal would go first to the Court of Appeals of the District of Columbia, and that would seem to be a conflict.

So I am offering this substitute language, which provides, similarly, that the one member shall be named by the elected representative of the Foreign Service Association—with respect to USIA and AID; and that the Secretary of State shall recommend the second member of the panel, and that, if these two do not agree on a third, then, these two members shall select the third member from a roster, agreed to by the Secretary and the employee representative and kept current, of 12 distinguished citizens of the United States, well known for their integrity and independence, who are not officers or employees of the Department, the Foreign Service.

I will discuss briefly—and if I am wrong the Senator from Indiana will correct me, Senator BAYH'S substitute language—that the panel shall be made up of persons chosen from the Association of Arbitrators of the United States.

Mr. President, I oppose his proposal to substitute, to appoint these members from the Arbitration Service, for this reason: I have no complaint at all to make about the integrity of the members of the Arbitration Association, but their main purpose and experience is to arbitrate labor disputes. They arbitrate disagreements arising out of collective bargaining agreements between management and labor, in which they are very proficient, I am sure, but that is not the experience that would be required in this kind of work. The Foreign Service of the United States is a peculiar service. I will say that it is peculiar or unique in two ways, peculiar or unique in the ordinary sense of the words, and peculiar in the way that the Senator from Indiana (Mr. BAYH) speaks of it as a group somehow set apart.

The purposes of the Foreign Service are designed to promote and assist in the development and execution of the foreign policy of the United States. Members of the Service are required to undertake specialized training, education, and discipline. This board will be dealing with every possible kind of grievance which affects their lives in the future, particularly with regard to three important points: The question of their promotion; the question of their assignment to posts; and the question—which to them, I suppose, is the most terrible decision of all—the question of selection out, which means separation from the Service.

Today, because of existing provisions, they may be separated at a comparatively young age and be unable, at that age, to find suitable work which will be rewarding and will fit their capabilities. I hope that can be changed so that these people can be retained to serve a full career.

I would hope that the Senate would recognize there are differences of opinion, passing on the delicate questions and the labor-management questions, and that it will accept this amendment. We both, Senator BAYH and I, labored on this for months. But in my view, I believe that we have to trust someone. The main argument made against my proposal for selecting a third board member, is that perhaps the Foreign Service representative will come under the influence of the Secretary. He will be elected by the Foreign Service Association employees who represent them. I assume they are honorable men in the Foreign Service who make up the employee groups. I assume that the Secretary of State is honorable. With the intent of Congress so specifically expressed here that due process must be provided, I cannot understand the position nor do I accept the view that there is hardly anyone we can trust within the Foreign Service system itself.

I have said that my effort has been to assure due process. I think that the bill now, as amended, and with this section in it for the selection of the board, will achieve that purpose. So that is my position.

I oppose the Bayh amendment and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Well, Mr. President, as a Member of this body who does not have the good fortune to serve on the Foreign Relations Committee, some may ask, what is the Senator from Indiana doing involved in this? I became involved some time ago, when a constituent of mine by the name of Thomas came to my office with the following story:

He had had a perfect record and excellent reports for a number of years until suddenly he was about to be selected out—or fired—after not having been promoted over the prescribed period of time. After investigation, Mr. Thomas found that his selection out was caused by a clerical error; his favorable reports had been misfiled in another man's dossier. And for this reason he had not been promoted. Instead, he was about to be selected out.

My Mr. Thomas brought this to the attention of the State Department. I gather that the State Department absolutely refused to reconcile the matter. They continued with their process of firing or selecting out Mr. Thomas.

This was a man who had dedicated his whole life to nothing but the Foreign Service of his country, who had a wife and children. He had his profession ruined and had no way of appealing the grievance. Even a Member of the U.S. Senate could not be heard in the State Department in an effort to try to get this matter reconciled. This frustration built up in Mr. Thomas' head until he finally took his own life.

The State Department is the only Department of our Government that does not have some vehicle for appealing grievances such as this.

As a result of this, I introduced, along with two or three of my colleagues, S. 2659 last June. I have been working with the Committee on Foreign Relations for passage of this bill for nearly a year now: and the State Department has been working equally hard to kill the bill.

On Monday, April 17, the Committee on Foreign Relations approved an amendment to the State Department authorization bill designed to establish an independent grievance board, and to provide the framework of a grievance procedure with accompanying basic guarantees of due process for employees of the Foreign Service. The committee amendment is generally parallel to S. 2659. I commend the committee for its willingness to take action on this bill after countless delays by the Department of State in negotiating its own final grievance procedures with the employee organizations, Senators FULBRIGHT, COOPER, and CASE have been especially interested in the problem and have all contributed to the amendment as reported by the committee.

On the whole, I am in support of the committee amendment and urge the Congress to approve this legislation to protect foreign service officers from a system which, until the introduction of S. 2659, had granted only one hearing in 15 years. The amendment provides such basic guarantees as the right to a hearing, the right to representation at all stages of the proceeding, the right of access to documents relevant to a grievant's case, the right of a transcript of the hearing and cross-examination of witnesses, and the right to call witnesses under the supervision of the Department. Most important, the board's findings and recommendations are binding on the Department of State with narrow exceptions. None of these provisions are guaranteed under the Department's interim grievance procedures now in operation.

In spite of my general support for the committee action, I do believe that one change is absolutely essential to insure that the grievance board established by this legislation is as independent and judicious as possible. As a result of last minute confusion, the committee approved one change which I believe would seriously undermine the integrity and independence of the grievance board. As approved, the board consists of a panel of three members, one of whom shall be appointed exclusively by the Secretary, one by the employee's union, and one by the other two members.

Unfortunately, this procedure would result in a highly political board, rather than a judicial body, all of whose members are independent and neutral. I believe further amendment is needed to insure the board's complete independence and impartiality. Secondly, there is no assurance that the appointees would be experienced arbitrators, conformable with the difficulty of making judgments in highly complex, sometimes acrimonious disputes.

Finally, since the officials of the labor unions are Foreign Service officers them-

selves, vulnerable to the approval or disapproval of the office of personnel in the Department, they would be subject to subtle pressure from that office while choosing the second member of the board. Since the Department has traditionally had the power to influence not only the employee bargaining agent but even the board itself, it would be especially unwise to risk continued influence of this kind. Without true independence on the part of the board, the bill is totally meaningless and no other procedural protections can be of any value.

Mr. President, I wish to bring the attention of the Senate to an editorial which appeared in the April edition of the American Foreign Service Association's journal, indicating that concern about the impartiality of the board is a real and widely recognized problem. The Association represents 7,500 Foreign Service employees and is generally expected to be elected as the exclusive bargaining agent for foreign service employees. The editorial concludes:

> If this system is to succeed and if we are to realize our goal of effective co-determination, the Board must enjoy the full confidence of both the Foreign Service and Agency leadership. It can no longer be the prestigious rubber stamp for management decisions that it had been in the past. It must speak with its own voice and its procedures must be impartial.

My amendment is designed to preclude these potential difficulties without depriving the Department and the employees' union of their desire to choose one member of the board. The amendment provides that all three members so chosen shall be chosen from a "recommended list of at least 15 arbitrators submitted by the American Arbitration Association." The Association's National Panel of Arbitrators is a highly respected and experienced group of men and women who have an unquestioned understanding of the guarantees of due process and of the necessity of impartiality.

I respectfully suggest to my friend, the Senator from Kentucky, that I must take issue with him when he talks about this panel being nothing but a labor-management panel in the traditional sense of arbitration boards.

I have investigated the matter carefully. They have done some rather sophisticated investigating for the Department of HUD. They have worked out grievance and arbitration machinery for settling tenant-management disputes. They have resolved disputes between American businessmen and foreign businessmen. In a number of instances they have handled small claims, and medical malpractice suits have been arbitrated by them. They are illustrious figures from all over the country. Many of them are professors. I think that perhaps one-eighth of them must be chosen from the public sector. It is not a traditional type panel. For instance, of the 6,658 general labor-management arbitration cases administered by AAA during 1971, 18 percent were in the public sector—that is, the parties were agencies of the Federal, State, or local governments one one side, and organizations of the employees on the other. In December 1970, Chief Justice Warren Burger praised the American Arbitration Association as "a great institution" which has been helping courts divert to private forums cases "that should not come to judges at all.

I urge the Senate to approve my amendment and then to pass legislation desperately needed in the State Department. It has now been over a year since the State Department secured for the Foreign Service an exemption from the President's labor-management Executive Order 11491. It has been 1 year and 1 week since the death of Charles Thomas, and 10 months since I first introduced a grievance bill. And yet the Department still has not begun the process of negotiating its own grievance procedures as an alternative to Executive Order 11491. My office has received letters from all over the world about this issue. In fact, conference in Africa. I do not know how many Foreign Service officers came up to me and said: "Senator Bayh, how is that grievance bill coming along?" We have had letters from all over the world. Yet, what has been the response from the Department? The Department has spent thousands of taxpayers' dollars distributing speeches and letters against Congressional action. Indeed, a petition signed by only 300 officers was sent to all Foreign Service employees—estimated at 10,000 persons. This petition was supposed proof of the general opposition to the legislation. And yet the employee groups, AFSA and AFGE as well as the ACLU has supported the legislation. I would like to put in the RECORD at this time a copy of the Washington Post editorial entitled: "A Grievance Law for Diplomats." This editorial points out that this amendment would provide the only truly equitable chance for a Foreign Service officer to have a grievance involving neither the Secretary of State nor the aggrieved parties. Each party would come in there equally and would choose one party of the 15, not related to either of the parties.

Mr. President, I ask unanimous consent that the editorial and a letter from the Washington office of the American Civil Liberties Union be printed at this point in the RECORD.

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

[From the Washington Post, May 3, 1972]

A GRIEVANCE LAW FOR DIPLOMATS

The Foreign Service continues to be Washington's most troubled bureaucracy, and its troubles are now being brought, once again, to the floor of the Senate. The immediate issue is legislation to establish a new and independent grievance procedure for Foreign Service officers and the other employees of the foreign relations agencies. The Department of State strongly opposes this legislation, arguing with considerable justice, that it has already corrected the worst abuses of the recent past. Unfortunately, the temper within the Foreign Service has become sufficiently distrustful and bitter that administrative reorganization by the State Department alone cannot cure it. What the Department has given, some of its employees fear, the Department can take away. These employees are entitled to legislation guaranteeing that the Department will apply its rules fairly, and will provide a right of appeal to an impartial referee. Both the American Foreign Service Association and the American Federation of Government Employees, the two chief organizations representing these employees, support the legislation now before the Senate. It is high time for Congress to enact it.

Grievances mainly involve, as one might expect, promotions and firings. These matters can be handled fairly smoothly in a corps of stable size and rank. But the State Department has been cut back about 20 per cent over the past five years, resulting in many firings of officers well into middle age, too old to change careers easily but too young for pensions. Mr. Macomber, the deputy secretary of state for management, has put a stop to the wholesale purges of people in mid-career. But the White House apparently believes that too many officers are clustered in the upper ranks of the Foreign Service, suggesting that there will be few promotions in coming years. The cuts in both positions and promotions has exacerbated all the familiar questions of fair play. The Foreign Service, like most other American institutions, is divided over questions of the proper limits to dissent. And those questions have a special edge in an organization whose business involves political analysis. What one man considers creativity may seem insubordination to another, and personnel disputes often revolve around precisely that distinction.

The Department, under Mr. Macomber, has made a series of important improvements in the personnel system recently. A grievance panel has been set up under a professional arbitrator, Mr. Simkin, former head of the Federal Mediation and Conciliation Service. Employees are now given access to their personnel files. The old up-or-out firing system, which works well in the military services but badly in diplomacy, has been suspended. The Department says that it is prepared, in principle, to support grievance legislation.

But it argues that the bill before the Senate is much too broad. The bill's supporters, in contrast, say that it is limited to issues of due process, and would only require the Department to follow its own rules. The senators sponsoring the bill can perhaps make their intentions on this point explicit in the floor debate. The next question is who shall be the judge. The present bill suggests a three-seat panel, with one seat filled by the person bringing the complaint, one by the Department, and one by agreement or failing agreement by the Court of Appeals here. In this instance, Senator Bayh's amendment seems preferable. He proposes filling all three ing agreement by the Court of Appeals here.

The malaise in the Department goes a great deal deeper than the personnel rules. The Department is, in fact, going through one of its periodic bad times, and bad times for the Department are bad times for the men and women who have committed their careers to it. Many of their traditional responsibilities have been carried off to Dr. Kissinger's office at the White House, or to the Treasury. The Vietnam war has churned up all of the basic questions of foreign policy, and the organizations that deal with it. But the Department and its sister agencies have an unusual proportion of first-rate people, highly trained and highly specialized. They are not dispensable to this country's central purposes. At a time when policy disputes are profound and vehement, grievance legislation can reassure these valuable people that their own superiors will deal with them equitably in their personal careers.

AMERICAN CIVIL LIBERTIES UNION,
Washington, D.C., May 5, 1972.

Hon. BIRCH BAYH,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: The American Civil Liberties Union supports the amendment to

the State Department authorization bill approved by the Committee on Foreign Relations which will establish a grievance procedure for employees of the Foreign Service. We support as well your amendment, No. 1145, which will insure the independence of the grievance board to be established. We believe that this grievance system will preserve the flexibility which the Foreign Service requires in its selection and promotion process, while at the same time substantially improving the likelihood that those decisions will be fairly and rationally made.

The right of every employee to access to grievance procedures, with the opportunity for a full and fair hearing, should be fully established as a basic principle of our government. For ours is the government of a free people, and, as Mr. Justice Frankfurter so aptly observed, the history of freedom has largely been the history of the development of fair procedures. Perhaps in a primitive society, with few people, freedom can exist without fair procedures. In a large, complex, modern society, it is impossible. Without fair procedures, each individual is subject to the whims and caprices of those in power, and cannot defend his rights and liberties.

We understand, of course, that special considerations may have to apply in connection with supervision, evaluation, promotion or discharge of Foreign Service employees. The Foreign Service is a demanding discipline, charged with a difficult and delicate task. There is no reason, however, why the decisions which are made, by whatever standards may be appropriate to the particular circumstances of the Foreign Service, should not be subject to review before an impartial body after opportunity for full hearing and inquiry. Indeed, the lack of fair procedures for consideration of employee grievances, as well as appeals from adverse actions raises grave questions under the due process clause of the Fifth Amendment to the United States Constitution. See *Greene* v. *McElroy*, 360 U.S. 474 (1959); *Goldberg* v. *Kelly*, 397 U.S. 254 (1970); *Bell* v. *Burson*, 402 U.S. 535 (1971); *Clackum* v. *United States*, 296 F. 2d 226 (Ct. Cl. 1960); and *Bland* v. *Connally*, 293 F. 2d 852 (D.C. Cir. 1961).

The State Department has opposed this legislation, saying that they are working on the establishment of procedures in this area. As you indicated in our floor statement on April 20, 1972, a year has passed "since the State Department secured for the Foreign Service an exemption from the President's labor-management Executive Order 11491" and "yet the Department still has not begun the process of negotiating its own grievance procedure." 118 Cong. Rec. S6463 (daily ed., April 20, 1972). Moreover, the Department's interim grievance procedures are wholly inadequate.

The amendment which the Senate will consider today guarantees such fundamental safeguards as the right to a hearing, the right to representation at all stages, access to all relevant documents, the right of cross-examination, the right to call witnesses under the control of the Department and a right to a transcript. Taken together, these guarantees provide a measure of procedural due process of law heretofore unavailable. None of these rights are guaranteed by the Department's interim procedures.

Fair procedures will benefit not only the individual employees. Such procedures will also assist the Foreign Service in assuring itself that its decisions are sound and rationally based, and in reviewing and improving its operations. The improvement in morale among employees which must result from the availability of fair grievance procedures can only redound to the benefit of the Service as a whole.

It is our hope that the Congress enacts this legislation as quickly as possible so that we prevent future tragedies, such as the death of Charles Thomas which first focused public attention on this problem. We commend you for the role you have taken in this important effort.

Sincerely,

HOPE EASTMAN,
Acting Director.

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

Mr. BAYH. I yield.

Mr. FULBRIGHT. Mr. President, it has just been brought to my attention that a letter has been circulated by the Department. It is my understanding that in the circulation of that letter they do not make mention of the committee report.

Mr. BAYH. I believe the Senator is correct.

Mr. FULBRIGHT. The letter gave only their point of view.

Mr. BAYH. There reportedly have been 15,000 copies of that letter sent out. My proposal proposes the kind of morale building insurance they need in the State Department.

Mr. FULBRIGHT. Mr. President, I supported the committee version. I thought that it was mutually satisfactory. However, since that time I understand that it is not satisfactory and that both the proposal of the Senator from Indiana and the proposal of the Senator from Kentucky is different from that in the committee bill as reported.

Mr. BAYH. The Senator is correct.

Mr. FULBRIGHT. Mr. President, I have received not only the letter from the Department but also a letter signed by six members of the Foreign Service, whose names I do not feel that I should have printed in the RECORD, because of possible criticism from their superiors. The letter takes issue with the letter from the Department itself—that is, as being representative of the entire Foreign Service.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD both of the letters, the letter from the six members of the Foreign Service, together with the letter from the Secretary, and enclosing another letter from the Under Secretary.

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

THE SECRETARY OF STATE,
Washington, D.C., April 29, 1972.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Senate Foreign Relations Committee.

DEAR MR. CHAIRMAN: I have read Section 109(A), "Foreign Service Grievances", of the Senate Authorization of Appropriations Bill (S. 3526) which has been reported out by the Senate Foreign Relations Committee. As presently written, this section of the bill poses a number of problems which give me the most serious concern.

I am not alone in the view that the legislation would cause difficulty for the Foreign Service. The enclosed correspondence from Ambassador U. Alexis Johnson, which includes the views of over 300 Foreign Service personnel currently assigned to the Department, points out some of the principal areas of difficulty. I have now concluded that legislation setting forth general principles for a grievance procedure along the lines discussed in Ambassador Johnson's letter would be desirable at this time. Accordingly, I have instructed officers of this Department to consult the appropriate members of Congress for the purpose of developing such legislation which would be better suited to the needs of the Foreign Service and the Department than that presently contained in S. 3526.

I seek your cooperation in developing a program designed to strengthen and improve the Foreign Service of the United States.

Sincerely,

WILLIAM P. ROGERS.

UNDER SECRETARY OF STATE,
Washington, D.C., April 29, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State.

DEAR MR. SECRETARY: I have received a letter, a copy of which is attached, signed by over 300 Foreign Service personnel which registers their deep concern over the Foreign Service grievance legislation now pending in the Senate. I have been asked by the signers to assist in "having the Department discuss acceptable alternative legislation with the Congress."

As you know, there has been wide discussion among Foreign Service personnel, especially among those assigned to Washington, of the problem of handling grievances. There was a meeting April 27 which filled the International Conference Room. It was a reasoned and penetrating discussion of the problem, with all shades of opinion represented. A clear consensus was evident that grievance legislation is desirable. Further, it was clear that a substantial number of people believe that the Department of State should work with the Congress to develop acceptable legislation. The letter to me includes a statement of principles, which the signers believe should be incorporated in grievance legislation for the Foreign Service.

I have had conversations within the past ten days with various Foreign Service Officers which lead me to conclude that a broad consensus does indeed exist favoring the adoption of grievance legislation at this time. I personally believe that such legislation properly drafted is desirable.

Therefore, I recommend that you authorize the Department to develop a position on, and seek to work out with the appropriate committees and Members of the Congress, legislation generally reflecting the principles set forth in the enclosed letter. In addition, in order that the members of the Senate may have before them the views of this substantial group of personnel (which I might note are also subscribed to by three former Presidents of the American Foreign Service Association, including myself) during the consideration of the legislation now before the Senate, I suggest that you transmit a copy of this letter and its enclosure to the Chairman of the Foreign Relations Committee, as well as to the Chairman of the Foreign Affairs Committee.

I am sure that your approval of these recommendations would be welcomed by the overwhelming majority of the Foreign Service.

Respectfully yours,

U. ALEXIS JOHNSON.

DEPARTMENT OF STATE,
Washington, D.C., April 28, 1972.

U. ALEXIS JOHNSON,
Under Secretary for Political Affairs, Department of State, Washington, D.C.

DEAR MR. AMBASSADOR: We, the undersigned Foreign Service Officers and employees, are writing to you, as the senior officer in the Service, to register our deep concern over certain legislation pending in the Congress. We refer to Section 109(A) "Foreign Service Grievances" of the Senate Authorization of Appropriations Bill (S. 3526) which we understand has been approved by the Senate Foreign Relations Committee and is shortly to be reported out to the full Senate. We would like to enlist your aid in having

the Department discuss acceptable alternative legislation with the Congress.

We unreservedly approve of the adoption of legislation to provide for modern grievance procedures for the Foreign Service. Indeed, we attach a statement of principles for grievance legislation which we believe will protect employee rights more effectively. These principles could form the basis for substitute legislation or for the amendment of Section 109(A).

We oppose the amendment in Section 109(A) because it provides in our view an unworkable system which potentially could infringe upon the rights and working conditions of the great majority of foreign service employees. Specifically, we consider these provisions of Section 109(A) to be its most serious flaws:

1. The legislation provides no safeguards for preserving the integrity of merit promotion as determined by impartial selection boards. Section 109(A) could permit promotion as a redress for any grievance which the board might sustain. We endorse without qualification the right of those aggrieved in the judgment of reasonable men to have appropriate redress but we cannot support procedures so loosely drawn that individual rights under strict merit promotion are threatened.

2. The language of Section 109(A) is so broad that its provisions could be invoked to suspend and discredit substantive policy formulation and implementation. We support without qualification the right to differ in the formulation of policy and the premise that U.S. policy will be the stronger when forged by honest argument, but we do not believe this should be the subject of grievance procedures.

3. As presently worded Section 109(A) provides that virtually every administrative act of the Department, e.g., assignments, promotions, allowances, merit awards and indeed all personnel policies, would be a potential subject for grievance. We therefore believe there should be built into the system safeguards to preclude its capricious use in such a way as to disrupt the operations of the Department and adversely affect the rights of the great majority of Foreign Service employees.

Finally, we note that the legislation deprives the Secretary of State of substantial authority over the grievance procedures for the agency for which he is otherwise totally responsible. We believe that a fair and impartial system as outlined in our statement of principles will safeguard the rights of all Foreign Service employees.

In sum, the statement of principles which we propose insures the establishment of a system to provide prompt, fair and just resolution of grievances under guarantees of due process. It provides for the implementing regulations to be drawn up after discussion by management and employees under Executive Order 11636.

Mr. Ambassador, we respectfully urge your personal consideration of the foregoing.

Respectfully yours,

——— ———.

STATEMENT OF PRINCIPLES TO BE INCORPORATED IN GRIEVANCE LEGISLATION FOR THE FOREIGN SERVICE

1. The Secretary shall ensure the development and implementation of a system for the prompt, fair and impartial consideration and the just resolution of grievances by officers and employees of the Foreign Service in accordance with Executive Order 11636. Such a system shall include the establishment of an impartial board appointed by the Secretary with the concurrence of the employees' exclusive representative.

2. In addition to the formal mechanisms established under the grievance legislation, there should be available fair and responsive informal procedures for prompt resolution of employee complaints.

3. A grievance shall mean any matter of concern or dissatisfaction to an employee resulting from denial of due process, discrimination, or mismanagement but excluding—

(a) The substantive aspects of foreign policy; or

(b) The general management policies of the foreign affairs agencies (which would be reserved for consultation between management and the employees' exclusive representative).

4. The grievance procedures shall ensure due process for the officers and employees of the Foreign Service by guaranteeing to them the following rights:

(a) To be free from any restraint, interference, coercion, discrimination or reprisal because of filing a grievance, appearing as a witness, or other involvement in a grievance proceeding;

(b) To have a formal evidentiary hearing before a grievance board; to be present at any hearings and to be accompanied by counsel or other representatives of their own choosing at every stage in a grievance proceeding;

(c) To call and examine witnesses in their behalf at the hearings before the board and to cross-examine all other witnesses;

(d) To have access to relevant information from the files and personnel of the foreign affairs agencies, including access to all evidence considered by the board;

(e) To have any hearing before the board transcribed verbatim and to have access to the transcript.

DEPARTMENT OF STATE,
May 5, 1972.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Senate Foreign Relations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary of State recently wrote you on behalf of over 300 Foreign Service personnel expressing the view that Section 109 (A), Foreign Service Grievances, of the Senate Authorization of Appropriations Bill (S. 3526) "poses a number of problems" which raise his serious concern. We wish to state that such views in no way represent our own, and as Foreign Service Officers currently on assignment to the Department, we heartily endorse the Committee's action in proposing the establishment of a grievance system for the Foreign Service—a system independent of the Department's own management officials. We believe that the Department of State has compiled a poor record of denial of due process, perpetuation of the practice of favoritism, and outright mismanagement of personnel matters requiring now that Foreign Service personnel be given access to a system of impartial review of valid grievances.

We take issue specifically with the Statement of Principles attached to the letter referred to above, where, in paragraph (1), the establishment of a system to include "an impartial board appointed by the Secretary" is urged. In our view, such a board would by definition be open to the same pressures from management officials, free to act with the same secrecy, and able to operate with the same lack of accountability as the Department's previous grievances hearing mechanisms, and could therefore not be impartial.

We find no merit, furthermore, in Ambassador Johnson's statements that the proposed legislation "provides no safeguards for preserving the integrity of merit promotion", that its provisions "could be invoked to discredit substantive policy formulation", and that "every administrative act of the Department . . . would (become) a potential subject for grievance".

The present promotion and selection-out system has been notable for its failure to establish clear standards by which to judge merit in individuals. Without opening up promotion and selection-out to truly impartial review, we can see no way that it can be improved. One need look no further than almost any current issue of a national newspaper to see evidence of the bitterness which the injustices perpetrated by the Department on its own personnel have caused. If there had been a system of impartial, outside review of at least a few of the Department's egregious acts of mismanagement of its personnel, much of this bitterness might well have been more constructively channeled.

We believe that the proposed legislation would have no obvious effect on substantive deliberations of policy, aside, perhaps, from allowing such issues to be deliberated by officers free from the extreme pressures of group thinking and cronyism which the present system encourages. In our minds, the raising of such a spectre to inveigh against an open grievance system appears to be nothing more than the creation of a straw man, which smacks of the same deviousness characteristic of some of the Department's more unfortunate personnel actions.

As to the third objection, that "every administrative act" would be subject to grievance, we believe that there is no valid reason for concern. Other departments of the executive branch appear not to suffer from the unwarranted intrusion of grievance boards in every administrative act, and, in our view, Foreign Service personnel are at least as responsible and serious as the employees of the Commerce, Labor, Justice, Defense and other Departments. The proposed legislation is quite precise in limiting the powers of a grievance board to appropriate matters, and offers ample safeguards to prevent an illegal assumption of power.

Though not mentioned in the Secretary's letter, the Department reportedly is concerned about the proposed legislation leading to grievances being filed by Foreign Service personnel objecting to assignments, especially assignments to undesirable posts. At present, the process operates in secret, which causes many persons to suspect that their assignments are determined on other than merit considerations. Thus, given no change in the way assignments are made, some assignments might well become the subject of grievances. On the other hand, the Department could, without changes in legislation, publicize lists of forthcoming vacancies in the Foreign Service, keep public minutes of assignment panels' operations, and publicize assignment panel decisions (these documents are now classified). An open system such as this, would, in our view, engender much more confidence in the assignment process, which would in turn inevitably lead to few insubstantial grievances being filed.

It is our firm belief that Foreign Service personnel are mature and rational professionals with no unrealistic expectations that every job the Service assigns them will be ideal. They have every right to expect that they will be able to compete openly and fairly for vacancies, and that decisions regarding their assignments will be demonstrably on merit rather than friendship or special privilege. If the proposed legislation served to "open up" the assignment process, as we believe it would, its long-run effect would be to remove much of the doubt, mistrust and uncertainty that characterizes the present system.

In our opinion, the basic issue being argued by the Secretary and Ambassador Johnson is whether the Foreign Service should continue its elitist tradition of "special relationships" and exclusive privilege, or become, in the words of some officials critical of the proposed legislation, "just like the Civil Service". These special privileges have been, for most of the Foreign Service, special devices to perpetuate unfair and discriminatory personnel practices. We feel strongly

that the Foreign Service should be able to enjoy the same right that other government employees have: the right to effective redress of legitimate grievances. We need no less, and the nation we serve needs no less to make our organization the effective instrument it could be.

Respectfully yours,

JOHNNIE CARSON.

Mr. FULBRIGHT. Mr. President, I must say that if we seek an opinion of the members of the Foreign Service, it strikes me that they ought at least make available the report of the committee so that it gives both points of view and the argument and an enlightened reaction to their point of view. I should think that would be fair.

Mr. BAYH. I certainly agree. Along these same lines I would like to include an exchange of letters I have had with the Department of State. The Department has spent about $8,000 of taxpayers' money to distribute all over the country a one-sided analysis of departmental reform—with emphasis on grievance procedures. I ask unanimous consent that a copy of these letters be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C., March 16, 1972.

Mr. PAUL E. AUERSWALD,
Director, Office of Media Services, Department of State, Washington, D.C.

DEAR MR. AUERSWALD: I have noted with interest your letter of February 7, 1972, copy attached, transmitting a press release "Change in Foggy Bottom: An Anniversary Report", which is the text of a recent speech to State Department employees by Deputy Under Secretary William B. Macomber.

Your letter of February 7 also indicates that the mailing list to which this latest speech was mailed at taxpayers' expense has previously received reports concerning administrative developments in the Department of State.

As you know, there has been a great deal of controversy surrounding the question of grievance procedures in the Foreign Service, and a number of Mr. Macomber's assertions have already been challenged by interested observers. Therefore, I would appreciate receiving from you the following data:

1. The nature of recipients contained in the mailing list in terms of their affiliation, profession, etc., in general categories;

2. The reasons these particular persons were chosen as recipients of this particular type of release;

3. The total numbers of recipients for each of the mailings indicated in your February 7 letter;

4. The total cost of such mailings, broken down by postage, printing costs, and personnel costs for each of the mailings;

5. The authority in terms of the foreign policy interests of the United States government for the Bureau of Public Affairs of the Department to undertake such mailings at the taxpayers' expense; and

6. The extent to which the Office of Media Service sought to obtain the employees' point of view so as to guarantee a balanced discussion. Would the State Department send a similar mailing containing the anniversary report of an employee group such as AFSA?

I would appreciate an expeditious reply to these questions for use during consideration of the Foreign Service Grievance Bill, S. 2659, of which I was an original sponsor.

Sincerely,

BIRCH BAYH,
U.S. Senator.

DEPARTMENT OF STATE,
Washington, D.C., February 7, 1972.

The enclosed press release "Change in Foggy Bottom An Anniversary Report" is the text of recent remarks made by Deputy Under Secretary William B. Macomber on the occasion of the second anniversary of the launching of the Department's Management Reform Program.

Since you were among those on our mailing list who previously received copies of the summary report on this program, and a six-month progress report we believe you may find this latest status report of interest.

PAUL E. AUERSWALD,
Director, Office of Media Services.

DEPARTMENT OF STATE,
Washington, D.C., April 7, 1972.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: I am replying to your letter of March 16 to Mr. Paul E. Auerswald concerning our mailing of a press release, "Change in Foggy Bottom: An Anniversary Report," the text of a speech by Deputy Under Secretary Macomber.

The Department of State maintains mailing lists of individuals and organizations (including some Members of Congress and Congressional staffs) who have asked to receive our publications, news releases, and other materials concerning U.S. foreign policy and the activities of the Department of State. We believe the Department's program of management reform is a matter of importance and concern to all such students of our foreign relations, and that indeed we have an obligation to inform them about it.

Accordingly, when Mr. Macomber's initial report on this reform program was released in December 1970, we reprinted a summary of it and distributed the summary version to our basic mailing list of approximately 11,000. In addition, we sent about 339 courtesy copies to others within government and outside it who in our judgment would want to have them and could make good use of them—primarily colleges and universities with international studies programs and members of the National Academy of Public Administration. We also sent some of these same people (not all for economy reasons) his six-month report on progress in instituting the reforms, and still later his January 26, 1972, speech reporting on the first year's progress.

Answers to the specific questions raised in your letter follow:

(1) These mailings were sent to persons in the following categories who have asked to be placed on our mailing lists: officers of national and local non-governmental organizations; media representatives; members of various Department of State advisory committees; retired Foreign Service Officers; Public Members, past and present, of our Foreign Service Selection Boards; librarians, administrators, and other interested officials of various government agencies; educators; the offices of some Members of Congress and Congressional committees; and other miscellaneous individuals on our mailing lists. Not all of these categories received the second and third mailings.

(2) As indicated, the recipients of these mailings are on our mailing lists because they have asked to receive such materials. The only exceptions were the 339 mentioned above who received courtesy copies because we felt they would be particularly interested.

(3) As indicated, the summary of the Management Reform Program was sent to 11,042 recipients. For reasons of economy, the six-month report was sent to only 6,193 of these recipients and the one year report to 6,766 of them. (The difference in numbers between the second and third mailings reflects changes in the lists in these particular categories during that period.)

(4) I am enclosing a breakdown of the total cost per mailing as requested.

(5) During the annual budget hearings, the Congress is informed about the Department's public affairs activities, in as much detail as the appropriate committees request. The appropriation "Salaries and Expenses" provides: "This appropriation item provides funds for the formulation and execution of the foreign policy of the United States, including the conduct of diplomatic and consular relations with foreign countries, conduct of diplomatic relations with international organizations, public information and related activities." More broadly, of course, we like virtually all government agencies feel that our substantive responsibilities, and indeed our system of government, imply an obligation on our part to help the public keep informed of our activities.

(6) Our responsibility, as we have long understood it, is to make known the Administration's foreign affairs policies and activities. A broader responsibility woud not only be a departure from long-established, and we believe sound, policy, but would also be beyond the reach of our modest information resources. We recognize, as you do, how important it is that the views of citizen groups, Members of Congress, and other interested parties, about the Department and its policies and programs, be available to the American people; but we have serious reservations as to whether the Department has the authority or the competence to assume this function, or to determine which among the diversity of viewpoints other than its own should be presented, and how. We believe that interested persons should, and do, look to the private groups themselves, the mass media, the Congressional Record, Congressional committee prints and the Members themselves for these views.

If you would like further information about this subject, please do not hesitate to call on me.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

QUESTION NO. 4—BREAKDOWN OF TOTAL COSTS PER MAILING

Postage:*	
A. Summary report	$1,877.14
B. 6-month report	919.04
C. Anniversary report	2,050.77
Total postage	4,846.95

* Based on monthly cost factor determined by mail count 1 day per month; cost factor varies greatly from month to month ($0.17 for A, $0.1484 for B, $0.3031 for C).

QUESTION NO. 4—BREAKDOWN OF TOTAL COSTS PER MAILING—Continued

Printing:	
A. Summary report	$1,708.00
B. 6-month report	197.00
C. Anniversary report	550.00
Total printing	2,455.00
Personnel costs:	
A. Summary report	170.53
B. 6-month report	96.74
C. Anniversary report	105.49
Total personnel cost	732.76

Mr. BAYH. I do want to express my deep appreciation to the chairman of the committee. There have been so many weighty problems requiring full attention, particularly the ever-troubling question of this war, that this particular matter might seem rather trival. I appreciate the time you have given this legislation.

Mr. FULBRIGHT. Mr. President, I do not profess any expertise on this at all. I did attend the hearing. I was seeking some way that I thought would be mutually satisfactory to the employees, because the management of the Department would not be satisfied with anything but their complete domination of the procedure. I can understand how anyone having control of any organization would wish to have discretion as to their employment practices.

Mr. BAYH. Mr. President, I send to the desk my substitute for the amendment of the Senator from Kentucky.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment reads as follows:

Strike out the entire amendment and insert in lieu thereof the following:

In the second sentence of subsection 692 (2) (A), strike out the words "The board shall consist of a panel of three members," and insert in lieu thereof the following: "The board shall be appointed from a recommended list of at least fifteen arbitrators submitted by the American Arbitration Association, and shall consist of a panel of three members,".

On page 13, line 18, after the period insert the following:

If no employee organization is accorded recognition as the exclusive representative, the Secretary, in agreement with the major employee organizations, shall appoint the Board from the recommended list submitted by the American Arbitration Association.

Mr. COOPER. Mr. President, I express my appreciation to the chairman of the Foreign Relations Committee.

With all of the other difficult issues before the committee, the Senator from Arkansas (Mr. FULBRIGHT) gave a great amount of time during the hearings and in markup in an effort to reach a procedure that he thought would be fair to the State Department and to others.

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

Mr. BAYH. Mr. President, how much time do I have remaining? I wish to yield to my friend, the Senator from Utah.

The PRESIDING OFFICER. The Senator from Indiana has 3 minutes remaining.

Mr. BAYH. Mr. President, I yield the 3 minutes to my friend, the Senator from Utah.

Mr. MOSS. I thank my friend from Indiana. I rise to support his substitute amendment.

Last year, the Nation's conscience was stirred by the tragic circumstances surrounding the death of Charles W. Thomas, a career officer in the U.S. Foreign Service. A veteran diplomat, Thomas was brutally "selected out" of the State Department, largely on the basis of a misfiled competence report. His career ruined, denied the opportunity to appeal his case, or even to receive an annuity for his family, he took his own life.

"Selection out" is unfortunately not the only area in which the State Department has shown a traditional disregard for the basic concept of "due process." There have been countless examples in the Department's history where foreign service personnel were refused even the rudiments of a fair hearing. In a recent case, a diplomat was denied access to the very documents which were being used against him. In another, a female officer, who saw herself a victim of sex discrimination, found she had no means of appeal. The Secretary's decision was, as always, irreversible.

Mr. President, today the Senate takes up action on long-overdue legislation aimed at establishing independent grievance procedures for Foreign Service personnel.

Under section 109 of the Foreign Relations Authorization Act, employees and officers of the State Department or its related agencies would be permitted to appeal all "adverse actions" regarding "selection out," promotion or assignment.

I have long advocated the creation of just such a board, one that is truly independent. On October 6, 1971, I introduced S. 2662, a bill which also provided for an "adverse action appeals board" but one that is entirely outside of the State Department. I believed then and will continue to believe that a genuine, effective appeals board could never be established under departmental auspices. It is an illusion to believe that employees of the Department can really be independent of the powerful forces that operate there.

For this reason, I am glad to support Senator BAYH's amendment, which I believe will strengthen the grievance board's independence substantially.

S. 3526 provides for the establishment of a three-member board composed of "independent, distinguished citizens of the United States, well known for their integrity, who are not officers or employees of the State Department or its related agencies." Unfortunately, the bill does not go far enough to insure the board's complete "independence." It does little to insulate the members from State Department Establishment influence. Under section 109, one of the three members would be appointed by the Secretary of State. The second, by the "employee organization recognized as the exclusive representative of the officers and employees of the Service." The third, would be appointed by the first two. In such a framework, with departmental influence falling heavily on the employees' representative, the board's independence could be extremely short lived.

Senator BAYH's amendment, however, would require that all members of the board be selected from a list of 15 nominees submitted by the American Arbitration Association, thus guaranteeing an added measure of objectivity.

Representatives of the State Department have, of course, already begun to rail against this measure, but these are the same voices which rejected the S. 3526 provision itself. They argue that any congressional action is premature.

Premature in relation to what? On only one occasion in the past 15 years has the State Department granted a hearing to an aggrieved officer, and then only after a painfully slow process of negotiation. How long must the people wait for justice?

Other State Department apologists argue that "interim grievance procedures" have already been instituted. They fail to point out, however, that the Department took no action whatever, even in the wake of the tragic Thomas case, until after this legislation had been introduced. They also fail to recognize the difference between an employee's statutory right to an adverse actions appeal and a mere regulation, which would inevitably have to rely on the Department's discretion.

Mr. President, we can wait no longer for the State Department to "put its own house in order." We can no longer allow the careers of our trusted diplomats to be ruined by error, prejudice or reprisals. Due process of law must replace outmoded establishment thinking. Congress must move decisively to provide the procedural safeguards which will make the State Department and its related agencies a truly competitive career service, one that is worthy of our Nation's best minds and most devoted professionals.

Mr. COOPER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 7 minutes remaining.

Mr. COOPER. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. Under the precedents of the Senate, the Senator does not have enough time remaining to suggest the absence of a quorum. The Senator can yield back his time and then suggest the absence of a quorum.

Mr. COOPER. I must say I never heard of the ruling before, but I am sure the Parliamentarian knows much more than I do about the precedents of the Senate.

The PRESIDING OFFICER. The Senator may yield back the remainder of his time and then suggest the absence of a quorum.

Mr. COOPER. I thank the Presiding Officer.

Mr. President, I would like to make clear for the Members of the Senate who are present that this section is a great advance. Prior to 2 months ago there were no effective grievance procedures in the Department of State. There was no regularly institutionalized, just grievance procedure. In the last several months, the State Department has instituted some procedures, and according to some reports they work satisfactorily.

If this bill is passed, and if this section is left in the bill by the House, it will mark a very unusual event: The State Department will be the only department or agency of Government for which Congress has provided full and unpartial grievance procedures.

There is one minor exception, and that is the Board of Corrections in the Department of Defense, and even under the Civil Service Act, there is no similar grievance procedure. So this is a major step forward in the provision of due process for the Department of State employees. I want to make that clear.

I believe that the substitute which has

been offered should be rejected. I do not wish to denigrate or derogate the expertise of the arbitrators in the arbitration association, but in reading all of their literature, they are chiefly called upon in connection with labor-management disputes. The grievance procedure will provide a means to examine questions of omission by members of the Department, misjudgment of facts which require experience, and judgment in the practical matters that pertain to the Foreign Service. I think the grievance panel we have provided for would assure that result.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

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

The PRESIDING OFFICER. The Senator does not have enough time remaining to suggest the absence of a quorum.

Mr. COOPER. I yield back my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FONG. Mr. President, as the ranking minority member of the Senate Committee on Post Office and Civil Service for over 12 years and having been involved in Federal employee personnel legislation for those many years, I have great interest in section 109 of S. 3526 and particularly subsection 10.

Subsection 10 would give the grievance board of the Foreign Service broad powers to suspend any personnel action within the State Department which might be connected to an action pending before the grievance board.

Subsection 10 reads:

> If the Board determines (A) the Department is considering any action (including, but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board and (B) the action should be suspended, the Department shall suspend such action until the board has ruled upon such grievance.

Such broad powers given to a three-member grievance panel are unprecedented in Federal personnel procedures and are highly questionable. This provision strikes at the heart of personnel management within the State Department. Furthermore, whenever such procedures have been tried in private industry they have proved to be completely unworkable and have been abandoned.

Although the Foreign Service is completely outside the general Federal civil service, I believe a brief comparison of the grievance procedures allowed by the U.S. Civil Service Commission is in order.

Most Federal employees are entitled to appeals on adverse agency actions both at the agency level and to the Civil Service Commission. The adverse actions which may be appealed are removals, suspensions for more than 30 days, leave without pay, and reduction in rank or pay.

The Civil Service regulations on appeals include: First, the right of an employee and employee representatives to comment on the appeals systems and propose changes to them; second, the requirement that appeals systems must be published and made available to employees and their representatives; third, the employee must be notified of his right to appeal but the time of appeal is limited to 15 days after the effective date of the adverse action; fourth, the employee and his representative are assured of freedom from restraint, interference, coercion, discrimination or reprisal, and must be allowed a reasonable amount of time to prepare his appeal; fifth, the appellate review must be made by an official who is at a higher organizational level than the person who made the adverse decision; sixth, the employee has the right to appeal through his agency or to the Civil Service Commission; however, if he appeals through his agency system he may appeal to the Commission (a) after he receives the decision from his agency appeal or (b) after 60 days if he has not received a decision on his agency appeal; and seventh, if the employee first appeals to the Civil Service Commission, he forfeits his right to appeal through his agency system.

The preceding is a brief résumé of the appeals and grievance procedures allowed most Federal employees.

It must be pointed out that the grievance procedures allow management to continue its operations and limits the types of personnel actions from which an employee may appeal.

If a grievance appeal is decided in favor of the employee, corrective action can be made retroactive. No suspensions of personnel actions are ordered by the appellate body until after the action is adjudicated. At no time are the agency operations ordered suspended.

Subsection 10 of section 692 in the present bill could bring operations of the State Department to a grinding halt because of the suspension authority given to the grievance board. Staffing of positions, reassignments to posts, and any other personnel actions contemplated by the Secretary could be stopped until a final decision by the board was handed down.

It is obvious that if this authority were exercised by the board with any frequency, the State Department function would be seriously disrupted.

Subsection 10 is an open invitation to any employee to try to enlist the grievance board in a type of blackmail bargaining with management of the Foreign Service over any personnel action which the employee does not find to his liking. Proposed promotions, new recruitment, changes in space or location of offices, post assignments, any number and types of grievances could be the basis for the board's ordering the State Department to suspend its contemplated personnel actions.

It gives to the Foreign Service employees much more than is given to the non-Foreign Service Federal employees as far as grievance appeals are concerned. It may be that the wisdom of the Congress will determine that these broader grievance rights for Foreign Service employees are necessary. However, the enactment of subsection 10, I believe, would seriously undermine the right of the Secretary of State to operate and manage the State Department in the manner he believes to be in the best interests of our country.

Mr. DOMINICK. Mr. President, section 109 of the bill before us, S. 3526, would establish a statutory grievance procedure for the Foreign Service. I understand that there is a good deal of support for providing by law that such a procedure be required. I am concerned, however, that this bill contains so much detail better left to regulations, including a number of detailed provisions which were not in S. 2023 or S. 2659 and therefore not considered in hearings. I wish to call the Senate's attention to several provisions in particular which to me create serious problems.

For example, the bill, in paragraph (6) of what would become section 692 of the Foreign Service Act, states that in considering the validity of a grievance the proposed grievance board shall have access to security records of the grievant and of his rating or reviewing officers, but paragraph (7) does not permit the furnishing to the grievant of these security records which may have been critical to the decision. The wisdom of permitting even the board unlimited access to security files raises grave doubts, but surely all would agree it is a lack of basic due process to permit the board to rely on those files in making its decision and for the employee not to know what that information is so he could possibly rebut it.

Paragraph 10 of the same section authorizes the grievance board to suspend any action proposed by the Department of State when the board determines that action is related to or may affect a pending grievance. I can understand suspending the separation of an employee who has filed a grievance based upon his separation, but what if the complaint is about the fact that other officers in a class were recommended for promotion and the complainant was not? Should the board be able to suspend the submission of the whole promotion list until the complainant's grievance is decided? If he is complaining about not getting an assignment, should the board be able to prevent anyone else from taking that assignment?

The problem here seems to result at least in part from the very sweeping description of what constitutes a grievance. Paragraph (1)(B) of the basic section says a grievance is "any claim of injustice or unfair treatment" which arises from "employment or career status, or from any actions, documents, or records, which would result in career impairment or damage, monetary loss to the officer or employee, or deprivation of basic due process."

It is difficult to conceive of any significant action in administration or operations which could not be at least claimed to have one or another of these effects.

I am not aware of any other agency which has such a wide range of day-to-day operations that can be made the subject of grievances, much less made the subject of a formal hearing by an outside board.

Another major point is that there is no provision in this bill for informal resolution of grievances. Almost without exception grievance procedures negotiated with employee organizations inside or outside the Government require an attempt at informal settlement before moving to the formal stage. Under the interim procedures now in operation for the Foreign Service only 21 of the 61 cases upon which informal review has been completed have since been filed as formal grievances. I do not believe that the Department of State should be denied the opportunity to informally resolve grievances and to avoid incurring the expense and delay of a formal hearing in all cases.

Also, it is not clear to me how some fairly basic procedural provisions of the bill would operate in practice. Paragraph (1)(A) of proposed section 692 permits former employees to be grievants and paragraph (11) gives the Board authority to order such relief as, in its unfettered discretion, it may deem proper. Only in cases related to promotion, assignment or selection out would the Secretary of State have authority to reject the order, and then only where the foreign policy or security of the United States would be adversely affected. Thus the board might find that a number of former employees were wrongly selected out and direct that they be reinstated. This could result in the displacement of other officers from assignments or from their promotion to a higher class, which would in turn be grievable by them. If this retroactive feature is necessary, there should be positive authority to provide monetary recress as an alternative to reinstatement so as to avoid an ever-widening circle of grievances.

Mr. President, the foregoing is but a partial catalog of the defects of the grievance section of S. 3526 as I see them. Some might be curable—or at least containable—if the proposed grievance board were judicial in character and sophisticated in the requirements of a professional foreign service and the demands of the proper execution of the foreign policy of the President—any President—of the United States in the late 20th century. But the board created in this bill is a monstrosity. It would consist of a self-proliferating series of adversary three-man panels, with only one appointed by the Secretary of State. A second will be appointed by an employee organization and, failing agreement of these two on a third member—shown by experience to be the most likely probability—the third to be appointed by—of all people—the Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit, presently Judge Bazelon. I noticed in the CONGRESSIONAL RECORD for April 28 that the State Department's judgment is:

> Given the adversary relationship of the other two Board members, the Judge's appointee will probably be the decisive figure on the Board. Because of the extraordinary scope of the Board's authority, the practical effect of this legislation would be to give the Judge's appointee a paramount role to that of the Secretary of State in much of the direction of the Foreign Service.

Mr. President, in my opinion this section of the bill is unacceptable and should be rejected out of hand.

Mr. COOPER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the amendment.

Mr. ALLOTT. Mr. President, will the Chair please state the question?

The PRESIDING OFFICER. The question is on the amendment in the nature of a substitute offered by the Senator from Indiana to the amendment offered by the Senator from Kentucky.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER) is absent on official business.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Georgia (Mr. GAMBRELL).

If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Georgia would vote "nay."

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOK) is detained on official business.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 26, nays 58, as follows:

[No. 178 Leg.]

YEAS—26

Anderson	Hart	Moss
Bayh	Hartke	Nelson
Bible	Hughes	Pell
Burdick	Inouye	Proxmire
Byrd, Robert C.	Kennedy	Ribicoff
Church	Magnuson	Stevenson
Cranston	McGovern	Symington
Eagleton	Mondale	Tunney
Fulbright	Montoya	

NAYS—58

Aiken	Bellmon	Brooke
Allen	Bennett	Buckley
Allott	Bentsen	Byrd, Harry F., Jr.
Baker	Boggs	Cannon
Beall	Brock	Case
Chiles	Hruska	Roth
Cooper	Jackson	Saxbe
Cotton	Javits	Schweiker
Curtis	Jordan, N.C.	Scott
Dole	Jordan, Idaho	Smith
Dominick	Long	Spong
Ervin	Mansfield	Stafford
Fannin	Mathias	Stennis
Fong	McGee	Stevens
Goldwater	Metcalf	Talmadge
Griffin	Miller	Thurmond
Gurney	Packwood	Tower
Hatfield	Pearson	Weicker
Hollings	Percy	Young
	Randolph	

NOT VOTING—16

Cook	Harris	Pastore
Eastland	Humphrey	Sparkman
Ellender	McClellan	Taft
Gambrell	McIntyre	Williams
Gravel	Mundt	
Hansen	Muskie	

So Mr. BAYH's amendment in the nature of a substitute for Mr. COOPER's amendment was rejected.

Mr. COOPER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order limiting time now be vitiated.

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

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The question is now on agreeing to the amendment offered by the Senator from Kentucky (Mr. COOPER).

The amendment was agreed to.

Mr. COOPER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, what is now the pending question?

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, if I may have the attention of Senators, there will be no more votes today. The pending question is on agreeing to the amendment of the junior Senator from West Virginia (Mr. ROBERT C. BYRD), and that question will remain pending the rest of today.

There will not be any further transaction of business today, but Senators may wish to debate the pending question.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. STENNIS. As I understand, the Senator has said there will be no more votes today. May I ask if there will be any further unanimous-consent requests presented today?

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will resume their seats. Staff members will retire to the rear of the Chamber, or withdraw.

Mr. ROBERT C. BYRD. Mr. President, in response to the question of the distinguished Senator from Mississippi (Mr. STENNIS), there will be no unanimous-consent requests made today with respect to limitation of time on the pending question before the Senate. It might be possible, however, to work out an agreement on another bill, which has nothing to do with the pending business, in an effort, possibly, to expedite other legislative business. But so far as the unfinished business and the pending question before the Senate are concerned, there will be no unanimous-consent requests agreed to today.

Mr. STENNIS. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CHURCH-CASE FUND CUTOFF AMENDMENT DEFECTIVE

Mr. FONG. Mr. President, the amendment offered yesterday by the senior Senator from Idaho (Mr. CHURCH) and the senior Senator from New Jersey (Mr. CASE), amendment No. 1186, has two fatal defects.

As proposed, the amendment would read as follows:

TITLE VII—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 701. Notwithstanding any other provision of law, none of the funds authorized or appropriated in this or any other Act may be expended or obligated for the purpose of maintaining, supporting, or engaging United States forces, land, sea, or air, in hostilities in Indochina, four months after reaching an agreement for the release of all prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

The first fatal defect is that the amendment would cut off all funds for U.S. forces in Indochina, not 4 months after release of all prisoners of war held by North Vietnam, but 4 months after "reaching an agreement for the release" of all prisoners.

Suppose an agreement is reached for the release of all prisoners of war. The Church-Case time limit of 4 months would then begin to run, from the time the agreement is reached. The North Vietnamese could stall and stall and stall and 4 months could go by without their releasing even one of our prisoners of war. Yet the sponsors of this amendment would prohibit the U.S. Government from using any funds whatsoever—not a dime, not a cent—to try to enforce the agreement and obtain the release of our prisoners of the Indochina war.

Mr. President, despite the differences in views in the Senate of the United States, I have been under the impression that all Senators and all Members of the House of Representatives want to see all American prisoners of war returned in safety to their homes and families.

If my impression is correct, then this amendment should be rejected out of hand, unanimously. For this amendment would endanger the return of American prisoners of war. It would not make it easier to obtain their return.

On the contrary, it may very well mean our prisoners of war will continue to be held hostage by the North Vietnamese.

Our best hope for obtaining the release of these prisoners is to take total U.S. withdrawal from Vietnam contingent on release of the prisoners of war.

If the American people knew what this amendment entails, they would be outraged.

For the American people know full well the record of the North Vietnam Communists when it comes to agreements—whether they be understandings like the 1968 understandings to stop shelling South Vietnam's towns and cities in exchange for our cessation of bombing military targets in North Vietnam—or whether they be agreements like the Geneva Agreements of 1954, which North Vietnam has violated over and over again.

The American people are too realistic to be taken in by a proposal that would require U.S. withdrawal from Vietnam, based solely on an "agreement" for the release of U.S. prisoners.

The American people want the men released.

To say—as this amendment does—that America cannot spend a nickel or a dime or even a penny 4 months after an agreement for release is obtained even to enforce that agreement or to insure the safety of these men is sheer folly. It is downright dangerous. It plays into the hands of Hanoi.

The Senate should reject this amendment out of hand.

The second fatal defect of the Church-Case amendment is that it fails to require any cease-fire as a condition to the cutoff of funds for U.S. forces in Indochina.

Let me just draw a picture of what could happen when no cease-fire is required.

After an agreement is reached for the release of all prisoners of war, North Vietnam could continue its invasion of South Vietnam. Suppose the battle situation at the end of 4 months after the POW agreement—when the fund cutoff would apply—is such that U.S. forces could not be safely withdrawn. This amendment would prohibit use of any funds in behalf of U.S. Forces in Indochina. Any men left—not only in Vietnam, but anywhere in Indochina—would have to be abandoned.

Under the Church-Case amendment, the President as Commander in Chief would be prohibited from using any funds whatsoever to try to insure the safety of those men still in Indochina 4 months after an agreement is reached for release of all prisoners of war.

So, Mr. President, we could find ourselves in the pretty pickle of neither having obtained the release of our prisoners of war nor of being able to insure the safe withdrawal of American forces in Indochina.

If the American people knew what this amendment could do, I do not believe they would stand for it. I believe there would be such an outcry throughout the length and breadth of this land that the amendment would be withdrawn.

I hope the news media will cooperate in educating the people of this country of the boobytraps built into this amendment.

This amendment as it now stands would give the enemy the upper hand. It would encourage him to stall past the expiration date of the 4-month cutoff. It would encourage him to prolong the battle and the bloodshed after agreement on the prisoners of war is reached, so that our 60,000 American men still in Vietnam could well be faced with a Dunkirk disaster.

Now, Mr. President, an amendment to the Church-Case amendment was offered yesterday by the distinguished majority whip (Mr. ROBERT C. BYRD) in an effort to make the Church-Case amendment more palatable.

The Byrd amendment No. 1187 would make the fund cutoff effective 4 months after "an internationally supervised cease-fire" and an agreement for the release of all prisoners of war.

Mr. President, even if the term "cease-fire" is interpreted to mean a genuine cease-fire with no further shooting by any party in Vietnam, the Byrd amendment does not remedy the Church-Case amendment defect which fails to insure the return of our prisoners of war.

I believe what the American people want—and the least we should insist upon—is the actual return of our prisoners of war and an internationally supervised cease-fire, a real cease-fire, where South Vietnam will be left alone and where there would be no more fighting between North and South Vietnam.

Mr. President, at this very crucial time when the President of the United States has offered to withdraw all U.S. forces 4 months after an internationally supervised cease-fire and release of all prisoners of war, the Senate should not jeopardize the chances for peace by approving these amendments pending before us.

North Vietnam has not even responded to the President's offer. Yet the Senate by this amendment would be injecting a new offer to North Vietnam.

I have already indicated some ominous consequences that could very well result from the Church-Case amendment even if amended by the Byrd amendment.

Why should the Senate risk encouraging Hanoi to wait and see whether the Senate will undercut our President?

Why should the Senate risk giving Hanoi the upper hand in the present serious situation?

I urge the sponsors of the Church-Case amendment to withdraw their amendment at this very crucial time. If they do not, then I urge the Senate to reject it decisively.

Mr. President, I hold in my hand a

release by the Opinion Research Corp., with headquarters in Princeton, N.J., and I should like to read it:

Three out of every four Americans (74%) support President Nixon's decision to mine the harbor of Haiphong and every other port along the coast of North Vietnam. Only 21% are opposed to the President's dramatic decision Monday night.

Almost an identical number—75% of the American people—support the President's proposal to withdraw all American forces from South Vietnam, within four months after the return of our POWs and an internationally supervised cease-fire.

These are the results of a national opinion survey taken on Tuesday, May 9 after the President's announcement of Monday night. The survey was taken by the Opinion Research Corporation of Princeton, New Jersey.

The results of this survey are based on 702 telephone interviews conducted among a nationwide representative sample of persons 18 years of age and over.

Below are the questions as asked and the results:

"To make sure that the supplies do not reach the North Vietnamese the President has taken the following actions;

(A) Mined all North Vietnamese harbors;

(B) Having United States forces prevent any supplies from reaching North Vietnam by sea;

(C) Cut off all rail and other communications in North Vietnam to the extent possible;

(D) Continued air strikes against military targets in North Vietnam.

Do you support the President's actions or don't you?"

Yes, support the President, 74 percent.

No, don't support the President, 21 percent.

No opinion, 5 percent.

President Nixon, in his speech Monday evening, agreed to stop all military action in Vietnam and to withdraw all U.S. troops within four months as soon as our prisoners of war are released and an international cease-fire has been established in Indochina. Do you agree or disagree with the President's position?"

Agree with the President's position, 75 percent.

Disagree with the President's position, 17 percent.

No opinion, 8 percent.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. BUCKLEY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

SECRETARY LAIRD'S REMARKS AT PRESS CONFERENCE

Mr. BAKER. Mr. President, this morning Secretary Laird gave some very salient and some very significant points in connection with the war in Southeast Asia.

The five points he made in the opening remarks at the press conference are, I believe, useful to our record and deliberation on the matters at hand.

I ask unanimous consent that the summarization of these five points be printed in the RECORD.

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

MEMORANDUM FOR CORRESPONDENTS,
MAY 10, 1972

Here is Secretary Laird's opening remarks at today's press conference:

I want to make five points before taking your questions:

One: As I meet with you today, U.S. air and sea forces are fighting Communist aggression in Southeast Asia.

Two: South Vietnamese forces are at this moment holding fast in a very difficult ground combat situation caused by the massive Communist invasion across the DMZ. The South Vietnamese face additional attacks by an enemy that has been made possible by the heavily supplied equipment of new and modern types which is being used in South Vietnam supplied by the Soviet Union for the first time this year.

Three: General Abrams will continue our troop withdrawal program directed by the President of the United States. We have brought home 500,000 Americans, and we will meet or beat the President's goal of 49,000 Americans in country by July 1, 1972.

Four: The President has presented the most forthright and generous peace offer at any time in history. If the enemy agrees to an internationally supervised ceasefire and the return of our prisoners of war, we will withdraw our forces in Vietnam within four months.

This will bring an end of the war and the return of our prisoners. It will allow us to continue the movement toward a generation of peace which is the goal of all Americans and is a goal of the Nixon Doctrine Foreign Policy which is supported worldwide by our National Security Strategy of Realistic Deterrence.

Five: The American people always have supported our President when Americans are endangered and the cause of freedom has been threatened. This is no time for quitters or for a lot of talk about "instant surrender." I don't think the American people want to clamber aboard some sort of a bug-out shuttle. I think they join the President and me in supporting General Abrams and our men and in opposing Communist aggression.

Mr. BAKER. 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.

PETITION BY 333 IDAHOAN COLLEGIATES FOR ENDING WAR

Mr. CHURCH. Mr. President, students in large numbers across the Nation are petitioning their Government to cease our bombing strikes over Vietnam and to end totally—land, air, and sea—U.S military intervention in the war in Indochina. These young people are unable to see what vital American interest is being served by engaging in war on behalf of one side of the current civil conflict in Vietnam so far from home.

Three hundred and thirty-three Idaho students recently petitioned me about our ongoing involvement in Indochina. Mere grade-school children when their older brethren began their opposition to our intervention on Saigon's behalf, these new collegians believe our Government has a weak cause. I agree with them.

Now that young people have been given the franchise, perhaps the White House will listen seriously and respond to their entreaties.

Mr. President, I ask unanimous consent that the following petitions from two Idaho colleges be printed in the RECORD:

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

We, the undersigned, are weary of this immoral, illegal, and genocidal war in Indochina, and demand that this recent and continuing escalation of the war be stopped now.

Mr. CHURCH. Mr. President, I ask unanimous consent that the names of these students appear in the RECORD.

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

LIST OF SIGNERS

Edwin Allen
Connie Anderson
Jacqueline M. Anderson
Richard K. Anderson
Tom Anderson
Patty Arnold
Dan Ascuera
Ron Ascuera
Wendy Asher
Helen Athey
Bessie M. Baker
Rachel E. Baker
Waldo E. Baker
Patty Baldwin
S. C. Baldwin
Gregory C. Banks
Faye A. Barry
Ann Marie Beasley
Debbie Benefiel
Carole Bennett
Harriet Berenter
Christine Bergin
Ted R. Beumeler
Marsi Bigelow
Noel Black
Vickie Black
Elizabeth R. Blackshear
Douglas Bland
David R. Blase
John Blaye
Betsie Block
Franklin H. Blood
Mike Boitano
Cindy Bonner
Greg Boos
Beth Bowler
Bruce Bowler
Jeannette Bowman
Sharon Brandon
Eve Brassey
Robert Bratz
Danny Bronson
Cindy Brooks
Karl Brooks
Dave Brou
Karen Brown
Phoebe Bryant
Gaye Bunderson
Tim Bundjard
John Burch
Larry Burke
Nancy Burke
Kini Burt
Denese Buschnell
Larry Capener
Sally Caperton
Elaine Chappell
Lori Clay
Elizabeth Clements
Charles J. Coates
Robert J. Coats
Sharon Colby
Ken Cole
Ted Comstock
Judith T. Cook
J. M. Cooper
Orville Cope
Alan Couch
Noel Counsil
Larry Coupe
Pamela Cowart
Randene E. Craig
Charles Crist
Victoria B. Croft
Wayne Crosby
Kathy Crosser
Chris Crowley
Marilyn Curtis
Cliff Dahm
Marvin Daniels
Frank Davis
Shelley Davis
Tom Davis
Daryl Dazey
E. Marilyn Dazey
Denny Dean
Barbara Deur
Timothy Doty
Debra Douglas
Phyllis J. Driver
Mike Duval
Clyd Eagan
Lena B. Eagan
Jennifer Eastman
Christian H. Eismann
Anda Elliott
Olive J. Elliott
Richard G. Elliott
Rose Evans
Cindy Farris
Pamela Fonshill
Kerry N. Forwood
Peggy French
Barbara L. Gale
Tonia Garcia
Georgene Garland
Charles Gerdes
James F. Gibson
Tom Gibson
Jude Gill
Peggy Gledhill
Richard Goetsch
Jill Goodman
Margaret Gordon
Tom Gorman
Michelle Grace
Beth Greeley
David Green
Jane Green
Pam Green
Alice Greenfield
Ruth Griggs
Gail Groefsima
Dan Grogg

Michael E. Grubb
Frank Gursansley
James E. Hadden
Joni Hadden
C. Larry Hagen
Chris Halgerman
Dayle Ann Hall
Miriam Hamm
Walter Hammerle
Eddy Hammerquist
Jean Hansen
Cindy Hardy
Nancy Harris
Bill Hart
Kay Hart
Beth Hassler
Bill Hathaway
Laurel E. Heacock
Randall J. Heen
Karlos Henry
Patrick Henry
Terri Hiatt
Randy Hickman
Carlene Hietala
Mark Hietala
Paul Hietala
Linda Higby
Mary Higdem
Roger Higdem
Bryan Hinker
Dennis Holmes
Susan Holtz
Charmian Lou Hooban
Robert Howell
Ravic Huso
Richard Hutzter
Deborah Jackson
Thomas B. Jackson
Bob Jarboe
Jennifer Jatten
Claire Jemmett
Steven Jensen
Joe Jodgkins
Joan Johnson
Paul Johnson
Bill Johnston
Jennifer Johnston
Steve Johnston
Eric Johnstone
Mary L. Jordan
Margaret Jorgensen
Chuck Kennedy
John H. Killen
Kristi Kitchen
Kevin Klein
Gary Knapp
Paul Koloski
Marjorie Kondo
Kris Kristner
Lynn La Force
Stan Lake
Pat Lammiman
Mark Lane
Robert Lassen
Jan Lawler
Stephen Longe
Gary Low
Willard H. Low
Linda Lundquist
Madeline MacKnight
Molly Major
Teena Marchek
Deborah P. Marshall
J. D. Marshall
Bill Maser
Hal McAlister
Maureen McBride
Terry McKay
Pam McKenzie
Ray Melville
Ron Migel
Rick Milbington
Auro Milesi
Martell L. Miller
Robert Miller
Joan Mogensen
Michael Molay
Roger Montgomery
Bob Moody
Alan Moore
E. K. Morehouse
Lynn Morgan
May Morris
Chris Mueller
Carolyn Mugar
Pam Myers
John Myhre
Sue Naugler
Michael Neville
Jeff Niblock
Teri Norell
Ruth Norris
Mike Nugent
Laurie O'Reilly
Maurie O'Reilly
Evelyn Pardo
Cathy Parson
Donna Parson
Ruth Patterson
Lary Peabody
Vikki Pepper
Jan Peterson
Joyce Peterson
Kris Peterson
Bob Piper
Margaret Pittman
Connie Pluth
Jack Pommerening
Kathy Poncy
Rick Price
Richard Pullman
Alan Purcell
Rich Puryear
Beldor Ragsdale
Jennifer A. Ralston
Paul L. Ralston
Susan Randall
Bryce Reynolds
Gayle Reynolds
Nancy Rhodes
Kirby Richey
Linda Robb
John A. Roberts
Jon Robertson
Steve Romans
Patrick Romey
Teri Rynearson
Gloria Saltzman
Kathy Sandstrom
Bill Sayre
Lois J. Sayre
Ralph M. Sayre
Sue Schaefer
Cindy Schlafly
Susi Schlafly
Blossom M. Schlanger
Lucille Schmidt
Greg Schmitz
Suzy Schwalbe
Cynthia Scott
Lee Scott
Carolyn Elaine Selzer
Jim Shadle
Daniel Sharratt
Evelyn M. Sharratt
R. D. Sharratt
Douglas Shenk
Bill Silvers
Bradley Chisholm Smith
Brent Smith
Paul Smith
Jim Smithers
David B. Sovereign
Thomas A. Spalding
Ellen Spano
Steve Spanzler
Peggy Steeves
Thomas Steeves
Heather Stein
Brian Stepanian
Rick Stolz
John Stubblefield
Will Summers
Suz Swanson
Stephanie Tedderson
Keith Thomas
Nancy A. Thomas
Howard Thompson
Hans Tiefel
Stephanie Tovey
Russell L. Traughber
Tom Turner
Willie Uhrig
Roger Utter
Sandra Van Wormer
William Wallace
Michell Wanick
Bernice Webster
Gary Webster
Nancy Weeg
Stephen C. Weeg
Sarah Wells
Roland Wermers
Jayne Widmayer
Richard A. Widmayer
Grant K. Wiese
Eva Willey
Jim Willhite
Jerry Williams
Margaret Williams
Paul Douglas Williams
Paula Wilson
Steve Wilson
Brian Winslow
Tim Woodward
Sharon Wyne

McGOVERN IN THE WHITE HOUSE

Mr. CHURCH. Mr. President, certainly one of the most delightful columnists in this town of pundits is the Washington Star's Mary McGrory. To say that her writing is incisive, intelligent, and straight to the point is, if anything, to understate her talents.

Her recent column entitled "Life Under President McGovern" is a case in point. Just how would America fare under our colleague (GEORGE MCGOVERN) as President? Very well indeed.

To quote Miss McGrory:

It is entirely possible that he would decentralize and de-militarize the country. It might become a very nice place to live.

Mr. President, I commend this column to my colleagues and ask unanimous consent that it be reprinted at this point in the RECORD.

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

LIFE UNDER PRESIDENT MCGOVERN

(By Mary McGrory)

The week before the Massachusetts primary, Boston's genial mayor, Kevin White, was anatomizing for the out-of-town press the impending wipe-out of his candidate, Ed Muskie.

Suddenly he interrupted himself:

"Say, what kind of a president would George McGovern make?"

It was a question that Mayor White, in common with millions of his fellow Americans, never thought he would be asking. Now that the tortoise has worked up to a brisk trot, people are beginning to wonder.

If George McGovern runs the country the way he is running his campaign, it will be a brand-new America, nothing like the one Richard Nixon has been presiding over.

The first and most obvious change, of course, would be a sharp rise in the traffic of youth in and out of the White House. And a probably corresponding drop in the average age of presidential assistants.

McGovern likes young people, and with reason. They were almost his entire campaign, for a long time. They'll be the ones most entitled to Oval Room audiences, the state dinners and juicy appointments, like the county chairmen of old.

McGovern's other favorite politico is former Sen. Ernest Gruening of Alaska, who is 84, which would bring the average up a bit.

McGovern probably will be more accessible to the Congress than the present White House incumbent. It wouldn't take much. McGovern served a long time on Capitol Hill. He seems genuinely to believe in the constitutional process.

Besides, it might be fun to have them in just to hear them explain again how they had figured out how poor a horse he was compared to their favorite, Sen. Muskie.

He will surely be more available to the press than the man in the White House now. McGovern owes the press just as little as he does the political establishment, but he is a most forgiving man. All he read about himself for the first 14 months of his long march was that his candidacy was a joke. Even so, he has promised press conferences every two weeks.

He might even have in George Gallup and Louis Harris, the pollsters, and tell them how to get more accurate results, like the McGovern canvassers. He's tough on issues, but not on people.

He would be little given to secrets and surprises. As a candidate, he had all the privacy of a welfare applicant, and early on he learned the advantages of disclosing the contents of his purse. There would be no question of his not telling the Congress about his intention to invade an Asian country, since he wouldn't invade one anyway.

It also is doubtful he would send emissaries on secret missions. He's much more of a broad-daylight man. Besides, he doesn't seem to think of himself as a foreign policy expert like some other people who could be mentioned.

His foreign policy, along with his domestic policy, seems to be based on certain fixed principles like live-and-let-live. No dominos, no balance-of-power, no quirks or hangups about giants, pygmies and nightmares.

McGovern probably would decentralize the government. In his campaign, local managers were given all the decision-making powers, regardless of age and previous experience. In New Hampshire, Wisconsin and Massachusetts, his head men were 27, 25 and 23 years old respectively. They had the final say on expenditure of time and money.

Imagine how a man like that would treat governors.

The Joint Chiefs of Staff, on the other hand, might feel less cozy. He probably wouldn't see them until after they had made the $30 billion budget cuts he outlined for them.

It could be that the first six months of his administration would be fairly quiet while he went about thanking the country. Never was there such a campaign for thank-yous. One New Hampshire veteran, David Aylward, went to Wisconsin and kept lashing his canvassers out into the snow, with the result that they did not write their handwritten thank-you notes to people for opening the door to them.

He sent a list of 10,000 names back to New Hampshire McGovernites and they sat down and wrote to the Wisconsin voters to thank them for being alive. One can hear the sound of ceaseless scratching of pens if their man should get to the White House.

It is entirely possible that he would de-rancorize, de-centralize and de-militarize the country. It might become a very nice place to live.

THE PROPER USE OF POWER

Mr. CHURCH. Mr. President, the growth in the power and authority of the Presidency has been an object of extended discussion by myself and others in the Senate during the last several years. The dilemmas and paradoxes of Presidential power have been observed during this time as has the temperament and attitudes of those who have occupied this powerful office in our time.

Mr. D. J. R. Bruckner recently wrote a thoughtful article about this subject that was published in the May 8 editions of the Washington Post.

I particularly commend Mr. Bruckner's concluding passage:

A President is bound to sense approval abroad; he owns more destructive power than anyone in the world. But at home his people retain the notion that the power derives from them and, while they may admire, even

fear, a man who uses it ruthlessly, they will respect only one who is seen clearly to use it rightly, openly and with great restraint.

I find this is an admirably stated opinion and I ask that the entire article be printed in the RECORD at this point in my remarks.

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

HOW DOES A PRESIDENT WIN RESPECT FOR HIS OFFICE?

(By D. J. R. Bruckner)

NEW YORK.—On April 26, Mr. Nixon said: "No man who sits here has the right to take any action which would abdicate America's great tradition of world leadership or weaken respect for the office of President of the United States." He has found his office respected abroad, he said. But his problem is at home where his office certainly has suffered a decline in respect.

The problem preceded him. In 1968 President Kennedy was murdered in the streets and in 1968 his brother, running for president, was murdered in a hotel. President Johnson was elected in 1964 by a huge majority, on a peace platform, and four years later, steeped in futile war, he could not run again for office; he could not even travel safely in his own country. Mr. Nixon was elected in 1968 by a minority in a nation divided by war, aggravated by protest, frightened by inflation, terrified by urban rioting, a somber nation filled with funerals of dead soldiers; and Mr. Nixon promised to end the war "honorably."

In performance, a president's office is largely what he decides it will be, and Mr. Nixon's management of the office is sometimes impressive. Time has helped him too. The nation is less volatile now than it was when he came to office. But respect eludes him, at home. And what he has found abroad may be only awe or fear in the face of power, not respect. He himself said it, to John Connally's friends in Texas on Sunday: "In the final analysis, what is really on the line is the position of the United States as the strongest nation in the world."

Mr. Nixon is now pictured as a fatalist of sorts in his efforts to do what he thinks is necessary to preserve the power of his office and country. Well he might be. Many presidents in trouble have made personal pitches for respect and sympathy, and they have seldom found a response. In the structure of this government respect may be a presidential prerequisite, but respect is also required from a president—for the people, the laws, the other office of government. A president must give a little to get a little.

In 1968, Mr. Nixon campaigned for law and order. He won from Congress laws providing no-knock searches, preventive detention and increased wire-tapping and bugging. These erosions of personal protection from government power have not reduced crime or fear, however. He has appealed rightly for respect for law officers. But his administration failed to prosecute anyone in the killing of four students at Kent State University in 1970. It failed to prosecute Chicago police in the killing of two Black Panthers in 1969. It failed to prevent the FBI from using paid informers, who have been exposed in several cases as provocateurs. It continues to prosecute pot peddlers, but it has given Jimmy Hoffa a presidential pardon.

In 1970 rampageous hard hats were received at the White House, but Mr. Nixon denounced riotous student war protesters as "bums" and he personally praised Washington police for arresting 10,000 people in the midst of a protest, in total disregard of legal and constitutional protections. The administration is pursuing war protesters with grand juries all across the nation, but it has dropped or fudged prosecution of men accused of atrocities in Vietnam and has buried its own investigations of these crimes in secrecy.

For three years the administration has tried to circumvent court orders on school integration, and the President is now threatening to whip up a constitutional amendment unless Congress gives him a dubious law against busing. He has tried to appoint to the Supreme Court men patently unqualified and has reproached the Senate for exercising its constitutional mandate in rejecting them, just as he has bitterly rejected further advice from the American Bar Association after it disagreed with his choices.

A passion for secrecy has cost this administration a lot of respect. The White House staff is shrouded in presidential privilege. When a senator reveals secrets about past decisions in the war, his staff is subpoenaed before a grand jury. Decisions on the war are made without notice to Congress, and members of Congress who criticize them are accused by administration mouths of aiding the enemy. When the media reveal secrets or criticize decisions, the White House launches a campaign to destroy credibility of the media, while the President uses, dominates, the broadcast media as no chief executive has ever done. The Treasury refuses to let Congress audit a 250 million dollars public loan to Lockheed. When the administration's hidden relations with business are uncovered—as in the current ITT investigation—the evasions and contradictions of officials must make people wonder whether the government's business is secret because, in Bacon's words, it "cannot be known" or because it is "not fit to utter."

A president is bound to sense approval abroad; he owns more destructive power than anyone in the world. But at home his people retain the notion that the power derives from them and, while they may admire, even fear, a man who uses it ruthlessly, they will respect only one who is seen clearly to use it rightly, openly, and with great restraint.

STRONG SUPPORT FOR 20 PERCENT SOCIAL SECURITY INCREASE

Mr. CHURCH. Mr. President, in a few weeks the Senate wil consider the omnibus social security-welfare reform proposal, H.R. 1.

This bill, in my judgment, is one of the most important measures to be considered during the 92d Congress.

On many key provisions affecting the elderly, there is already widespread agreement, including:

Cost-of-living adjustments to make social security benefits inflation-proof;

Liberalization of the retirement test;

Full benefits for widows, instead of only 82½ percent as under present law;

An age-62 computation point for men;

A new special minimum monthly benefit for persons with long periods of covered employment;

Extension of medicare coverage for the disabled; and

Elimination of the 3-year requirement to enroll in part B of medicare.

But, several issues must first be resolved before the Senate votes on final passage of H.R. 1. One of the major unresolved questions is:

What should be the size of the social security increase? And this, of course, is a fundamental issue for millions of older Americans.

H.R. 1, as approved by the House of Representatives, would only provide a 5-percent increase.

However, this boost would not even keep pace with the rise in the cost of living since the effective date of the last social security increase.

Even more important, adding a couple of dollars every year or two to the small monthly social security checks of the elderly can never offer an effective solution for their massive retirement income problems.

Today nearly 5 million older Americans—one out of every four persons 65 and older—fall below the poverty line. If the "hidden poor" are counted, this number swells to 6.3 million, more than 30 percent of the entire aged population.

What is needed now is a sizable social security benefit increase to provide a foundation for genuine economic security for older Americans. A few weeks ago, Representative WILBUR MILLS and I introduced legislation to authorize a badly needed 20-percent boost in benefits.

This measure, alone, could eliminate poverty for nearly 2 million persons, and without the necessity of resorting to welfare.

Equally significant, this proposal has already generated strong support from senior citizen organizations, experts in the field of aging, and most important, the elderly themselves. Forty-nine other Senators have joined me in sponsoring this legislation. An excellent example of this support occurs in the May edition of Senior Citizen News.

Mr. President, I commend this article to the Members of the Senate, and ask unanimous consent that it be printed at this point in the RECORD.

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

SENATE APPROVAL APPEARS CERTAIN FOR 20 PERCENT SOCIAL SECURITY INCREASE

WASHINGTON, D.C.— Senate approval of a 20 per cent across-the-board Social Security increase appeared certain as this issue of *Senior Citizen News* went to press.

Forty-eight Senators of both major parties agreed to co-sponsor legislation that would raise from 5 to 20 per cent the amount of the Social Security increase incorporated in House-passed Social Security and welfare bill known as House Resolution One (H.R. 1).

Two other Senators declined to co-sponsor the legislation but said they would vote for a Social Security increase of 20 per cent.

Fifty-one Senators comprise a majority of the 100-member Senate.

The legislation seeking a 20 per cent Social Security increase is in the form of an amendment—designated Amendment 999—to H.R. 1.

H.R. 1 was stalled in the Senate Finance Committee at the *Senior Citizens News* publication deadline.

Many reports on H.R. 1 have come out of the closed sessions of the 16-member Senate Finance Committee but these decisions are subject to change any time before the committee takes final action on the measure, National Council President Nelson H. Cruikshank points out.

Senior Citizens News accordingly will discuss the makeup of H.R. 1 only when the committee has concluded its consideration of the measure, Cruikshank stated.

President Nixon insists that a 5 per cent Social Security increase is enough, as was reported in the April issue of *Senior Citizens News*, even though Congressman Wilbur Mills (D., Ark.), Chairman of the taxwriting

House Ways and Means Committee, has stated that a 20 per cent Social Security increase can be enacted with comparatively minor change in the present Social Security financing.

CHURCH AND MILLS SEE EYE TO EYE

A 20 per cent increase for 27 million Social Security recipients is possible because, as a Social Security Advisory Council has pointed out, the Social Security old age trust fund is heavily overfinanced. The Social Security Advisory Council, which was headed by Dr. Arthur Flemming, Special Consultant to the President on Aging and Chairman of the 1971 White House Conference on Aging, made this report a year ago.

This prompted Congressman Mills, regarded as the most knowledgeable Member of Congress on Federal tax matters, and Senator Frank Church (D., Idaho), Chairman of the influential Senate Special Committee on Aging, to introduce bills calling for a 20 per cent Social Security increase.

The Church bills are Amendments 998 and 999 to H.R. 1.

In a speech on the House floor, Congressman Mills said he hoped the Senate Finance Committee would raise from 5 to 20 per cent the amount of the Social Security increase proposed under H.R. 1.

Mills told lawmakers he is confident a 20 per cent Social Security increase, financed as he has proposed, would be soundly financed because it is based on the recommendations of the Social Security Advisory Council.

"This (the Mills) bill provides a very substantial increase in Social Security benefits in a way that does not impose an undue tax burden on covered workers and in a way that assures that Social Security will continue to be financed on a conservative and actuarially sound basis," Mills declared.

Mills' bill calling for a 20 per cent Social Security increase contains an improvement long sought by the National Council of Senior Citizens, namely, a provision broadening the Social Security payroll tax base from the present $9,000 in wages and salaries to $10,200 a year for 1972 and to $12,000 a year for 1973 with automatic adjustment of the tax base to keep it in line with increases in earnings levels after 1973.

The Social Security payroll tax, as presently constituted, hits hardest those workers with low or moderate incomes.

Broadening the tax base, as proposed by Congressman Mills, would make this tax fairer and more equitable, National Council President Cruikshank points out.

Moreover, broadening the tax base, as proposed, would enable workers in the upper income brackets to collect larger Social Security benefits upon retirement, he notes.

WHY THE SOCIAL SECURITY SURPLUS

The overfinancing of the Social Security old age trust fund, as determined by the Social Security Advisory Council, is the consequence of an unrealistic statistical projection of income from the Social Security payroll tax. This is known as the actuarial assumption governing Social Security financial policy.

The present assumption is that wages and salaries subject to the Social Security payroll tax will remain level in the years ahead.

The Social Security Advisory Council has recommended that this assumption be changed to reflect the likelihood that wages and salaries subject to the Social Security payroll tax will rise in coming years as they have in the past.

Should Congress accept the actuarial assumption recommended by the Social Security Advisory Council, it would no longer be necessary to pile up a huge cash surplus in the old age trust fund and benefits would be increased 20 percent with no substantial change in the present Social Security tax rate, Congressman Mills, National Council President Nelson H. Cruikshank and other experts in the field of social insurance maintain.

URGED BY WHITE HOUSE CONFERENCE

Cruikshank, an internationally recognized expert on Social Security and social insurance, called attention to the over-financing of the Social Security old age trust fund in a statement prepared for the Senate Finance Committee last January (see February 1972 *Senior Citizens News*).

The National Council President cited the Social Security Advisory Council's findings in a discussion of the 25 per cent Social Security increase recommended by the White House Conference on Aging and likewise urged by the National Council.

However Congress decides to meet the cost of raising Social Security benefits—whether by adopting the rising earnings actuarial assumption sought by the Social Security Advisory Council or by some other method of financing—a substantial Social Security boost is imperative if the suffering and hardship endured by millions of older Americans is to be alleviated, Cruikshank told the Senate Finance Committee.

Americans 65 or over are 10 per cent of the U.S. population but comprise 25 per cent of the U.S. poor, Cruikshank noted.

This is because of the ever-widening gap between what the elderly receive in retirement income and what they were able to earn on the job, Cruikshank told lawmakers.

Older Americans have already waited nine months for action on Social Security legislation—the House of Representatives passed H.R. 1 last July—while Congress was voting tax cuts for corporations and business amounting to a whopping $8 billion a year, the National Council spokesman told lawmakers.

"Speaking for the 3,000,000 members of the National Council of Senior Citizens and, I feel sure, for many more millions of older Americans, I respectfully call upon the Administration and Congress to enact a 20 per cent Social Security increase immediately," Cruikshank pleaded.

SENATORS WHO SUPPORT A 20-PERCENT SOCIAL SECURITY INCREASE

Here are the Senators who have agreed to co-sponsor Amendment 999 to House Resolution One (H.R. 1), the House-passed Social Security and welfare bill.

Senator Frank Church (D., Idaho), Chairman of the Senate Special Committee on Aging, told *Senior Citizens News* these Senators have notified him they wish to co-sponsor Amendment 999 to raise from 5 to 20 per cent the amount of the Social Security increase incorporated in H.R. 1. In addition to Senator Church, the supporters of Amendment 999 are:

Birch Bayh (D., Ind.); Alan Bible (D., Nev.); J. Caleb Boggs (R., Del.); Edward W. Brooke (R., Mass.); Robert C. Byrd (D., W. Va.), Senate Majority Whip;

Howard W. Cannon (D., Nev.); Clifford P. Case (R., N.J.); Alan Cranston (D., Calif.); James O. Eastland (D., Miss.); Thomas P. Eagleton (D., Mo.);

Mike Gravel (D., Alaska); Fred R. Harris (D., Okla.); Philip A. Hart (D., Mich.); Vance Hartke (D., Ind.); Mark O. Hatfield (R., Ore.);

Ernest F. Hollings (D., S.C.); Harold F. Hughes (D., Iowa); Hubert H. Humphrey (D., Minn.); Daniel Inouye (D., Hawaii); Henry M. Jackson (D., Wash.);

Jacob Javits (R., N.Y.); Edward M. Kennedy (D., Mass.); John L. McClellan (D., Ark.); Gale W. McGee (D., Wyo.); George McGovern (D., S.D.); Thomas J. McIntyre (D., N.H.);

Warren Magnuson (D., Wash.); Mike Mansfield (D., Mont.), Senate Majority Leader; Charles M. Mathias (R., Md.); Lee Metcalf (D., Mont.); Walter F. Mondale (D., Minn.);

Joseph M. Montoya (D., N.M.); Frank E. Moss (D., Utah); Edmund S. Muskie (D., Maine); Gaylord Nelson (D., Wis.);

Bob Packwood (R., Ore.); John O. Pastore (D., R.I.); Claiborne Pell (D., R.I.); Abraham Ribicoff (D., Conn.);

Jennings Randolph (D., W. Va.); Mrs. Margaret Chase Smith (R., Maine); Adlai E. Stevenson (D., Ill.); Richard S. Schweiker (R., Pa.); John J. Sparkman (D., Ala.);

Strom Thurmond (D., S.C.); John V. Tunney (D., Calif.); Harrison A. Williams, Jr. (D., N.J.).

Senators who declined to co-sponsor Amendment 999 but who promised to vote for a 20 per cent Social Security increase are: William Saxbe (R., Ohio) and Robert T. Stafford (R., Vt.).

MANY AMERICANS SUPPORT THE PRESIDENT

Mr. GRIFFIN. Mr. President, I listened with interest to the statement by the distinguished Senator from Idaho (Mr. CHURCH) and his reference to the fact that there are young people in colleges who object to and oppose the President's action announced on Monday night. I am very aware of this opposition, and I certainly agree that those Americans who oppose the President should be listened to and have the right to register their opposition and their opinions.

It is also important, however—even though a question of this kind should not be decided by an opinion poll—that we not overlook the fact that there are many Americans who are not demonstrating—who are not waving signs—who support the President of the United States. They do so because they believe his policy is the quickest way to peace.

Mr. President, I have a news release issued today by the Opinion Research Corp., based in Princeton, N.J. This polling organization has completed a telephone survey, following the President's message on Monday night, which involved 702 telephone interviews.

One question asked was as follows:

To make sure that the supplies do not reach the North Vietnamese the President has taken the following actions:

(A) Mined all North Vietnamese harbors;

(B) Having United States forces prevent any supplies from reaching North Vietnam by sea;

(C) Cut off all rail and other communications in North Vietnam to the extent possible;

(D) Continued air strikes against military targets in North Vietnam.

Do you support the President's actions or don't you?

Seventy-four percent of those interviewed in this telephone survey indicated that they support the President, and 21 percent indicated that they do not support the President. Five percent indicated they had no opinion.

Mr. President, I call attention again, as I did yesterday, to the comment made by a distinguished American who is very much interested in retiring President Nixon from the White House in November. I refer to George Meany. At this critical point in our history, George Meany reacted to the President's Monday night speech by saying:

In this time of crisis, with 60,000 lives at stake, I think the American people should back up the President irrespective of politics or other considerations.

Mr. Meany has set a very good example, I would suggest. It is with a great deal of sadness and disappointment that others are not following Mr. Meany's

example, but have chosen instead to play politics with the President's efforts to end the war in Vietnam. They have undercut his efforts to negotiate a settlement with the enemy by offering the enemy different—more liberal—peace terms than the President has offered.

Surely, we all want to end this war. We can have differences of opinion as to which is the best way to achieve that goal. But when we put the enemy in the position of having to decide whether it is better to negotiate with this President, or to wait until after the election and perhaps deal with another President who offers more liberal terms—it seems to me that the action of thus offering the enemy more liberal terms at this critical time has the effect of prolonging the war and making it more difficult for the President to end it.

Mr. President, I yield the floor.

A UNANIMOUS-CONSENT AGREEMENT—TIME LIMITATION ON H.R. 14070

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as the Senate proceeds to the consideration of H.R. 14070, a bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, there be a time limitation thereon of 2 hours, the time to be equally divided between and controlled by the distinguished manager of the bill, the Senator from Nevada (Mr. CANNON), and the distinguished ranking minority member, the Senator from Nebraska (Mr. CURTIS); provided further that the time on any amendment thereto, with the exception of an amendment by the Senator from Minnesota (Mr. MONDALE), be limited to 1 hour, the time to be equally divided between the mover of such amendment and the distinguished manager of the bill; provided further that with respect to the Mondale amendment, there be a time limitation of 3 hours thereon, the time to be equally divided between and controlled by the able Senator from Minnesota (Mr. MONDALE) and the able manager of the bill; provided further that the time on any amendment to an amendment, debatable motion, or appeal be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill; provided further that if the manager of the bill should be in favor of any amendment, debatable motion, or appeal then the time in opposition thereto be under the control of the distinguished Republican leader or his designee.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. GRIFFIN. Mr. President, reserving the right to object, I want to indicate I have had an opportunity to check this request with the distinguished Senator from Nebraska, the ranking minority member of the committee (Mr. CURTIS), and I wish to ask the distinguished majority whip whether it is his intention, even though he did not incorporate it in his request, that the bill probably will be taken up tomorrow.

Mr. ROBERT C. BYRD. Yes, it is.

Mr. GRIFFIN. Is it also his intention—I cannot recall if it is included in the request—that time on the bill can be allocated to any particular amendment?

Mr. ROBERT C. BYRD. I did not include that in my request, but I shall do so at the suggestion of the distinguished assistant Republican leader.

Mr. President, I ask unanimous consent that time under control of Senators on the bill may be yielded to any Senator on any amendment, debatable motion, or appeal.

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

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, following the close of routine morning business, the Chair lay before the Senate H.R. 14070; that the pending question and the unfinished business, S. 3526, be temporarily laid aside; that at 2 p.m. the distinguished majority leader be recognized in accordance with the previous order to make his report on his recent trip to the Republic of China; that the distinguished Republican leader also be recognized to make his report, as has previously been agreed to; that at such time as those two leaders have completed their reports and their colloquies with other Senators in reference thereto, the Senate then return to the consideration of H.R. 14070; and that the unfinished business, S. 3526, continue to be temporarily laid aside until the disposition of H.R. 14070 or until the Senate completes its business tomorrow and adjourns, whichever is the earlier.

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

ORDER FOR 2-HOUR LIMITATION ON BROOKE AMENDMENT TO H.R. 14070

Mr. GRIFFIN. Mr. President, I have just been notified by the distinguished Senator from Massachusetts (Mr. BROOKE) that he has an amendment on the space authorization bill, and while he believes that it will not take 2 hours, I have been requested by the Senator to inquire as to whether we could provide for a 2-hour limit on his amendment. It would be my expectation that all of that time would not be used.

Mr. ROBERT C. BYRD. Yes.

Mr. President, in response to the inquiry and request of the assistant Republican leader, I ask unanimous consent that with reference to the NASA authorization bill there be a time limitation on one amendment by the distinguished Senator from Massachusetts (Mr. BROOKE) of not to exceed 2 hours, with the time to be equally divided and controlled by Senators in accordance with the order previously entered.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That, effective on Thursday, May 11, 1972, at the conclusion of routine morning business during the consideration of the bill H.R. 14070 (NASA authorization) debate on any amendment (except an amendment by the Senator from Minnesota (Mr. Mondale) which shall be limited to 3 hours and an amendment by the Senator from Massachusetts (Mr. Brooke) which shall be limited to 2 hours) shall be limited to 1 hour and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of any such amendment or motion and the Senator from Nevada (Mr. Cannon): *Provided*, That, in the event the Senator from Nevada (Mr. Cannon) is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him.

Ordered further, That, on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Nevada (Mr. Cannon) and the Senator from Nebraska (Mr. Curtis): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

ORDER FOR ADJOURNMENT TO 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11:30 a.m. tomorrow.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 11:30 a.m. 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 routine morning business, the Chair will lay before the Senate Calendar Order No. 747, H.R. 14070, the NASA authorization bill, with the unfinished business, S. 3526, being temporarily laid aside. There is a time agreement of 2 hours on the NASA authorization bill, with 1 hour on any amendment, with the exception of an amendment by Mr. BROOKE, on which there is 2 hours, and an amendment by Mr. MONDALE, on which there is 3 hours. with 30 minutes on any amendment to an amendment, debatable motion, or appeal.

At 2 p.m. tomorrow the distinguished majority leader will be recognized, and, for the time being, action will be suspended on the bill (H.R. 14070). The majority leader and the minority leader will then proceed to deliver their reports to the Senate with respect to their visit to the Republic of China. It is anticipated that the reports of the two leaders will consume circa 2 hours, and then, at the conclusion of the speeches by the two leaders and such colloquys as they wish to enter into, the Senate will return to the consideration of H.R. 14070, the NASA authorization bill.

There will be rollcall votes tomorrow afternoon on the NASA authorization bill following the discussions by the two leaders with respect to their recent journey.

The Senate will encounter a long day tomorrow. It is anticipated that action will be completed on the NASA authorization bill, even though the hour might be reasonably late tomorrow when that occurs.

The unfinished business—with the pending question on the amendment No. 1187, as modified, by the junior Senator from West Virginia—will remain in a temporarily set-aside status throughout the day tomorrow until the close of business tomorrow or until the final disposition of the NASA authorization bill, whichever is the earlier. So no action is contemplated on the unfinished business on tomorrow, at least until after H.R. 14070 is disposed of. Incidentally, by way of explanation, I have been advised that the House of Representatives will act on the NASA appropriation bill on May 22 or 23. Senator ELLENDER, chairman of the Senate Appropriations Committee, wishes to act quickly thereafter to bring the bill to the Senate floor. It is necessary, therefore, that the Senate act soon on the NASA authorization bill. The distinguished manager of the bill, Senator CANNON, asked that the bill be taken up and disposed of tomorrow. It appears that unless the bill were to be disposed of tomorrow, action on the bill would probably be delayed until about May 22. For these reasons, the leadership has agreed to bring the NASA authorization bill up tomorrow, with the understanding that it will be disposed of tomorrow and will not further delay the resumption of debate on the unfinished business, S. 3526.

ADJOURNMENT UNTIL 11:30 A.M.

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 11:30 a.m. tomorrow.

The motion was agreed to; and, at 4:44 p.m., the Senate adjourned until tomorrow, Thursday, May 11, 1972, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 10, 1972:

IN THE ARMY

The following-named person for reappointment to the active list of the Regular Army of the United States with grades as indicated, from the temporary disability retired list, under the provisions of title 10, United States Code, sections 1211 and 3447:

To be major general, Regular Army, and major general Army of the United States:

Stoughton, Tom R., [redacted]

IN THE NAVY

The following-named officers of the Navy for temporary promotion to the grade of rear admiral in the staff corps indicated subject to qualification therefor as provided by law:

MEDICAL CORPS

Philip O. Geib
Donald L. Custis
Edward J. Rupnik
William J. Jacoby, Jr.

DENTAL CORPS

Wade H. Hagerman, Jr.
George D. Selfridge.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 10, 1972:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenants

Robert F. Buckley
Melvin N. Maki
Thomas J. Stephens, Jr.
Joseph G. Woods

To be lieutenant (junior grade)

Richard A. Shiro

WITHDRAWAL

Executive nomination withdrawn from the Senate May 10, 1972:

DEPARTMENT OF JUSTICE

Louis Patrick Gray III, of Connecticut, to be Deputy Attorney General, vice Richard G. Kleindienst, which was sent to the Senate on February 15, 1972.

HOUSE OF REPRESENTATIVES—*Wednesday, May 10, 1972*

The House met at 12 o'clock noon.

Dr. Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

Let not your heart be troubled. You believe in God.—John 14:1.

We thank You, our Father, that You have given us another day and another gift of time. Today we pray for those whose time is spent here in looking after the welfare of our Nation. Give to them guidance in using the gifts they have and give to them strength as they seek to make a useful contribution to the life of our Nation and our world.

Be, we pray, with the Speaker of this House. We are thankful that he has been given another year of life. May Thy blessings be upon him on this his birthday as he begins another year of life and service.

Help us all this day to fulfill our responsibilities to our fellow men and to You. In Thy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13435. An act to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make a statement.

The Chair has received intelligence from the police force and other responsible authorities that there will be disturbances in the gallery today. On the basis of this information and their recommendation the Chair has ordered that the galleries be closed to the public for the time being.

HAPPY BIRTHDAY, MR. SPEAKER

(Mr. STEED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEED. Mr. Speaker, it is my great honor and privilege and pleasure on behalf of my fellow Oklahomans and all of my colleagues here in the House to convey our best wishes to our fine Speaker on this, your birthday, and to say "Happy birthday, Mr. Speaker."

HAPPY BIRTHDAY, MR. SPEAKER

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I would like to concur in the remarks of the distinguished gentleman from Oklahoma in wishing you a very happy birthday.

I know, as well as any man, the very heavy burden you carry and the manner in which you execute your responsibilities with a sense of fairness and dedication at all times.

Mr. Speaker, many, many happy returns of the day on this, your birthday.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished majority leader yield?

Mr. BOGGS. I am delighted to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I concur wholeheartedly in the sentiments which have been expressed both by the gentleman from Oklahoma (Mr. STEED) and the gentleman from Louisiana on this, your birthday.

Speaking for us, one and all, we wish you a very, very happy birthday and the best wishes for many more to come.

We think you have been a fine speaker.

[Applause, the Members rising.]