ference, ours or any other country's. The cessation of such interference is, Mr. President, what we believe to be the true key to peace in Indochina.

We are also writing this letter to you, Mr. President, concerning a related issue to the war, i.e. our own ship's involvement in the conflict. We have recently returned to Yokosuka after a total of 205 days at sea, out of which a total of — days we were on the fun line off the coast of North Vietnam on the so-called 'Freedom-Train'. During this period we sustained slight damage from North Vietnamese shrapnel as well as many mechanical failures. Believing that extensive repairs were necessary for the safe operation of our ships, we put in numerous requests for repair work. These requests, however, were cut to almost nothing because of lack of money and insufficient time in port to do them in. We are also lacking in the number of personnel to do ship-board work, and our ships don't have the money to buy parts and material to fix and maintain a *safe* operating plan.

Concretely, what kind of repairs have we been asking for? In the boiler room on the U.S.S. Parsons, for example, we requested that all the hand-hold plugs be milled and the headers reworked in order to reduce leaks and possible failure of the pressure parts. We also asked for 76 different things relagged to replace oil-soaked and bad lagging in order to reduce fire hazards and personal injuries to the crew members. All of these were called unnecessary and skipped over because of insufficient time in port. These are only two small things out of all the work requests asked for. When we don't get all the leaks in the steam lines and valves fixed it is endangering our lives, and when we go to war we feel that we should at least have our ships in a combat-ready condition to minimize the risk to our own lives.

Furthermore, the helm on the Parsons, which is one of the most vital instruments on the ship, is in bad need of repair. When changes of course are necessary the helm is very slow in 'answering up'. In the event of attack, this fault could be very costly. The causes of this problem in the helm have never been investigated, and at present helmsmen on the ship are very hesitant to steer it.

Since we are in a state of war (although the Congress has never formally declared one as required by the U.S. Constitution) it is possible, Mr. President, that you might feel that due to the limitation of time it is unavoidable that we are unable to effect such necessary major and minor repairs. This may be true in the case of the U.S.S. Anderson and Bausell which are scheduled to leave for Vietnam in the near future. We find it difficult to understand, however, why there is no time for repairs on the U.S.S. Parsons when there is time for it and another U.S. naval vessel to participate in the three-day "Black Ship Festival" (commemorating Commodore Perry's first visit to Japan in 1853) in Shimoda, Japan from May 16 to 18, carry dependents to Shimoda and back on board ship, etc., and yet still not have time for these urgent repairs.

Furthermore, Mr. President, we feel that it is our duty to bring to your attention the present living and working conditions which prevail aboard our ships and many other ships of our size and class. It is no exaggeration to say, Mr. President, that the morale of our ship's crews, particularly of the enlisted men, is more conspicuous by its absence than by its presence. The reasons for this are numerous, although perhaps the greatest single reason is the general feeling of the crew, even among some senior enlisted men and officers, that we are fighting a meaningless war. The general feeling is compounded, however, by the actual living and working conditions which prevail aboard our ships at present.

For example, morale is low (nil, actually) because of the endless, miniscule, minute things that we are hassled for! Haircuts are a good example. Although almost everyone's hair is within the new prescribed limits, we are told to get it cut. There have been times on the Parsons when we have not been allowed to eat because our hair was considered outside of the standards. We are hassled about our civilian clothes, about simple things like Peace patches on our jackets. And our government is said to be wholeheartedly for peace!

It is unfortunate that the new regulations are set up the way they are. The decision, for example, as to length of hair is left to the judgment of the individual commands. The decision as to what the crew, or staff, of a ship or base shall wear on liberty is left up to the personal whims of the base's (or ship's) commanding officer. So, in effect, we have no choice but to comply, or to be persecuted and discriminated against.

Also we can understand the necessity for searching packages and large manila envelopes for possible drugs and other contraband. However, it is very distressing and unwarranted or liked to have personal mail in letter form from family and friends opened, read, and censored. Furthermore, for us not to know when or in what shape our letters and packages arrive or even if they do arrive when we send them is equally disturbing. We believe that is uncalled for to censor and search letters and open tape mailers. When they are opened they should at least be resealed and marked as having been searched and read. If this were done we could at least know why when we find words marked out and pages and newspaper clippings missing from our letters!

We would also like to say that we are neither informed about what is happening in the rest of the world nor about what our role is in the war zone. We get little news and what we do get through such military newspapers as the "Stars and Stripes" is so censored and cut that the truth is distorted and the facts of the situation incomplete. We think it is only fair and well within our rights as individuals and tax-paying citizens to be informed and told what is going on around us and in the rest of the world.

In summary, Mr. President, we appeal to you, to the Congress of the United States (to whom we are also sending copies of this letter) and to the American people to bring the war in Indochina to an end, not through escalation, but de-escalation, not through a show of force, but through a show of peace. There are none of us in this Destroyer Squadron who would not be willing to sacrifice even our lives in the defense of our country from foreign attack. We do not believe, however, that the defense of the United States necessitates our going more than 5,000 miles away to destroy a small nation and her people. Once again, Mr. President, we ask for peace.

Sincerely,

(Signatures not printed in the RECORD.)

NEWARK CELEBRATES CUBAN INDEPENDENCE DAY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1972

Mr. RODINO. Mr. Speaker, 70 years ago on May 20 the Cuban people attained freedom. The United States was deeply involved in the struggle of the Cuban people for independence, and in fact went to war with Spain to aid their liberation movement.

Unhappily, Cuba is now again in bondage. However, the citizens of the United States continue their unswerving dedication to the cause of liberty for the Cuban people. Many exiled Cubans have settled in my native city of Newark, but they retain their fighting spirit and courageous determination. I am indeed proud that the city of Newark has recognized their unceasing fight for national independence, in commemorating this week by authorizing the flag of Cuba to fly over Newark's city hall. This symbolic gesture will help to stir all freedom-loving people to rededicate themselves to the cause of human dignity and the inherent right of all men to live in freedom.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 18, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

SENATE—*Monday, May 22, 1972*

The Senate met at 11:30 a.m. and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

PRAYER

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

Almighty God, in whom our fathers trusted, we pray for this Nation that it may be great and good and strong in these perilous days. And for all nations, we pray that they may prosper in justice and righteousness under Thy sovereignty. Guide all rulers that they may concert their best efforts for the concord, security, and well-being of all the people. Give to the President, journeying, mercies and wisdom and guidance to further the peace of the world and the advancement of Thy kingdom. And to us give Thy grace which is sufficient for our daily needs.

We pray 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 22, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the followed bill in which it requests the concurrence of the Senate:

H.R. 14989. An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 14989) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 18, 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 under "New Reports."

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The ACTING PRESIDENT pro tempore. The clerk will state the nominations under "New Reports."

The SECOND ASSISTANT LEGISLATIVE CLERK. Nominations placed on the Secretary's desk in the Diplomatic and Foreign Service.

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

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

INTERSTATE AGREEMENT REGARDING CERTAIN MOTOR VEHICLE FEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 761, H.R. 9580.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read the bill by title, as follows:

A bill (H.R. 9580) to authorize the Commissioner of the District of Columbia to enter into agreement with the Commonwealth of Virginia and the State of Maryland concerning the fees for the operation of certain motor vehicles.

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 had been reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and insert:

That the Commissioner of the District of Columbia may, with the approval of the District of Columbia Council, enter into an interstate agreement with the Commonwealth of Virginia or with the State of Maryland, or with both, which shall stipulate that any person—

(1) who operates in the District of Columbia and in the State which is a party to the agreement a single unit motor vehicle which has three or more axles and which is designed to unload itself;

(2) who has registered that motor vehicle in the District of Columbia or in that State; and

(3) who but for the agreement is required to pay the fee for an annual hauling permit prescribed by the fifth paragraph under the heading, "General Expenses" in the first section of the Act of July 11, 1919 (D.C. Code, sec. 5–316), and a similar fee imposed on the motor vehicle by that State;

shall not be required to pay a fee described in paragraph (3) which is imposed by a jurisdiction other than the jurisdiction in which the motor vehicle is registered. If the Commissioner enters into an interstate agreement under this Act, he may adjust the annual hauling permit fees of the District of Columbia referred to in paragraph (3) so that the total amount of fees (including registration and inspection fees) required for the operation in the District of Columbia and in each State which is a party to such agreement of the vehicles referred to in paragraph (1) shall be uniform.

SEC. 2. The Commissioner of the District of Columbia may, with the approval of the District of Columbia Council, enter into an interstate agreement with the Commonwealth of Virginia or with the State of Maryland, or with both pursuant to which the parties to such agreement may assist each other in the enforcements of its laws relating to traffic (including parking violations).

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–794), explaining the purposes of the measure.

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

PURPOSES OF THE BILL

The purposes of the bill H.R. 9580, as amended, are to authorize the Commissioner of the District of Columbia to enter into interstate agreements with the Commonwealth of Virginia, the State of Maryland, or both, in two areas: First, to authorize a person who operates both in the District of Columbia and in one of these party States, a single unit motor vehicle with three or more axles, capable of unloading itself, and who but for such agreement would be required to pay the fee for an annual hauling permit in the District of Columbia and also a similar fee in the party State, to pay such fee only in the jurisdiction in which the vehicle is registered; second, to allow any of these jurisdictions to withhold licensing of a motor vehicle if the owner of that vehicle has outstanding traffic violations in any of the jurisdictions.

HEARING

A public hearing by the full Senate District Committee on this bill was conducted on February 4, 1972. Testimony on the measure was offered by spokesmen for the District of Columbia, including both the Highways and Police Departments; the Excavating and Equipment Association; Minority Truckers, Inc.; and the Washington Area Truckers Association.

BACKGROUND

1. District of Columbia truck fees

Prior to April 5, 1971, the District of Columbia issued special hauling permits for single-unit, self-unloading trucks up to a gross weight of 49,000 pounds (the maximum loaded weight then allowed for such vehicles on District streets) for an annual fee of $28.

Public Law 91–650, however, approved January 5, 1971, and effective April 5, 1971, contained a provision (D.C. Code, sec. 5–316; 84 Stat. 1930) which increased the maximum weight allowable for such trucks to 65,000 pounds, and required that all single unit, self-unloading motor vehicles with three or more axles, and with a loaded weight in excess of certain prescribed limits (for most such vehicles, 44,000 pounds) obtain an annual hauling permit. The fee for such hauling permit was established (1) for trucks in service prior to July 1, 1970, at staggered rates, depending upon the size of the truck, ranging from $380 to $680; and (2) for all such vehicles placed in service after July 1, 1970, a fee of $680. All such vehicles which are operated in the District of Columbia, whether registered in the District or elsewhere, are subject to this requirement.

In addition, trucks registered outside the District of Columbia and operated from point to point within the city are required to be registered and licensed in the District as well. The annual fee for such registration varies from $53 to $269.50, depending upon the weight capacity of the vehicle.

2. Maryland truck fees

A dump truck with a gross weight not in excess of 48,500 pounds, registered outside the State of Maryland, may be operated in Maryland on an interstate basis with no charge on the part of the State. This is comparable to the practice in the District of Columbia, except that the maximum weight limitation is 48,500 pounds rather than 44,000 pounds as in the District. If such a truck is operated from point to point within the State of Maryland, however, it must be registered in Maryland for an annual fee of $280. The fact is, of course, that most dump trucks in service today will exceed this weight limitation.

A typical modern single unit dump truck with a wheel base of 16 feet and a gross weight of more than 48,500 pounds but not in excess of 65,000 pounds, registered outside of Maryland but operated either interstate or from point to point within that State, is presently required to obtain a special "dump service registration" in Maryland, the annual fee for which is computed at $13 per thousand pounds. Thus, a 65,000 pound dump truck from out of State operated in Maryland, is subject to an annual fee of $845 for its dump service registration in that state. In effect, it may be said that this special privilege is granted in return for the payment of a $565 fee, because the $845 "special registration includes the base fee of $280 referred to above.

The basic difference between the systems employed by the District of Columbia and Maryland with respect to these fees is that the District adds a separate hauling permit fee to the basic fee, while Maryland issues a special registration for a single fee which includes the basic fee. The final result, however, is really the same. It is to be noted that the maximum weight allowed for such trucks is 65,000 pounds in both jurisdictions.

3. Virginia truck fees

Virginia does not allow single unit dump trucks of gross weight in excess of 50,000 pounds to operate within that State, and does not levy any overweight fee in addition to its annual registration fees for such vehicles. Actually, the registration fees in Virginia have no application to the purpose of H.R. 9580, because since 1947, the District of Columbia and the Commonwealth of Virginia have had a reciprocal agreement whereby trucks registered in either jurisdiction may operate in the other, without being required to be registered and licensed in the other jurisdiction.

For this reason, single unit dump trucks registered in the District of Columbia can operate in Virginia only if their gross weight is not in excess of 50,000 pounds, and within this weight limitation there is no fee required for such operation. Also, a dump truck registered in Virginia can operate from point to point within the District of Columbia without a District registration. However, if such a Virginia vehicle weighs more than 44,000 pounds, the annual District of Columbia hauling permit is required for its operation in the District.

4. Parking tickets

The District of Columbia Revenue Act of 1971, Public Law 92–196, contained a provision which authorizezd the police in the District of Columbia to impound a motor vehicle against which there are at least two warrants or outstanding unsettled traffic tickets, if found unattended and without regard to whether the car is at the time parked in violation of the traffic laws of the District. While this provision has worked well, it does require the impounding of an individual's vehicle, causing both additional expenses to the District and to the individual involved. In fact the loss of revenue to the District of Columbia from unpaid traffic tickets is quite sizable as the following table indicates:

PARKING TICKETS—1970 AND 1971

[Figures rounded]

	Calendar 1970			Calendar 1971		
	Issued	Paid	Percent paid	Issued	Paid	Percent paid
License plates from:						
District of Columbia	371,600	236,000	63.5	341,900	319,000	93.2
Maryland	216,000	126,000	58.2	247,600	155,300	62.8
Virginia	149,499	84,000	56.0	197,000	87,200	44.2
Other States	267,400	53,000	19.8	303,100	61,400	20.2
Total	1,005,000	499,000	49.5	1,089,060	623,100	57.2

Much if not all of this loss could be eliminated if the jurisdictions involved could enter into agreements to collect the unpaid traffic tickets or require their payment prior to the yearly issuance of license plate renewal for motor vehicles.

NEED FOR LEGISLATION

Because the District of Columbia is really the center of a larger metropolitan area which encompasses parts of two States—Maryland and Virginia—in addition to the District, certain problems have arisen which can best be resolved by agreement between the several States and the District of Columbia government. Two of these are considered in this bill: the multiple charges paid to several jurisdictions as a hauling fee in order to load and dump materials which have originated in the District and the inability of the several jurisdictions to fully enforce their traffic laws because of an inability to collect fines which may be due for traffic violations.

The committee is advised that since the maximum fee of $680 for the District of Columbia annual hauling permit went into effect last April, the small-scale truck operators in Maryland are faced with a serious dilemma in that this new charge is making it difficult for them to stay in business. The nature of the dump trucking business makes interstate operation of such vehicles within the metropolitan area virtually imperative . . . and even though there are frequent instances in which owners of these trucks are obliged to operate their vehicles on an interstate basis for only very short periods of time in order to fulfill a contract, regardless of the time limit the full annual fee must be paid. On many such instances, Maryland contractors have requested temporary tags in the District, which are relatively inexpensive, for short periods of time. However, this relief is not available to them because such temporary tags do not constitute a registration which would comply with present District of Columbia law requiring registration of such trucks operating from point to point within the District. Thus, relief from the fee of $269.50 for such registration of 65,000 pound trucks in the District is not available to Maryland operators even for an operation of only a few days' duration.

Similarly, the small operators in the District of Columbia are faced with the same problem, as they now must pay this substantial new fee to the District, in addition to the dump service registration fee they must pay to Maryland. This latter fee is virtually requisite for District of Columbia dump truck operators, because the available dumping sites in the District are nearly filled at this time, and with the 50,000 pound weight limit imposed by Virginia, these large trucks must carry their loads in most cases into Maryland for dumping. For this reason, we are informed that the vast majority of the trucks that are housed in the District of Columbia are registered also in Maryland. And this necessity can only grow more acute as it is estimated that any dumping or fill sites in the District will be unavailable approximately 6 months from the present time. As is the case with Maryland trucks operating in the District, there is no relief available for the District of Columbia operator going into Maryland for only short periods of time.

To summarize, at present a 65,000 pound dump truck, single unit and with three or more axles, registered in the District of Columbia must pay a fee of $845 per year to operate in Maryland; and such a truck registered in Maryland and operating in the District must pay a fee of either $680 or $949.50 to the District per year, depending on whether or not it is used for hauling from point to point within the city.

Under present circumstances, as described in this report, there is no present problem existing between the District of Columbia and the State of Virginia in regard to the interstate operation of these trucks. As has been explained, the only existing fee which is levied in connection with the operation of dump trucks between these two jurisdictions is the District of Columbia hauling permit fee which such vehicles registered in Virginia and with a gross weight in excess of 44,000 pounds must pay if they operate in the District.

However, while having little or no significance at the present time, the instant legislation may well become extremely important in the near future. Should Virginia increase its present maximum weight limitation of 50,000 pounds on such vehicles, perhaps to the gross weight maximum of 65,000 pounds now existing in both the District of Columbia and Maryland, it can be expected that some substantial increase in fees for the operation of such heavy vehicles in the State will accompany such an action. It must be recognized that this is a possibility, in view of the pending excavation work to be anticipated in connection with the construction of the portion of the Metro system to be built in northern Virginia. And should this be the case, then the truckers in both Virginia and the District of Columbia will jointly face the the same dilemma which presently confronts the truckers operating in both the District and Maryland.

In the absence of such agreements as this bill will authorize, the only alternative for these truckers, many of whom are members of minority groups and are small businessmen, other than to go out of business, will apparently be to increase the charges for their services. Any such increase would materially raise the cost of construction of the Metro system and other large public build-

ing projects in the area, to the disadvantage of the taxpayers in general.

Your committee is advised that the District estimates that it will receive annual revenues of $347,250 from the present District of Columbia annual hauling permit fees. Of this amount, $243,000 will be attributable to trucks registered in Maryland, and $3,450 from trucks registered in Virginia. Should the enactment of H.R. 9580 result in these revenues from the truckers whose vehicles are registered in both Maryland and Virginia being lost to the District, then the revenue loss from this source will total $246,450 per year; or over a period of 5 years, the total such lost revenue will be some $1,232,250.

AMENDMENTS

It is the committee's view that the several jurisdictions in the area should not be taken advantage of by scofflaws who at the present time can violate traffic regulations secure in the knowledge that there is no reciprocal arrangement to force them to pay the fines which they have accumulated. Accordingly, we have added to the House-passed bill an amendment which would allow the various jurisdictions to enter into reciprocal agreements to stop this loss of revenue. This provision would mean an increase in revenues to the District of Columbia of some $5 million for each year and additional increased revenues to each of the surrounding jurisdictions. It hurts no governmental or private entity except for the scofflaw. The Committee also amended the title to reflect the full scope of the bill including the amendment to collect traffic fines.

CONCLUSIONS

It is the opinion of your committee that it would be in the best interests of the District of Columbia and the surrounding jurisdictions if authority were given to the Mayor-Commissioner in his discretion and with the concurrence of the City Council to enter into reciprocal agreements in both of the areas mentioned in this report.

It is undoubtedly a burden on truckers to have to have several licenses and dumping permits to work in this area on a single project such as Metro. Furthermore, this burden is in truth being passed on to the Government as the major builder in the area, so the loss in revenue to the District is partially made up by the savings in costs in the construction of Metro.

Were there to be a net revenue loss to the District of any amount, your committee would not be recommending this legislation. However, as part of this legislation the Congress is also empowering the District government to enter into reciprocal agreements to end the nonpayment of parking tickets. That will cause a revenue increase and your committee assumes that the District government will not enter into only one of these reciprocal agreements without the other also being agreed to.

Because it believes that there is no net revenue loss to the District if the agreements authorized by this legislation are entered into at the same time, and because it believes it to be in the best interests of the District that minority truckers who are registered in the District should not be discriminated against, your committee strongly advocates the enactment of this bill into law.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An act to authorize the Commissioner of the District of Columbia to enter into agreements with the Commonwealth of Virginia and the State of Maryland concerning fees for the operation of certain motor vehicles, and the enforcement of traffic laws."

THE SUNSHINE MINING DISASTER

Mr. MANSFIELD. Mr. President, the senior Senator from Idaho (Mr. CHURCH) is currently in his State of Idaho. In his absence he has requested that I insert in the RECORD on his behalf remarks and documents pertaining to the Sunshine mining disaster. The remarks were prepared for delivery in the Senate prior to Senator CHURCH's departure last Friday to attend the memorial services for the 91 men who perished in the Sunshine mine.

I ask unanimous consent that this material appear at this point in the RECORD.

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

STATEMENT BY SENATOR CHURCH

We are all aware of the recent tragedy at the Sunshine Mine near Kellogg, Idaho. Ninety-one men lost their lives in one of the worst mine disasters in American history.

On Monday, May 15, I testified before a Select Labor Subcommittee of the House Education and Labor Committee, which is conducting an investigation of this fire. In addition, the Senate Labor and Public Welfare Committee has plans for its own investigation into this matter.

Mr. President, one of the most unfathomable aspects of this tragedy has been the refusal of the Nixon administration to declare the Coeur d'Alene mining district, which encompasses Kellogg, a major Federal disaster area. In my view, the administration has taken far too narrow an interpretation of the law in refusing to make this declaration. The Sunshine fire is a disaster of major proportions. The families of 91 breadwinners are in urgent need of help. The economic consequences of this fire are devastating. Yet the administration has refused to act.

Mr. President, I ask unanimous consent to insert in the CONGRESSIONAL RECORD at this point the text of my testimony before the House Select Labor Subcommittee on May 15, together with relevant documents submitted at that time for the House hearing record.

TESTIMONY OF SENATOR FRANK CHURCH BEFORE THE SELECT SUBCOMMITTEE ON LABOR OF THE HOUSE EDUCATION AND LABOR COMMITTEE, MAY 15, 1972

Mr. Chairman, I am here this morning to endorse efforts to investigate the tragic events at the Sunshine Mine in Kellogg, Idaho.

Around 11:00 on the morning of May 2, a fire which at this time is still of unknown origin, exploded into the working area of the mine. As a result, 91 men are known dead. By some miracle, two miners trapped in the mine for several days, Tom Wilkinson and Ron Flory, both of Kellogg, survived.

Governor Andrus of Idaho went to the scene in Kellogg immediately, and made the full resources of the State government availale to aid in rescue operations and to help those in need of assistance. The Governor asked on May 5th, and I backed up his request, that the President declare the Coeur d'Alene mining district a major disaster area. With such a declaration, all the resources of the Federal government could be utilized to assist in cushioning the family hardship which is the toll of such a tragedy. Specifically, such a declaration will make it possible for the bereaved families of these men to obtain unemployment compensation benefits which would not otherwise be available. As of Friday, no definitive action had taken place on the request of the Governor that disaster area designation be given. At that time, I sent a second message to the President asking that immediate action be taken on the request. I ask that the text of the Governor's telegram to the President, my letter of support, and my subsequent telegram requesting immediate action be included in the hearing record following my remarks.

Mr. Chairman, I have been authorized by Governor Andrus to say that he concurs in my appearance before this Committee and joins me in the anticipation that every aspect of this fire will be fully investigated.

Mining is an extremely important industry in Idaho. It has played a vital part in the development of Idaho and is the economic mainstay of the communities in Shoshone County. It accounts for approximately 5 per cent of the total wages paid in the State of Idaho. But, as important as the industry is, our first concern must be for the safety of the miners who work a mile or more beneath the surface. They deserve all possible protection under our mine safety laws. Mining is a hazardous occupation, but that is no reason why we should not attempt to reduce the risk to the lowest level feasible.

Stronger laws and enforcement procedures might have helped prevent the Sunshine fire. This inquiry will help to determine whether that is, in fact, the case. I support a thorough study of the current law with a view toward raising safety standards, strengthening the enforcement aspects, and imposing adequate penalties for non-compliance. This Committee may also wish to look into the advisability of transferring mine safety regulation from the Bureau of Mines to the Department of Labor.

The Governor has asked that I explain to you that he and representatives of the State agencies involved cannot be here today because, as of this time, State personnel are still assisting in the emergency operations, and attempting to gather the relevant facts concerning the disaster.

When the State agencies have completed their investigations, they will cooperate in every possible way with the Congress in the conduct of its investigations into the Sunshine calamity. As you may know, the Senate Labor and Public Welfare Committee has also undertaken an investigation of this disaster. I ask that my lettter to Senator Harrison A. Williams, Chairman of that Committee, requesting an investigation, and his reply to me of May 11, be placed in the hearing record following my remarks, I also ask that a copy of Senator Williams' press release announcing the investigation also be placed in the record.

There are many questions to be answered about the Sunshine fire. This Committee, and its counterpart in the Senate, I know, will do its best to ascertain what happened, and what can be done to keep another such tragedy from striking again in the future.

COPY OF GOVERNOR ANDRUS' TELEGRAM TO PRESIDENT NIXON

President RICHARD NIXON,
THE WHITE HOUSE,
Washington, D.C.

DEAR MR. PRESIDENT: Idaho's people deeply appreciate your personal expression of sympathy and concern for the continuing tragedy at the Sunshine Silver Mine in Northern Idaho.

To insure that the full spectrum of federal assistance is made available, I respectfully urge that you make a Declaration of a Major Disaster for the Coeur d'Alene Mining District, Shoshone County, Idaho.

The following information is submitted to support this request:

A severe fire of unknown origin, and at

this time in an unknown location in the nation's largest silver mine has taken the lives of thirty-two miners. The fate of another fifty miners still trapped within the maze of tunnels is unknown. The welfare of all people affected by the fire is of major importance to Idaho.

State and local, as well as private resources, are committed to their maximum extent. Resources of neighboring states have also been committed in an attempt to overcome this disastrous situation.

Damages to private property involved cannot be estimated at this time. Impact on the entire area could be and would be disastrous if the findings of specialist teams now at the scene are such that closure of the mine was mandatory. The Sunshine Mine is a major source of income for the area and the local economy would be shattered by a closure order at this time.

All state and local government resources capable of providing assistance will continue to be utilized.

Pursuant to Section 1710.31, Federal Disaster Assistance Regulations, I certify that the total of expenditures, obligations and resources utilized by the State of Idaho for disaster relief purposes for all disasters during the 12-month period immediately preceding this request, and for which no federal reimbursement has been or will be received, exceeds $350,000.

CECIL D. ANDRUS,
Governor of Idaho.

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C., May 8, 1927.

Hon. RICHARD NIXON,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Sunshine Mine disaster is a tragedy with which you are already familiar. I need not review in this letter what has already been prominently portrayed in the media for a week.

Idaho's Governor Andrus has recently called upon you most urgently for assistance to the Kellogg area. His telegram of May 5 delineates the problems which are now being faced and may be expected in the future in this part of my State.

Mr. President, I urge that you give his request for disaster assistance early and favorable consideration. The loss of life at the Sunshine Mine can never be lessened but the Federal government can and should lend every possible assistance to assure that the burden upon the wives, families, community and State be eased as much as possible.

Sincerely,

FRANK CHURCH.

MAY 12, 1972.

The PRESIDENT,
The WHITE HOUSE,
Washington, D.C.

A week has passed since Governor Andrus of Idaho called upon you to designate the Coeur D'Alene Mining area a major disaster area in the wake of the calamitous Sunshine mine fire. My own letter to you in support of the Governor's request was sent on May 8th. There has still been no definitive answer to these requests.

It is now known that 91 men have died in the Sunshine fire, leaving many families without a breadwinner. These bereaved families cannot obtain unemployment compensation without a Federal disaster area designation. They are in urgent need of help.

Therefore, I respectfully call upon you once again to implement the request of Idaho's Governor by immediately declaring the Coeur D'Alene Mining District, Shoshone County, Idaho, a major disaster area.

FRANK CHURCH,
U.S. Senate.

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C., May 8, 1972.

Hon. HARRISON A. WILLIAMS,
Chairman, Labor and Public Welfare Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The immense proportions of the disaster that has occurred at the Sunshine Mine in Kellogg, Idaho, need hardly be described to you. At least eighteen dead have been brought out of the mine and another 75 are unaccounted for, lost in a labyrinth of tunnels a mile below the ground.

There is no way we can restore the eighteen known dead to life again or even assure the safe recovery of those still missing, but we can ask why this disaster happened and what, if anything, could have prevented it. The Senate can review the mine safety laws to see what changes may be necessary to assure that a tragedy of these proportions will never again happen in a metal mine.

It is my view, Mr. Chairman, that the Senate Labor and Public Welfare Committee should begin, at the earliest possible time, a complete investigation of the entire Sunshine Mine tragedy. The investigation should examine the adequacy of present mine safety laws with a view toward the strengthening of enforcement procedures and penalties for noncompliance.

With best wishes.

Sincerely,

FRANK CHURCH.

U.S. SENATE,
COMMITTEE ON LABOR AND
PUBLIC WELFARE,
Washington, D.C., May 11, 1972.

The HONORABLE FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR FRANK: I very much share the concern you expressed in your May 8th letter. As the principal author of the Coal Mine Health and Safety Act of 1969 and the Occupational Safety and Health Act of 1970, it is always distressing to learn of disasters such as the one at the Sunshine Mine in Kellogg, Idaho. I share your concern for the victims of this tragedy and I want you to know that the Committee on Labor and Public Welfare has been following the course of the disaster since last week.

The mine in question is under the jurisdiction of the Federal Metallic and Non-Metallic Mine Safety Act of 1966 for which this Committee has legislative review responsibility. Enforcement of the safety standards under that law rests with the Interior Department's Bureau of Mines, the same agency that has jurisdiction for coal mines under the Coal Mine Health and Safety Act.

As I indicated above, the Subcommittee on Labor began an initial inquiry immediately upon being notified of the disaster. Staff investigators have been on the scene since May 5. We will conduct an intensive investigation into the causes of the disaster, including the role of the Bureau of Mines in the enforcement of the Metallic and Non-Metallic Mine Safety Act. Our purpose will include consideration of appropriate corrective legislation where necessary.

The Sunshine Mine tragedy is underscored by the fact that this is the second such disaster to occur in the mining industry this year. In late February an impoundment dam belonging to the Buffalo Creek Mining Company collapsed releasing millions upon millions of gallons of water, sludge, silt, and other coal mine refuse, creating widespread flooding in the entire Buffalo Creek area. The known death toll from that disaster is now 118 with others still missing. At least two towns were completely obliterated with large scale damage to other towns in the valley. The responsibility for inspecting the dam rested with the Bureau of Mines under the Coal Mine Health and Safety Act. We have had an extensive investigation into the cause of that disaster and I intend to have public hearings into that matter within the next few weeks.

Some elements of the investigation into the Sunshine Mine disaster, of course, will have to await the completion of the rescue operations since many of the personnel from the Federal and State agencies and the company are involved in that activity.

You may be sure that the necessary resources of the Committee will be made available to present to the public the problems and failures and needed improvements of our Nation's mine safety program.

With kind personal regards,

Sincerely,

HARRISON A. WILLIAMS, Jr., *Chairman.*

SENATOR WILLIAMS' LABOR SUBCOMMITTEE LAUNCHES INTENSIVE INVESTIGATION INTO MINE DISASTER THAT CLAIMS 91 LIVES IN KELLOGG, IDAHO; CITES KNOWN FIRE HAZARDS IN MINES

WASHINGTON, D.C., May 12, 1972.—United States Senator Harrison A. Williams, Jr. (Democrat-N.J.), Chairman of the Committee on Labor and Public Welfare, announced that a full-scale investigation into the causes of the mine disaster of the Sunshine Mining Company in Kellogg, Idaho, which killed 91 miners, is underway.

The investigation is being conducted under the Subcommittee on Labor's authority to review the operations of the Federal Metallic and Non-Metallic Mine Safety Act of 1966. Senator Williams, who is the principal author of the Coal Mine Health and Safety Act of 1969 and the Williams-Steiger Occupational Safety and Health Act of 1970 expressed his serious concern over the continued failure of the Department of Interior's Bureau of Mines, and the owners and operators of the mining industry to bring an end to the unnecessary death and destruction in the mining business. When announcing publicly that an investigation has been underway since the Committee was notified of the disaster, Williams stated that he had waited to make public this investigation until all efforts at rescue operations had been completed. In stating the reason for the Subcommittee's active interest, he said, "This disaster could have been avoided. It, like all other mining disasters the Committee has looked into, was man-made. We have been faced now with two disasters in recent months in the mining industry. In February a coal mine dam collapsed at Buffalo Creek killing 119 people. It was no accident. The dam had failed previously and this Company and government had notice of the unsafe characteristics of the dam. The preliminary report furnished to me by my staff on the Silver Mine at Kellogg, Idaho reflects that mine fires are a known factor in the Silver mining industry. There have been at least three fires at Kellogg since 1945, one of which was so widespread at the Sunshine Mine that it forced a suspension of operations for six weeks, though fortunately there were no reported fatalities. The mine operator of the Sunshine Mine has been cited for 14 violations of the Federal Mine Safety Fire Control regulations in the past 21 months.

"This Committee is going to continue exposing the inadequate enforcement of our mine safety laws to the public until the Bureau of Mines fully responds to the demands of Congress in enacting the statutes. If necessary, we will propose legislation to strengthen the enforcement requirements and seriously consider whether or not this program belongs in a more responsive Federal agency."

STATEMENT BY SENATOR CHURCH.

Subsequent to this testimony, Mr. President, word was received of the Administration's refusal to declare the Coeur d'Alene mining district a major disaster area. In the wake of that decision, I sent another

telegram to the President, asking him to over-rule the recommendation of the Office of Emergency Preparedness. The text of that telegram reads as follows:

MAY 17, 1972.

The PRESIDENT,
The WHITE HOUSE,
Washington, D.C.
Attn: John Erlichman.

I have just been advised of the recommendation made to you by the Office of Emergency Preparedness that the Coeur D'Alene Mining District not be declared a major disaster area as requested by Idaho's Governor in the wake of the Sunshine fire. I find this recommendation unfathomable.

I take issue with OEP's restrictive interpretation of the law. Congress clearly conferred ample discretionary authority upon the President to enable him to designate the Coeur D'Alene Mining District a major disaster area under the law.

Under Title 42, section 4401 of the United States Code, a "fire" is specifically referred to as a disaster. In addition, the law grants you broad discretion by allowing "other catastrophes" to be used as the basis for declaring an area a major disaster area.

The law further states that Congress intended such designation to be invoked when "such disasters disrupt the normal functioning of Government and the community and adversely affect individual persons and families with great severity."

Under these criteria, the Sunshine mine disaster clearly qualifies.

In addition, Congress expressed its intent to achieve "greater coordination and responsiveness of Federal major disaster area programs." If the Federal Government is to be responsive to all the needs of the bereaved families of the Sunshine Mine victims, a major disaster area designation is mandatory.

Mr. President, by every measurement that matters, the people of the Coeur D'Alene Mining District have suffered a major disaster. The loss of 91 breadwinners in this small mining community greatly exceeds the fatalities in many other cases where the designation of major disaster area has been granted. I believe the law invests in you alone the power of final determination in this matter.

I urge you to assert your full authority under the law, and to overrule this recommendation by declaring the Coeur D'Alene mining area a major disaster area.

FRANK CHURCH,
U.S. Senate.

JOHN F. STEVENS: PATHFINDER FOR WESTERN RAILROADS

Mr. MANSFIELD. Mr. President, the exploration and development of the Pacific Northwest and nearby sections of our country, consisting of Washington, Oregon, Idaho, Wyoming, North and South Dakota, Minnesota, and my own State of Montana, forms one of the most glorious chapters in American history. First dramatized by the Lewis and Clark exploring expedition of 1804 to 1806, this vast territory contains land from four major sources: the Louisiana Purchase of 1803, the Texas Annexation in 1845, the Oregon cession in 1846, and the Mexican cession in 1848.

A crucial factor in the settlement and growth of this tremendous region was the construction of our transcontinental railroads, including the Great Northern. The extension of that railway from the central plains of the United States to the Pacific, required crossing the Rocky and Cascade Mountain Ranges. A key man in this project was a young civil engineer—John F. Stevens, of West Gardiner, Maine—1853–1943.

In an illuminating article in the May 1971 issue of the American West, Palo Alto, Calif., one of our leading magazines on western history, Earl Clark, a freelance water from Port Angeles, Wash., hiker, railroad buff, skier, and explorer of the pass areas over the Cascades, tells the thrilling story of Stevens' part in opening the Northwest, and aptly describes him as the "pathfinder for western railroads."

Among the spectacular incidents related by Clark are the discovery by Stevens in bitter cold on December 11, 1889, of Marias Pass in Montana; and in 1890 of Stevens Pass in Washington, through which passes the Great Northern was constructed. The latter was named in honor of its discoverer.

Stevens' demonstrated ability as a civil engineer led to his selection in 1905 by President Theodore Roosevelt at a time of grave crisis in the building of the Panama Canal to the highly responsible office of Chief Engineer of the Isthmian Canal Commission. In this position he rescued the project from disaster, developed the high-level lake-lock plan for its construction, secured its approval by the President and the Congress, purchased the major part of the plant for the work, effected the organization that was continued until the canal was completed, brought the undertaking to the point when success was assured, and then resigned to engage in other challenging tasks.

In spite of his resignation, President Roosevelt appointed him Chairman of the Isthmian Canal Commission, making Stevens the first to hold the combined positions of Chairman and Chief Engineer.

The part played by Stevens in building the Panama Canal is accurately shown in the mural painting by William Andrew Mackay in the Roosevelt Memorial Hall of the American Museum of Natural History of New York. In the background of this mural are William Crawford Gorgas, the great sanitarian of the isthmus who made the canal possible, and George W. Goethals, the successor of Stevens, under whose direction the canal was completed substantially in accordance with the plan developed by Stevens, to whom Goethals always gave full credit.

In Balboa, C. Z., today, at one end of its principal thoroughfare, is the Goethals Memorial; at the other, located in Stevens Circle, is one to Stevens with this inscription under his name: "The Canal Is His Monument"—Goethals.

A third major assignment of Stevens was his appointment with the rank of Minister Plenipotentiary by President Wilson in 1917 as the head of what is known as the Stevens Commission for the rehabilitation of Russian, Siberian, and Manchurian railroads, a position that he held with great distinction in time of war, revolution and civil strife until 1923. For these services, which included the rescue of the Czechoslovakian Army then isolated in the Eastern Front thus enabling its return around the world to rejoin Allied Forces on the Western Front, he won the Distinguished Service Medal of the United States and the highest honors of France, China, Japan, and Czechoslovakia.

In addition to the previously cited article by Earl Clark, the following recent writings about Stevens are authoritative and recommended as source material on his life and career:

Raymond Estep. "John F. Stevens and the Far Eastern Railways, 1917–23." *Explorers Journal* (New York) XLVII (Dec. 1969), pp. 13–24.

Daniel J. Flood, "Tribute to John F. Stevens—Architect of the Panama Canal." *Explorers Journal* (New York), XLVII (Dec. 1969), pp. 287–96.

Ralph W. and Muriel E. Hidy. "John Frank Stevens: Great Northern Engineer." *Minnesota History* (St. Paul), Vol. 41 (Winter 1969), pp. 345–61.

David G. McCullough. "A Man, A Plan, A Canal, Panama!" *American Heritage* (New York), XXII (June 1971), pp. 64–71 and 100–03.

After returning to the United States in 1923, Stevens received many additional honors, including the John Fritz Medal for Great Achievements and election as president of the American Society of Civil Engineers.

Two towering figures in Panama Canal history were elected to the Hall of Fame for Great Americans at New York University in 1950: Theodore Roosevelt and William Crawford Gorgas. Now, a third is being sponsored for election in 1973 to that great honor by the John F. Stevens Hall of Fame Committee of distinguished membership, with John M. Budd, former president of the Great Northern Railway, as its national chairman. The secretary of the committee is Herbert R. Hands, 345 East 47th Street, New York, N.Y. 10017.

Mr. President, as the indicated article by Earl Clark covers an important part of the life and career of Stevens and is a significant contribution to the history of the Northwest, especially to my home State of Montana, I ask unanimous consent for it to be printed at this point in the RECORD.

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

[From the American West, May 1971]

JOHN F. STEVENS: PATHFINDER FOR WESTERN RAILROADS

(By Earl Clark)

From California all the way to Canada, a mighty barrier seals off the lush Pacific coastlands from the dry sage-speckled interior. This is the Cascade Mountain Range, a jumbled upthrust of volcanic peaks towering up to fourteen thousand feet, with icy streams tumbling through deep canyons, crevassed glaciers, vast snowfields, and on the lower slopes, dense forests of trees with trunks as thick as a wagon. It was not just happenstance that led Lewis and Clark, and later the Oregon Trail pioneers, to make their way to the Pacific by way of the Columbia River. For the Columbia Gorge is the only natural break in this formidable bulwark for all its thousand-mile length.

As more and more settlers filled the coastal lowlands, they probed for other passageways than the Columbia to bring their wagon roads and railways through the snow-topped Cascades. It was never an easy search. Even today, only about a half dozen passes pierce this forbidding rampart.

Few are more spectacular than Stevens Pass in Washington state, the northernmost of the Cascade crossings. Its name memorializes the great engineer who discovered it—John Frank Stevens. Yet Stevens himself has faded to a historical footnote. So little is he known to present-day beneficiaries of the pass he discovered that one popular Seattle guidebook erroneously ascribes its name to Isaac Stevens, first governor of Washington Territory. Yet the man who searched out this pass in the midst of a trackless wilderness lived to see it play an essential role in the growth of Seattle and the development of the entire Pacific Northwest.

Now a four-lane highway whisks vehicles over the summit to which he found his way on foot. Skiers by the thousands flock to its slopes all winter long. Deep beneath its granite bastion, the longest tunnel in the Western Hemisphere carries Burlington Northern trains through the mountain barrier. And that, of course, is how Stevens Pass came to be—as a route for Jim Hill's Great Northern Railway.

When the roll is called of Men Who Built the West, the name of James Jerome Hill rises high on the list. He was one of the nineteenth century's great railroad barons—but not a robber baron. Hill was, of course, an unabashed capitalist. But unlike so many of his fellow railroad tycoons, he insisted on building an efficient transportation system, not just a road to quick profits. His railroad's crack train today perpetuates one of the sobriquets by which he was known—that of the Empire Builder.

Hill was, in the words of the late Stewart Holbrook, "a legend while he lived, a legend still in death . . . the Little Giant, the Devil's Curse of the northern plains, the barbedwire, shaggy-headed, one-eyed old———of Western railroading."

He was also a man who dreamed great dreams, and none was more dominating than his dream of linking the Midwest with the Pacific by a ribbon of steel. It all began with the grandiosely named St. Paul & Pacific Railroad, a struggling little Minnesota line that Hill acquired for one hundred thousand dollars in 1878, when he was barely forty.

Jim Hill carried into the rebuilding of rickety pike the principles that were to guide his railroad operations until his death in 1916. When he built a railroad, he built it to last. Roaring and raging, he drove his engineers and contractors unsparingly to find the best grades, the easiest curves, the strongest bridges. This was vital to his operations because, unlike the other transcontinentals, Hill's Great Northern never received the government largesse of land grants. In fact, when he laid his rails across Montana, he had to pay the government to cross Indian lands.

But when Hill announced, a year after buying the modest little St. P&P that was to become the Great Northern, that he intended to push it through to Puget Sound without one dime of subsidy from the federal government, his St. Paul neighbors erupted in laughter. "Hill's Folly," they called the ribbon of steel as it advanced across the Great Plains, three to seven miles a day, 1,175 miles in a year, inexorably pushing through the endless expanse of waving grass.

As fast as track was laid, Hill's trains brought immigrants to settle this new land, mostly from northern Europe. He'd haul a man halfway across the United States for ten dollars if he agreed to settle along the line; and for only a little more, the homesteader could rent a box car and bring along the rest of his family, their possessions, and a few animals.

Laying rails across the prairies was one thing. Getting them through the Rocky Mountains was something else. When this great obstacle loomed ahead on the horizon, Hill called in a brash young engineer who had demonstrated a canny knowledge of railroad building along with the kind of stamina that was a hallmark of the West's fabled mountain men. He was John F. Stevens, then still in his thirties.

Born in West Gardiner, Maine, April 25, 1853, Stevens came west at the age of twenty-one, going to work in the Minneapolis city engineer's office. He had no technical training as an engineer; he received his education at a country school, followed by two years at a normal school in Farmington, Maine, where he studied to be a teacher.

By the time he reached thirty, he had spent six years learning the ropes of railroad location and construction in various western states. In the spring of 1883, he was offered his first major engineering assignment, as assistant to the chief engineer in charge of locating the Canadian Pacific Railway through the Canadian Rockies. Much of the mountain scenery that CPR passengers view today lies along the route surveyed by Stevens. It is possible that this work brought him to the attention of Hill, who was a director of the Canadian line until he resigned to build a transcontinental of his own.

By 1889 the Great Northern had completed its line to Havre, in north central Montana, and was stymied by the mountain barrier ahead. It was imperative to find a route that would take the rails directly west. Veering too much off this course would add mileage and gradients that would burden Hill's railroad with a permanent handicap in competition with the established transcontinentals. So Hill's chief engineer, E. H. Beckler, looked for someone with the ability to scout out a legendary pass that was supposed to exist in that region, and if it existed, ascertain its suitability for the railroad. He settled on John F. Stevens as his man.

"Time was pressing, and Mr. Hill was not a man to delay the execution of his plans once he had decided upon their general features," Stevens recalled later with dry understatement. Or to quote Hill's own orders to his chief engineer: "We do not care enough for Rocky Mountain scenery to spend a large sum of money in developing it. What we want is the best possible line, shortest distance, and least curvature that we can build between the points to be covered."

Stevens took on his new assignment in November, starting at Fort Assinniboine, a military post seven miles west of Havre, whose commandant furnished him a mule team, a covered wagon, a soldier driver, and a saddle horse. Battling blizzards all the way, Stevens and his companion set out for the Blackfoot Indian Agency, 180 miles away.

There Stevens sought information about the mystic pass that was reputed to thread the great mountains beyond the Indian lands. But no Indian would stir from his log house in that winter weather to seek it. Or for that matter, any kind of weather. Those mountains were the lair of an evil spirit, they insisted, and woe betide the mere mortal so adventurous as to disturb him.

Stevens finally ran onto a Flathead Indian who had fled after murdering one of his tribesmen and was given refuge by the Blackfoot tribe. "He knew nothing whatever of that part of the country, and was not a guide in any sense of the word," Stevens recounted. "I only wanted him to act as a messenger in case I met with disaster."

For lesser man, that disaster might have been a surety. Stevens and the Indian set out with a mule team and "patched up something that resembled snowshoes." They kept the team until deepening snow brought the mules to a floundering halt, then sent the animals back and went on by foot, carrying food and blankets.

They soon found what appeared to be a pass, but it curved around and ended abruptly against a mountain wall. Retracing their steps, they tried another route, but it too ran into a dead end (later labeled False Summit).

"Something possibly a sixth sense, urged me to keep going," Stevens recalled later. But by then the Indian signaled that he had had enough and would go no further. Stevens scrounged some dry wood, built a fire, and left the Indian beside it, picking his way on up the mountain alone.

To his happy astonishment, he perceived after several more arduous miles that he had reached a low summit of the Continental Divide and was looking down the western slope of the Rockies. He had found the legendary Marias Pass! That date of December 11, 1889, was to remain forever engraved in Stevens' memory. (If passengers on today's Empire Builder look quickly enough out the windows of their dome car as it glides over Marias Pass, they can see beside the tracks a bronze statue of the engineer who discovered it).

Just to be sure he had really found the pass, Stevens explored on down the western slope until he was at least satisfied that its waters did indeed drain into the Pacific Ocean. He was on his way back to join his Indian companion when the evil spirits that the Indians feared called down their wrath upon this audacious young explorer who had dared to unlock their secret.

It was dark by the time Stevens had scrambled back up to the pass. To try and pick his way back down the icy slopes and deep snow of the canyon he had followed that morning would have been foolhardy. The snow swirled around him as the wind whistled through the pass, and the temperature dropped steadily to what Stevens estimated was forty degrees below zero. There was no chance of building a fire to thaw out his scanty frozen provisions, as only the tips of stunted evergreens protruded through the snow. Stevens knew that if he tried to get a moment's rest, he would freeze to death. So he tramped a path that would bear his weight without snowshoes, then for the rest of that bitter long night walked back and forth, back and forth, until the first streak of daylight glimmered in the east.

His route down the canyon now covered by new snow, Stevens slipped and slid back to where he had left the Indian, who was now nearly frozen to death himself, beat some life back into him, and started the journey back to the agency. There then remained a mere 180-mile trek to a telegraph station to wire the great news to Jim Hill.

Hill's confidence in his young engineer soared. With a pass through the Rockies now assured, he sent Stevens on west in the spring of 1890 to seek a way to get the railroad over the rugged Cascades, with instructions to explore every possible route between the Northern Pacific line to Tacoma, and the Canadian border.

"Hill's Folly" seemed even more absurd when measured against the remote frontier he was struggling to reach. The population of the entire state of Washington at that time was less than 375,000. Most of this populace was scattered along the line of the Northern Pacific, far south of Hill's surveys, and on Puget Sound, where Seattle's 37,000 made it the state's largest city. A map of that era showed the north central part of the state through which the Great Northern must pass as a mountain wilderness unrelieved by so much as a single settlement.

It was not, however, unsurveyed. Twenty years earlier, the Northern Pacific had sent an engineer, D. C. Linsley, to survey the Cascades for a possible crossing. Accompanied only by three Indians, Linsley spent ten weeks in the summer of 1870 mapping and charting the mountain range, and suggested several routes across it. These were generally to the north of the one later discovered by Stevens, and thus even farther north of the route the NP eventually used to reach Tacoma via Stampede Pass.

Back in St. Paul, Hill was now in a burning hurry to locate the road through the Cascades. His crews had surveyed 565 miles

of right of way west of Marias Pass, with track gangs pushing close behind. Hill's dream of a transcontinental railroad to challenge the older lines depended on reaching Puget Sound, and fast.

Methodically bringing to bear all his mountain expertise, Stevens set out in the spring of 1890 to find the best place to carry the Great Northern's rails over this final barrier. Many years later, he was to deny indignantly that he stumbled across the pass more or less by accident.

"On one of my cruises up the Wenatchee River I noted a large creek [Nason Creek] coming into it from the south, well up into the mountains," he wrote. "I knew that its course could not long continue from the south, and so followed up a short distance to where it turned abruptly, coming from the west. Realizing that it must head at a summit in the main range, I filed that mental picture away in my head for future investigation. A short time afterward when I was cruising the top of the main range, I found a comparatively low place in it, against which a creek flowing east had its head. I felt certain that it must be the beginning of the same creek that I have noted above."

Following up this hunch after returning from his explorations, Stevens dispatched an engineering party led by C. F. B. Haskell to "proceed up Nason Creek and develop its head." Haskell indeed found that the creek debouched in a pass whose elevation was 4,061 feet—about half the height of some of the peaks that overlooked it. He honored its discoverer for all time by blazing a cedar tree at the spot and marking it Stevens Pass.

By this time winter was approaching, and Stevens hastened to organize another engineering party to survey the Skykomish River valley down the west slope of the Cascades beyond the pass. The results were disheartening. Everywhere, the mountains dropped off in an abrupt escarpment. The only way to avoid it was to tunnel beneath the forbidding cliffs. But this would require a tunnel two and a half miles long, and it would take years to bore with the primitive equipment of the time. Jim Hill couldn't wait that long.

In midwinter of 1890, Stevens snowshoed back to the summit, now buried under its usual thirty feet or so of snow, and pondered the alternatives. His brilliant solution was a series of switchbacks to carry the rails over the summit, then conquering the steep grade by a great horseshoe loop at Martin Creek, the first spot where the valley widened enough to accommodate the loop. The distance to be covered was only four and a half miles as the crow flies. But Jim Hill's engines couldn't fly up the cliffs, so they traversed twelve miles of track in order to negotiate that distance over the mountain.

Looking over the plans back in St. Paul, Hill hit the ceiling when he noted one point at which Stevens called for a thirteen-degree curve. He ordered work suspended, jumped on a special train, and came roaring west to see this monstrosity for himself. Stevens felt time was of the essence, so he kept right on with the grading. Hill's greeting when he came striding up to the young engineer was simply: "Where is that thirteen-degree curve? I don't like it!"

While the rest of the entourage trembled, Stevens calmly led Hill to a point where he could look over the terrain. "That is all right," the empire builder said finally. "You could have done nothing else." Instead of firing the determined engineer, Hill raised his salary from $200 a month to $300.

It took three more years to build the line through those rough mountains, but on January 6, 1893, the last spike was driven on the west slope of the Cascades. Jim Hill had finally linked the Mississippi with Puget Sound.

But the Cascade crossing demolished Hill's credo of moving maximum tonnage over minimum grades and curves. Stevens was able to hold the grade to a maximum of 2.2 percent coming up through the Wenatchee River's Tumwater Canyon, but to climb over the pass called for a grade of 4 percent. Work began a few years later on building the tunnel that Stevens had visualized, but for the intervening seven years, his switchbacks called for some of the most epic railroading in the nation.

At Skykomish, a division point in the valley west of the summit, a train of about twenty-five cars would cut down to five or six with one sturdy little locomotive ahead, and another behind. Snorting up the mountain at five or six miles per hour, the little train headed into the first switchback, but when it came out of the Y the "rear" engine took over the lead, tugging the train up the hill while the "lead" engine pushed. The process was reversed as the train gained the next switchback, and kept on repeating until the fifth and last switchback was attained at the summit. There then remained three more switchbacks to get back down the eastern slope.

In summer, this would take anywhere from five to twenty hours. Winter was another story, with snowfalls of a foot an hour, piling up to thirty feet or more on the level, and drifts to twice that height. Hundreds of men were employed to keep the switchbacks open and shovel out the trains. It was mountain railroading at its best—or worst.

The first Cascade Tunnel, opened as the year 1900 drew to a close, was hailed as the engineering marvel of its day. For three years, from six hundred to eight hundred men hammered away at the granite deep below the pass. But when their work was completed, they had replaced nine miles of railroad, a rise of 700 feet, and 2,332 feet of curvature—the equivalent of seven complete circles.

No one was happier at completion of the tunnel than the hardy railroaders who had battled up and down the switchbacks. "Death Mountain," they called it, for runaway trains were frequent on the steep grades, and avalanches were a constant threat.

But long after the tunnel went into operation, the worst avalanche disaster in American history occurred just below Stevens Pass. The winter of 1910 was a memorable one in the Cascades. Snow fell relentlessly, reducing railroad service to a shambles. In the last week of February, two passenger trains were stalled at Wellington, a railroad town just west of the Cascade Tunnel. Snow blocked the line over the mountain at both ends, as railroad crews labored desperately to break through with their huge rotary plows.

One of the stalled trains was perched on the edge of a gulch behind the Wellington station, during the night of March 1, 1910. From a thousand feet up on the mountain, a great wall of snow suddenly broke loose. Thundering down the sheer slope, the avalanche swept the entire train into the canyon, carrying 101 people to their death, along with several railroad buildings. That event still ranks as the West's worst railroad tragedy.

The Wellington Disaster was a traumatic experience for Jim Hill's railroad. Even the name of the little railroad town was expunged from the records, rechristened as Tye. And plans began for an even longer and lower tunnel, to get away once and for all from those terrible avalanches. That tunnel was finally opened on January 12, 1929, and it is still the longest in the Western Hemisphere—eight miles. The Great Northern Railway had at last triumphed over the Cascades.

Though Jim Hill was no longer around to see it, John Stevens was. After completing the crossing of the Cascades, he rose steadily in the Great Northern hierarchy, becoming the railroad's chief engineer and later general manager, during the great era of railroad building at the turn of the century. He directed the construction of almost one thousand miles of new line, as the railroad filled out and expanded, and at times was simultaneously directing as many as two dozen major projects. Eventually he left the Great Northern and, in 1905, was summoned to Washington by President Theodore Roosevelt and placed in charge of Panama Canal planning and construction as its chief engineer, a position he held for the next two years.

But his service for Jim Hill was not yet ended. In 1908, a mysterious sportsman identifying himself as John F. Sampson loaded himself with trout-fishing gear and reconnoitered the Deschutes River in Oregon. It was not just coincidence that Hill was contesting with Edward H. Harriman of the Union Pacific for a route down this river to connect the Pacific Northwest with California.

The mysterious Mr. Sampson arranged to meet one William Nelson at a city park in Portland one rainy night and hand over to that gentleman $150,000 in cash for his controlling interest in a paper railroad that owned a right of way in the Deschutes Canyon. Mr. Sampson, it turned out, was John F. Stevens, now president of the Spokane, Portland & Seattle Railroad, a subsidiary of Hill's Great Northern.

When the Kerensky regime surfaced in Russia after the czar was toppled, and President Woodrow Wilson decided to send over a top engineer to keep the Russian railways operating, he called on John Stevens. Stevens headed the American Railway Mission to Russia until 1922, when Allied troops were withdrawn after the Soviets gained power.

Stevens returned to America, and to such tributes as that of Major General George W. Goethals, his successor at the Panama Canal, who labeled Stevens "one of the greatest engineers that ever lived." In 1925 he received the John Fritz gold medal for "notable scientific and industrial achievement," and in 1939 the gold medal of the Franklin Institute and the Hoover medal of the American Society of Civil Engineers. Although he had never received an engineering degree, he was elected an honorary member of this professional society in 1922, and became its president five years later. France made him an officer of the Legion of Honor, his own country bestowed the Distinguished Service Medal upon him, and similar honors came from Czechoslovakia, Japan, and China.

Stevens died in Southern Pines, North Carolina, June 2, 1943, at the age of ninety. By then, the pass that he had traced in the wilderness was busy transporting troops and supplies for World War II over a mighty railroad, while high above it, a state highway carried ever increasing traffic over the summit on which his name had been emblazoned on a cedar tree.

In 1925, long after the first Cascade Tunnel was built and the switchback route abandoned, the old zigzag right of way was converted to the first auto road over the pass, providing a challenging journey up and around the tight hairpin curves of the one-time switchbacks. Unlike the railroad, the highway department made no attempt to keep the pass open in winter—but the steep, narrow road was adventurous enough for a Model T even on a dry summer day.

Eventually this old road was replaced by a new state highway, which, like the railroad, was built up the opposite side of the valley from Steven's original line. A few years ago, the state temporarily closed this highway while rebuilding it to four lanes and, at a cost of more than a million dollars, rebuilt the abandoned old road over the switchbacks as a temporary bypass.

The old tunnel, abandoned since 1929, now is serving modern science in a way that Stevens could never have imagined. Its granite

insulation and straight bore make it an ideal laboratory for scientists who measure movements in the earth's crust by a laser beam that peers unblinkingly the length of the tunnel.

From the new highway, travelers can see across the valley the great concrete snowsheds that were built after the Wellington avalanche brought its toll of death and destruction, and several levels of the old line are still plainly visible.

Stevens Pass is today one of the Northwest's most popular recreation areas. Every winter thousands of skiers flock to the pass to revel in the snow that made railroading a nightmare seventy-five years ago. In summer fishermen and hikers pour over the Cascade Crest Trail, tramping the original grade of the Great Northern Railway as surveyed by John F. Stevens.

BIBLIOGRAPHIC NOTE

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BEST WISHES FOR SUCCESS ON THE PRESIDENT'S TRIP TO MOSCOW

Mr. SCOTT. Mr. President, this week, as the President reaches Moscow, there opens there the principal avenue to more peaceful solutions, the one substantive area this week where important achievements may be reached, chances for peace bettered, the condition of all peoples made more secure, the diminution of tensions, the diminution of fear. And yet all this weekend there have been militants and protesters and ministers of the gospel and college administrators, all of them addressing themselves not to the chances for peace in Moscow, but to a single demand which boils down to an argument that they have better solutions than the President has for ending the war in Vietnam.

That war will be discussed, without question, in Moscow.

These are the same people who, with almost monomaniacal intensity, were screaming loudly following the President's recent actions in mining the harbors of North Vietnam that a nuclear disaster would be on us, that Russia would intervene, that China would intervene.

I think it is fair to say, once more, that the critics have been proved wrong. China did not intervene. Russia did not intervene. The summit meeting is going on.

Not a single person with whom I have spoken who was a party to this welter of criticism has bothered to spare 1 minute to indicate an interest in Moscow. Not a word of prayer was uttered in my presence, nor could I read of one in the newspapers, for success at Moscow. On the floor of the Senate, little or nothing has been said about the importance of the visit there, and the fact that this was the first President to be able to go to the capital of Russia during his term of office.

I think while we are expending so much energy telling the President what to do elsewhere in the world, it might be a little more proportionate, a little more creditable, for the press and the people and the Congress to devote some of their thoughts and attention to where the action is, and to join in heartfelt wishes for success to the President, for a union of minds of these two great super powers, for a lessening of the fear which besets all, which seems to be a fear of the truce of terror. An opportunity exists for us to lessen these fears. I hope more people will move as I have suggested, namely, to pray, for the success of the negotiations at Moscow.

Mr. MANSFIELD. Mr. President, may I say that no statements have been made on the floor of the Senate vis-a-vis the President's trip to Moscow, because it did not take place until Saturday morning. At least, that was the beginning of the journey. But the joint leadership, the Senator will recall, were with the President on Friday, and we did go to Andrews Air Force Base to see him off, bid the President Godspeed, and wish him well.

As far as assemblages are concerned, may I say that the first amendment still guarantees the right of peaceful assembly to the people of the Nation. I think the first amendment is so important that it should be read over and over and over again. It says:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; of abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

I think it ought to be pointed out that in the last clause, the word to emphasize is "peaceably." Our citizens do have a right to assemble peaceably under the Constitution, just as we in the Senate and throughout the country have the right to explain our feelings considering matters which are of national and international import. But that right does not extend to the violent minority which showed its head yesterday, which assaulted persons and property. The rights guaranteed under the first amendment do not apply to acts of violence, and that small violent minority certainly brought no credit on the great majority who appeared in Washington seeking, in effect, a redress of grievances from their Government.

I do want to join the distinguished minority leader in saying that the Senate—and I know we speak for both sides of the aisle—prays for the President on this most momentous meeting this week, hopes that his expectations will be exceeded, and knows that he is going to discuss Vietnam with the leaders in the Kremlin. Out of this, let us hope and pray, there will come some solution to this tragedy, this war, this difficulty which has cost this country so much and has done so much to bring about division within the ranks of its citizens.

So I wish to say that he does have, as our President, support in his efforts in Moscow from this side of the aisle, just as the distinguished Republican leader indicated that was the case on the other side. He will have our prayers with him during this most momentous week, and on his shoulders will, of course, ride our expectations, our hopes, and our prayers for a number of settlements, the most important of which would be an end of the tragic war in Vietnam, a SALT agreement, trade and credits, exchanges, and other matters of importance to our two Nations and the world.

Mr. SCOTT. I thank the distinguished Senator.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Nebraska (Mr. HRUSKA) is recognized for not to exceed 15 minutes.

ANNUAL REPORT ON ELECTRONIC SURVEILLANCE

Mr. HRUSKA. Mr. President, the "Omnibus Crime Control Act of 1968" became law on June 19, 1968. The several titles of that act were designed to aid the Government in arresting and reversing the rampant rise in crime in our Nation, especially the proliferation of illicit activities by syndicated crime organizations.

Title III of the Omnibus Crime Control Act was essentially a combination of bills introduced by Senator MCCLELLAN and myself to control the use of electronic surveillance to protect citizens in two ways: first, by prohibiting electronic surveillance by any private party or unauthorized government agent and, second, by establishing a constitutionally acceptable standard for governmental use of electronic surveillance to enforce our major criminal laws.

An annual report to Congress is required under the terms of title III in regard to these electronic surveillance activities. In the past, on the issuance of these annual reports, the senior Senator from Arkansas (Mr. MCCLELLAN) has reported to the Senate on the progress made under title III. In his absence from the Senate for a little while on official duties necessarily a part of a politician's career, I have undertaken to make the following comments in regard to title III and its progress.

Mr. President, it is clear that organized crime affects every single American. The President's Crime Commission put its net annual take at over $7 billion. And as was pointed out in the Judiciary Committee Report on the Omnibus Crime Act, these criminal cartels operate by means of the technology new to our age. The committee report included this quotation, at page 71:

> Communication is essential to the operation of any business enterprise. In legitimate business this is accomplished with written and oral exchanges. In organized crime enterprises, however, the possibility of loss or seizure of an incriminating document demands a minimum of written communication. Because of the varied character of organized crime enterprises, the large numbers of

persons employed in them, and frequently the distances separating elements of the organization, the telephone remains an essential vehicle for communication.

The committee report then went on to say:

Victims, complainants, or witnesses are unwilling to testify because of apathy, fear, or self-interest, and the top figures in the rackets are protected by layers of insulation from direct participation in criminal acts. Information received from paid informants is often unreliable, and a stern code of discipline inhibits the development of informants against organized criminals. In short, intercepting the communications of organized criminals is the only effective method of learning about their activities. (at p. 72)

It was, therefore, recognized that because lawbreakers have modern tools for committing crimes, the Government must have the power and means to deal effectively with their depredations.

Electronic surveillance has always been, of course, an exceedingly controversial issue. But the arguments of wiretap critics are fast being successfully rebutted by the facts of experience. For example, the constitutionality of title III has been affirmed in every major court test so far. In October of last year, it successfully met its first federal appellate decision in *United States* v. *Cox*, 449 F. 2d 679 (10th Cir. 1971), cert. denied, No. 71–5910, May 15, 1972.

Meanwhile, we are also garnering information about the efficacy and the careful use of title III through the statutorily required annual reports of all applications and authorizations for the interception of wire or oral communications during the preceding calendar year and the facts of individual cases involving surveillance.

The fourth annual report, prepared by the administrative office of the U.S. courts was recently submitted to Congress. I would now like to bring some of its contents to the attention of my colleagues, so we can judge the wisdom of our action in passing title III. I think the figures contained in it indicate that electronic surveillance is indeed an efficient and fair law enforcement tool.

In 1971, 19 States as well as the Federal Government had laws authorizing the controlled use of electronic surveillance. The Federal Government and 14 of the States reported the use of wiretaps in 1971.

In 1971, there were 816 applications for interceptions; none were denied. A total of 1972 of the orders granted were installed. Federal judges signed 285 of the 816 applications. New York, 48 percent and New Jersey, 35 percent led the States in applications.

The absence of denials attests to the wisdom of the careful preapplication screening process by the prosecutor mandated by title III.

The figure of 816 applications was a 37-percent increase over the applications filed in 1970. In 1970, there were 596 applications; in 1969, there were 301 applications.

In 1971, the average wiretap was granted for 22 days. Approximately 28 percent of the applications resulted in extensions which were granted for an average of 24 days. In 1970, the average wiretap was also granted for 22 days. Approximately 40 percent of the applications resulted in extensions, which were granted for an average of 20 days.

The development here is encouraging. It seems that it is becoming possible to conduct the surveillance over shorter periods of time more successfully.

In 1971, the following offenses were under investigation:

Gambling	570
Narcotics	126
Larceny	31
Homicide	18
Bribery	16
Robbery	17
Burglary	7
Loan sharking	5
Miscellaneous	26
	816

The locations of the interceptions included 342 residences, 211 apartments, 45 multiple dwellings, 134 business locations, and 40 business and living quarters.

In 1971, the average cost—manpower and other resources—was $4,597. In 1970, the average cost was $5,534.

In 1971, the average wiretap involved 40 persons and 643 intercepts, of which 399, 60 percent were incriminating. Federally, the average was 53 persons and 916 intercepts, of which 648, 71 percent were incriminating. In 1970, the average wiretap involved 44 persons and 656 intercepts, of which 296, 45 percent were incriminating. Federally, the average was 57 persons and 821 intercepts, of which 571, 69 percent were incriminating.

The development here is also encouraging. More wiretaps are being used, but fewer persons per wiretap are involved, and a greater percentage of incriminating intercepts is being obtained.

In 1971, the intercepts led to 2,818 arrests and 322 convictions. The studies of the Subcommittee on Criminal Laws and Procedures have shown that the average delay from indictment to trial in organized crime cases is 22.5 months. Consequently, conviction results, it seems, will always lag behind arrests, and this is indeed borne out by the 1971 report. In 1971, 71 arrests were made and 191 convictions resulted from wiretaps made in 1969; 474 arrests were made and 387 convictions resulted from wiretaps made in 1970. This makes a grand total of 3,363 arrests and 900 convictions in 1971 as a result of electronic surveillance, truly an impressive figure, and certainly one that would put to rest the claims of those who said that wiretapping would be ineffective.

To make these statistics less abstract and to gain a sense of the concrete results of electronic surveillance, it will be helpful also to look at the facts in three cases in which interceptions brought otherwise-elusive lawbreakers to justice.

First, the Sklaroff case. On June 1, 1971, a Federal jury found Martin and Jesse Sklaroff guilty of transmission of gambling information.

This was the first Federal wiretrap order under title III. It was in operation 6 days—171 conversations were involved, of which 161 were incriminating—94 percent. The telephone was in a public booth in the Miami International Airport; visual surveillance was maintained on the booth, so that the tap was in operation only when the subject entered the booth.

Two other convictions have been obtained as a result of this tap; other defendants are awaiting trial.

When Sklaroff, one of the Nation's leading layoff men—the underworld figure who reinsures bets—was convicted, he told the Atlanta Journal, June 1, 1971:

It's going to put us out of business.

He continued:

You can't work with a telephone—I'm gonna have to find another business. The Federal wiretaps are going to put us all out of business.

The case is now on appeal in the Fifth Circuit.

In another case, in August of 1969, the Federal Bureau of Narcotics was able to carry out one of the most important narcotics raids in the history of the District of Columbia.

Lawrence "Slippery" Jackson, the major black narcotic wholesaler in the District was picked up. Also arrested were his three Cosa Nostra importers from New York.

In 6 weeks, the agents moved from a street buy by an informant right up through the wholesaler to the New York importers. A wiretap was in operation at a residence for 39 days; 5,889 intercepts were made, of which 5,594 were incriminating, 93 percent.

In November of 1970, six convictions were obtained, and the constitutionality of title III was affirmed. Sentences, ranging up to 40 years, were imposed on the leaders. Jackson, himself, received a sentence of 25 years.

The case is now on appeal in the District of Columbia Circuit Court. Other trials are pending.

Finally, brief mention must be made of the facts in the Cox decision, which I noted above.

On October 13, 1971, the 10th Circuit Court of Appeals decided United States against Cox and upheld the constitutionality of title III. This was the first Federal appellate decision on title III.

Last Tuesday, the Supreme Court denied certiorari in this case (No. 715190), the first to reach the Court on this subject. The fact that certiorari was denied indicates that the 10 circuit decision upholding the constitutionality of this statute was not so out of line as to require immediate review. I believe that this bodes well for an eventual Supreme Court decision upholding the validity of title III.

The case involved four bank robbers, whose conversations were overheard during the course of a wiretap issued in a narcotics investigation.

The wiretap was installed for 19 days on a residential telephone; 1,216 intercepts were involved, of which 157 were incriminating, 12 percent. But the wiretap resulted in 19 convictions: 14 for narcotics, four for bank robbery, and one for an assault on a Federal narcotics agent.

In addition to uncovering the scope of the narcotics ring and solving the bank robbery, the officers were also able to prevent a murder with information overhead on the tap. This is a truly incredible

testimonial to the usefulness and effectiveness of wiretaps.

Mr. President, today crime is organized and sophisticated, and technologically advanced. The Government must also have adequate tools to offset the new opportunities for crime provided by modern means of communication. Electronic surveillance is a badly needed tool. It is working, and working better all the time.

I express my hope that its remaining opponents will soon come to recognize that it can be used fairly, effectively, and constitutionally.

I ask unanimous consent to have printed in the RECORD at this point table No. 7 from the 1971 report which I mentioned earlier.

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

TABLE 7.—SUMMARY REPORT ON AUTHORIZED INTERCEPTS GRANTED PURSUANT TO TITLE 18, UNITED STATES CODE, SEC. 2518

[June 20–Dec. 31, 1968; Jan. 1–Dec. 31, 1969, 1970, and 1971]

Summary item	Reporting period			
	1968	1969	1970	1971
Intercept applications authorized	174	301	596	816
Federal		33	182	285
State	174	268	414	531
Average length of original authorization (days)	20	23	22	22
Number of extensions	128	200	237	228
Average length of extensions (days)	20	21	20	24
Location of authorized intercept:				
Residence	67	134	203	342
Apartment	49	68	163	211
Multiple dwelling	10	14	39	45
Business	45	71	121	134
Business and living quarters		5	30	40
Not indicated or other	3	9	40	44
Major offense specified in application:				
Arson	1	1	13	2
Bribery	5	11	16	16
Drugs	71	89	127	126
Extortion (includes usury and loansharking)	13	10	17	5
Gambling	20	102	325	570
Homicide	21	19	20	18
Larceny	19	10	31	31
Robbery	8	24	13	17
Other	16	35	34	31
Intercept applications installed	147	270	582	792
Federal		30	179	281
State	147	240	403	511
For authroized intercepts installed:				
Actual number of days in use	NA	9018.5	11,190.5	14,582.5
Average number of persons involved	29	53	44	40
Average number of intercepted communications	454	544	656	643
Average number of incriminating intercepted communications	98	265	296	399
Number of authorizations where cost reported	120	262	569	776
Average cost where cost reported	$1,358	$2,634	$5,534	$4,599
Number of orders costing:				
$1,000 or less	75	127	178	241
$1,001–$2,000	21	45	88	163
$2,001–$5,000	18	54	139	162
$5,001–$10,000	6	24	88	114
$10,001 and over		12	76	96

NA=Not available.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

ORDER FOR ADJOURNMENT

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

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

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.

AUTHORIZATION FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE ITS REPORT ON THE CONFERENCE REPORT ON HIGHER EDUCATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be given until midnight tonight to file its report on the conference report on the higher education bill, S. 659.

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

INTENTION OF LEADERSHIP TO TAKE UP CONFERENCE REPORT ON HIGHER EDUCATION TOMORROW

Mr. MANSFIELD. Mr. President, as of now, for the information of the Senate, it is the intention of the leadership to take up the conference report on the higher education bill, S. 659, early tomorrow afternoon—very likely after consideration of morning business and close of morning business.

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 TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW, AND LAYING BEFORE THE SENATE OF THE CONFERENCE REPORT ON S. 659 ON HIGHER EDUCATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the recognition of the two leaders tomorrow, 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 conference report on S. 659, Higher Education.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. The cloakrooms might ascertain whether there are any speakers this afternoon. If not, the Senate may adjourn at an early moment.

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.

WAIVER OF THE CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rules VII and VIII, be dispensed with.

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

FINANCIAL HOLDINGS OF SENATOR WILLIAM PROXMIRE

Mr. PROXMIRE. Mr. President, in 1963, 1965, 1967, and 1970, I submitted for the RECORD the history of my financial holdings from the time I was first elected to the Senate in August of 1957 until June of 1970. In order to bring the full record up to date, I submit herewith the history of my financial holdings since June 1970. There has been no substantial change in the general makeup of my assets. The bulk of my assets are still in U.S. Treasury bonds and notes, as they have been since late 1963. The value of these holdings is about $68,000. In addition, I now have $25,000 in State and municipal bonds.

My other assets include ownership of two homes and furnishings in Washington, D.C., on which I owe substantial mortgages to the Perpetual Building Association of Washington, D.C.; ownership of my home and furnishings in Madison, Wis., on which I owe a mortgage to the Credit Union National Association in Madison, Wis., and from which home I have received $200 per month in rent during the last year; ownership of one 1970 automobile and one 1972 automobile, ownership of one checking account in a Washington bank, one check-

ing account in a Madison bank and one savings account in a Madison bank, for tax purposes, with a combined balance of about $8,000.

I also have an outstanding collateral loan with the National Savings and Trust Co. here in Washington.

Trust custody of stock in my children's names have been turned over to them directly as they are over 21.

The value of my holdings has remained about the same since my last report. I estimate my net worth to be about $160,000.

To the best of my knowledge, this is an accurate record of my financial holdings and obligations.

In addition I herewith submit a copy of my 1971 tax return and a list of all honorariums received during 1971 in the amount of $300 or more. Additional income was received from book royalties, newspaper, and magazine articles and a series of speeches for the Brookings Institution here in Washington for which I receive $150 per speech.

Mr. President, I ask unanimous consent that my income tax return be printed in the RECORD, along with the statement of my financial holdings.

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

3.—HONORARIUMS

List each honorarium of $300 or more received by you during the preceding calendar year. Do not list reimbursements of expenses. If none, write none.

Date	Payer and description of service (e.g., speech, article)	Amount or value
Apr. 27, 1971	Monmouth College, West Long Branch, N.J.—Speech	$1,050.00
Apr. 30, 1971	Massachusetts Teachers Association, Boston, Mass.—Speech	750.00
May 3, 1971	City University of New York, New York, N.Y.—Speech	500.00
May 8, 1971	Bowdoin College, New Brunswick, Maine—Speech	450.00
May 27, 1971	Public Affairs Council, Washington, D.C.—Speech	500.00
May 18, 1971	National Federation of Independent Business—Speech	750.00
Aug. 27, 1971	University of California, Los Angeles, Calif.—Speech	612.00
Sept. 15, 1971	B'nai B'rith, New York—Speech	1,050.00
Sept. 17, 1971	Bucks County Community College, New Town, Pa.—Speech	978.50
Oct. 9, 1971	Father Gibault School, Terre Haute, Ind.—Speech	500.00
Oct. 10, 1971	Association of Governing Boards of Universities and Colleges, Williamsburg, Va.—Speech.	300.00
Oct. 21, 1971	Northwestern University, Evanston, Ill.—Speech	750.00
Oct. 18, 1971	Hillcrest Jewish Center, New York.—Speech	$750.00
Oct. 22, 1971	Texas A. & M., College Station, Tex.—Speech	1,000.00
Oct. 25, 1971	Northwood Institute, Midland Mich.—Speech	1,225.00
Do.	La Salle College, Philadelphia, Pa.—Speech	850.00
Nov. 3, 1971	American University, Washington, D.C.—Speech	500.00
Nov. 14, 1971	University of Delaware, Newark, Del.—Speech	1,000.00
Dec. 5, 1971	Princeton University, Princeton, N.J.—Speech	1,000.00
Dec. 9, 1971	Suffolk University Law School, Boston, Mass.—Speech	1,050.00
Dec. 11, 1971	Maimonides Medical Center, New York—Speech	1,200.00
Feb. 2, 1971	NBC-TV Comment Program, TV talk	320.00
	Total	17,085.50

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

February 10, 1972.
William Proxmire.

U.S. DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE INDIVIDUAL INCOME TAX RETURN—1971

WILLIAM AND ELLEN H. PROXMIRE

Exemptions:	
Yourself and spouse	2
First names of your dependent children who lived with you: Theodore, Elsie, Douglas, Mary E	4
Total exemptions claimed	6
Income:	
Wages, salaries, tips, etc. (attach forms W-2 to back.) See statement 1	$43,500
Interest	4,491
Income other than wages, dividends, and interest (from line 40)	19,750
Total	67,741
Adjustments to income (such as "sick pay," moving expense, etc.)	4,166
Adjusted gross income	63,575
Tax, Payments and Credits:	
Tax	13,561
Income tax	13,561
Other taxes	585
Total	14,146
Total Federal income tax withheld	11,768
1971 estimated tax payments	5,500
Total	17,268
Balance due or refund:	
Overpayment	3,122
Refunded	742
Credited on 1972 estimated tax	2,380
Income other than Wages, Dividends, and Interest:	
Business income or (loss)	20,912
Net gain or (loss) from sale or exchange of capital assets	−117
Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc.	−1,045
Total	19,750
Adjustments to Income:	
Employee business expense	4,166
Total adjustments	4,166
Tax Computation:	
Adjusted gross income	63,575
If you itemize deductions, enter total	16,565
Total	47,010
Total number of exemptions claimed, by $675	4,050
Taxable income	42,960
Other taxes:	
Self-employment tax	585
Total	585

Itemized deductions:	
Medical and dental expenses (not compensated by insurance or otherwise):	
½ (but not more than $150) of insurance premiums for medical care. (Be sure to include in line 10 below)	150
Total	0
Enter balance of insurance premiums for medical care not entered on line 1	256
Total	256
Enter 3 percent of line 18, form 1040	1,907
Subtract line 8 from line 7. Enter difference (if less than zero, enter zero)	0
Total deductible medical and dental expenses	150
Taxes:	
Real estate	1,574
State and local gasoline (see gas tax tables)	90
General sales (see sales tax tables)	407
State and local income	4,802
Home furnishings sales tax	527
Total taxes	7,400
Contributions.—Cash—including checks, money orders, etc.:	
Church	150
Miscellanous organized charities	50
Total cash contributions	200
Total contributions	200
Interest expense:	
Home mortgage	1,661
National Savings and Trust	1,790
Total interest expense	3,451
Miscellaneous deductions for child care, alimony, union dues, casualty losses, etc. See statement	5,364
Total miscellaneous deductions	5,364
Summary of Itemized Deductions:	
Total deductible medical and dental expenses	150
Total taxes	7,400
Total contributions	200
Total interest expense	3,451
Total miscellaneous deductions	5,364
Total itemized deductions	16,565
Interest income:	
Interstate	268
U.S. bonds and notes	4,071
U.S. Treasury notes and bonds sold	152
Total interest income	4,491
Profit (or loss) from business or profession:	
Gross receipts or gross sales	23,243
Less: Returns and allowances	23,243
Gross profit	23,243

U.S. DEPARTMENT OF THE TREASURY, INTERNAL REVENUE SERVICE INDIVIDUAL INCOME TAX RETURN—1971—Continued

WILLIAM AND ELLEN H. PROXMIRE—Continued	
Other business deductions:	
Other business expenses	$2,331
Total	2,331
Net profit	20,912
Capital Gains and Losses:	
Long-term capital gains and losses—Assets held more than 6 months:	
See statement 2	−234
Net gain or (loss)	−234
Net long term gain or (loss)	−234
Summary of Parts I and II:	
Combine the amounts shown on lines 5 and 13	−234
If line 14 shows a gain—Enter 50 percent of line 13 or 50 percent of line 14, whichever is smaller	0
If amounts on line 5 and line 13 are net losses, enter amount on line 5 added to 50 percent of amount on line 13	117
Taxable income, as adjusted	117
Supplemental income schedule:	
Rent and Royalty Income:	
Total amount of rents	2,200
Depreciation	804
Other expenses	2,441
Total net income of (loss) from rents and royalties	−1,045
Total of parts I, II, and III	−1,045

Schedule for Depreciation:	
See statement 3	$804
Total	804
Total cost or other basis	33,115
Summary of Depreciation (Other Than Additional First Year Depreciation):	
Straight line	175
Declining balance	629
Total	804
Computation of Social Security Self-Employment Tax:	
Computation of Net Earnings from business self-employment (other than farming):	
Net profit (or loss)	20,912
Net earnings (or loss) from business self-employment	20,912
Computation of Social Security Self-Employment Tax:	
From business (other than farming)	20,912
Total net earnings (or loss) from self-employment	20,912
(If line 9 is less than $400, you are not subject to self-employment tax. Do not fill in rest of page.)	
The largest amount of combined wages and self-employment earnings subject to social security tax is	7,800
Total	7,800
12 Balance (subtract line 11(c) from line 10):	
Self-employment income	7,800
If line 13 is $7,800, enter $585.00; if less, multiply the amount on line 13 by .075	585
Self-employment tax	585

PROXMIRE—1971 FEDERAL INCOME TAX STATEMENTS

Employer's name and address	FICA	Income tax withheld	Wages, etc.
Statement 1—Wages:			
(H) U.S. Senate, Washington, D.C		$11,639	$42,500
(W) Washington whirl-around	$52	129	1,000
	52	11,768	43,500

	Date acquired	Date sold	Sales price	Cost or other basis	Gain or loss: Short term	Gain or loss: Long term
Statement 2—Long and short term capital gains and losses:						
(H) (A) Sale of Treasury notes and bonds	1971	$11,866	$12,100			−$234
Total capital gains or losses					0	−234
Statement 3—Rent and royalty income:						
(H) Property (1)—residence, Madison, Wis., gross rents					$2,200	2,200
Expenses:						
Depreciation					804	
Repairs—painting					637	
Repairs—miscellaneous					92	
Insurance					183	
Interest					170	
Legal and accounting					435	
Taxes—Property					924	
Total expenses						3,245
Net loss						−1,045

Description	Date acquired	Cost or other basis	Accumulated depreciation	Depreciation method	Life: Years	Life: Percent	Depreciation this year
Depreciation:							
House	1958	$30,565	$9,591	150DB	50		$629
Improvements	July 1, 1964	1,750	1,123	SL	10		175
Furniture	Dec. 1, 1964	800	800	SL	5		0
Total							804

	Amount
Statement 4—Profit or loss from business or profession:	
Other business expenses:	
Travel expense	$2,331
Total other business expenses	2,331
Statement 5—Business expense:	
Travel expense away from home:	
Lodging, meals, and tips	946
Transportation	2,183
Living expense, District of Columbia	3,000
Total business expense	6,129
Less reimbursements	−1,963
Total	4,166
Statement 6—Itemized miscellaneous deductions:	
Tax preparation fees	350
Investment expense	24
Total	374
Employee business expense:	
Other business expense, advertising:	
Dues and subscriptions	118
Entertainment	124
Telephone	40
Broadcasts	2,880
Photos	62
Miscellaneous office expense	1,740
Total business expense	4,990
Miscellaneous other deductions	5,364

I hereby certify that I was in a travel status in the Washington area, away from home, in the performance of my official duties as a Member of Congress, for 45 days during the taxable year, and my deductible living expenses while in such travel status amounted to not less than $3,000.00.

WILLIAM PROXMIRE.

SIX YEARS EVIDENCE TO THE CONTRARY, SECRETARY ROGERS CLAIMS VIETNAMIZATION IS WORKING

Mr. PROXMIRE. Mr. President, on Monday, May 15, Secretary of State William Rogers appeared before the Foreign Operations Subcommittee of the Senate Appropriations Committee. I have the honor to chair that subcommittee.

In the course of the Secretary's appearance, he made the astonishing assertion that Vietnamization is working. I have regard for Mr. Rogers. He is a conscientious and able man. He has served this country selflessly and under the most trying circumstances, but for the Secretary of State to claim that Vietnamization is working, after all the evidence we have seen, is outrageous.

I ask unanimous consent that excerpts from the hearing that relate to the questioning of Mr. Rogers on this remarkable illusion be printed in the RECORD.

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

VIETNAMIZATION IS WORKING

Senator FONG. Mr. Secretary, I want to congratulate you for the policy that you have established in cooling the trouble spots of the world. You have taken care of the Berlin crisis and, in the Middle East, the shooting has stopped. Vietnam seems to be the only hot spot now, and there has been a lot of criticism about Vietnamization, "Vietnamization has not worked," the present onslaught

by the North Vietnamese against the South Vietnamese, and some stories come up about the soldiers' refusing to fight and they have been driven back, and from this they draw the conclusion that Vietnamization has not worked. Now, could you speak to that?

Secretary ROGERS. Yes, Senator. We believe that the Vietnamization program is working. Let me tell you what the Vietnamization program is as I see it. It was to turn over the principal responsibility for combat to South Vietnam, to permit the withdrawal of American ground combat troops in Vietnam, to hold out the most responsible and reasonable proposals for negotiated settlement that we could while this was happening and to make sure that South Vietnam was not overrun by military forces during this period of time.

Now, I don't have to elaborate at any length what has happened; we have reduced the number of ground combat troops by almost a half a million, almost 500,000; we have withdrawn American combat troops. The total incremental cost of the war has gone down from about 21 million to 7 million or something in that order.

We had, until about two months ago, by everyone's standard, cooled the situation so that the fighting was de-escalated, the casualties were way down. You note two years ago we were running 300 Americans killed a week, and now we are in the neighborhood of 10 or less. So, from that standpoint, we think Vietnamization has worked well.

We always recognized, Senator, that at some point a time would arrive when the South Vietnamese would be faced with the responsibility of defending themselves. We have said all along that when that occurred, we would help them with their air and naval support. Now, the President said, each time he announced troop withdrawals, that he would take whatever action was necessary if the enemy attempted to take advantage of that situation; and, as you know, recently massive invasion of South Vietnam occurred and, for the first time, all of the combat divisions of North Vietnam were sent into either Laos, Cambodia, or South Vietnam, and they used a great deal of equipment, heavy equipment, new, modern equipment; and South Vietnam, of course, is faced with the problem of defending itself under these circumstances.

They are doing quite well. The reports yesterday and the day before indicated that they are doing quite well. We think they will be able to defend their country. We are providing, as you know, air and naval support, and we are going to continue to do that.

In the meantime, I think, we have provided the most responsible and forthcoming proposal on negotiated settlement that a nation could propose. President Nixon, in his statement, proposed a total withdrawal of our military forces from Indochina in four months on the condition that there would be an internationally supervised cease fire in exchange for prisoners of war. That seems to have been forgotten; a lot of people forget that he has made this proposal, but it is a very reasonable proposal. We think that it is a proposal that the other side should accept, and I notice that some leading Members of the Senate have indicated that they thought so, too.

Therefore we think Vietnamization has worked. We realize that we are going through a difficult period now. We think South Vietnam is going to defend itself.

Senator FONG. You are pretty sure that South Vietnam will be able to defend itself?

Secretary ROGERS. Yes, we feel that way.

Senator FONG. Now, the mining of the harbors of North Vietnam—I understand that the harbors of South Vietnam were mined by the Vietcong and by the North Vietnamese in the early part of the war. Is that true?

Secretary ROGERS. That is correct, yes. I think people forget that the enemy has been mining both the territorial waters and internal waters in South Vietnam for some time.

Senator FONG. And some ships have been damaged?

Secretary ROGERS. That is correct. There was damage to foreign ships, including United States ships.

Senator FONG. Thank you.

Senator PROXMIRE. Mr. Secretary, if the Vietnamization program has worked—and I hope and pray you are right, and I certainly agree with you the most recent information we have is encouraging and heartening—but if it has worked, why is it necessary for the President to take this extraordinary action which would—we hope it won't, and maybe it won't—result in a confrontation with the Soviet Union, an action which could result in the destruction of ships and citizens of other countries, an action which was recognized by the previous Administration and which has been categorized as being quite extreme—mining a harbor—and which has been supplemented, of course, with the most vigorous bombing attacks in a long, long time, resulting in the deaths of tens of thousands of people.

If the Vietnamization is working and the South Vietnamese are able to take over more of this, why is this extraordinary kind of lethal and dangerous confrontation necessary?

Secretary ROGERS. Mr. Chairman, I don't know as I want to repeat everything the President said in his message the other night, because I think it was one of the great statements that has been made about this tragic war and, as you know, it has received overwhelming support of the American people, so I don't want to repeat all the things that he has said.

Senator PROXMIRE. I don't know that. I have seen some polls. If somebody asked me, "Do you support the President against the Communists?" of course I will say I do. But I have found in the mail I am getting and the wires I am getting—I have been out in my State every one of the last three weekends and talked extensively with literally thousands of people, and the overwhelming position I get is that the people are very deeply concerned, very much opposed to escalation here and feel very strongly that the President may have made a serious mistake.

The fact that poll takers come in and ask the people if they support the President in time of crisis when we are close to war with another country their affirmative answer is no surprise; people are patriotic and they will support their President in almost any circumstances when he is in confrontation with an enemy. But I just wonder if this represents real support of the American people for this kind of extraordinary action.

Senator FONG. I think the two polls that were taken, one by the Public Opinion Poll, went specifically to the question of mining the harbors of North Vietnam and whether they would agree with the President that that was the right move, and I think that the Public Opinion Poll showed that 74 percent of the American people were with him and the Harris Poll showed that 58 percent were with him, I think.

Secretary ROGERS. That is correct. I have no doubt about it that the American people support the action that the President took. Now, you know you can argue about it, but I think the polls clearly show that they support him.

Let us talk about it a little and let us take one thing at a time, Senator. Take the mining of Haiphong. You say in your statement, well, that was rejected by the other Administration, therefore it must be bad. I think that is a non sequitur. The fact of the matter is—

Senator PROXMIRE. I didn't say it must therefore be had, it was rejected. Is that not a fact? It was considered and it was always constantly rejected by the Johnson Administration.

Secretary ROGERS. But I think that the implication that was intended was therefore it must be wrong. I think just the other implication is the correct one.

Senator PROXMIRE. Didn't escalate enough, the other Administration should have been more aggressive.

Secretary ROGERS. The other Administration should have taken this action and the war might not have lasted as long as it did.

I think the logic was wrong, it was faulty—it was faulty in many instances in the past. I think that to now argue that the other Administration rejected this and therefore this is wrong is fallacious, it is a non sequitur. The very people that argue that the other Administration made mistake after mistake now cite this as an example of how wise they were not to bomb Haiphong.

Let me finish, Mr. Chairman, because in the first place, that is the least offensive maneuver that could have been taken. The enemy has been mining in South Vietnam during the war time and time again and there was very little or no criticism of them.

Secondly, the mining of the Haiphong harbor was not going to cause difficulty unless someone went to it. The mine is a passive weapon, it does not go to anybody, it only activates in the event that a ship goes to it.

Third, it was clear that if we were going to support the South Vietnamese and at a time when they were under this massive attack, and there is no denying that, that we should do these things which were as restrained as we could devise.

In other words, there were several things that were thought of that we did not decide to do. So, these actions, the mining of Haiphong, I think, were quite restrained and the interesting thing now is that I notice that the critics are beginning to say maybe this was a good thing to do.

All the predictions that were being made about how catastrophic this was going to be did not appear to have come to pass.

Now, we think that it could very well bring about a failure of the invention of the South by the North, and if that is the case, we think it is quite possible that the other side will decide that the advisable course is to negotiate a settlement.

So, I don't agree that it is a dangerous tactic, I don't believe it is going to result in a major confrontation and I think it may very well lead to a negotiated settlement.

In any event, I believe it is going to make it quite possible, I think it is quite likely now that the South Vietnamese are going to be able to defend themselves successfully and I think it is probably going to be a turning point.

Senator PROXMIRE. I certainly hope you are right, Mr. Secretary. You and I have the same objective, we hope this war can end and we can achieve peace and end the killing.

But the argument, Mr. Secretary, is this, that the past Administration was criticized by many of us, I supported them for a long, long time, but in early 1968, I broke sharply with the Administration and criticized them for the escalation and felt that our bombing was unjustifiable and we ought to get out. I criticized the bombing before that.

The fact that the Administration, however, did not resort to this kind of action, either bombing Hanoi directly, bombing the city and mining the harbor, it seems to me represented some kind of restraint.

The restraint that was involved, although this mining may be a defensive measure, the fact is it is a measure aimed not simply at Vietnam but at the nations that were supplying it—Russia, China and other nations, so that it seems to me that under these circumstances what the Administration has done does represent a serious escalation of the war.

Furthermore, it is accompanied by an enormous amount of bombing and no matter what you say about the defensive quality of

mines, there is nothing defensive about bombing.

There is no question it is going to result in the death of thousands of innocent people and it has, so I think we have to recognize that this kind of action on our part, especially when you recognize that the North and South Vietnamese both represent about an equal number of people, both about 17 million people, the Communist nations do supply the North, all the evidence that we have so far is that the supply has been far less than our supply of the South, China and Russia have been doing none of the fighting, none of the dying.

We have lost 50,000 dead Americans, 250,000 wounded, we have poured enormous amounts of supplies in. The requirement for an offensive action in which North Vietnam is engaging, of course, is much more serious than the defensive action.

Under these circumstances to say that Vietnamization is working sounds to me like pretty Pollyannish optimism.

I hope it does, maybe it will. If it does, it will be unfortunately because of the aggressive action and escalation by our Government rather than because the South Vietnamese have demonstrated until maybe the last 24 or 48 hours, any real will to defend their country.

Senator FONG. The interesting thing about it, Mr. Secretary, is that the escalation is on our side and not the escalation on the other side. They started and invaded with 15 divisions, all the divisions they had in North Vietnam. They came in, they started with a massive invasion and this was reescalation.

All we did was to try to stop that invasion and I don't call it an escalation on our part.

Secretary ROGERS. I think, Senator, you could not be more right. I cannot get over the fact that we keep talking about how we have escalated the war. Mr. Chairman, the war was escalated by the other side. It is just as simple as that.

Two months ago, every one in this country was saying, fine everything is going well. What changed it? What changed it?

Senator PROXMIRE. There is no question that they have engaged in aggression, sure. I will admit that, I agree to that, that is right.

Secretary ROGERS. That is escalation.

Senator PROXMIRE. That is true but it is also true and I don't think we are being honest or fair if we don't agree that we have stepped up the bombing enormously. Sure, they have stepped up their invasion. They have put for the first time a conventional kind of invasion as Senator Fong says, with divisions, with tanks and so forth, in the field. That is the case.

But we have stepped up our bombing, we did that before their invasion resulted. We were bombing the North and if we are going to look at this fairly and honestly, we ought to see what both sides are doing.

Secretary ROGERS. Senator, if somebody is trying to break into your house and you try to push him out the window, are you escalating it? We are in this situation; the other side escalated it. You said so yourself. They have escalated it. What we are trying to do is take a defensive measure to prevent that escalation from proceeding. It is as simple as that. The decisions the President made were based on the fact that this escalation occurred and he advised the other side before that happened that if they escalated, if they attempted to take advantage of our position as we were withdrawing our troops, then he would take the necessary action and he did that.

But he did it because they escalated the war, not the United States. And it seems to me that every time an American talks about this he should say that to himself; he should say the escalation resulted from what the enemy did, not what the United States did.

Now, the bombing that we are engaged in involves military targets. The enemy is attacking civilian populations. They have killed 20,000 civilians in South Vietnam. There is very little said about that. We are bombing military targets, we are not bombing civilian populations.

So, I think, first, any time we talk about this we first have to say to ourselves the escalation of this war was caused by the enemy and what we did was a reaction against that escalation.

The bombings that were engaged in are bombings of military targets; the bombings the enemy are engaged in are against civilian populations, they are throwing in artillery in DaNang and Hue and all these cities like water spray.

Senator PROXMIRE. May I say, Mr. Secretary, that you are an extraordinary eloquent man, you are persuasive.

Secretary ROGERS. I hope so.

Senator PROXMIRE. Let's recognize how we started out. We are starting out discussing whether Vietnamization is working. Now if we are going to go in with a bombing that is greater in North Vietnam than our planes dropped on all the countries throughout World War II, if we are going to put the greatest Navy in the world at the disposal of South Vietnam against little North Vietnam, if we are going to have the greatest Air Force in the world engage in the kind of tremendous activity it is, then I don't know how you can say that whatever military progress is being made here is being made as a result of Vietnamization.

Secretary ROGERS. I didn't say that.

Senator PROXMIRE. The South Vietnamese are not doing it and that was the fundamental question.

Senator Fong asked you how Vietnamization is working and certainly on the basis of what has happened here, not only with our mining the harbor, but with our enormous amount of bombing and with the terrific amount of supply, the fact that we have supplied that million-man army with our own expenditures with $100 billion does not sound to me as if Vietnamization is doing the job.

The South Vietnamese are not doing it, we are responsible for the fact that they are able to defend their country, although we poured in far, far more.

Do you deny that, far more supplies than the Russians and Chinese have poured in?

Secretary ROGERS. Oh, no.

Senator PROXMIRE. You would not deny it?

Secretary ROGERS. No, I would not deny it.

Senator PROXMIRE. Then, how can you argue under these circumstances—that we have provided far more supplies, that there are 50,000 dead Americans, the enormous effort that we have made, the terrific amount of bombing, the mining of the harbor and then say that the reason for success here is because Vietnamization is working.

Secretary ROGERS. I don't say that. I didn't say that.

Senator PROXMIRE. Then, it is not working?

Secretary ROGERS. No, I didn't say that, either. The Senator asked me.

Senator PROXMIRE. Is it working or not working? Which is it?

Secretary ROGERS. Well, if you let me finish, I will try to tell you.

I said that I think Vietnamization is working.

If you go back and look at the testimony that we have given every time we have appeared, we have always said that at some time a crunch would occur, at some point there would be a serious battle unless there was a negotiated settlement.

There would be a test between the South Vietnamese and the North Vietnamese and we thought that in the final analysis, the South Vietnamese would be able to defend their country.

But we always said, Senator, and you have to keep this in mind, that we were going to continue to provide air support and naval support while our troops were being withdrawn and we said we were going to provide air support for some time thereafter.

We were going to train the South Vietnamese to fly aircraft and they do now, they fly about a quarter or a third of the tactical air strikes in South Vietnam.

We said we are going to have to do that, too. Part of the Vietnamization program is to encourage them to fly, to provide some planes for them and so forth.

Now, this is all in the process, it has not ended. In the meantime, this—

Senator PROXMIRE. Would you hold for a minute? You certainly would not argue that this bombing is a matter of cover for our troops' withdrawal primarily.

Secretary ROGERS. Well, it is part of it, yes, sir.

Senator PROXMIRE. Maybe for a very small extent, but the kind of bombing we have been engaging in with the number of sorties a day that we have engaged in with the terrific concentration of aircraft is a matter of assisting the South Vietnamese to defend their country.

Secretary ROGERS. Yes.

Senator PROXMIRE. It is not a matter of withdrawing our troops. So that is part of our action.

Secretary ROGERS. It is a combination. We are withdrawing our troops.

Senator PROXMIRE. 98 percent. It is like an elephant and a mouse.

Secretary ROGERS. It is a combination. We have made no secret of the fact it is a combination. We are going to continue to withdraw our troops and while this is occurring we are going to use our naval power and air power to protect our troops and to assist South Vietnam, and we are doing that.

Senator PROXMIRE. I am glad to get the conclusion from you, Mr. Secretary, that in your view, you are not making an assertion that the Vietnamization is working.

Secretary ROGERS. That is not correct.

Senator PROXMIRE. I understood you—

Senator FONG. Vietnamization is working?

Secretary ROGERS. I said Vietnamization is working.

Senator PROXMIRE. I will read the transcript but I certainly got the impression that you agreed that the United States, with all we have poured into this with the enormous amount of bombing and the casualties and effort that we have made represents the real difference here; there is not Vietnamization, it is not the Vietnamese, the South versus the North Vietnamese that may be succeeding here, it is the American effort that is doing it and that is not Vietnamization, it is American contribution.

Secretary ROGERS. That is your definition of Vietnamization. My definition of Vietnamization is that we would assist the South Vietnamese to defend their country and we would withdraw our troops and in that process, we would provide them military equipment and we would provide them air support.

We recognize that an attack might occur and if it did, we thought together we would handle it. We are. We are providing air support and we think it is working.

Now, that is my definition of the Vietnamization. We never said that Vietnamization was just that South Vietnam would handle everything and we would get out; that is the thing we resisted.

Senator PROXMIRE. You know as well as I know it is the air support and the naval support that are the strongest military force in the world against a fifth rate military power which has perhaps one percent or less of the military strength that we have. That is what is working here, that is what is effected,

it is not the South Vietnamese. I don't know how any fair-minded person can say the South Vietnamese can fight and die and win as compared to the North Vietnamese. They have not done it. They have not showed even that they believe in their Government.

They have not done it so it is not working, but it is a difference of opinion.

Senator FONG. Mr. Secretary, it is a fact that South Vietnamization is working, that is the reason that North Vietnam is getting out. It would be difficult for them to get in.

Secretary ROGERS. No doubt about it at all in my mind.

Senator FONG. That shows at this time because we are down to a very, very small number of American combat units.

Secretary ROGERS. And causes us the maximum embarrassment.

Senator FONG. And also if they waited any longer, perhaps South Vietnam would be too strong for them to hit.

Secretary ROGERS. Yes.

Senator FONG. And so, Vietnamization is working, that is why they want to hit now.

Secretary ROGERS. That is correct. I think, Senator, it is important to say this, that at this time it is critical in our national life and at a time when we are preparing to go to the Soviet Union, at a time when everyone admits that we have a very reasonable peace proposal on the table, I think it is a time for people not to be critical. There is going to be plenty of time to criticize the President in July, August and September.

Now, it seems to me that we ought to exercise restraint, we ought to think and reflect, we ought to support the President. We ought not to revive all the old arguments about the war, we are all in it together, it is important for all of us.

Now is the time, it seems to me, to support the President, not to be critical, not to go back over and try to figure out who made mistakes in the past. Certainly, there are enough mistakes made so that we can all share in that discredit or credit.

Senator FONG. The sad thing about it is before the enemy was looking at our proposal we were already changing our proposal in the Senate.

Secretary ROGERS. That is a fact. I was very much impressed with what the Foreign Minister of Canada, the Secretary of State for External Affairs, Mitchell Sharp, said, because they went to him and they asked him right away that night, "What do you think about the President's speech?"

And he said something I think all Americans should think about. He said, "This is a very serious matter, it comes at a critical time. This is a good time to think and reflect. I am not going to say anything".

I think that is good advice for all of us.

Senator PROXMIRE. Mr. Secretary, I was about to go on to other things because we do have Dr. Hannah here to testify, too. You have done a fine job, as you always do, defending your position, but I would like to say that I just can't resist when you say it is no time to be critical.

It seems to me that when the President of the United States moves into a critical position like that, into a serious position like this, what good Americans do is to pray for the President and hope that he is making the right decisions but never ever to give up on criticizing. That is what makes our country different from other, totalitarian countries. It is our responsibility, if we feel the President of the United States is doing the wrong thing, to say so, to say so constructively and positively; but to criticize him when he is wrong seems to me that if a United States Senator with the responsibility we have, and when Senator Fong asked the question of this kind, "Is Vietnamization working?" and you say it was, and if I just sat here like a bump on a log and assume it is working and let you go with it, it seems to me I would be remiss in my duty. I think we should be critical of the President when he is wrong in all circumstances.

I hope that the summit conference in Russia works out well, that is so important to us. Vital and important as the Vietnam war is, that is more important, and I hope that it can work and will work well.

I think the President has done many things extremely well, and I have said so. When he has done them wrong, I think we should speak out vigorously and directly and immediately and not wait in any circumstances.

Secretary ROGERS. Mr. Chairman, I was not criticizing you. I am critical of some of the comments that were made immediately at the completion of the President's address.

You comment on your hope that the summit meeting will be a success. All of us do. I think that not only the summit meeting but the future in Vietnam, the possibility of a negotiated settlement, depends, in considerable measure, on the support of the American people, because I think things are going well. I think things are going well generally in foreign affairs. I think that the President's policy toward the People's Republic of China, has sound policy that is going to provide great dividends in the future—I think our policy vis-a-vis the Soviet Union is a sound policy, and I think that we do now face a time in our national life where we can get along better with the Soviet Union and the People's Republic of China, and if that is the case, it may help lead to a successful completion of the war in Indochina and result in a negotiated settlement.

To a considerable extent, that depends on the kind of criticism that is made, and I am not talking about constructive, thoughtful criticism, and obviously I think every Senator has to reserve his own position. I am just saying that the type of criticism and the timing of it is important and I would hope very much that responsible Members of the Senate and the House could understand the importance of this moment in their national life and not engage in strife and criticism, and I would hope the Congress will not pass any legislation that will undercut the President's position. I say there is plenty of time for the criticism that you speak about, Senator, in the campaign.

Now we need some support, we need reflection, careful consideration given to the delicate position that we face as a nation. It is a critical time; I think it is going to work out well. I think next year when I come back here, you will find that you will have other things to congratulate me about.

Senator PROXMIRE. Well, I certainly hope so. Mr. Secretary, it would be a surprise if the Secretary of State ever came before the Congress and said things are going badly in foreign affairs. We expect you to say they are going well. You referred to our relations with China; you referred to our relations with Russia. You see, that is the difficulty. This is more than a defensive action and protection of South Vietnam. This is something that goes right to the heart of our relations with two of the other strongest countries in the world.

That is the problem. I don't know how well things are going with the Soviet Union when we engage in this kind of action or how well they are going in China. I hope and pray that they exercise restraint, but I can understand why they might feel that if their ships are sunk, that if a Russian ship is sunk, that they have to engage in counteraction of some kind then things won't be going well at all.

JOINT ECONOMIC COMMITTEE PUBLISHES STUDY OF CHINESE ECONOMY

Mr. PROXMIRE Mr. President, as chairman of the Joint Economic Committee, I am proud to announce publication of an excellent staff study of economic developments in Communist China.

Since the President's visit in March, curiosity about the economy of mainland China is greater than ever. We know far less about China than any other large country. The study now makes available some basic insights on the weak and strong points of Chinese efforts to maintain a huge and growing population and promote growth. The major conclusions are as follows:

The economic losses caused by the cultural revolution of 1966–69 were far more limited than the earlier economic disasters of the great leap forward in 1958 through 1960. Moreover, the Chinese economy has now fully regained the growth momentum of the years preceding the disruptions of Chairman Mao's cultural revolution.

China's chronic problem of feeding its population has been eased by a modest, but impressive Chinese version of a "green revolution." Nevertheless, in spite of an active birth control policy population growth will continue to place heavy pressure on subsistence.

To date, China has been successful in meeting conflicting claims on scarce resources: Feeding the population, expanding and modernizing their military forces, establishing and improving their industrial base. However, this current economic stability may be disturbed by several possible developments: Poor crop years, escalating weapons costs, and political instability from either Maoist programs or his succession crisis.

In spite of economic successes in China, its gross national product remains far behind that of the United States, and other major nations. China's estimated gross national product for 1970 was $120 billion, as compared to $974 billion for the United States, and approximately $245 billion for Japan. On a per capita basis, the comparison is much more striking. China's per capita income is only 3 percent of ours and approximately 6 percent of Japan's. Its relative economic weakness means that any military threat from China must be low. They are much too weak economically to pose any serious military danger to the United States. And this situation inevitably will continue for some time.

The publication, which is entitled, "People's Republic of China: An Economic Assessment," was prepared by several Government departments. Scholars throughout the country had informed us that it would be difficult for them to update the committee's 1967 study, because most of the recent information is in the hands of the Federal Government.

Accordingly, we undertook this publication to make recent Government information available to the public. We have had excellent cooperation from the Central Intelligence Agency, the Department of State, and other Government civilian agencies in preparation of this publication, particularly on the subject of current and future defense alternatives facing the Chinese and the burden of defense on limited resources. Regrettably, the Defense Department did not

see fit to participate in the study, because of reluctance to reveal secret information. This is another example, in my opinion, of overzealous application of secrecy regulations.

I have scheduled hearings next month to permit outside experts to testify on the newly available information.

A copy of the "People's Republic of China: An Economic Assessment" is available from the committee office, G–133, New Senate Office Building—225–5321.

I ask unanimous consent to have printed in the RECORD a summary of this study, made by John P. Hardt, on the economic development in Communist China, which is very revealing and interesting, as it indicates among other things that while China has progressed greatly, she still does not have the economy to represent a military threat to this country.

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

SUMMARY

By John P. Hardt

Five years ago, as the Great Proletarian Cultural Revolution was building up to a peak, the Joint Economic Committee released a pioneering, two-volume assessment, entitled *An Economic Profile of Mainland China. Today,* as the People's Republic of China begins to participate in the United Nations and as relations between China and the United States begin to thaw, it is appropriate to reassess and update the conclusions reached in the earlier study. The present volume, in which 12 U.S. Government specialists analyze China's economic performance, is the result.

Although the authors are faced with formidable data problems—discussed in each of the studies—they are able to support their conclusion that China's economy has shown great resiliency and that recent policies and programs are moving the country into a strong economic position. At the same time, the authors demonstrate that China has many remaining economic problems, the most conspicuous of which are the pressure of population on agricultural resources and the difficulty in keeping up in the world technological race.

The volume starts with two articles on the general economic setting—an overall survey of China's economic performance in the past two decades (Ashbrook), an analysis of economic motivation in China (Jones). The next group of papers are on specific sectors of the economy — industrial development (Field), the electronics industry (Reichers), agriculture (Erisman), and transportation (Vetterling and Wagy). Next, problems of human resources are covered in papers on science and education (Orleans) and on population policy (Aird). Finally, China's external economic relations are addressed in papers on foreign trade (Usack and Batsavage) and foreign aid (Tansky).

The authors have provided their own summaries, and the readers will want to make up his own mind when there are clashes in individual viewpoints. Some of the major questions suggested by the analysis of these papers are as follows:

1. How badly was economic development in the PRC set back by the Great Leap Forward (1958–60) and the Great Proletarian Cultural Revolution (1966–69)?

In general, the assessment of the present volume is less pessimistic than the assessment of the 1967 JEC study, partly because of the advantage of hindsight. It is now clear that fairly impressive industrial growth occurred in the midst of the Leap Forward confusion (Field, p. 64) and that the remedial measures in the post-Leap adjustment period were timely and effective (Ashbrook, pp. 4–5). Furthermore, the Cultural Revolution—which was just beginning to have adverse effects on the economy when the first JEC study was being published—proved to have no palpable effect on agriculture and only short-lived effects on industry (Ashbrook, pp. 25–30)

The closing of universities for some 4 years will have some lasting effects on the training of high-level professional manpower, "but the present halting adjustment will, eventually, result in an acceptable compromise between ideology and expedience." (Orleans, p. 205)

As for the scientists, professors and the intellectuals in general, who had to absorb the brunt of the Cultural Revolution:

"The seemingly unrestrained attacks against his Chinese colleagues are likely to be much more painful to the Western scientists . . . than to the object of the abuse who probably has become quite immune through exposure and who is pursuing his daily responsibilities, if not with enthusiasm, then at least with discerning acquiescence." (Orleans, p. 197)

2. How serious were the short and longer term impacts of the Sino-Soviet rupture in relations on Chinese economic development?

Soviet aid was critically important to Chinese industrial development during the 1950's:

"The major impetus to the drive for industrial development was furnished by large-scale imports of machinery and equipment, much of it in the form of complete industrial installations. The Soviet Union was the chief supplier of complete plants. During the decade agreements were signed with the U.S.S.R. for the construction of 291 major industrial installations in China. By the end of 1959, equipment valued at $1.35 billion had been delivered and about 130 projects were completed. Agreements were also signed with Eastern European countries for the construction of at least 100 major projects and about two-thirds of these were completed by 1959. In addition to supplying equipment for these installations the Soviet Union provided China with valuable technical aid including: (*a*) blueprints and technical information, (*b*) some 10,000 Soviet technicians and advisors, and (*c*) training for 15,000 Chinese technicians and academic students in the U.S.S.R." (Usack and Batsavage, p. 344)

The impact of Soviet aid termination in mid-1960 on Chinese industrial output was soon in coming:

"In 1961, industrial production fell sharply to a level slightly above that of 1957 but only two-thirds of the peak reached in 1959. After the withdrawal of the Soviet technicians in mid-1960, the Chinese found that they could not operate many of the heavy industrial plants built as Soviet aid projects, and they were forced to cut production drastically." (Field, p. 64)

However, the shift to non-Communist sources of assistance in the 1960's took away part of the sting, as in the electronics industry:

"The withdrawal of Soviet aid in 1960 forced China to turn to the non-Communist countries for assistance. These countries, principally Japan, West Germany, the United Kingdom, France, and Switzerland, are currently the source of more than four-fifths of China's imports of electronic products and production equipment. In 1960–1970 more than $200 million of technologically advanced electronic production equipment was imported from the non-Communist world. The imports consisted primarily of modern military and industrial electronics which China could have produced domestically only after a long development period. These imports as well as imports from the West of special electronics materials and technological know-how enabled China to forego the lengthy and expensive process of prototype development and to expand its electronics production base from 60 major electronics plants in 1960 to 200 in 1971. Years were saved in establishing the production of advanced electronic products for industrial and military programs. (Reichers, pp. 87–88).

Ideally, continuation of Soviet aid to 1967, that is, through three 5-year plans would have served Chinese economic interests best. Yet, as Reichers suggests, the forged shift to Western industrial sources had tangible long-run benefits to the Chinese.

3. In view of its burgeoning population can the Chinese economy sustain its major priorities?

With the exception of the three disaster years of 1959–61, China has fed its huge and growing population currently estimated to be 865 million. Peking's approach to China's neo-Malthusian problem has been two-pronged—a new investment strategy for agriculture and sporadic birth control programs. The new investment strategy adopted in the wake of the Great Leap Forward involved an increase in chemical fertilizers, pumps for water control, improved transportation, and so forth, and a concentration of these additional resources on potentially high-yield rice land in the south of China:

"The response of agricultural production to the new strategy including the substantial increases in investments in agriculture and the concentration on high-yield acreage—resulted in (*a*) the restoration of the 1957 level of grain production by 1964, and (*b*) the growth of grain production at a somewhat faster rate than population in 1965–71.

"As a result of the changed strategy, a new trend line has been established in agriculture, distinctly higher and more steeply pitched than that prevailing under the low-investment policy of the first decade, yet lower than that which could be readily realized given even larger and better-balanced inputs. Output will exceed the trend value when weather is better than normal and fall below the trend value to the extent weather is unfavorable." (Erisman, p. 142).

The three birth control campaigns have had no appreciable effect on demographic rates. Moreover—and this is the most striking point in the population paper—a successful attempt at fertility reduction probably would have little effect on the total size of the population over the next two decades. Aird's four population projections for 1990 range only between 1,319 million and 1,330 million:

"These models imply that even a major and successful effort at fertility reduction in the PRC is not likely to make much difference either in the size of the total population or in the size of the younger age groups, hence it cannot afford much relief from population pressure in general or from such specific problems as the need for education, employment, housing and other services for young people. To escape from such limited and rather discouraging prospects, the PRC would have to find a way to alter some of the factors that have thus far determined demographic experience in other developing countries.

"The principal reason why these models show so little difference even for successful efforts at family limitation is that they assume a correlation between fertility—and mortality trends. It is, in fact, hard to conceive of circumstances favorable to a general acceptance of family limitation which do not also result in improvement in general health and a lowering of mortality. The dissemination of family planning in the PRC has often been associated and is currently being combined with a general drive for better medical care and sanitation throughout the countryside." (Aird, p. 330.)

In summary, the main line of thinking in these papers is that new investment will keep

agriculture up with population but that agriculture will provide no extra margin for stepped-up economic growth.

4. What burdens do military development and foreign aid—the power oriented programs—place on economic development?

A reading of the papers suggests that the Chinese have been generally successful both in building up a heavy industrial base and in gradually modernizing their armed forces. Among the major factors contributing to this success are: (*a*) the control of consumption at relatively, austere, egalitarian levels; (*b*) the use of foreign trade to get high-technology machinery and materials, which could be produced at home at very high cost and after long delay; and (*c*) the partial insulation of the nuclear and other high-technology programs from political turmoil. The military programs command roughly one-tenth of China's GNP (Ashbrook, p. 45) and the foreign aid programs approximately $400 million annually, or about one-third of 1 percent of China's GNP (Tansky, p. 371). During the next decade, when the cost of series manufacture and large-scale deployment of modern weapons will rise sharply upward, the leadership may face a much tighter squeeze on resources needed for growth. This squeeze would be compounded by the insistent pressure from the population to raise the level of consumption.

5. How successful has Peking been in developing the various economic regions of China?

The authors agree that Peking can point to substantial successes in building up regional transportation and industrial facilities:

"When the Communists came to power, they inherited an undeveloped and badly damaged transportation network. Reconstruction of much of the old network was undertaken during 1950–52, and bold plans were formulated for the extension of the rail, highway, and inland waterway systems. Substantial progress was made during the 1960's and, after a pause during the early 1960's, expansion was again given high priority in the late 1960's. The rail network was extended into the southwestern and northwestern sections of the country, and additional connecting links were built in the east and northeast. The highway network was expanded and improved especially in western areas such as Tibet where no railroads presently exist. The inland waterway network was restored, improved, and expanded. Inland and coastal ports were modernized and their capacities increased. (Vetterling and Wagy, p. 147)

"In summary, the Chinese have persisted in their plan for the regional development of the country through thick and thin. The original plan which was first to repair the industrial centers damaged during World War II, then to build new industrial bases in North and Central China, and finally to develop the Southwest and the Northwest—has certainly been delayed, but the pattern of development has been retained. Pao-t'ou and Wu-han, for example, are now well-established industrial bases, and a large number of industrial construction projects are currently under development in Southwest China." (Field, p. 71)

PROSPECTS AND PROBLEMS

The papers in the volume almost certainly will prove of value to anyone interested in the relationship of the United States with the People's Republic of China. The authors have provided a surprising amount of detailed information on the People's Republic of China's economic history, its current economic situation, and its future economic prospects. Although it has not been the purpose of the authors to spell out the implications of their findings for U.S. policy, they have provided us with an informational and analytic basis relevant to that important task. Some future prospects and problems may thus be identified.

Past Western projections of Chinese performance have often seriously overstated or understated the actual future performance. In times of disruption and poor performance the recuperative capabilities of Chinese society have, apparently, often been underestimated. Now, in a period encouraging favorable forecasts it is well to be cautious. A number of problems may arise to disturb an extrapolation of currently favorable economic trends:

Natural calamities may play their roles as they have throughout Chinese history; for example, floods, droughts, earthquakes, epidemics, and so forth.

The food/population balance may be disrupted causing short or longer term economic retardation.

The military burden on the economy may sharply rise in response to escalating weapons costs in their nuclear program, force expansion, and modernization to meet perceived needs on the Soviet border or in the Taiwan Straits, or other policy reasons.

Leadership struggles either to develop a better Maoist state or choose a successor to Mao may disturb the current stability.

Institutional changes, as China proceeds on its course of transformation from a traditional to a modern society, may continue to engender periods of instability and disruption. The Soviet experience has been a mixed blessing as a guide to Chinese institutional accommodation to change. From the rejection of the Soviet model the Chinese turned to a "search for a Maoist model". (Jones p. 58) An assumption that the search has ended and institutional stability will now facilitate Chinese economic development would seem premature at this point.

The People's Republic of China has become an economically strong, unified nation. Its capability simultaneously to meet requirements of feeding its population, modernizing its military forces, and expanding its civilian economic base must now be assumed from its record to date. Moreover, its expanding economy and military establishment provide a base for projecting increasing power in consonance with its enormous human resources. Chinese influence may also be felt both through direct use of economic and military aid and the indirect example of its model of development. Thus China may in the next decade or two join the United States, the Soviet Union, Japan, and the West European community in a pentagon of world powers.

QUORUM CALL

Mr. PROXMIRE. 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.

MESSAGES FROM THE PRESIDENT

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

REPORT OF COST OF LIVING COUNCIL—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. HUGHES) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

In accordance with Section 216 of the Economic Stabilization Act Amendments of 1971, I am pleased to transmit the second quarterly report of the Cost of Living Council on the economic stabilization program covering the period January 1 to March 31, 1972.

RICHARD NIXON.

THE WHITE HOUSE, *May 19, 1972.*

INTERNATIONAL EXPOSITION IN PHILADELPHIA, PA.—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. HUGHES) laid before the Senate the following message from the President of the United States, which was referred to the Committee on the Judiciary:

To the Congress of the United States:

In a message to the Congress on September 11, 1970, transmitting a report of the American Revolution Bicentennial Commission, I strongly endorsed the Commission's view that the primary emphasis in our commemoration of the Nation's birth should be a nation-wide celebration, involving every State, city and community.

At the same time, I agreed that we should encourage international participation in our celebration. Philadelphia seemed a natural choice as the principal site for an international exposition because it was there that the Declaration of Independence was signed and the Constitution created. Accordingly, I informed the Congress that the Secretary of State was being instructed to proceed officially with the Bureau of International Expositions in registering an international exposition in Philadelphia in 1976.

At that time, I also pointed out that this exposition was dependent upon the assurance of suitable support and a review of financial and other arrangements by appropriate parties, including high-level government officials.

The Chairman of the Bicentennial Commission, David J. Mahoney, has now informed me that on May 16, the members of his commission voted not to approve the proposal submitted by the Philadelphia 1976 Bicentennial Corporation for this international exposition. Among the reasons cited were the large costs to the Federal government, a question of whether it was still appropriate to hold such a large exposition in one city, the Commission's continuing commitment to a nation-wide celebration, and a question of whether sufficient time remained to make all necessary arrangements. The vote of the Commission was 23–4 against the exposition.

Also, I have been jointly advised by the Secretary of Commerce and the Director of the Office of Management and Budget, that we should not proceed unless certain basic conditions could be met. There is no evidence now that we can fulfill those conditions.

Under the full weight of these recommendations, I have reluctantly concluded

that we cannot prudently go forward with the international exposition in Philadelphia.

I am therefore asking the Secretary of State to take action at the impending meeting of the Bureau of International Expositions to withdraw the registration of the international exposition in Philadelphia. I have also asked the Secretary to make clear to the Bureau of International Expositions that the United States, and its many State and local governments, will warmly welcome foreign participation—both public and private—in our Bicentennial. And, I am asking the American Revolution Bicentennial Commission to ensure that their plans include encouragement for such participation.

I remain firmly convinced that Philadelphia, in commemoration of its unique place in American history, will and should play a major role in the Nation's 1976 observances, and that the celebration of this birthday will reflect the vital and abundant spirit of our Nation.

RICHARD NIXON.

THE WHITE HOUSE, *May 22, 1972.*

REPORT OF NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. HUGHES) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare.

To the Congress of the United States:

Pursuant to the Elementary and Secondary Amendments of 1966, as amended, I am transmitting herewith the Annual Report of the National Advisory Council on Adult Education.

RICHARD NIXON.

THE WHITE HOUSE, *May 19, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HUGHES) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

AUTHORIZATION FOR ALL COMMITTEES TO FILE REPORTS UNTIL 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees have until 5 p.m. today to file committee reports.

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

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. HUGHES):

The petition of "Free the Prisoners Now, Inc.", of Bay City, Mich., praying for cooperation relative to pursuit of efforts in helping to free prisoners, and so forth.

EDUCATION AMENDMENTS OF 1972—CONFERENCE REPORT—REPORT OF A COMMITTEE

Mr. PELL, from the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to text of the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education—the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes, submitted a report thereon (S. Rept. No. 92–798), which was ordered to be printed.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 999

At the request of Mr. CHURCH, the Senator from North Dakota (Mr. BURDICK), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Tennessee (Mr. BAKER), the Senator from Colorado (Mr. ALLOTT), and the Senator from North Carolina (Mr. JORDAN) were added as cosponsors of Amendment No. 999, intended to be proposed to the bill (H.R. 1), to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State Public Assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION, SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE

Mr. BIBLE. Mr. President, I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation at 10 a.m. on June 9, in room 3110, New Senate Office Building, on the following bill.

S. 3531, to authorize the Secretary of the Interior to participate in the planning, design, and construction of outdoor recreational facilities in connection with the 1976 Winter Olympic Games.

NOTICE OF HEARINGS ON FEDERAL LEASING AND DISPOSAL POLICIES FOR ENERGY RESOURCES ON THE PUBLIC LANDS

Mr. JACKSON. Mr. President, leasing and disposal policies for energy resources on the public lands will be the subject of hearings conducted by the Committee on Interior and Insular Affairs in the present session of Congress. June 19, 1972, is scheduled as the first of 2 hearing days. These hearings are part of the National Fuels and Energy Policy Study authorized by Senate Resolution 45, and conducted by the Interior Committee with exofficio participation from the Commerce, Public Works and Joint Atomic Energy Committees.

Secretary of the Interior Rogers C. B. Morton has been asked to appear and testify on the Interior Department's planning and management policies for leasing and development of energy resources on the public lands, including the Outer Continental Shelf. Comprehensive lists of questions and policy issues have been sent to the Secretary and a basis for his testimony and for materials and exhibits to be submitted for the hearing record. Mr. President, I ask unanimous consent that these questions and policy issues be printed in the RECORD following my remarks.

Representatives of other executive branch agencies will be requested to testify or to submit statements for the record, giving additional information, views, and recommendations on some or all of the questions and policy issues. Time will not permit appearances by all members of the public who might wish to testify, but the committee will accept statements in writing addressed to issues on the following lists, for inclusion in the hearing record.

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

ENERGY RESOURCES LEASING AND DISPOSAL QUESTIONS AND POLICY ISSUES

INTRODUCTION

Leasing and disposal policies for energy resources on the public lands will be the subject of two days of hearings by the Committee on Interior and Insular Affairs. These hearings are part of the National Fuels and Energy Study authorized by Senate Resolution 45 and conducted by the Interior Committee with ex-officio participation from the Commerce, Public Works and Joint Atomic Energy Committees.

June 19 is tentatively scheduled as the first of the two hearing days. On that day, representatives of the Interior Department will be asked to address several broad issues of policy concern (Attachment "A"). In addition, the Department is being asked to submit for the hearing record comprehensive answers to the attached list of questions and policy issues (Attachment "B"). The responses to Attachment "B" will be used by the Committee as background for a second day of hearings yet to be scheduled.

The list of questions and policy issues in Attachment "B" is organized according to the two major purposes of the hearings: a general oversight of energy resource management, and an examination of three particularly important aspects of leasing policy.

Part I of the list is intended as background for a general oversight of the management of all energy resources on U.S. public lands, including administration of the Mineral Leasing Act, the Outer Continental Shelf Lands Act, and the general mining laws insofar as they relate to energy resources.

Parts II and III invite a more intensive examination of three specific areas of leasing policy that may have particularly significant impacts on the nation's energy supplies in the forseeable future:

Part II concerns the criteria and procedures for issuing, reviewing or renewing coal leases and prospecting permits; and

Part III concerns mineral leasing on the Outer Continental Shelf. III–A deals with the leasing system and bidding methods and procedures for OCS oil and gas, and III–B deals with possible participation by coastal state and local governments in federal mineral leasing revenues.

The formulation in both lists of questions and policy issues were chosen for submission to the Interior Department in connection with the hearing scheduled for June 19. The views and recommendations regarding all or some of the issues covered by these lists will be solicited from other agencies, state governments, industry, consumer and conservation groups, and the public generally, either in appearances or in statements for the record.

ATTACHMENT A: GENERAL ISSUES OF ENERGY RESOURCE MANAGEMENT ON U.S. PUBLIC LANDS

The energy resources considered in the following questions include:

Oil and Gas

Oil Shale and Other Hydrocarbons (Tar Sands, etc.)

Coal and Lignite

Uranium

Geothermal Energy

In answering the questions, resources may be considered jointly or individually, as appropriate. "Public lands" should be interpreted to include the public domain, acquired lands, Indian lands, and the Outer Continental Shelf.

(1) Which energy resources on the public lands (a) are now, or (b) could be, made available in the foreseeable future, as a major element in the nation's energy supply?

(2) What are the principal goals and objectives of the government with respect to management of each resource?

(a) To what extent is each goal or objective specifically set out in law, or adopted at the discretion of the Department?

(b) To what extent is each goal or objective compatible with other objectives for the management of individual resources? (For example, how are encouragement of current development, conservation of supplies for future use, and maximization of government revenues reconciled?)

(c) What is the basis for any differences in goals or objectives with respect to different energy resources?

(d) To what extent do the goals and objectives of the principal legal authorities under which individual energy resources are managed require review to determine if they are consistent with today's energy requirements and environmental goals?

(3) How do you relate the Mining and Minerals Policy Act to Department of Interior policy regarding federal leasing of energy minerals?

(4) For which energy resources does your Department (or agency) have a long-term schedule, plan, or strategy for leasing or disposal? To what extent, and how, does each take into account national and regional demand and alternative sources of supply (including outstanding inactive, nonproducing federal leases, private and state lands, etc.)? In particular, what are the Department of Interior's policies for leasing coal, Outer Continental Shelf oil and gas, oil shale, and geothermal resources?

(5) In view of the large acreage and probable quantities of some energy resources in private ownership, or under current federal lease, what is your position on the need to issue additional leases or prospecting permits? Consider especially coal and oil shale.

(6) For each resource, what conditions regarding land reclamation, protection of other resources, or environmental quality, are currently required for exploration or energy resource production on the public lands?

(a) To what extent are such conditions prescribed or proscribed by law, or within the discretionary authority of the Interior Department?

(b) In what instances, if any, does the law permit or require bonding or other assurance of financial responsibility for environmental protection or performance?

(c) What, if any, recourse of enforcement authority has the Interior Department (or your agency) with respect to violations or default of contract provisions regarding protection of other resources or environmental quality, or land reclamation? Does the Federal government have authority to cancel a lease, permit, or other resource right in such an instance? Is addititonal authority needed at this time? Is so, what provisions should such new authority contain?

(d) What has been the specific effect of environmental laws, regulations, and requirements on the level of exploration and production of energy minerals on the public lands?

(7) What safeguards in the preparation of a new five-year leasing schedule will protect against, and provide relief from, anticipated recurring delays due to litigation and other foreseeable resistance to continuing regularly held OCS lease sales?

(8) Does the present system of leasing or disposal for each energy resource provide sufficient incentive for early exploration and development? Do the current size of lease tracts for the various energy minerals, acreage limitions on lease holdings, and length of lease terms deter exploration and/or development of any energy resource on public lands?

(9) In which cases, if any, do elements of the present system encourage speculative nonproductive holding of resources on the public lands? Consider particularly

(a) Noncompetitive leasing of onshore oil and gas;

(b) The system of prospecting permit and preference right leases for coal;

(c) The indefinite term and twenty-year review of coal leases; and

(d) The location-patent system for uranium ore.

(10) Does the present system of leasing or disposal of each energy resource provide for receipt of fair market value by the government for the resource? Consider particularly the four instances named in question 9. In each instance where the government generally receives less than fair market value, what benefit does the public receive from leasing or disposal programs in which receipt of fair market value is not a principal objective?

(11) What is the experience to date with respect to classes of enterprise engaging in exploration and production operations involving energy minerals on public lands? Does the present system of leasing or disposal for any of the major onshore and offshore energy resources unduly favor some classes of enterprise (for example, large integrated firms? What is the relationship between classes of enterprises presently engaged in development of energy resources on public lands and the rate of exploration and production with respect to the development of coal, oil shale, and geothermal energy?

(12) What are the advantages and disadvantages, in terms of the criteria set forth below, as applied to OCS oil and gas leasing of a (1) cash bonus bid—fixed royalty system; (2) deferred bonus bid—fixed royalty system (payments of one-third of the bonus bid successively upon award of lease, discovery, and production); and (3) fixed bonus—royalty bid system?

(a) Competition;

(b) Incentive to rapid exploration and development;

(c) Conservation of energy resources for future use;

(d) Total amount of resources ultimately recovered under the lease;

(e) Efficiency of allocation;

(f) Possible bias toward any one class of lessees (Ease of entry, etc.)

(g) Timing and amount of revenue to Government;

(h) Problems of administration and levels of Government personnel required to administer the leasing system;

(i) Ability to implement within the authority of the Act (i.e., would it require amendment of the OCS Lands Act?)

(13) How adequate for purposes of planning and management is the information available to your Department or agency on energy resources of the public lands? Consider particularly:

(a) Geological and geophysical information relevant to OCS oil and gas leasing;

(b) The reserves, and probable and potential resources, on lands under coal permit or lease, or under application for permit or lease;

(c) The number, acreage, and reserves or resources of uranium claims;

(d) The persons owning or effectively controlling leases or claims;

(e) The progress of development, or volume and value of production from leases or claims.

If it is the position of your Department (or agency) that inadequate information is available, what changes in law, organization, or regulations would be necessary to make the desired information available?

(14) Does oil and gas exploration, development and production on the Outer Continental Shelf impose a net economic or fiscal burden on the adjacent coastal state? Should this burden, if any, be compensated by granting the coastal states a share of OCS mineral leasing revenues?

(15) What funds have been paid to states under the revenue sharing provisions of the Mineral Leasing Act of 1920? What is the basis in policy for such sharing of revenues? With respect to public lands states other than Alaska is there any reason why such a revenue sharing policy should not be perpetuated in any subsequent legislation related to mineral leasing?

ATTACHMENT B: ENERGY RESOURCES LEASING AND DISPOSAL QUESTIONS AND POLICY ISSUES

PART I. ISSUES CONCERNING ALL ENERGY RESOURCES

The questions in Part I should be answered for each of the following energy resources on U.S. public lands (including acquired lands and Indian lands):

Onshore oil and gas;

Outer Continental Shelf oil and gas;

Oil shale and other hydrocarbons (tar sands, etc.);

Coal and lignite;

Uranium; and

Geothermal energy (distinguish, where geothermal steam and hot rock resources).

Some of the following questions have been asked in a similar form with respect to Outer Continental Shelf oil and gas in the list of questions and policy issues prepared for the Committee's oversight hearings on administration of the Outer Continental Shelf Lands Act held on March 23 and 24, 1972. Where detailed answers were submitted for the record of the earlier hearing, those answers may be briefly summarized and referenced in response to the questions here. Also, questions similar to some of the following are asked in Part II and Part III of this list of questions and policy issues with specific reference to coal or to Outer Continental Shelf oil and gas. Detailed responses should be made to such questions under Part II or Part III, and those responses may be summarized and referenced where appropriate in Part I.

A. LEGAL AND MANAGEMENT REGIMES

Describe briefly the legal and management regime governing the development of energy resources on U.S. public lands (including

acquired lands and Indian lands). The responses should include, but not necessarily be limited to, answers to questions:

1. What constitutes the principal legal authority under which each resource is developed?

2. What are the principal goals and objectives of the government with respect to management of each resource?

a. To what extent is each goal or objective specifically set out in law, or adopted at the discretion of the Department?

b. To what extent is each goal or objective compatible with other objectives for the management of individual resources (For example, how are encouragement of current development, conservation of supplies for future use and maximization of government revenues reconciled?)

c. What is the basis for any difference in goals or objectives with respect to different energy resources?

d. To what extent do the goals and objectives of the principal legal authorities under which individual energy resources are managed require review and amendment to make them consistent with today's energy requirements?

3. To the extent that receipt of "fair market value" is an objective of management policy for any resource, how is each such resource evaluated before lease or sale, when reviewing bids, when reviewing a lease for renewal or other purposes, and when determining royalty obligations? For each resource, and in each instance:

a. Who makes the evaluation?

b. What is net public resource value, and how is it measured and how it is used in evaluation?

c. What is fair market value, and how is it measured and how does it relate to the evaluation?

d. Distinguish, if possible, between fair market value and maximization of government revenue.

e. Is a discounted cash flow analysis used in leasing evaluations? If so, how?

f. How is fair market value determined in isolated, non-industrialized areas?

4. Describe briefly the *system* (location, competitive lease, lease to first applicant, prospecting permit with preference right, negotiated sale, etc.) used to make each resource available for private development.

5. What initiative or action is required by a private party to obtain rights to each resource?

6. What discretionary authority, if any, has the Interior Department to lease or not to lease, or otherwise to open or close lands to development of each resource?

a. Specify the source of the authority (statute or regulations) and identify the criteria which determine the conditions and purposes for which the authority may be exercised.

b. Is the existing authority for each energy resource adequate to protect other resources and values found on and associated with the public lands?

7. What discretionary authority, if any, has the agency with jurisdiction over the surface (if other than Interior) to open or close lands to development of each resource?

8. How is the price determined that is paid to the government for each resource or the right to develop it? To what extent is the system of pricing and/or the specific price prescribed by law, and what, if any, discretionary authority has the Interior Department over them?

9. What is the term of a lease, permit, sale, or other right to each resource?

a. Can the contract provisions be reviewed and amended within this term, and if so, with respect to what conditions?

b. To what extent are the term and the scope of review and amendment prescribed by law, or within the discretionary authority of the Interior Department?

10. What are the conditions for renewal or continuation of a lease, permit, sale, or other right to each energy resource?

a. To what extent may the conditions for renewal or continuation differ or be made different from the original conditions for issuance of the lease, permit, or right?

b. To what extent are the conditions of renewal prescribed by law, or within the discretionary authority of the Interior Department?

11. Where law or regulation establishes a performance standard (producible, commercial production, diligent development, valid discovery, etc.) for issuance, continuance or renewal of a lease, permit, or other right:

a. How is this standard defined in law, in regulation, and in administrative practice?

b. What, if any, test is conducted or required by the Interior Department to determine whether this standard has been fulfilled? Who makes and/or reviews these tests?

12. For each energy resource, what, if any, limits are there on the number or acreage of leases, sales, permits or claims that one person may hold? To what extent do these limitations apply to options, partial and total assignments, partnerships, associations, stockholder interests, or other kinds of interest?

13. For each resource, what conditions regarding protection of other resources, land reclamation, or environmental quality, are currently required for permissive exploration or in a lease or sale contract, permit, claim or patent?

a. To what extent are such conditions prescribed or proscribed by law, or within the discretionary authority of the Interior Department?

b. In what instances, if any, does the law permit or require bonding or other assurance of financial responsibility?

c. What, if any, recourse or enforcement authority has the Interior Department with respect to violations or default of contract provisions regarding protection of other resources or environmental quality, or land reclamation? Does the Department have authority to cancel a lease, permit, sale, or other resource right in such an instance?

14. Describe the existing procedure for complying with section 102 of the National Environmental Policy Act with respect to leasing or disposition of each energy resource?

a. At what points in the existing process are the overall alternatives to general leasing or disposal strategies, and to specific lease, permit or sale offerings, land closures or land openings, considered?

15. What, if any, procedures are prescribed by law, or instituted by regulation or administrative practice, for considering state and local views and interests, and the relation to privately, state or municipally owned resources of the same type, in Interior Department decisions regarding leases, sales, permits, or the opening or closing of lands to development of each energy resource?

16. For each energy resource, describe briefly the organization of the Department for administration of leases, permits, sales or claims.

a. In what instances and to what extent is the ability of the Department to implement the goals and objectives prescribed by law for each energy resource dependent upon levels of funding and personnel?

B. SYSTEMS OF DISPOSITION AND MANAGEMENT: ALTERNATIVES AND MODIFICATIONS

17. What major in-house or contractor studies and analyses have been undertaken by the Interior Department since 1969 with respect to alternative systems of resource leasing or disposal, or with respect to management procedures?

18. In the case of each energy resource, summarize briefly the major modifications in law or management actively considered either by the Public Land Law Review Commission or by this Administration. Reference these alternatives to the PLLRC report and/or consultant reports, or to Interior Department or contractor publications.

19. What, if any, major modifications of systems or management policy have been put into effect either by legislation, regulation or operating decision since 1969?

20. What major modifications of the manner of developing these resources are incorporated into legislation currently proposed by the Administration?

21. For which energy resources are the Department's decisions regarding execution of particular leases, permits, or sales, or regarding the opening or closing of lands to exploration or location part of an overall schedule of development related to national energy needs (like the OCS five-year leasing schedule)? Please summarize the principles, schedule and strategy of development in each instance. (Special attention is requested to the oil shale and geothermal energy resources.)

C. QUANTITATIVE AND HISTORICAL INFORMATION

22. Please provide the best available estimates of proved reserves, and probable and potential resources (or some other appropriate classification according to certainty and/or recoverability) on the U.S. public lands, of each of the energy resources listed at the beginning of Part I. In each of these instances, the reserves or resources on U.S. public lands should be compared with total U.S. reserves or resources. Estimates of coal and oil reserves and resources should, to the extent available, be subdivided by state, according to a measure of sulphur and ash content (i.e., distinguish between "clean and dirty" resources), and as mined or mineable by (a) underground methods, and by (b) surface mining methods.

23. In the case of each energy resource indicate:

a. the acreage of lands classified as containing, or suitable for production of that resource;

b. the number and acreage of leases, permits, claims or patents newly filed or issued, and averages outstanding in the years 1953–1972 [In the case of oil and gas, and coal, new leases and acreage should be subdivided into competitive and noncompetitive (or preference) leases];

c. the names of the ten persons or companies (including affiliated or subsidiary companies) holding the greatest (chargeable or other) acreage of leases, permits, or claims in each of these energy resources and the percentage of total lands under lease, permits, sales or claims by these persons or companies;

d. the estimated proved reserves, and probable and potential resources on lands now under lease, permit, or claim (Indicate these as proportions of total reserves or resources on U.S. public lands and in the U.S.);

e. what proportion of the total number and acreage of leases, permits, or claims, is actually under commercial production; and,

f. the number and acreage, by kind, of permits or leases expiring or subject to review in each of the next ten years.

Where, data requested in the foregoing are not available, present the best substitute information and indicate what action would be necessary to make the requested data available.

24. For each energy resource, for the years 1953–1971 and by region (for coal, subdivide by state), summarize the production and value of production from U.S. public lands. Compare these amounts of total production and value of production in the U.S.

25. For each resource for the years 1953–1971 and by region, (for coal, subdivide by state) summarize the receipts of the Federal Government from royalties, bonuses, minimum royalties, rentals, filing fees and other landowner remittances.

PART II. COAL LEASING ISSUES

The questions in Part I should be answered fully here with respect to coal resources, and these answers should be summarized in the general answers to Part I of this list. Responses are requested to the following additional questions and issues.

26. What are the criteria and procedures for determining royalties and other charges on a preference right lease obtained through a prospecting permit? How do these charges compare with "fair market value"?

27. If the terms and conditions of an existing lease are not modified except at 20-year periods, and Part 23 of 43 CFR does not apply to existing leases,

a. What environmental control does the Department (or the agency with jurisdiction over the surface, if other than Interior) presently have over the leased land?

b. Under what circumstances must the United States as lessor initiate court action to cancel a lease?

28. What other minerals can be mined under a coal lease? And how does the Department obtain fair market value for any such minerals, comingled or otherwise?

29. What limitations of right of surface utilization and exclusive possession for the surface of the leased land and the adjoining Federal lands are imposed upon lessees?

30. What criteria, methods and procedures are used to determine the timing of sales, issuance of permits and issuance of coal leases? Are these the same as for OCS oil and gas leases? If not, why not?

31. What, if any analysis or assumption regarding the demand from public lands influences the Department's decisions regarding issuances of leases or permits?

a. To what extent does the Department's coal leasing strategy depend upon, and relate to, the Department's assessment of the national energy situation?

b. To what extent do the Department's decisions on specific applications for coal permits or leases reflect an assessment of regional coal demand, and the possibility of meeting that demand from existing federal coal leases or from state or privately owned resources in the same region?

32. What was the average time elapsed after application in obtaining a prospecting permit, and in obtaining a preference right lease in 1971? in 1961?

33. Does the Department have, or is it preparing or considering, a coal leasing schedule or strategy comparable to the five-year leasing schedule for Outer Continental Shelf oil and gas?

34. How many applications for prospecting permits and coal leases are currently pending and what acreage is involved, by state?

a. What are the proved coal reserves, and probable and potential coal resources, on the lands under application for lease?

b. In each state where permit or lease applications are pending, what are the proved coal reserves, and probable and potential coal resources currently on private lands, and under federal lease, and under state, local or private lease? What was coal production in the most recent year of record? Subdivide these items, to the extent possible, into coal mined or mineable by underground, and by surface methods.

c. Which, if any, of these applications are under active consideration by the Department for issuance of permits or leases?

d. Upon what specific analyses regarding the supply and demand for coal in each region would any permits or leases be granted?

Where data requested in the foregoing are not available, present the best available information and indicate what action would be necessary to make the requested data available?

35. Under what circumstances can the Secretary waive the general production requirements of continuous operation and diligent development set forth in the Mineral Leasing Act (30 USC sec. 207)?

a. Under what circumstances has the Secretary waived or suspended or reduced minimum royalties and rentals?

b. Since only minimum rental requirements are set by Statute, what procedure, short of effecting a change in the regulation can be used to change the rental requirements?

c. Are leases now being renewed that have gone 20 years or more without production? If so, why?

36. What methods are used to determine actual tons of coal produced on a given lease?

37. What are the ratios of inspectors to leases and lease acreage by States?

PART III. OUTER CONTINENTAL SHELF OIL AND GAS LEASING ISSUES

The questions in Part I should be answered fully here with respect to Outer Continental Shelf Oil and Gas resources, except where they have been answered in connection with the March 23 and 24 hearing. Both sets of responses should be summarized in the general answers to Part I of this list. Responses are requested to the following additional questions and issues.

A. OCS LEASING SYSTEM AND BIDDING PROCEDURES ALTERNATIVES

(The following question is an elaboration of question 17.)

38. What, if any, in-house or contractor studies or analyses have been undertaken or completed by the Department since 1969, concerning management of onshore or OCS oil and gas, including but not necessarily limited to:

The manner of bidding and payment for resource rights;

The frequency, size and configuration of lease sales;

The size and configuration of lease tracts;

The term of leases; or,

Limitations on acreage, joint bidding, assignment of leases, etc.

(The following question is an elaboration of questions 18 and 20.)

39. Summarize briefly the principal findings and recommendations regarding OCS oil and gas leasing in each of the studies or analyses referred to in response to questions 17 and 38, in the Public Land Law Review Commission report and contractor reports to the Commission. Summarize the Department's position on each recommendation.

(The following question is related, for OCS oil and gas, to question 3 in Part I.)

40. How does the Department interpret the objective of receiving fair market value in the disposition of OCS oil and gas? Specifically:

a. What is fair market value and how is it measured?

b. What is net public resource value and how is it measured?

c. Does obtaining fair market value from oil and gas leases result in maximization of Federal revenues?

d. From what point in time (e.g., time of lease, or of production) is fair market value estimated?

e. Is a discounted cash flow analysis used? What discount rate is employed?

f. Is there any difference in definitions or appraisal methods between onshore and OCS resources?

41. What, if any, conflicts are there in the choice of a leasing system or in leasing strategies between the objectives of:

a. obtaining a maximum return to the government (or fair market value);

b. maximizing the early development of OCS oil and gas resources to meet anticipated energy demands, and

c. obtaining a proper balance of production overtime?

To the extent conflicts exist among these objectives, how are they resolved?

42. What options are being considered with respect to Outer Continental Shelf leasing system changes, and what are the Department's preliminary views regarding the comparative advantages and disadvantages of each in the context of achieving Departmental OCS leasing objectives? What would be the impact of each such option on:

a. Competition;

b. Incentive to rapid exploration and development;

c. Conservation of energy resources for future use;

d. Proportion of oil and gas ultimately recovered;

e. Efficiency of resource allocation;

f. Possible bias toward any one class of lessees (Ease of entry, etc.);

g. Timing and amount of revenue to Government;

h. Costs and difficulties of administration;

i. Ability to implement within the authority of the Act (i.e. would it require amendment of the OCS Lands Act)?

Specifically deal with the advantages and disadvantages, compared to the present system and to each other. What, under the foregoing criteria, are the Department's current views, with regard to:

Lump sum (bonus only) bidding;

Deferred bonus bidding (with fixed royalty);

Royalty bidding (with fixed bonus);

Profit share bidding; and,

Work-program bidding (as used, for example, in the U.K.)?

43. Are there any plans to test one or more of the alternatives identified in question 42 in the future OCS lease sale? If so,

a. At what sale?

b. How will the experiment be implemented?

c. What will be the specific measures of success or failure?

44. To what extent is the Department's choice among leasing system options dictated or influenced by the government's desire to maximize immediate revenues (as opposed to the present value of expected long-term revenues)?

45. What is the Department's analysis of its experience with respect to fair market value returns from:

a. The present cash bonus system on the Outer Continental Shelf?

b. Competitive leasing of onshore oil and gas?

c. Non-competitive leasing of onshore oil and gas?

46. What, if any, *evidence or analysis* exists to indicate whether the system of cash bonus bidding encourages or discourages exploration and development, in contrast to alternative methods of leasing? In particular, what evidence or anaysis is there:

a. Whether bonuses paid by high bidders in competitive lease sales diminish the funds that otherwise would be available for exploration?

b. Whether high cash bonuses paid by winners discourage independent operators from participating and reduce the number of serious contenders for leases, *above and in addition to* the high costs of operation in such places as the Outer Continental Shelf and the Arctic?

d. Whether payment of a high cash bonus selects a qualified and responsible operator who is the best able or most willing to undertake early exploration?

d. Whether payment of a high cash bonus is a significant incentive that would be absent under another system, for the operator to accelerate exploration and production?

47. Summarize the assumptions and analysis that led to the Department's specific decisions regarding the frequency and size of lease sales in the first five-year leasing schedule. Include a discussion of the role of:

a. estimated demand for oil and gas, and

the assumptions regarding the role of OCS resources in meeting this demand;

b. any analysis or assumptions regarding the acreage of OCS lands that industry is able and willing to explore in a given period, and the relationship of the total acreage offered and total government bonus receipts.

Provide, for each of the next twenty years, the estimated production of crude oil, gas and condensate expected from each of the sales proposed in the first five-year leasing schedule.

48. How has the cancellation of the December 1971 lease sale affected the remainder of the five-year schedule? (Has the whole schedule been set back or will the remainder of the sales be conducted according to the original schedule?) When will a new schedule be released?

49. What safeguards are being adopted in the preparation of a new five-year leasing schedule to protect against, and provide relief from, anticipated recurring delays due to litigation and other foreseeable resistance to continuing regularly held OCS lease sales?

50. What, in summary are the procedures for estimating the value of individual tracts considered for leasing, and what has been the experience with these procedures? Specifically:

a. How are pre-sale estimates of the minimum reasonable industry bid per tract calculated, by whom, and using data of what origin?

b. For the past three OCS sales, how many and what proportions of industry bids and high bids have been lower, and higher, than the Department's pre-sale estimates? For each of these three sales, what has been the ratio between the total pre-sale estimate and the total of high bids? How can this last relationship be explained?

c. Are individual OCS tracts reevaluated after opening of bids but prior to award of a lease? If so, what information goes into the reevaluation, and how is it used?

d. What avenues are available within the Department to companies which may wish to appeal Departmental rejection of bids for certain tracts, and what information related to the value of such tracts do Departmental personnel who are handling such appeals have available to them?

51. To what extent, and in what fashion, do estimates of the relative quantities of gas as compared to oil influence the choice of tracts for leasing?

B. The issue of entitlement of coastal states to receive federal funds as compensation for possible adverse impacts of OCS mineral producing activities in areas adjacent to their coasts.

52. What is the Department's tentative schedule for future OCS oil and gas lease sales, particularly in:

The Atlantic

The Gulf of Alaska,

California, and other "new" areas?

53. What arguments have been advanced by representatives of coastal states that they should share in mineral leasing revenues?

54. What, if any, formal studies or analyses exist of the net social and economic benefits or costs to coastal states of OCS mineral exploration and production adjacent their coasts?? Summarize the major findings of these studies or analyses.

55. What are the historical and expected impacts upon the economies of coastal states and communities from OCS exploration, development and production activities:

a. Increases in local employment and payrolls; profits of local enterprise; local and state business and personal taxes, etc.

b. Increased outlays of state and local governments for public safety, education and welfare; public works and environmental protection.

c. Desirable or undesirable secondary effects from location of refineries and other industries; population growth, etc.

56. Summarize, by state and by type for the last ten years, payments to the states and to the Reclamation Fund from federal onshore mineral lease revenues, under terms of the Mineral Leasing Act, and the Alaska Statehood Act.

57. Summarize the major alternatives considered by and the major findings and recommendations of the Public Land Law Review Commission and of the Commission's contractor reports with respect to sharing of revenues from OCS mineral leasing. What is the current position of the Administration on these recommendations?

NOTICE OF HEARINGS ON FEDERAL ENERGY RESEARCH PROGRAMS AND PRIORITIES

Mr. JACKSON. Mr. President, pursuant to Senate Resolution 45, a study of national fuels and energy policy, the Committee on Interior and Insular Affairs, with ex officio members from the Committees on Public Works and Commerce and the Joint Committee on Atomic Energy, will conduct a hearing on June 7, 1972, at 10 a.m. in room 3110 of the New Senate Office Building. The purpose of this hearing is to review ongoing and planned Federal research and development efforts on unconventional energy sources.

In previous hearings the committee has explored the Federal Government's role with respect to several new technological developments such as advanced power cycles for the environmentally acceptable generation of electricity and coal gasification to produce both high and low B.t.u. gas. From these and other inquiries by the committee, it is now clear that a number of fundamental policy issues exist with respect to the effectiveness of the Federal effort in bringing new technologies into being in time frames that can satisfy the Nation's growing energy needs with minimal environmental impact.

To gain perspective and insight into the Federal energy research and development programs the committee will receive testimony from Dr. Edward E. David, Jr., science adviser to the President, and spokesmen for the National Science Foundation and the Federal Committee on Science and Technology.

The Federal Committee on Science and Technology will be providing the committee with a series of reports prepared by 12 FCST subcommittees covering research and development on a wide range of unconventional energy resources. These reports are to be directed toward identifying new projects which should be undertaken, assessing priorities, identifying realistic time frames, and indicating the funding levels required.

Dr. David has been asked to address his testimony to broader questions concerning the institutional arrangements for oversight and management of energy research and development. These issues include:

First. What should be the overall strategy of the Federal Government with respect to the development of energy technologies? In particular, what should be the balance between, first, support of basic research and experimentation in many areas of energy technology to enlarge the number of long term technological options, and second, efforts toward the early commercial application of a small number of economically promising technologies—that is, coal gasification, LMFBR?

Second. What should be the organization of the Federal Government for encouragement and coordination of energy research and development?

Third. At each stage in the development of new energy technologies, what should be the respective roles of Government and industry with respect to, first, initiative and organizational responsibility, and, second, the burden of financial risk?

Fourth. What types of organizational arrangements are recommended for cooperation between Government and industry in research, development, and commercial exploitation of new energy technologies?

Fifth. What methods are recommended for financing joint R. & D. efforts in the energy field, and what arrangements are proposed for surveillance, review, and evaluation of these efforts?

Sixth. How are financial risks to be apportioned, and how are the benefits from successful research and investment to be distributed among private and public interests?

Seventh. What provisions are to be made respectively for termination of, first, successful, and, second, unsuccessful joint efforts? How are any physical plant or other valuable assets—including patents—to be disposed of?

Eighth. What are the opportunities for, and implications of, international cooperation for research and development in energy technologies?

Ninth. What are the economic and legal problems with respect to cooperation within the private sector for development of new energy technologies? In particular, are there aspects of the patent or antitrust laws whose implications in this area should be reviewed?

Mr. President, while it will not be possible to receive direct testimony from every individual or association desiring to testify, the committee will receive and print as a part of the hearing record any relevant statements received on policy issues related to Federal energy research and development.

ADDITIONAL STATEMENTS

WE MUST FIGHT INFLATION, NOT TRY TO LIVE WITH IT

Mr. PROXMIRE. Mr. President, I wish to speak on the problems of inflation and unemployment.

I do so both as a Senator and as chairman of the Joint Economic Committee.

After months of hearings on unemployment, inflation, and economic growth, after listening to expert after expert, and after studying the historical record, it is my firm belief that in this country we can achieve full employment with relative price stability. It is possible to do both. It can be done, and it should be done. We can both fight inflation and achieve full employment, and do both at the same time.

CREATING UNEMPLOYMENT A CRUEL POLICY

In saying this I reject two alternative courses. The first is the classical view that the only real way to fight inflation is to reduce demand through creating unemployment in order to reduce prices. Without acknowledging it, that is precisely what the Nixon administration has done. It was described in the 1970 Economic Report of the President as—

A policy of firm and persistent restraint on the expansion in the demand for goods, services, and labor.

It was a deliberate course. Demand was reduced. Government orders were curtailed. Unemployment rose. We were told that the rise in unemployment would be both small and temporary. But unemployment rose from 3.9 percent when Mr. Nixon took office to a general level of 6 percent where it has remained for month after dreary month. It has now continued for a year and a half at this excessively high level which has resulted in 2 million more Americans out of work today than in January 1969.

I reject this course of action as cruel and inhuman. The policy is based on the concept of the Philips Curve which justifies a tradeoff between inflation on the one hand, and unemployment on the other. I reject this view not only because it is cruel but also because it is unnecessary if we follow the right policies.

WE MUST FIGHT INFLATION, NOT LEARN TO LIVE WITH IT

I reject another course as well. That course of action states that relatively full employment is so important that we must accept a high degree of inflation in order to achieve full employment. The corollary is that we must then learn to live with the inflation. That is no answer.

In a statement which was prepared by the staff of the Joint Economic Committee and which I released recently, one course of action was mentioned and articulated which is really a counsel of despair.

Many of the present costs of inflation could be overcome by devices such as building cost-of-living escalators into Social Security. If we can't find less damaging ways of controlling inflation than either creating unemployment or imposing complex and unfair controls, we should give serious consideration to learning to live with inflation as the lesser of evils.

But I reject that course, too. We do not have to learn to live with inflation. We do not have to make the cruel choice of "either creating unemployment or imposing complex and unfair controls." That is a false choice which some intelligent and knowledgeable people accept but which I reject forthrightly.

Unfortunately, my statement posing a list of choices was taken to mean that I advocated "living with inflation." I do not advocate that. I do not believe in a cost of living escalator for social security. I voted against the Miller amendment when that was proposed. I did so because such an escalator merely builds in inflation whereas I believe that it is possible for us to increase social security at appropriate times and to raise its general level without resorting to a built-in, automatic escalator which is inflationary.

FALSE CHOICES

But here is why I believe that we do not have to make the cruel choice between either excessive inflation on the one hand or excessive unemployment on the other.

WE HAVE THE KNOWLEDGE

First of all the state of our economic knowledge is such that with appropriate policies we can have full employment and relatively stable prices. Our state of economic knowledge is such that it can be done. There is no theoretical barrier to it. In fact it is an essential part of the Employment Act of 1946. Furthermore, in the year-long major Joint Economic Committee study in 1960 entitled "Employment, Growth, and Price Levels," the committee report, the detailed staff study, and the series of individual studies, written by prominent economic experts, all pointed the way to the goal.

HISTORICAL EXPERIENCE PROVES IT CAN BE DONE

In the second place we actually have a historical experience which proves that it can be done. Many of those who took part in the Joint Economic Committee study in 1960 became key economic officials in the Kennedy-Johnson administration. Men such as Walter Heller, Otto Eckstein, Charles Schultze, James Tobin, Warren Smith, John Dusenberry, Gardner Ackley, and Arthur Okun both helped to establish the theoretical foundations for growth, full employment, and stable prices, during the 1960 study, and then became officials of the Kennedy-Johnson administration to carry out their proposals.

In the period 1961–65, this country reduced unemployment from the very high level to which it had grown during the recession period of 1960 to virtually full employment by the end of 1965 before the inflationary effects of Vietnam war spending took place. In January 1961 unemployment was 6.6 percent. It rose to a high point of 7.1 percent in May 1961, still the result of the 1959–60 recession. But by December 1965, it was reduced to 4 percent.

In addition, during this entire period prices were almost absolutely stable. The Consumer Price Index—or what we commonly call the cost-of-living index—grew from an average of 103.1 in 1960 to 109.9 for 1965. This is an increase of 6.8 points in 5 years or about 1.3 percent per year. Such a small annual rise in the Consumer Price Index is actually within the statistical margin of error and represents a stability in the consumer price level unprecedented in our own historical experience. It is unmatched by any other industrialized country in the free world.

In the same period wholesale prices rose from an index number of 100.3 in 1960 to 102.5 in 1965 or by 2.2 points or an average of 0.44 per year. Prices could not remain more stable than they did in this period.

We proved in this period that it was possible to reduce the excessively high levels of unemployment brought about by the 1959–60 recession and to reach relatively full employment without creating inflation. In fact it was done with the most stable price levels this or any other major industrial country has achieved.

WE CAN DO IT WITH PROPER POLICIES

In the third place, we can now move to relatively full employment without inflation if we follow proper policies. We can fight inflation without increasing unemployment. We can reduce unemployment without creating inflation. We do not and must not have to choose inflation or unemployment. We do not have to choose full employment while "learning to live" with inflation. Those are false choices.

We can have full employment and stable prices by following these specific policies:

NEED JOB-CREATING POLICIES

First, we must stimulate demand through high job-creating policies. We have great unmet needs. We have idle resources. We have almost 5 million men and women unemployed. We need to put idle men and women to work on idle machines to create goods and services this country needs.

Some of this can be done through Government. We should have an expanded program of public service jobs, for example. But much of it can be done by stimulating the private sector, especially housing. Housing has a great rippling effect throughout the economy.

NEED INCOMES POLICY

Second, we must do away with the present elaborate system of wage and price controls and substitute a voluntary system of wage price guidelines with special emphasis on the giant companies and giant unions who have the power to administer prices. By an incomes policy aimed at these groups and with forceful Presidential leadership, we can curtail the "administered price" inflation from which we now suffer.

And in doing this we make it possible for the Government to stimulate demand to a much greater degree than is now the case without causing inflation.

GOVERNMENT SHOULD EXAMINE ITS OWN POLICIES

Third, there is a whole series of policies the Government itself can take to reduce prices.

The Government should begin to enforce the antitrust laws and engender competition. The administered price inflation from which we suffer is brought about in large part by monopolistic industries. One basic solution is for the Government to foster competition in these areas.

The Government should act vigorously to cut back on programs which are costly, inefficient, and where productivity is low. There are many of these. There are large numbers of costly subsidy programs. There are public works projects which are inefficient. There are programs where the costs vastly outweigh the benefits. These programs should be reviewed, wasteful programs cut, and the savings used to meet our most important national needs and to fund programs which have high productivity and a high employment content.

COST CUTTING ACTIONS

In addition the Government can cut costs and cut prices for the products Americans buy. We should import far more foreign oil and expand the oil import program. The present restrictive program promotes excessive costs.

The Government should use its regulatory power in the area of gas and electrical power to defend consumer interests. The failure of the FPC to protect the consumers may cost us tens of billions of dollars per year in higher prices, to cite one example only.

The Government can save money through cutting back on its leasing program, by charging defense contractors a proper amount for the use of Government property, and by promoting competitive bidding in Government procurement.

One big part of the answer to inflation is for the Government to act in the areas where it purchases and procures. The cry should go out all over the land: "Physician, heal thyself."

By promoting competition, by stimulating demand, by cutting back on waste, by reducing frictions in the economy, by attacking monopoly, and by pressing for job-inducing programs, the Government itself can do a great deal to reduce prices and to reduce unemployment.

REJECT DEFEATIST ATTITUDE

For all of these reasons I reject the idea that we must "learn to live with inflation." That is a defeatist attitude. I reject it out of hand.

For all of these reasons I accept the proposition that we can attain full employment with stable prices if we will only try.

It is theoretically possible.

It has been done historically.

With proper policies it can be done again—now.

SUPPORT FOR PRESIDENT'S POSITION IN SOUTHEAST ASIA

Mr. YOUNG. Mr. President, it is apparent from the many visits I have had with North Dakota people and letters, telegrams, and editorials I have read that a great majority of North Dakota people support the position taken by President Nixon with respect to Southeast Asia in his nationwide televised speech.

Mr. President, I ask to have printed in the RECORD an editorial entitled "Nixon Speech Had Ominous Overtones, but There's Also Optimistic Point of View," published in the Fargo Forum, North Dakota's largest newspaper, dated May 11, 1972. Also, an editorial entitled "Their Words Are Silly," published in another of North Dakota's daily newspapers, the Minot Daily News, of May 15, 1972; and an editorial from the Valley City Times-Record of May 9. Also, editorials from two of our weekly newspapers: the Foster County Independent of May 11, entitled "Comments From the Editor," and the Bottineau Courant, dated May 16, entitled "From the Front Office."

Mr. President, the opinions expressed in these editorials are most commendable. I believe they would be of great interest not only to the Members of Congress but to people everywhere.

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

[From the Fargo (N. Dak.) Forum, May 11, 1972]

NIXON SPEECH HAD OMINOUS OVERTONES, BUT THERE'S ALSO OPTIMISTIC POINT OF VIEW

The words of President Richard M. Nixon carried ominous overtones Monday night when he revealed that American forces were starting to mine the harbors of North Vietnam. Some off-the-cuff observations treated the decision as a political gamble, geared to the November election. Other observers worried about whether President Nixon would still be welcome in Moscow later this month.

The world worried if this stern American reaction to North Vietnam's recent invasion of South Vietnam could lead to a confrontation of the world's two great powers, America and Russia, and somehow touch off World War III or a nuclear conflict.

Here are some of the frightening paragraphs that came in on The Forum's news wires the day after the President's speech:

Keyes Beech of the Chicago Daily News: "President Nixon's decision to impose a naval blockade on North Vietnam is the act of an angry and desperate man. He has, in effect, matched Hanoi's all-out offensive to conquer South Vietnam with his own last roll of the dice.

"It is a staggering gamble. He is risking a bigger war to win a small war. He is telling the Russians—and the Chinese—that they cannot deliver arms to North Vietnam. . . . By a single stroke, he is attempting to achieve a victory that has eluded the United States and its allies for more than a decade.

"He could—although the possibility is remote—get away with it. Neither China nor Russia wants to go to war over Vietnam. But it seems inconceivable that the two Communist giants, competing as they are for Hanoi's allegiance, can afford to accept Nixon's ultimatum."

Haynes Johnson in the Washington Post: "Not since that October night 10 years ago when John F. Kennedy imposed a naval quarantine over vessels bound for Cuba have the world's two super-powers, America and Russia, been locked in so direct a confrontation as they are today.

"There is a difference, though, and a critical one, between the Cuban missile crisis of 1962 and President Nixon's announcement of the mining of all North Vietnamese ports. Where President Kennedy addressed himself specifically to the Soviet Union and imposed his challenge in the contest of possible worldwide nuclear war, President Nixon carefully pointed out that his actions are not directed against any other nation than North Vietnam."

Murrey Marder in the Washington Post: "President Nixon gambled massively that he could end the Vietnamese War by audacious use of military force that risks a confrontation with the Soviet Union after a decade of work to reduce East-West tension.

"No president except the late John F. Kennedy in the 1962 Cuban missile crisis has wagered higher stakes in the nuclear age. There are direct parallels, but also profound differences, in these two Soviet-American crises. The threat of imminent nuclear war dangled over the 1962 crisis. In the crisis that emerged Monday Mr. Nixon is gambling that the Soviet Union will not construe his action as a direct challenge to its vital interests.

"The President's actions, however, were directed squarely at the Soviet Union. He held the Kremlin primarily responsible for supplying North Vietnam with the weapons of offensive war."

Thomas B. Ross in the Chicago Sun Times: "President Nixon risked a nuclear confrontation with the Soviet Union by ordering a sea and land blockade of North Vietnam.

"Mr. Nixon insisted that his action was not directed against Moscow. But his decision obviously placed his planned trip to the Soviet Union in extreme jeopardy, even if the Russians do not take up the military challenge directly.

"Mr. Nixon coupled his military move, the most serious and dangerous step taken by any president in the war, with the most conciliatory diplomatic offer he has ever made publicly. He said he would pull out all U.S. troops from Vietnam within four months of an internationally supervised cease-fire and the return of U.S. prisoners of war."

President Nixon's talk was grim. The situation is grim. The prospects for peace are grim.

If Hanoi's leaders had only read the writing on the wall, the American forces in Vietnam would have been virtually removed from South Vietnam within another four to six months if they had not launched their present invasion. But their invasion met with such success that the 60,000 Americans still in that war-torn country were endangered, and President Nixon reacted in a predictable manner. It is unlikely that any other man, including all of the present candidates for the Democratic nomination to the presidency, would have reacted any differently if they held the office of president under the situation which prevails in the Far East today.

It is hard to believe that President Nixon is gambling on an end of the war to protect his chances for re-election in November. It is hard to believe that he is gambling with a possible nuclear confrontation with Moscow. But as long as war continues in Vietnam, the risks of such confrontations have to be considered within the realm of possibility.

We don't like the turn of events, but we don't know who would have handled it differently, if the responsibility had been their experience. The answer as to whether the blockade threat is right or wrong can only be determined by what happens in this precarious world in the next few days.

There is an optimistic point of view, too, but this interpretation has gotten little, if any, attention. President Nixon offered North Vietnam the most generous terms for settlement yet publicized by the Allies. His offer is brutally simple: All U.S. Forces will be removed from Indochina within four months of a cease fire and American prisoners of war released. He didn't specify that the North Vietnam invasion forces had to return to their own country back of the demilitarized zone. He didn't call for an election of a new government. He didn't ask for anything except a cease-fire and the return of prisoners.

This offer certainly deserves close examination by North Vietnam, Russia, China and all the domestic critics of the administration's handling of our withdrawal from the war.

[From the Minot (N. Dak.) Daily News, May 15, 1972]

THEIR WORDS ARE SILLY

Many people are saying that the President's policies regarding the war in Vietnam are futile, besides being risky. The word bankrupt has been used more than once to describe both the policies and the minds that conceived them.

Having determined sometime ago to undertake an orderly, staged withdrawal of U.S. ground forces, the President and his advisors at least should be given credit for endeavoring to keep their pledges.

We mean pledges made both to the American people and to South Vietnam, in fact to the world. For the entire world including

North Vietnam, was advised of the plan in advance.

However wise, or risky, it may have been to serve notice on the world of our intentions, the President did act. He acted according to plan both when he announced the staged withdrawal of troops and when he reacted to an all-out North Vietnam offensive which took a more ominous turn than was expected.

It is totally unfair to call the President's actions bankrupt. They are not so compared to the policy advocated by certain Senate doves and others. Swift, unilateral pull-out without regard for consequences, what is that? Forsaking all responsibilities, what is that? What could be more bankrupt than advocacy of fleeing the country and leaving all obligations behind?

The anti-Administration doves, including some Democratic presidential hopefuls, have had nothing constructive to offer in the form of ideas. They talk about the importance of going back to the conference table and their words are silly. This is the same conference table which cynical North Vietnamese representatives have been using as a propaganda sounding board for several years, making a farce of the semblance of negotiations.

Not one useful word has come from these critics on the possibility of some kind of salvage job to recover something of the investment the United States has made over a period of 12 years. They seem intent only on proving, and hammering on the point, that the U.S. was wrong in the first place and has been wrong all along.

More shocking than North Vietnam's cynicism and desperate course of action is the insensitivity of many American doves to the plight of all those Vietnamese who have, with our encouragement for years, resisted the North Vietnam version of Communism and the Viet Cong. These are Americans who profess to be enlightened, very humane, and very sympathetic toward underdogs. They think they are more righteous than the Quaker in the White House. Most of them are not pacifists really. They sympathize with various parts of the world. Some have traveled halfway around the world to join such movements or give them encouragement. These people imagine themselves to be advocates of love for all races and conditions of men, full of the milk of human kindness for all oppressed brethren. Yet they have written off the Vietnamese people. They are ready to leave to whatever fate awaits them the majority of the population of Vietnam and Indochina.

Who are the cynical people, really? Who do they think will be underdogs and innocents in that part of the world whenever U.S. withdrawal is complete?

[From the Valley City (N. Dak.) Times-Record, May 9, 1972]

PURELY PERSONAL—BY VAN

We have often advocated that to win a war, the first move must be against the lines of supply used by the enemy forces.

We have often advocated that to win a war, the first move must be against the lines of supply used by the enemy forces. This is a primary move by fighting forces whether they are on the offensive or the defensive and one of the means that military forces must use to wage a campaign.

It has often been a source of wonder why this type of warfare was not used immediately in the present Vietnam war and the preceding battles with the Korean war. We were told these were not wars but police actions to restrain forces alien to our way of living.

They have really been wars, however, as you can't send your police forces to another community. And being wars, should have been fought with all the forces at our command.

President Nixon at long last is implementing this type of action to curtail the North Vietnam army's ability to maintain an offensive. He is doing this with the full knowledge that it might provoke a greater action if other nations feel it is their right to intervene.

It might be a bold stroke that will enable us to see within a few short months the end of a war that has not been popular and the return of the POWs in North Vietnam safely and in short order.

As we watch the televised rendition of the President's address, we realize we were once again watching one of the climatic moments of our nation's history—a time of decision and counter-decision that might be one of the more important moments of the present era.

Whether the action taken Monday will be the right one, only the pages of history will show. But we hope it will be a quick and effective stroke to finish off a war that has been on the world's stage for too long, and bring back the fighting men who have suffered months of imprisonment with little but hope to buoy them up.

[From the Foster County (N. Dak.) Independent, May 11, 1972]

COMMENTS FROM THE EDITOR

The first reaction to President Nixon's Monday evening announcement of his edict to the "international bandits" of North Vietnam and their allies apparently received approval of many here.

Commenting on the President's action to interdict avenues of supplies for the enemy, local people said "It's about time" or "It should have been done long ago."

One thought that if President Truman could have restrained his temper during his disagreement with Gen. Douglas MacArthur, much of what has taken place in Asia to make difficulties for the U.S., would not have happened. I am not so sure about that although I feel that the general that President Truman relieved of his duties was probably the best we have ever had.

I am in favor of a hard line when dealing with people who are backed by allies such as Russia and China. Policies of compromise and yielding seems only to encourage more aggression.

If the North Vietnamese and their allies have really wanted peace, they have had more than ample opportunity to have it, including complete removal of U.S. forces from South Vietnam. It suits the Kremlin to prolong the turmoil there to our disadvantage.

When President Kennedy made a hard decision and got tough with Russia regarding Soviet ships and missiles in Cuba, the U.S. decision was respected.

Many believe that Russia is militarily more powerful now and might be harder to convince should there be a similar confrontation in Asia. It seems to be the chance we must take. Backing down has only one consequence for us—more backing down.

I can remember attending several state Republican conventions at which many delegates were embarrassed by long time officials who came to seek indorsement when they should have gracefully stepped down after then too many years of holding down an office because at that time Republican nomination was tantamount to election.

[From the Bottineau Courant, May 16, 1972]

FROM THE FRONT OFFICE

Right or wrong, President Nixon certainly tossed a bomb politically when he declared mining and a blockade of the Tonkin Bay area of Hanoi and other harbors. Immediately antiwar demonstrators took to the streets. Immediately opposing candidates in the presidential race made hay of the declaration. But somehow, we believe Nixon came out on top. We believe most people felt this drastic action was necessary. If nothing else it did strengthen our position, when our image the world over was at a new low.

The new action doesn't mean we are going to bring the troops home. Removal of troops is still going on. The blockade and bombing is a hard shot at cutting off supplies from the advancing North Vietnam armies. And it appears to have had some effect. So far it has not precipitated the world war so many folks were led to believe would happen. Sure the other Communistic nations didn't like it, but they respect the display of courage and strength. They have found us not a push-over that most people felt we were becoming. Even at home, it has bolstered some spirits, especially those who back Nixon.

Well anyway, we're in it. All is going well, we'll have to wait the outcome.

PROMOTION OF RESPECT FOR THE FLAG

Mr. FANNIN. Mr. President, desecration of the American flag has become a popular pastime among those who want to get the attention of newsmen or those who simply want to shock patriotic Americans.

Most people, however, still have great respect for our flag and take pride in displaying it and in honoring it.

The Phoenix Gazette on May 12 published the story of a Phoenix man and his special effort to promote respect for our flag.

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

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

PATRIOTIC SERVICE—YOUR FLAG NEED CLEANING? BLASIUS DOES IT FOR FREE

Fred Blasius is an American. Not a superpatriot, but "as patriotic as the next guy," and he has a service he'd like to give away. But he has few takers.

Blasius is in the dry cleaning business and operates Bell Drapery Cleaners at 1530 E. Thomas Road.

He cleans American flags free of charge, "but I haven't had the kind of response I'd like."

Born in the United States, Blasius grew up in Canada, a country that took a hundred years to get its own flag. "Perhaps living in a country without its own flag has made me appreciate the American flag more," he told The Phoenix Gazette.

"I'd like to see more people flying the flag. Especially on holidays like Memorial Day, Flag Day and Independence Day. Cleaning flags free is my little way of contributing to America—that may sound corny or like a flag-waver, but I don't mean it that way," he stated.

Cleaning American flags free of charge is not an original idea with him, Blasius said. "The National Institute of Dry Cleaners has a policy about that. All member organizations do it."

In a mini-poll taken by The Gazette, eight of 12 Valley dry cleaners said they also clean the flag free. Four dry cleaners said no.

The telephone survey revealed some surprising answers. One man thought it was illegal to clean the flag. Another thought, "You ain't supposed to clean 'em, when they get dirty, burn 'em."

But, Blasius maintains there is nothing wrong with cleaning the flag. "When it becomes too worn and unserviceable, then it should be destroyed by burning. Dry cleaning actually preserves the life of the flag. It

should be cleaned two or three times a year, after dust storms, and when the colors begin to dull."

Asked what the flag means to him, Blasius thought carefully for several moments, then replied. "I guess it means that as long as the flag flies, we have the privilege of living in the free-est nation on earth. This is the greatest country. We have our problems, but it is still the greatest."

While conceding the right of protest and dissent to all individuals in a free society, he asserted that the flag should never be shown disrespect.

"I like young people. They have the right and duty to protest what they feel is not right. But it hurts me, as an American who loves his country and his flag, to see some of them wearing the flag on the seat of their pants. That's disrespect, and there is no call for it."

Blasium said his goal is to clean 500 flags before July 4th, but added that he would appreciate people giving him some time. "I sure don't want to see 500 flags in here the week before the Fourth."

THE GENOCIDE CONVENTION: VIOLENCE AROUND THE GLOBE

Mr. PROXMIRE. Mr. President, in recent days all Americans have once again been rudely awakened to the tragic fact that ours is a violent society. Violence is not a new phenomenon. We have all read through the essays of Hannah Arendt or the report of the Commission on Violence in America or if nothing else the pages of the morning newspaper. The violent nature of our world has confronted us often in the past.

But today it seems especially bad. George Wallace was gunned down within 20 miles of the Nation's Capital. The killing in Vietnam and Ireland persists and the tension in the Middle East and Southern Asia continues unresolved. As time passes there seems to be an increasing disregard for the value of human life throughout the world and an increased reliance upon violence to solve problems and relieve frustrations. If we are to survive, and if our children are to inherit a better world than we did, we must start today to rekindle our commitment to the principles of life and liberty. We must work peaceably to end violence wherever and whenever it occurs.

One vehicle for expressing our commitment to peace is the United Nations and the various peace treaties it has supported. Although the United States has strongly supported the U.N. in projects throughout the world, we have failed to ratify the very important Treaty for the Prevention and Punishment of Genocide. That treaty would outlaw the most heinous crime against humanity imaginable —mass murder.

If we are ever to make a start on the road toward curing our violent society, we must reaffirm our commitment to humanitarian principles at every opportunity. The Genocide Treaty provides us with such a chance; therefore I urge the Senate to ratify this treaty.

OUR COUNTRY IS ENTITLED TO UNITY

Mr. FANNIN. Mr. President, at the request of the distinguished Senator from Wyoming (Mr. HANSEN), I ask unanimous consent to have printed in the RECORD a statement and an insertion by him, pertinent to President Nixon's summit meeting in Moscow.

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

STATEMENT BY MR. HANSEN

The distinguished syndicated columnist, William S. White, in an article printed May 14 in the Wyoming State Tribune, pointed out that if the United States does not stand united behind the President at this time of decision in Vietnam, the consequences could be grim.

Mr. White noted that deep national divisions now will hearten "the North Vietnamese—and the Soviet Union as well," and if those nations are given reason to believe the President does not speak for the United States they would be tempted to read the United States as weak and frightened to the point of paralysis of national will. He said: "The consequences could then be unqualified catastrophe—and catastrophe going far beyond Southeast Asia."

Mr. President, these views are extremely pertinent in view of President Nixon's summit meeting in Moscow, and I ask that the article be printed in the RECORD.

OUR COUNTRY IS ENTITLED TO UNITY

(By William S. White)

WASHINGTON.—Two separate but fatefully interlocked time frames surround this government's blockade of the war supply ports of the North Vietnamese Communists.

First, months will be required to tell whether this action by President Nixon—which, right or wrong, is one of the bravest and loneliest presidential decisions since Harry Truman went resolutely into Korea—will be militarily successful. If it works, a military disaster in South Vietnam that might have entrapped 60,000 American troops and have led to the mass murder of South Vietnamese civilians will have been averted. If it fails, the whole cause in South Vietnam is lost and Richard Nixon may lose the Presidency, too.

The second crisis in time involves not months but only weeks. And, so unlike the first, its outcome is to a critical extent in the hands of the American people themselves. For before May has run out the public will either have backed or repudiated the President. And the nature of their choice will determine whether there is to be any chance for this last, desperate effort to get out of Vietnam on bearable terms.

Public support for Mr. Nixon will provide that chance. Any massive public opposition, inflamed by political rivals of the President, will beyond question destroy the final hope for a Vietnam solution that does not bring tragedy in its train.

So it all now comes down to a proposition as simple as that. This nation is now committed, by a commander-in-chief acting fully within his constitutional rights and fully within the traditions of the presidency whenever strong men have occupied the office. Whether this President has been wise or unwise must be left to the unknowable future.

But the deed is done.

Any public man who at this juncture carries criticism to outright obstructionism will bear an immense responsibility to history and to his fellow countrymen. For deep national divisions now can only hearten the North Vietnamese—and the Soviet Union as well.

Give the enemy reason to believe that the President does not speak for the United States and something far worse than a failure of the blockade policy itself may well ensue. Such a condition would most certainly tempt the North Vietnamese, and possibly the Soviet Union, to read the United States as weak and frightened to the point of paralysis of national will.

The consequence could then be unqualified catastrophe—and catastrophe going far beyond Southeast Asia. So it is entirely true that Mr. Nixon has indeed taken a step of audacity and great danger. It is not true, however, that he has moved in mere anger or pique or in some desire to be the big dog on the world scene.

He acted in the sober conviction that no American leader could further gamble the lives of the pitiably fleeing people of South Vietnam, and of the American soldiers sent there without their consent, on the capacity of the South Vietnamese to break the Communist invasion.

The blockade was long and carefully considered. This columnist, for illustration, reported 10 days before the President's announcement that the Soviet Union itself had been informed not only that there would be no halt to the American bombing but also that an American blockade was not excluded in certain eventualities. "Certain eventualities" meant a possible worsening of the South Vietnamese military position that later was an unavoidable reality.

There is a season for dissent and there is every reason to protect and to respect the right to differ. But that season has given the fullest opportunity to critics and on their side nothing is left unsaid. It must be remembered, too, that in the end the only man bearing the ultimate responsibility sits in the White House. He is entitled—but far more importantly the country is entitled—now to that closed-ranks public posture for which so hearty a domestic adversary of Mr. Nixon as George Meany of the AFL-CIO has so rightly called.

WORK OF FARMERS HOME ADMINISTRATION IN DELAWARE

Mr. BOGGS. Mr. President, two recent events have brought to my attention the fine work done by the Farmers Home Administration in my own State of Delaware.

Today, Mr. Paul P. Bickford, the Farmers Home Administration supervisor for Delaware and the Eastern Shore of Maryland, is turning over to the town of Selbyville, Del., a check to cover the FHA financing of an all-important sewer system.

This is a project on which I have been pleased to work with Mr. Bickford and the local and State officials involved, and I am most pleased to see that it is coming to reality.

I am sorry that the press of Senate business makes it impossible for me to be in Selbyville today to take part in the ceremonies; but I do want to offer my congratulations to Mayor Carl P. Lekites of Selbyville and the representatives of the Sussex County Council and the State government who are there.

This project demonstrates what can be accomplished when a number of State, local, and Federal agencies work together. The $1,944,000 cost of the project comes from five different sources: Farmers Home Administration is contributing a $330,000 grant and a $500,000 low-interest loan; the Environmental Protection Agency is contributing $212,000; and the Economic Development Administration is contributing $131,000; the State of Delaware is contributing $603,900; and the rest of the funds are coming from local sources.

This is a vitally-important project; and all who worked on it are to be commended.

The second event which brings the Farmers Home Administration to my mind was the signing of a contract last week by the General Services Administration for office space for the FHA State Office in Newark, Del.

We are most pleased to welcome this office and its Director, Mr. C. William Haines, Jr., to our State. We know he does a good job and we look forward to working even more closely with him in the future.

Most of Delaware is an area of towns and farms, rather than of large cities; and in many ways our State is an exhibit of the fine work done by the Farmers Home Administration under the leadership of the Honorable James V. Smith.

The FHA has long been a mainstay of production financing for the family farmer who lacked other sources of adequate credit, or who needed a loan to recover from damage inflicted on his farm by natural disaster.

More recently, this agency has been given added responsibility to expand housing credit and to finance public water and sewer facilities for rural families and towns. In its response, the Farmers Home Administration has proved itself capable of action in all the principal aspects of rural community development.

Delaware is a small State of three counties, two of which are predominantly rural. But what is significant is the county-by-county impact of Farmers Home Administration programs and the fact that FHA is rendering this same volume and quality of service in rural areas nationwide.

In Delaware, about 800 homes for families of low and moderate income have been provided through more than $11 million of rural FHA homeownership credit now outstanding.

The fact that about 500 of these homes have been produced in the past 18 months indicates the accelerating rate of progress in this program. It now engages the work of about 40 builders in rural Delaware, with some 200 homes under construction at the present time. Production for the current fiscal year will total about 470 homes, representing $8 million of construction, for a very substantial increase over the 324 homes, $5 million of building realized from the program last fiscal year.

It is worth noting also that the Farmers Home Administration has proved itself capable of excellent working relationship with agencies of local government. Its housing service is valued so highly by our two rural county governments that they have supplied extra clerical help to work with Farmers Home Administration personnel in the processing of housing loans.

FHA also is working with the Levy Court of Kent County on advance planning for the ultimate development of a countywide sewage disposal system. This is the type of benefit that can result from a strengthening of the rural facilities program. It is an indispensable part of the national action required to overcome problems of pollution control and good community development.

Mr. President, we will serve these national objectives by taking full advantage of the fine capabilities for rural service now present in the Farmers Home Administration.

LEAGUE OF WOMEN VOTERS LOSING OBJECTIVITY AND FAIRNESS

Mr. FANNIN. Mr. President, I am deeply concerned about the apparent growth of the idea that in order for a person or an organization to be effective and useful, the person or the organization must actively work for or noisily advocate a political viewpoint.

This concern has grown as I have seen what has happened lately to the League of Women Voters.

Traditionally the league performed a great public service by informing people and encouraging good citizenship. The league was very effective because it had a fine reputation for objectivity and fairness.

Recent developments have indicated that the league no longer is following the principles of objectivity and fairness in presenting both sides of the issues. Instead, the league—at least, a portion of the league—has become partisan and activist. This is detrimental to this once-proud organization. I would hope that the league can regain its position of trust in our country, and that it will not become just another one of many partisan, or activist groups propagandizing for liberal causes.

Mr. President, Phoenix Gazette editorial writer Jay Brashear recently wrote a very good article concerning the League of Women Voters. I ask 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:

LEAGUE OF WOMEN VOTERS RISKS LOSS OF CREDIBILITY BY ACTIVISM

(By Jay Brashear)

With the leadership of the League of Women Voters apparently unable to resist the temptations of ideological political activism, there may be a need for a new organization of women—or men or both—to pick up the league's old cause: better government through increased citizen participation.

For years the league performed a public service of the highest order by mounting voter registration campaigns, publishing biographical material on candidates, arranging for debates on vital issues, conducting get-out-the-vote campaigns and generally generating an interest in public affairs.

Partisan organizations have engaged in similar activities, of course, but the League of Women Voters was particularly effective because it carefully avoided taking political sides. Individually, its members surely held some strong political views, but when doing the league's good work they managed to submerge them in the cause of better government.

Although many members of the league doubtless are distressed by the development, its leadership isn't operating with such commendable impartiality any more. Without directly endorsing candidates, the leaders are taking sides on controversial issues, which amounts to the same thing as endorsement, and puts the league into the ideological arena.

At its annual convention in Atlanta last week, the National League of Women Voters approved a resolution, by a vote of 760 to 545, calling for immediate and complete withdrawal of American troops from Southeast Asia. That is an ideologically partisan position if ever there was one: It denounces the policy of the Nixon administration and endorses the position of George McGovern and other Liberal Democratic hopefuls.

To be sure, the convention's 1,500 delegates were careful to explain that the vote on the war didn't necessarily reflect the views of the League's 160,000 members, but only of those who voted for the resolution. That disclaimer may not prove convincing, however, to a lot of citizens who have placed so much confidence in the organization's impartiality.

The league's credibility would have been equally damaged, of course, if the vote on the war resolution had gone the other way. If the delegates had acted in the best traditions of the League of Women Voters, they might have encouraged an expression of public sentiment on the war issue or, more likely, avoided the issue entirely—inasmuch as there is scarcely any lack of public interest, debate or information on the subject.

Unfortunately, the national convention's outburst of ideology wasn't an isolated aberration. Back in 1971, the same sort of thing happened closer to home. The Tucson League of Women Voters engaged in an effort to get welfare payments increased in Arizona. As a publicity gimmick, five of the women tried to run their households for a month on a welfare budget and then reported it couldn't be done.

In its earlier days the league, instead of taking an advocacy position, probably would have made arguments for and against an increase in welfare available to Arizonians in an effort to try to generate sober thinking on an issue fraught with emotionalism. Instead the Tucsonans added to the emotionalism.

At a time when politicians of all stripes are trying to confuse rather than enlighten, to skirt issues rather than to debate them, and to argue with themselves by saying whatever they believe the audience at hand might like to hear, there is a greater need than ever for an organization devoted to putting politics in focus.

Such an organization, however, must be scrupulously impartial, a characteristic that the League of Women Voters is losing fast, thanks to activists in its leadership. The league may still enjoy enough prestige that if the members clean their own house and keep it that way, the organization can work its way back into wider public confidence.

Unless the brooms are wielded soon, however, the League of Women Voters will become a part of the political spectrum, located somewhere close to the Americans for Democratic Action, the way the organization is moving. It wouldn't be any better, however, if the organization were drifting right. To be as effective as it once was, it can't be in the spectrum at all.

THE 1973 NAVY BUDGET

Mr. STEVENSON. Mr. President, during the last several years the Navy and the press have provided Congress with a great deal of information about the Soviet Navy. A widely held impression results that the Russian Navy, especially its submarine fleet, is rapidly growing; that the Russian Mediterranean fleet dwarfs its NATO counterpart; and that the Russian shipbuilding effort exceeds that of the United States and its allies.

Another result of this publicity has been too-easy acceptance of the Navy's budgetary and shipbuilding requests.

The Navy's budget is already billions larger than those of the other services, and in fiscal year 1973 the Navy is asking for funds to start a billion-dollar carrier, the $10 billion ULMS fleet, patrol frigates, sea-control ships, surface-effect ships and hydrofoils, and to continue the much-troubled *Spruance* destroyer. While there has been criticism of the carrier and the destroyer, this criticism has been largely based on the huge costs and overruns involved. By contrast, there has been easy acceptance of the Navy's statements about the Soviet fleet and about U.S. naval policy.

The Soviet navy is not growing—it is shrinking. Its feared submarine fleet has retired over 150 vessels more than it has built. Its Mediterranean force is one-fifth that of NATO's. And the East is building fewer ships than the West.

What is more, the U.S. response to Soviet naval developments has been to press for construction of vessels which are many times larger, and cost many times more, than the "threat." If the U.S. Navy is worried about a "ship gap," it will never solve the problem by building CVN–70, which will cost 10 times what was paid for the Russian carrier-cruisers. The plain fact is that we are paying exorbitant sums for a few huge vessels. The Russian policy has been to get seapower for much smaller costs per ship.

Today I offer for the RECORD a statement I have submitted to the Senate Committee on Armed Services, expressing my concern about these developments. I would also invite the Senate's attention to the newly formed Center for Defense Information and its first publication. The center is an independent scholarly and educational organization, staffed with experienced professional personnel under the directorship of Rear Adm. Gene R. LaRocque, U.S. Navy, retired. It will disseminate its research and infomational materials to the public and Congress. The May 1972, issue of its journal, the Defense Monitor, contains an article entitled "The Soviet Naval Threat: Reality and Illusion," which lends support to my own findings and should be of interest to all Senators. I ask unanimous consent that my statement, followed by the report of the Center for Defense Information, be printed in the RECORD.

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

STATEMENT BY SENATOR ADLAI E. STEVENSON III OF ILLINOIS

The Navy's budget is today more controversial—and billions of dollars larger—than those of the other services. The Navy seeks $12.4 billion for procurement and research in fiscal year 1973, over $1 billion more than in 1972 and almost $3 billion more than any other service. It is seeking funds for the procurement of patrol frigates, multiple purpose sea control ships, surface effect ships, and hydrofoils. It is seeking funds for the acquisition of somewhat more conventional ships, principally destroyers, and for sophisticated weapons to place upon our multitude of vessels. It seeks funds for the F–14. It seeks funds for a billion dollar nuclear carrier and a fleet of billion-dollar ULMS missile launching submarines. It is asking for almost every kind of vessel for almost every kind of purpose.

Others, notably Senator Proxmire, have commented on the Navy's procurement difficulties. Suffice it for me to say that any fair consideration of the Navy's procurement requests must include a consideration of the Navy's ability to spend public funds sensibly and efficiently. The evidence of cost overruns cancelled shipbuilding, and industry claims for excess costs does not excite much confidence. These are matters to be weighed by the Armed Services Committee and in the forthcoming debate on the Military Procurement Bill.

It also seems clear that no fair assessment of Naval budgetary requirements can be made without a consideration of Naval strategy and our global role. In formulating its budgetary requirements, the Navy assumes four necessary capabilities: an "assured second strike," "control of sea lanes and areas," "projection of power ashore," and "overseas presence." There can be no doubt about the need for the first capability though there are doubts about the present need for ULMS. Our principal nuclear deterrent now lies beneath the seas within our submarines. It must be maintained. Of the other three capabilities, fundamental questions arise, and they should be answered, lest we squander billions of dollars for unrealistic naval "capabilities." Must we, for example, control the sea lanes to every corner of the world? Is it necessary? And is it possible? It is said that we must be able to keep open the sea lanes in order to import oil, but wouldn't any enemy cut foreign oil production at its source?

We are told by Admiral Zumwalt that it is "consonant" with the Nixon doctrine to "project power ashore" from the sea. But can that truly be the meaning of the Nixon doctrine—that American forces will be stationed around the globe at sea for "projection" ashore? Can forces at sea lend more support than those ashore? Or if land-based forces are inappropriate to the political realities of the mid-20th Century, aren't sea-based forces also? Must we be prepared to extinguish brush fires everywhere and, if so, can we do it with the Navy? I doubt it. I doubt that one-half of our attack carriers off the coast of Vietnam can for long save the South Vietnamese military regime.

It is said also that the Navy must maintain a United States overseas "presence"—maintain our might and show the flag. That assumption, too, should be tested against the rapidly changing political realities of a restless, shrinking world, seeking bread and trade, freedom and self-government, not visits from American, or Soviet, navies. I suspect that gunboat diplomacy is a thing of the past. We last tried it in the Bay of Bengal during the recent Indo-Pakistani conflict, and we accomplished nothing more than the war's prolongation—and our own humiliation. If showing the flag is necessary, is a fourth billion-dollar nuclear carrier necessary—or might a conventionally powered carrier or a new sea control ship suffice?

I do not today question the Navy's assumptions about its required capabilities, though I doubt that they are all realistic. And if they are not, we are asked to add unnecessary burdens to our already overburdened taxpayers and spend for the Navy monies which could be spent on schools, on health, on housing.

Nor do I consider, today, the apparently overlooked danger that billions of dollars spent in the name of national security on advanced vessels and weapons can add to our national insecurity by threatening our environment. We remember the concern which followed the crash of an American plane armed with nuclear weapons off the coast of Spain. We would be well advised to ask in connection with the procurement of Naval vessels what might be the environmental consequences of the sinking of a huge, vulnerable attack carrier with its nuclear power system, as well as its nuclear weapons. Two U.S. nuclear submarines have already sunk. What would be the environmental and political consequences of the sinking of a huge ULMS submarine off the coast of Japan? Environmental impact statements have been filed for far less worrisome military projects, but not for nuclear carriers or nuclear armed submarines. I sense that these dangers to our survival from instruments of supposed defense are rarely considered in the Pentagon or in the Congress.

My point today is simply that no matter what Naval capabilities are necessary, the U.S. may be able to develop a far more flexible and potent force for far less money than the Navy seeks.

Two important but little-known facts support my position:

First, *despite Soviet advantages in certain fields, the shrinking Soviet fleet is in no position to replace the United States as the world's pre-eminent naval power.*

Second, *the Soviets' new ships cost a fraction of our response to them, even if labor costs are assumed to be the same in the two countries.*

SOVIET NAVAL ADVANTAGES

The Soviets are constructing submarines at a rapid rate. In FY 1970 and 1971, the Soviets built fifteen nuclear attack submarines; the U.S. built ten. In the preceding years, the opposite was true; the U.S. was outbuilding the Soviets.

The Soviet Union is ahead in pre-*Polaris* class missile submarines. Prior to the *Yankee* construction program, the Soviets constructed or converted a large number of missile launching submarines. Twenty-five are diesel. Nine are nuclear. None carry more than three missiles; each missile carries one deliverable warhead. The West has none of these. Therefore, the Soviets have an edge here. However, all of these vesels are obsolete, and the Soviets have already retired about twelve others of these classes.

The Soviets are catching up in *Polaris*-type submarines. As we all know, the Soviets have a sizeable *Yankee*-class construction program. According to the Navy, there are now 42 of these submarines either deployed, launched, or under construction. That is one more than the U.S. has, but three less than the NATO total. So the Russians have fewer *Yankees* than NATO has *Polaris*. And seventeen of the *Polaris* submarines are already upgraded to *Poseidon*, each one of which carries twelve times as many warheads as a *Yankee* submarine.

The Warsaw Pact is ahead in anti-ship missiles. The long-range Russian missiles are partly a substitute for carrier-based aircraft. The short-range models are more akin to Naval artillery. But the U.S. has roughly 30 vessels with this capability, and we could buy NATO missiles off-the-shelf at any time. In addition, an American missile is under development. Within a few years, then, the U.S. fleets will have not only aircraft but missiles as well.

The Russian fleet is of more recent vintage than the U.S. fleet. The average age of Soviet vessels is younger than that of U.S. vessels. The average Soviet ship is eleven years old, while the average U.S. ship is fifteen years old. These statistics present several problems, however. The Soviets are generally on a 20-year replacement schedule, while the U.S. is on a 30-year schedule. Thus, the average fifteen-year-old U.S. vessel has fifteen years of useful life remaining, while the average eleven-year-old Soviet vessel has only nine. In addition, it is widely conceded that the quality of many existing Soviet vessels is significantly below that of their U.S. counterparts. This means that equally-old vessels of the same class do not represent equal fighting power. If the two countries continue with 20- and 30-year replacement cycles, the average

age in the fleets should eventually stabilize at 10 and 15 years. Then there would be a permanent 5-year "gap". But it would be the result of a conscious policy decision, not a sign that we are falling behind.

THE SOVIET FLEET IS IN NO POSITION TO SUPPLANT THE U.S. FLEET

Despite all the clamor to the contrary, the Soviet navy is actually shrinking—just as is the U.S. Navy. As large surface vessels have become increasingly vulnerable and costly to operate, and as ships from World War II and later building programs have become obsolete, the Soviets have retired them. They are faced with many of the same problems we are.

The common impression that the Soviet navy is growing is traceable to several causes. A decade ago, the Soviet navy rarely ventured on the high seas. Now we see it in the Atlantic the Caribbean, the Mediterranean. Its operations have increased. Second, the Soviet bloc has built many ships in the last decade—although not as many as the West. This activity is easily confused with growth in numbers. Last, with the introduction of new types of vessels, especially strategic missile-firing submarines, the firepower of the Russian navy has increased even while the number of ships has decreased. This is true of the U.S. Navy too.

The fact is that the Soviet Navy, including all the new submarines, shrank from 691 to 586 major fighting ships from 1960 to 1971.

The general-purpose navy, excluding the strategic missile submarines, shrank even more, from 691 to 525.

Major surface combatants shrank from 261 to 230. By comparison, U.S. major surface combatants have gone from 289 in 1964 to 244 in 1971—an almost identical reduction.

Minor Soviet combat vessels, such as ocean-going minesweepers, patrol boats and amphibious ships, shrank from 769 to 675.

Despite the recent Soviet submarine construction effort, the West has consistently outbuilt the East during the last decade. The NATO lead in total shipbuilding, in fact, has more than compensated for Soviet submarine construction.

The NATO lead in all ship construction during the last five years is 22%. The ten-year lead is even greater—33%. For major surface combatants, the NATO five-year lead is 35%, and the ten-year lead is 72%.

A different impression can be created by omitting allied construction, as naval advocates often do, or by including merchant marine and fishing fleet construction. A good example of the latter is this 1971 statement by Admiral Zumwalt:

"The Soviets are spending annually an estimated $1.7 billion for new merchant and fishing ships as compared to our FY 1969 and 1970 merchant programs of $334 million and $253 million respectively. If maritime modernization is measured in terms of shipbuilding expenditures (naval and merchant) the Soviet Union in 1970 was modernizing at almost exactly twice the annual rate of the U.S. ($4.7 billion in 1970 vs. $2.353)."

By this device, the Navy shows that the U.S. is behind in maritime modernization because the Russians are building a lot of fishing boats. This is hardly a persuasive argument for raising the Navy budget.

Just as the total fleet has been shrinking during the last decade, so has the submarine fleet. From 1960 to 1972, the attack force shrunk from 430 to about 279, a cut of over 150 submarines, or over 35%. Even when missile-firing subs are added to these figures, there still is a dramatic shrinkage. This holds true despite all the new construction which has been so heavily publicized.

The reasons for this are straightforward enough. Older vessels have become obsolete and too expensive to operate. Construction of new, more capable craft has justified retiring old vessels. In FY 1971, for example, the Soviets constructed seven new attack submarines but decommissioned 32.

The Navy is not always consistent in its use of these figures. In February, Admiral Zumwalt told the Senate that there were about 280 Soviet attack submarines. That same month, Admiral Moorer told the Senate there were just over 250. In March Admiral Zumwalt told the House there were 285. But the conclusion drawn from the facts is always the same: we must spend more money on naval procurement.

The Soviet presence in the Mediterranean is a fraction of the NATO fleet. The news reports give the opposite impression: "... the Soviets passed us in 1970 in the number of deployed ships in the Mediterranean; as indicated here in terms of the number of total ship-days—the Sixth Fleet is faced with the highest density of deployed Soviet submarines anywhere in the world," testified Admiral Zumwalt last year (Senate Procurement hearings, Part 1, pp. 894, 900). "The Russians have built up the Mediterranean fleet, which already exceeds that of the United States in numbers of ships. . ." (Washington Post, Sept. 16, 1971). "A Mediterranean Tide Runs for the Russians," according to Newsweek. "On a typical day . . . (there were) 55 (Soviet ships) versus the 44 in the Sixth Fleet" (Newsweek, June 19, 1971).

There is no doubt that the Soviet Mediterranean squadron has increased in size and strength during the last decade. But this increase should be put in perspective. For twenty years after World War II, the U.S. Sixth Fleet was alone in the Midterranean; it became almost an American lake. Few Russian fighting vessels visited the Mediterranean during this time. Now, of course, the situation has changed. Any increase from zero is a lot.

But those who assert that the edge has gone to the Russians are overlooking certain evidence.

The most important fact is that the Russian Mediterranean fleet is quite small. It may be good, new, and potent; but its numbers compare poorly with its NATO counterpart. It is smaller than the Italian fleet, less than half the size of the French fleet allocated to the Mediteranean, and less than one-sixth the size of the NATO fleet.

The Navy uses "ship-days" to indicate predominance by the USSR over the U.S. in the Mediterranean. This is particularly misleading. It equates three days' deployment of a Russian LST to one day's deployment of the carriers *Saratoga, Kennedy* and *Intrepid*. It also ignores our allies' contribution.

Due to the western lead in Polaris-type vessels, and due especially to U.S. MIRV technology, NATO—and the U.S. alone—have a tremendous lead in the destructive and deterrent capacity of our seaborne strategic strike force. The U.S. advantage, with or without the four British *Polarais* vessels, is about 6:1. One simple statistic provides a vivid illustrati›n of the magnitude of the U.S. lead: One *Poseidon* can destroy as many targets as *64* of the older class of the Soviet missile submarines, or *twelve Yankee* class submarines. These figures do not appear in either Secretary Laird's or Admiral Moorer's Posture Statement.

Specifically, our *17* operational Poseidons and 15 Polaris' carrying *3504* targetable warheads; the *26* Yankees and *34* pre-Yankees carry *518*. The British *Polaris'* add 64 warheads to the NATO total. In 1975, the U.S. figure will be 6112 as against an estimated Soviet figure of 774, assuming no retirements and 42 *Yankees*.

The foregoing analysis is intended to demonstrate that naval superiority enjoyed by the United States is not in jeopardy. There is no cause for alarm—but neither should we be lulled into a false sense of security. We must remain cognizant of changes in the nature of the Soviet effort.

It is clear that there is a Soviet presence whose existence must be taken into account when naval procurement decisions are made. But neither the immediacy nor the magnitude of the Soviet effort can justify a crisis atmosphere. Those who would try to shake our confidence in the U.S. fleet do a disservice to the Navy and the Nation alike.

SOVIET SHIPS COST A FRACTION OF THE U.S. RESPONSE

Last year, the Senate Armed Services Committee held excellent hearings on the weapons system development and procurement process. For the first time, Senators were made aware of the procurement practices of other nations. The products of these foreign efforts have often been excellent, simple, mass-produceable, and inexpensive weapons.

The new Soviet ships our Navy is so concerned about cost a fraction of the ships we have been building and plan to build. We are spending vastly more per ship than the Russians, yet the Navy claims we are falling behind the Russians.

If it is true the Russians are catching up, as the Navy claims, it is because they spend less money on more small, non-nuclear-powered ships. Our latest new ships are the 95,000-ton nuclear carriers; their largest new ships are the 18,000-ton cruiser-carriers of the *Moskva-Leningrad* class.

Our new destroyer-leader-frigate, the DLGN-38, is larger than most of the new Soviet cruisers, and costs more than twice as much. Our new destroyer, the DD-963 *Spruance* class, is larger than most of the new Soviet cruisers, and costs about as much. For what we pay for a destroyer, the Soviets can build a cruiser.

We simply pay vastly more per ship than the Russians do. For one of our nuclear attack carriers we could buy seven of their deadly *Kresta* II cruisers. For one of our new frigates (DLGN-38) we could buy two of their ASW carriers. All of these computations are based on American labor costs.

Things get worse in future years. The Navy wants to spend almost a billion dollars on CVN-70. That price is exclusive of another billion for its aircraft, and half a billion for its support ships. For the price of the carrier alone, we could acquire about nine sea control ships—small carriers. We could have nine more DD-963's or twenty patrol frigates (PF). We could have almost *fifty* missile-armed hydrofoils. Isn't it possible that for a fraction of the cost of this carrier, all of its capabilities including the new anti-sub function of the attack carrier, could be better performed by a combination of different small ships? And those ships might not require the expenditures of billions for escort vessels and backup carriers.

Second, not only are U.S. ship costs extremely high, but our subsystem costs are now so high that they compare to what the Soviets are spending on entire ships. What we are paying for four apparently defective Mark-48 torpedoes coming off the assembly line now could buy one copy of the *Komar* missile-armed Russian gunboat.

CONCLUSION

Military spending by itself does not bring us added security in the world. Each increment usually brings a response from the other side, leaving us by and large in the same relative position, but always poorer and a little closer to the flash point. We don't seem to know how to slow military spending down. As our ground troops disengage in Vietnam, military sepnding goes up. Now in a moment or unreasoning fear of the Soviet Navy, we are in danger of lurching ahead again.

The world spends about $200 billion annually on engines of death and destruction. We cannot conceive the dimensions of wealth and welfare which might be bought for $200 billion, or a fraction of that sum, invested

annually in schools hospitals and development. I recall last summer asking a member of the Thai government if his government might not be more stable if all U.S. money spent in that country for the support of U.S. and Thai military forces and the police had instead been spent for health, education and development. The answer came instantly, as it has to me the world over. "Of course," the minister said, "political conditions would be more stable if the funds had been spent for the people instead of for the military." If, indeed, our interest lies with the survival of free, independent nations, abjuring, as they do, domination by East and West, would we not be better off harmonizing our actions with our own best principles and abjuring the role of the world's foremost merchant of arms? Would not the world be more stable and the U.S. more powerful if we devoted $1 billion for one nuclear aircraft carrier instead to technical and humanitarian assistance in Africa and South America, and to credits for the purchase of American corn, machinery and medicines? I have my own answers to those questions, but it is not my intention to discuss them today. I merely want to suggest that we will be guilty of the most extraordinary waste if we accept with too little scrutiny the naval procurement requests. We have better things to do with our money than to build a fourth nuclear aircraft carrier.

Consider that nuclear carrier. Its cost is greatly augmented because it is nuclear. Why? It must be provisioned regularly with food, fuel for its planes and ammunition. Why not with oil for its engines? Its newly acquired anti-sub role could be performed less expensively by existing land based planes and new less expensive multiple-purpose vessels (including sea based planes and helicopters). Its sea control mission could be performed less expensively by destroyers, patrol frigates and other less expensive surface vessels—if sea control against the most modern nuclear submarines is possible by any means. Its shore support mission might be performed by surface-to-surface missiles launched from less expensive naval platforms or by planes launched from existing carriers or additional less expensive carriers. Why must we place so many of our eggs in this one most fragile and expensive basket? Is it not in this age vulnerable to destruction and heavy damage from attack by airborne missiles? Do not the Navy's own exercises demonstrate that it is vulnerable to attack from the nuclear submarine?

It was the Congress which came to the rescue of one beleaguered Naval officer in his fight within the Navy for the development of the first nuclear submarine. I believe, and so do many Naval officers, that today something more of the Congress is called for than silent acquiescence. Is it wise, for another example, to stake a down payment of $977 million on the development of an ULMS submarine that will cost $1 billion per copy? We have been told that the ULMS submarine will carry 24 missile launching tubes. It would be larger than the Soviet's largest new ship, the *Kresta II* class cruiser. I understand it would be so large that the United States would have no on shore facilities capable of servicing it. They would have to be developed at still more expense. I do not question the desirability of developing the ULMS I missile—but I do question the desirability of developing so large a new submarine, at such a cost. Would it not be more prudent to develop smaller submarines, or continue use of the modified *Poseidon* which is far ahead of anything in sight for the Soviets? Could we not deploy a far more flexible force of far more boats at far less cost?

I do not know that these questions can be answered in full before we vote on the military procurement bill. But the questions must be raised. Some have been raised in the Armed Services Committee, and I commend it for its attention to them, especially to procurement practices in the military. But they should be answered before we run the risk of wasting many billions of dollars on vessels of little or no utility and of potential danger to the peace of the world and the environment. In view of the continuing supremacy of the U.S. and NATO fleets we have little to risk by going slow and answering these questions first—and much to risk by lurching ahead.

THE SOVIET NAVAL THREAT: REALITY AND ILLUSION

Admiral Thomas M. Moorer, Chairman of the Joint Chiefs of Staff, has told Congress that "a major shift in the naval balance between the United States and the Soviet Union" is taking place.

"Unless we accelerate the modernization of our fleet," he told the Senate Armed Services Committee on February 15, 1972, "the Soviets will increasingly challenge our control of the seas in those maritime regions essential to the success of our forward defense strategy, as well as in ocean areas closer to our shores."

On the basis of these arguments, the Defense Department has asked Congress for $9.7 billion in new Navy procurement funds for fiscal 1973, about $1 billion more than in 1972, which was in turn about $1 billion more than in 1971. These funds are part of a Navy "modernization" program: 42 major combat ships and 21 submarines now under construction or authorized by Congress and more than 60 major surface ships and a new fleet of ballistic missile submarines contemplated (see tables 4 and 5).

The Center for Defense Information has made its own study of the naval balance and has reached the following conclusions:

The balance is heavily in favor of the United States.

The Soviet Union is doing little which would significantly change the balance in the next few years.

There is little evidence to support the request for a large increase in money for ships designed to project US power overseas and to greatly expand US strategic weapons capability.

A LOOK AT THE BALANCE

Defense Department testimony to Congress on the Soviet naval threat stresses such trend as an increase in the number of Soviet major combat surface ships in the last five years (from 185 to 215, including two new helicopter carriers, seven new missile cruisers, 18 new missile destroyers and 36 new escorts). It stresses Russia's numerical advantage in submarines (about 343 Soviet to 138 US), new Soviet anti-ship missiles, and increases in Soviet naval operations in the world's oceans.

But these presentations fail to give a fair picture of the relative strengths of these two navies. The diagrams and data on the following pages give a fair picture. They show that:

1. The Soviet Union has no nuclear-powered combat surface ships and is not reported to be building any. The United States has four and is building seven more.

2. The United States has 14 attack aircraft carriers which carry from 40 to 90 jet aircraft each, used for striking land or sea targets. Two nuclear carriers are under construction. The Soviet Union has no attack carriers and no sea-based fixed-wing aircraft. The Defense Department has asked for funds in 1973 to start building the power plant for a fourth nuclear attack carrier. It also has asked for funds to design a new fleet of at least eight smaller follow-on carriers to be called Sea Control Ships.

3. The United States has two anti-submarine carriers which carry helicopters and fixed-wing anti-submarine aircraft. The Soviets have two anti-submarine carriers which are actually cruisers with large helicopter landing decks. One 35,000-ton ship is under construction in the Soviet Union which may be a carrier or some other type of ship.

4. The United States has seven "assault" helicopter carriers designed to move marines ashore. Five more, twice the size of the existing ones, are under construction. The Soviet Union has no comparable ships.

5. The United States has nine cruisers. The Soviets have 25. But four of the Soviet cruisers are pre-World War Two and are probably being retired. Ten of the Soviet cruisers are smaller than many US destroyers. The US Navy wants to build two 2200-ton prototypes of what would eventually be a cruiser-size hovercraft called a "surface effects ship."

6. Soviet missile-firing destroyers are fewer and smaller than their US counterparts. Congress has already authorized 30 new destroyers (DD963 Spruance Class), which are larger than any destroyers of the Soviet Union. The US Navy is asking for funds for 50 new "patrol frigates" which will be larger than most Soviet destroyers. By the late 1970s all US destroyers and patrol frigates are to be equipped with the new Harpoon surface-to-surface missile.

7. The present US fleet of 41 strategic ballistic missile submarines has 2800 separately targetable warheads.[1] Russia's ballistic missile submarines have about 500 warheads (see Table 1). Also, a greater percentage of the US ballistic missile submarines are on station at a given time than is the case with the Soviet submarines. By 1976, the number of separately targetable US submarine-launched warheads will increase to almost 7000. This figure does not reflect the proposed new ULMS ballistic missile submarine system which will be the subject of a subsequent edition of *The Defense Monitor*.

8. The Soviets have a fleet of 68 submarines armed with anti-shipping "cruise" missiles. The United States decided in the 1950s not to develop a capability in this area and abandoned its Regulus missile program. Recently, the Pentagon decided to go ahead with development of a new cruise missile for a new attack submarine.

9. The US has more than twice the number of nuclear-powered attack submarines as the Soviet Union. The Russians have 190 diesel attack submarines as compared to 41 for the US, but these are being phased out of both navies. The total number of Soviet attack submarines have decreased from 430 in 1960 to 283 in 1972, and Admiral Moorer states that he expects this number will continue to decline as newer submarines are introduced at a slower rate than older units are withdrawn. The US is building a new class of nuclear attack submarines (SSN 688 Los Angeles Class).

CONSTRUCTION

Admiral Moorer told Congress: "The rate of modernization in the Soviet surface fleet is expected to accelerate during the next few years."

The Russians are building mainly light cruisers and destroyers. These include Kresta II cruisers, and Krivak and Kashin destroyers. Recently these have been built at a rate of about one per year in each class. Defense Department reports have suggested another "possible" cruiser construction program and a "possible" carrier.

But in view of the US construction program already in progress, Soviet "acceleration" would have to be enormous to make significant difference in the overall balance.

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[1] To put in context with overall US strategic capability, Secretary Laird gave these comparative figures for nuclear weapons for mid 1972:

Total offensive strategic nuclear weapons (warheads):

U.S., 5,700.

U.S.S.R., 2,500.

REGIONAL BALANCES

When talking about a shifting balance, Defense Department witnesses limit themselves to comparing the US and Soviet navies. Yet many NATO allies have modern effective navies that must be taken into account. When NATO and Warsaw Pact forces are compared the balance clearly favors NATO (see Table 2).

The balance is even more striking when naval forces in the Mediterranean, for example, are examined alone (see Table 3). (Not shown in the table are the more than 50 small patrol boats armed with anti-ship missiles which the Soviet Union has given many of her allies in the area. These boats normally operate relatively near shore.)

OTHER FACTORS

The map on page seven shows that Soviet fleets suffer geographic and climatic handicaps—limitations not faced by the US Navy. Some fleets are partially iced-in during winter. Others can be bottled up in home waters because of narrow passages through which they must travel. These "choke points" also facilitate NATO's monitoring of Soviet fleet movements.

In discussing the US-USSR naval balance, Defense Department witnesses neglect to consider the US Coast Guard—a force which possesses over 50 ocean-going cutters of naval destroyer size, armed with guns and anti-submarine weapons.

CONCLUSIONS

The overall naval balance favors the United States. The Soviet Union is not likely to change this status in the near future.

The naval "balance" argument does not, therefore, justify, by itself, the kind of naval buildup which the Defense Department has under way now or plans in the future. However, Defense Department testimony makes clear that the Navy has other purposes in mind. Admiral Elmo R. Zumwalt Jr., Chief of Naval Operations, told Congress that the Navy's four "capabilities" are:

"Assured second strike"

(This refers to the Polaris-Poseidon fleet retaliating with strategic missiles after a Soviet nuclear attack on the United States.)

"Control of sealanes and areas"

"Projection of power ashore"

"Overseas presence"

The first "capability" is defensive. In view of the overwhelming second strike capability which the US possesses, the new ULMS program is not needed at this time. The American public deserves a much clearer definition of the other Navy "capabilities": What kind and degree of "control of the seas" has the US decided to pursue? Under what conditions and in what areas of the world will it "project power ashore"? What portion of the present Navy and what portion of the "modernization" program is designed for overseas presence? These are questions which must be publicly asked and answered before additional programs are approved by Congress.

"Every addition to defense expenditure does not automatically increase military security. Because security is based upon moral and economic, as well as purely military strength, a point can be reached at which additional funds for arms, far from bolstering security, weaken it."

President EISENHOWER.

TABLE 1.—CURRENT BALLISTIC MISSILE SUBMARINE COMPARISON

Type	Number of submarines	Missile type	Missile range (nm)	Number of launchers per submarine	Total number of launchers	Number of independent warheads per submarine	Total number of warheads
U.S.: [1]							
Poseidon	12	Poseidon	2,500	16	192	192	2,304
Po'aris	21	A-3	2,500	16	336	16	336
Polaris	8	A-2	1,500	16	128	16	128
Total	41				656		2,768
U.S.S.R.: [2]							
Yankee	26	SS-N-6 (Sawfly)	1,300	16	416	16	416
Hotel	9	SS-N-5 (Serb)	650	3	27	3	27
Golf II	25	SS-N-5 (Serb)	650	3	75	3	75
Total	60				518		518

[1] Figures as of June 1972. [2] Figures as of February 1972.

TABLE 2.—MAJOR NAVAL COMBATANT COMPARISON (FIGURES AS OF FEBRUARY 1972)

NATO

	Totals	United States	United Kingdom	France	Canada	Denmark	Netherlands	Italy	Norway	Portugal	Greece	Turkey	West Germany
Attack and ASW carriers	20	16	2	2	0	0	0	0	0	0	0	0	0
Helicopter carriers	12	7	3	2	0	0	9	0	0	0	0	0	0
Cruisers	16	9	3	2	0	0	2	0	0	0	0	0	0
Destroyers and escorts	460	214	76	48	20	2	18	24	5	11	12	10	20
Submarines	259	138	34	20	4	6	5	10	15	4	2	10	11
Total	767	384	118	74	24	8	25	34	20	15	14	20	31

Warsaw Pact

	Totals	U.S.S.R.	Bulgaria	Czechoslovakia	East Germany	Hungary	Poland	Rumania
Attack and ASW carriers	0	0	0	0	0	0	0	0
Helicopter carriers	2	2	0	0	0	0	0	0
Cruisers	25	25	0	0	0	0	0	0
Destroyers and escorts	206	195	2	4	3	0	2	0
Submarines	350	343	2	0	0	0	5	0
Total	583	565	4	4	3	0	7	0

TABLE 3.—MAJOR NAVAL COMBATANTS IN MEDITERRANEAN AREA

	NATO and U.S. allies					Warsaw Pact and U.S.S.R. allies					
	Totals	NATO [1]	Spain [2]	Israel	Morocco	Totals	W.P. (U.S.S.R.) [3]	Egypt	Yugoslavia [4]	Albania [3]	Others [5]
Attack and ASW carriers	5	4	1	0	0	0-0	0-0	0	0	0	0
Helicopter carriers	3	3	0	0	0	0-1	0-1	0	0	0	0
Cruisers	3	2	1	0	0	2-4	2-4	0	0	0	0
Destroyers and escorts	106	86	17	2	1	14-17	5-8	7	2	0	0
Attack submarines	47	41	3	3	0	27-32	7-12	12	5	3	0
Total	164	136	22	5	1	43-54	14-25	19	7	3	0

[1] NATO includes U.S. 6th Fleet; United Kingdom forces normally in the area; ½ of the French Navy; and the naval forces of Italy, Greece, and Turkey.
[2] ½ of the Spanish Navy.
[3] U.S.S.R. totals are normal and highest observed.
[4] Yugoslavia and Albania are included though the political situation with the U.S.S.R. may be strained at the moment.
[5] Others include Syria, Libya, Algeria, Tunisia, and Lebanon.

TABLE FOUR: SUMMARY OF MAJOR US COMBATANT SHIPS AUTHORIZED OR PRESENTLY UNDER CONSTRUCTION

2—Nuclear Attack Carriers

5—Large Amphibious Helicopter Assault Carriers

5—Large Nuclear Guided Missile Destroyer Leaders

16—Large All-Purpose Destroyers (DD963 Spruance Class)

14—Large Escorts (DE1052 Knox Class)

12—Large Nuclear Attack Submarines (SSN688 Los Angeles Class)

9—Medium Nuclear Attack Submarines (SSN637 Sturegon Class)

TABLE FIVE: SUMMARY OF MAJOR US COMBATANT SHIPS FISCAL YEAR 1973 REQUESTED

$299 million for long lead items for one additional nuclear attack carrier (CVN–70). (Eventual total program will cost an estimated $951 million.)

$10 million for contract design for a "first buy" of eight new follow-on carriers called Sea Control Ships (SCS). (Eventual total program will cost an estimated $1 billion.)

$50 million for two 2200-ton prototypes of a new major surface combatant called Surface Effect Ship (SES), which will be a large hovercraft. (Eventual total program cost is not available.)

$945 million for advanced development of a new strategic-missile nuclear submarine called Undersea Long-Range Missile System (ULMS). (Eventual total program will cost an estimated $11.2 billion as "presently constituted.")

$612 million for procurement of seven additional all-purpose destroyers of the DD963 Spruance Class. (Eventual total program will cost an estimated $2.7 billion.)

$192 million for the lead ship of a new fifty ship class called Patrol Frigate (PF). (Eventual total program cost is estimated at $2.4 billion.)

$1.05 billion for procurement of six additional nuclear attack submarines of the SSN688 Los Angeles Class. (Eventual total program will cost an estimated $6.8 billion.)

(All total program cost estimates are based on Department of Defense figures.)

TABLE 6.—UNITED STATES AND U.S.S.R. MAJOR NAVAL COMBATANTS

[Figures as of February 1972]

	United States	U.S.S.R.
Surface:		
Aircraft carriers	16	0
Helicopter carriers	7	2
Surface—Continued		
Cruisers (with missiles)	8	11
Cruisers (without missiles)	1	14
Destroyers and escorts (with missiles)	65	40
Destroyers and escorts (without missiles)	149	155
Surface total	246	222
Submarines:		
Nuclear submarines (with ballistic missiles)	41	[1] 35
Diesel submarines (with ballistic missiles)	0	25
Nuclear attack submarines (with cruise missiles)	0	[1] 40
Diesel attack submarines (with cruise missiles)	0	28
Nuclear attack submarines (without missiles)	56	25
Diesel attack submarines (without missiles)	41	190
Submarine total	138	343
Major naval combatant total	384	565

[1] Estimated.

TABLE 7.—U.S. AND U.S.S.R. MAJOR NAVAL COMBATANTS

[Figures as of February 1972]

U.S.					U.S.S.R.				
Number of ships	Class or type	Tonnage	Status	Operational dates	Number of ships	Class or type	Tonnage	Status	Operational dates
NUCLEAR AIRCRAFT CARRIERS									
2	Enterprise	75,000	Active	1961.	None				
1	Nimitz	81,000	Under construction. Requested Fiscal year 1973, $299,000,000 for long lead items (estimated total cost—$951,000,000.)	1974–6					
CONVENTIONAL AIRCRAFT CARRIERS									
4	Kitty Hawk	50,100	Active	1961–8.	None				
4	Forrestal	59,650	do	1955–9.					
3	Midway	51,000	do	1945–7.					
2	Hancock	32,800	do	1944–50.					
2	Essex	32,800	do	1953–5.					
8	Sea control ship	17,000	Requested fiscal year 1973 $10,000,000 for contract design (estimated total cost—$1,000,000,000).	late 1970's.					
HELICOPTER CARRIERS									
7	Iwo Jima	17,000	Active	1961–70.	2	Moskva [2]	15,000	Active	1968–8.
5	Amphibious assault ship.	[1] 35,000	Under construction	1973–6.	1	(Possible carrier or merchant ship).	[1] 35,000	Under construction	Late 1970s.
NUCLEAR CRUISERS									
1	Long Beach	14,200	Active	1961.	None				
CONVENTIONAL CRUISERS									
1	Salem	17,000	Active	1949.	10	Sverdlov	15,450	Active	1951–60.
3	Albany	13,700	do	1945–6.	1	Dzerzhinski	15,450	Active	1962.
4	Cleveland	10,670	do	1944–5.	2	Chapaev	11,500	Probably being deactivated (old).	1948–50.[4]
?	Surface Effect ship (Hovercraft)	[1] 10,000	Requested fiscal year 1973 $50,000,000 for 2 2,200 ton prototypes (estimated total cost—not available).	Late 1970s.	1	Missile cruiser	[1] 9,000	Under construction	Late 1970s.
					2	Kirov	8,500	Probably being deactivated (old).	1938–44.
					2	Kresta II [3]	6,000	Active	1968–?
					4	Kresta I [3]	5,140	do	1967–8.
					4	Kynda [3]	4,800	do	1962–5.
NUCLEAR DESTROYERS									
5	California	[1] 9,000	Under construction	1972–5.	None				
1	Truxton	8,200	Active	1967.					
1	Bainbridge	7,600	do	1962.					
CONVENTIONAL DESTROYERS AND ESCORTS [6 7]									
63	Missile destroyers	3,370–6,570	Active	1953–67.	40	Missile destroyers	2,850–5,200	Active	1954–7.
30	Spruance [5]	[1] 6,000	Under construction	Late 1970s.					

U.S.					U.S.S.R.				
Number of ships	Class or type	Tonnage	Status	Operational dates	Number of ships	Class or type	Tonnage	Status	Operational dates
50	Patrol Frigate [8]	[1] 3,400	Requested fiscal year 1973 $192,000,000 for lead ship.	Late 1990s.					
46	Knox [3]	3,011	Active (14 still under construction).	1971–2.					
			NUCLEAR SUBMARINES WITH BALLISTIC MISSILES						
41	Polaris/Poseidon	5,900–7,320	Active	1959–67.	35	Yankee	7,300	Active	1969–?.
?	ULMS	[1] 16,000	Requested fiscal year 1973 $945,000,000 for advanced development (estimated total cost—$11,200,000,000).	Late 1970's.		Hotel II	3,700	....do	1961–?.
			DIESEL SUBMARINES WITH BALLISTIC MISSILES						
None					25	Golf II	2,300	Active	1950–65.
			NUCLEAR ATTACK SUBMARINES WITH CRUISE MISSILES [9]						
None					40	Echo I+II	5,000	Active	1961–8.
						Charlie	4,000	....do	1969–?.
			DIESEL ATTACK SUBMARINES WITH CRUISE MISSILES						
None					28	Juliett	2,200	Active	1962–7.
						Whiskey	1,200	....do	1950–7.
			NUCLEAR ATTACK SUBMARINES						
56	Sturgeon and others	2,317–3,860	Active (9 more under construction).	1954–?.	25	Victor	3,600	Active	1969–?.
12	Los Angeles	6,000 (estimate)	Under construction (6 more requested in fiscal year 1973 budget).	1967–?.		November	3,500	....do	1959–65.
			DIESEL ATTACK SUBMARINES						
41	Guppy and others	1,850–2,145	Active (but being deactivated)	1943–59.	190	Fox Trot and others	650–2,000	Active (most being deactivated)	1950–67.

[1] Estimate.
[2] Cruiser forward with large ASW helicopter deck aft.
[3] This type of Soviet cruiser is smaller in size than U.S. destroyers.
[4] Construction began in 1938.
[5] The surface-to-surface missile (Harpoon) will be put on these units and almost all other destroyers by the late 1970's. These units are shown because of this fact and their large size.
[6] The United States has about 115 addit onal older destroyers and escorts.
[7] The U.S.S.R. has about 155 additional older nonmissile destroyers and escorts. Some are being converted to missile ships.
[8] The United States decided not to pursue this weapon system in the late 1950's but a cruiser missile weapon system is presently under development.

NOTES

Question marks denote continuing construction.
All total program cost estimates are based on Department of Defense figures.

In addition to the over-all numerical superiority of the US major naval combatant force and its preponderance of strength in ballistic missile capability, the US Navy also enjoys fewer climatic and geographic limitations in its normal fleet operations. The Soviet North and Pacific Fleets are restricted by severe winter weather. The Baltic and Black Sea Fleets can easily be blocked if necessary to prevent them from exiting their home waters into international seas. Also, due to geographic factors, it is easier for NATO to keep the Soviet fleets under surveillance than it is for the Soviets to maintain continuous surveillance of NATO naval operations.

TABLE 8.—UNITED STATES AND U.S.S.R. FLEET OPERATIONAL COMPARISONS

United States				U.S.S.R.			
Normal operations	Estimated number of major units	Major facilities	Climatic or geographic limitations	Normal operations	Estimated number of major units	Major facilities	Climatic or geographic limitations
1st Fleet: Extensive training operations in eastern Pacific year-round.	125	San Diego, Long Beach, San Francisco.	None.	Black Sea Fleet: Normal in-area training operations in Black Sea year-round. Extensive deployments to Mediterranean Sea. Infrequent operations in Atlantic or Caribbean Sea.	123	Batum, Savastopol, Novorossik (U.S.S.R.).	Narrow exit via Turkish Straits.
7th Fleet: Extensive training operations in Western Pacific year-round. Frequent operations in Sea of Japan and South China Sea. War operations in Gulf of Tonkin and Philippines Sea. Infrequent operations in Indian Ocean. Patrols U.S. Trust Territory of the Pacific Islands.	[1] 61	Pearl Harbor, Guam, Midway, Japan, Philippines, Formosa, Vietnam.	Do.	Mediterranean Fleet: Normal operations in Eastern and Central Mediterranean Sea. Extensive time spent to anchorages or in ports. Submarines deploy from North of Baltic Fleets. Most surface combatants deploy from Black Sea Fleet.	21	Egypt	Narrow entrance via Shelf of Gibraltar and Turkish Straits.
2d fleet: Extensive training operations in western Atlantic, Norwegian and North Seas, and in the Caribbean Sea year-round. Annual operat ons around South America. Deploys to Mediterranean Sea and to the Indian Ocean.	170	Norfolk, Newport, Charleston, Mayport, Key West, New London, Spain, Scotland, Iceland, Cuba, Bermuda, Puerto Rico, Azores.	Do.	Baltic Fleet: Normal in-area training operations in Baltic Sea year-round. Out-of-sea operations in North Sea. Infrequent operations in the North Atlantic of Caribbean Sea.	74	Riga, Kaliningrad (U.S.S.R.).	Partial winter freeze in both ports/Narrow exit via the Sound.
6th fleet: Extensive training operations throughout the Mediterranean Sea year-round. Quarterly deployment of 2-3 destroyers into the Black Sea.	231	Ports in Italy, Greece, France, Spain, Turkey, Malta.	Narrow exit via Strait of Gibralter.	North Fleet: Normal in-area training operations in White and Barents Seas during summer months. Out-of-area exercises in Norwegian Sea. Infrequent operations in North Atlantic and Caribbean Sea.	197	Kola, Murmansk Severodvinsk (U.S.S.R.).	Partial winter freeze in all ports.
Middle East Force: Normal training operations in Persian Gulf.	2	Bahrein, Diego Garcia (Indian Ocean).	Narrow exit from Persian Gulf via Strait of Hormuz.				

[1] Includes 2 attack carriers and amphibious landing ships with embarked Marine Battalion Landing Team.

TABLE 8.—UNITED STATES AND U.S.S.R. FLEET OPERATIONAL COMPARISONS—Continued

United States				U.S.S.R.			
Normal operations	Estimated number of major units	Major facilities	Climatic or geographic limitations	Normal operations	Estimated number of major units	Major facilities	Climatic or geographic limitations
Pacific Fleet: Normal in-area training operations in Seas of Japan and Okhotsk. Infrequent out-of-area operations in North and Central Pacific during summer months only. Deployments to the Indian Ocean.	161	Vladivostok, Nakhodka, Fetropavlovsk (U.S.S.R.).	Partial winter freeze in all ports/Narrow exits via Kuill Islands and Korea and Tsugaru Straits.	Indian Ocean Detachment: Extensive time spent at anchor in the Socotra Island area, or in Seychelles and Maldive Islands, Miner training operations in Arabian Sea.	5	None. Use friendly ports for support.	Narrow entrance via Strait of Malacca/ Long distance from Pacific and North Fleets.
				Guinea Patrol: Off west coast of Africa.	3	None. Use Conakry, Guinea for support.	None.

THE CENTER FOR DEFENSE INFORMATION

The enormous size and complexity of the military effort in this country has outrun the institutions established for citizen understanding and control of public policy. An informed public opinion on national defense and foreign commitments is lacking in our society.

For these reasons the Center for Defense Information has been established. The Fund for Peace has encouraged and made possible the initiation of this Center. Further funding will be provided by private foundations and interested individuals. The Center will be under absolutely no financial or other obligation to any government, military, industrial or individual special interest.

The Center will concentrate exclusively on analyzing and circulating public information on matters of national defense and overseas commitments, as well as scrutinizing our national defense program on a day-to-day basis. Its appraisals will challenge existing assumptions about national defense and provide the basis for rational alternative policies and budgets, to be measured against those of the Department of Defense.

The Center will disseminate its research and information to the broadest public possible through position papers; a journal, *The Defense Monitor*, of which this is the first edition; and material designed for the news and other media. In addition, the Center will respond to requests for information on defense matters. Future editions of *The Defense Monitor* will include analysis of the defense budget, ULMS (Underwater Long-range Missile System), the B–1 Bomber, technological superiority, the proposed attack carrier, US forces overseas and military commitments to foreign nations, as well as other topics of vital national and military concern.

The Center and its rapidly developing inventory of information will be a reliable and non-partisan resource for all individuals and groups insisting upon a military that will genuinely defend and strengthen American society, not weaken it by overcommitments and waste of resources.

TRADE BARRIERS AGAINST AMERICAN GOODS

Mr. FANNIN. Mr. President, at last it seems that America is starting to wake up to our great problems in international trade. Last year's trade deficit drives home the seriousness of our position.

This problem, however, is not one that arose overnight. The seeds of our dilemma were sown in the early 1960's when our Government failed to realize that World War II was long over and that we no longer needed to give special trade advantages to Japan and other nations that suffered severe damage in the conflict.

This problem grew and blossomed quickly—our trade deficits actually began in 1965 if statistics were kept as they should be.

If we are to solve this problem and maintain our position as a world economic leader, then we must look at how we got into our current position. When we study this, I believe it becomes evident that we cannot enact stringent protectionist legislation, nor can we pass laws that would strangle American firms which also have operations abroad. This would be very foolish since these firms aid rather than damage our domestic economy.

What we must do is to break down trade barriers that discriminate against American goods. We must consider providing American industry with the means of competing against manufacturers in other nations which have different rules than ours concerning production. And we must somehow bring our soaring labor costs under control.

Mr. President, the current issue of Industry Week magazine carries an excellent editorial and article, "Unite Our Hands." This article contains much valuable information that we can use in resolving our trade problems. I ask unanimous consent that the editorial and article be printed in the RECORD.

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

WANTED: FAIR SHAKE

The overseas manufacturer who wants to sell in this country has the support of two governments—his and ours.

Twelve years ago, that was just a flip crack. It has since become a critical cliche among U.S. manufacturers who have become victims of an assortment of tariff and nontariff trade obstacles (see story starting opposite page 30).

Those trade rule inequities have contributed greatly to our inability to compete in the world market, including our difficulty in holding our share of market in the U.S. Combined with our disadvantages in hourly employment costs, in capital recovery policies, and in the deterioration in our will to work, the unfair trade obstacles make competition difficult in many industries.

They arose partly through what our overseas competitors have done to promote their industries and their exports of highly manufactured goods, and partly through what we have not done. The inequities result from our public sector making decisions for political reasons rather than for economic reasons. They have resulted in American industry trying to compete in a world market with one hand tied behind its back.

Uncle Sam wanted to be a good guy in the world marketplace. He wanted to play the role of the beneficial uncle. He wanted to be loved. His nephews abroad didn't really love him. His nephews at home are in danger of being impoverished.

The inequities in trade are so diverse as to defy easy categorization. Most of them result from tax structures in other countries that provide a wide variety of incentives to promote exports and penalize imports. Many of these are indirect taxes that are not imposed on exports but which are imposed at the border on imports. Sometimes, they take the form of extraordinary depreciation deductions for export-related assets.

They will remain a menace to U.S. industry, to the jobs of American workers, and to the tax sources of U.S. governments—at all levels—until we, as a country, decide to make economic decisions for economic reasons, rather than for political reasons.

It is past time for U.S. industry to get a fair shake in trade rules.

WALTER J. CAMPBELL.

UNTIE OUR HANDS

(By Floyd G. Lawrence, executive editor)

The U.S. announced the discovery of economics on Aug. 15, 1971.

It was a finding perhaps as inevitable as, and yet no less startling than, the realization that the children have grown up. And with it not just we but the entire Free World entered a new "phase."

The U.S. has now made clear that it no longer intends to let its economic interests be subordinated in trade, in investment, in foreign policy, or in mutual defense; and that in future negotiations it will be as generous or as selfish as other nations. And it will be quite a change.

Since the end of World War II, we had willingly been Uncle Sam to the Free World. Enthusiastic about the growth of our nephews, we helped them with a liberal allowance and looked the other way when it came to pranks in the trade field.

We offered a hand to everyone as if we could do everything, and as if we need not change, or even review, what we were doing in the world of international economics. Our political strategists somehow failed to recognize or to adapt to mounting evidence that we were not destined forever to remain the Free World's rich uncle.

Yet since 1950, our share of world automobile production has declined from 76 to 33%; our share of world steel production from 47 to 18%; and our share of world radio and television production from 65 to 19%.

Still more evidence appeared in U.S. homes, where products made overseas grew to account for seven out of ten sweaters, two of every five pairs of shoes, one of every three bicycles, one of every two black and white TV sets, and nine out of ten home radios.

Proof of our dwindling competitiveness was piling up, but few recognized it. Most assumed competition was a game we played among ourselves, and they viewed the facts in that context:

Rapid productivity gains on the part of others were to be expected as "part of the process of catching up."

While the exports of others grew faster, our exports grew also.

We continued to enjoy a satisfactory trade surplus through 1967 as other countries needed our goods and the slack in our own economy dampened our demand for imports.

And, perhaps most important, since our consumer income rose more rapidly than our consumer prices, individual standards of living did not suffer.

But starting about 1964, foreign products became increasingly competitive in our markets as U.S. wage gains further outstripped productivity, and our costs rose more sharply than those of our competitors abroad. For the same reason, our products became less attractive abroad, and more and more dollars failed to return to the U.S. Our surplus in merchandise trade began to decline, and our balance of payments deficit began to build.

By August 1971, the U.S. faced a balance of payments deficit more than twice the previous high—at $8 billion—and a $2.2 billion merchandise trade deficit, the first since 1893.

NEPHEWS BECOME COMPETITORS

The U.S. is still rich and productive, but it is no longer supreme. It is one strong competitor among other strong competitors.

By the late 1960s, the European Economic Community (EEC) had become the largest trading entity in the world. This year it will expand further to become an economic power with a population exceeding and a gross national product rivaling ours.

If the other countries that are to be taken into the expanded EEC are included, the enlarged EEC will account for nearly 40% of world trade and for 50% of world trade in industrial products, three times the U.S. share. Even ignoring trade among EEC members, themselves, which accounts for about half, the expanded EEC will account for as much as 40% more trade than will we. One member alone, West Germany, in 1970 surpassed the U.S. as the leading exporter of manufactures with $30 billion.

Yet the competitiveness of Japan has increased even more rapidly. That nation has grown consistently faster over the last 20 years than any other in economic history. It has sustained an annual export growth of 19% over the period with a growth in manufactures during the last decade alone of some 400%.

Few have questioned the wisdom of helping to build a strong Europe facing the Iron Curtain and a strong Japan facing the Bamboo Curtain. But at the same time, few have questioned that, as the economies of other countries became stronger, they would accept an increased share of responsibility for world security and would gradually open their markets to others, including the U.S.

But if we have been correct in visualizing the strength of the Free World as nations bound together like a bundle of sticks, our vision may have been less clear when it came to dealing with the earnest desire of some sticks to become larger than others. And there's a rather obvious reason.

Because changes in trade patterns affect the economies of others far more than our own, foreign trade issues have loomed less large in our national policies and politics than in those of our trading partners. So other nations have asserted themselves to improve their competitive positions, not only through hard work, but also through discriminatory trading arrangements and the development of export support programs more aggressive than ours.

JUST LOOK AT TV

Television provides an interesting example, not only because its history spans the postwar period, but also because it is among our most technologically sophisticated industries.

"If the television industry in this country can't make it, I don't know what industry can," contends Joseph S. Wright, chairman Zenith Radio Corp., Chicago. "I'm not aware of any industry in the U.S. that has a better track record for cutting costs, improving its product, and increasing its productivity."

Using 1952 as a consumer price base of 100, in 1970 the average TV price had been reduced to 72 while the average annual consumer price index had risen to 146.

"The average price in 1970 was almost 30% less than the price in 1952," says Mr. Wright, "yet those sets in 1952 were small screen black and white vacuum tube sets while the 1970 sets are transistorized and include color. The TV set we sell today is a much more complicated product with a great deal more in it, and wages have increased substantially. So the lower price reflects a tremendous productivity increase."

Yet in just nine years (1962–71), TV imports rose from 2.4% of a 6.6 million unit U.S. black and white TV market to 55% of a 7.6 million market. In 1965, Japanese color TV imports were only 2.6% of the total color market of 2.6 million units. By 1971 Japanese imports held almost 18% of a 7.2 million market.

Similarly, using 1952 as a consumer price base of 100, in 1970 the average U.S. radio price was 68, with portability, FM, stereo, and many added values. Yet radio has fared even worse.

In the late 1950s, millions of low-priced Japanese transistor radios began to pour into the U.S. By 1968 they had captured 95% of the U.S. market; less than 5% of our market of some 40 million home radios is served by U.S. plants today. Except for certain specialty sets, the manufacture of radios in the U.S. was made economically impossible within ten years of the invasion by the Japanese.

In world radio and television production, U.S. output has hovered around 25 million units while world output has grown from 35 million to 140 million.

JAPANESE TV PICTURE SLANTED

"The principal factors in this amazing feat have not been cheap labor, productivity miracles, or a single-minded diligence by the Japanese," believes Mr. Wright, "although these qualities have been helpful. Rather, much of Japan's success has resulted instead from what we consider to be unfair and discriminatory practices in Japan's export trade."

In 1956 and 1957, Japan decided as a matter of policy to encourage and develop the electronics industry and enacted a law known as the Electronics Industry Development Emergency Law, which remained in effect until 1971. A new and similar follow-on law for the same purpose was then enacted, extending the "emergency" to 1978.

Under this law, the Ministry of International Trade & Industry was directed to establish and supervise programs for the development of the electronics industry, and within the ministry there was set up an Electronics Industry Council of top industry officials to help formulate research and development programs as part of a first phase. Under this procedure, the entire spectrum of consumer products, components, computers, communications, and industrial electronics was broken down into program subjects.

For each one of the programs, the ministry developed a time table, a set of specific objectives, and funding for research and development. Phase 2 of each program was the development of a plan for putting the new product into commercial production, and with financing by free or low-interest loans from the Japan Development Bank. Phase 3 contemplated production rationalization accompanied by an accelerated write-off of whatever investment the companies themselves had made in the program.

"This new system of business is not really free enterprise as we know it," adds Mr. Wright, "although through the ministry's Deliberations Committee the industry members have great influence in getting an effective consensus on what the programs can and should accomplish. But the ministry is the boss and finally decides what projects will be supported and who will participate and to what extent.

"While we and our competitors in the U.S. beat each others' brains out, trying to come up with the best color TV tube, the Japanese have eliminated wasteful duplication of research in competing projects," says Mr. Wright, "and technology is standardized and shared. And if the industry in question is considered too fragmented for effective action, mergers and consolidations are encouraged. Rather than an antagonist, the government considers itself an active and responsible partner in the venture.

"It would be asking a great deal of mortal men to encourage them to form a cartel under government supervision for export trade and then require them to compete in an antitrust environment in their home market," adds Mr. Wright. "As a result, prices in the Japanese home market are high when compared with the same product sold here or in other export markets, and this is due to a number of factors, including outright cartels to fix prices and the denial or discouragement of access to the Japanese market by foreign competition.

The Japanese Electronics Industry Assn. admitted a year or so ago that large-screen TV receivers made in the U.S. could be delivered to a Japanese importer for a total cost of about $449 while similar large-screen Japanese sets have carried list prices in Japan of $1,200 to $1,600. By the same token," notes Mr. Wright, "Japanese color TV table models selling in Japan for $400, are shipped nearly halfway around the world and with freight and duty paid in the U.S. for under $300."

Selling a product at a lower price overseas than in the home market is dumping, and U.S. law provides a dumping duty be imposed. Yet following the Treasury Dept.'s dumping finding in December 1970 and a 9% bond required pending determination of what the dumping margins might be, Japanese color TVs exported to the U.S. increased nearly 50% in 1971 and at prices, believes Mr. Wright, still below those prevailing in Japan.

"Some people in this country have suggested that we should not be overly critical of Japan and that we should not be so insistent on what they call 'protectionist' measures because this might start a trade war and have an impact on our exports, particularly on some of our agricultural products," says Mr. Wright. "I have news for them. I think we are already in a trade war with Japan and if we aren't realistic in dealing with the problems right now it will be most difficult to preserve the relationship between our two countries in the future.

"I happen to be in an industry which has an unmatched record for competition in innovation, in technology, in marketing, and for passing on to the public the benefits of our technology and productivity in the form of better products at lower prices," emphasizes Mr. Wright. "We have been hit extremely hard by the Japanese trade war, but we don't need a government blanket to "protect us from rigors of foreign competition." All we need is a reasonably fair shake in the rules of the game and an intelligent and informed government interest in our problems."

PROCESS OF ELIMINATION

The need for a fair shake in international trade rules is also identified as our key problem through a process of elimination by F. J. Borch, chairman, General Electric Co., Schenectady, N.Y. He arrives at his conclusion by considering each alternative "cause" as follows:

"We have all heard that U. S. investments offshore are having a dire effect on our balance of payments. In 1970, the cumulative total of direct private investment by U. S. companies offshore reached $69 billion. The outgo for the year of our direct investments abroad was $4.4 billion, while the *return* on this investment to the U. S. was $7.9 billion. The return from direct investments, contrary to having a deleterious effect on the U. S. balance of payments, is actually our last remaining positive item of significance.

"Next, voices on both sides of both oceans

tell us our trade balance has deteriorated because of inflation and that we should get our own house in order. In the U.S. the domestic consumer price index rose 25% from 1964 to 1970. Let's admit that's bad but look what happened to each of our trading partners: Japan 40%, France 27%, Germany 17%, Italy 21%, UK 31%—a range of 17 to 40% with only Germany appreciably below our 25%. Everyone had inflation, but not everyone had trade balance problems to the same degree."

Can our lack of productivity gains then be the culprit? Mr. Borch admits that at first glance the evidence suggests this might be the case. U.S. productivity in terms of output per manhour increased 14% between 1964 and 1970 while among our major trading partners the increase ranged from 22% in the UK to 99% in Japan. Considering the more liberal tax incentives elsewhere to invest, Mr. Borch does not find it surprising that others' productivity has gone up much faster.

"But before we accept that as our problem, let's take a further look at what really counts—unit labor costs in manufacturing which are a combined measure of output and total employment costs," proposes Mr. Borch. "Between 1964 and 1970 unit labor costs in the U.S. rose by nearly 20% with much of the rise occurring during 1969–70.

"Yet Italy is very close to our 20% increase in these costs, and France is at 16%. But two of our biggest trading partners display the following unit cost increases: Germany 26% and Britain almost 33%. In the case of Japan, the unit labor cost increase is much lower than ours at 12%, but the big divergence really occurs in 1969 and 1970 when our own unit labor costs shot up," says Mr. Borch. "Before that, Japanese unit labor cost rises parallel ours. Despite this earlier comparable unit labor cost picture for the Japanese, they nevertheless turned our two-way trade around to their positive advantage by 1965.

"Thus, the differences in unit labor cost trends do not seem to account for the massive change in our U.S. trade balance," Mr. Borch claims.

A MATTER OF PRIORITIES

"The real reason for the serious U.S. trade situation boils down to the fact that other countries have made international trade a top national priority and have adopted structural policies to promote their trade balances and their balances of payments," concludes Mr. Borch. "The success of these policies is reflected in the degree to which they have been able to shield their export prices from the inflation that took place in their domestic economies."

During the 1960s (1960=100) the Japanese *consumer* price index rose to 176 while the *export* price index rose only to 105, for a spread of 71 points. For France the gap was 76, for Italy 39, for the UK 31, for West Germany 15. But for the U.S. the export price index has more closely kept pace with the domestic price index, a 31% domestic price rise and a 22% export rise, a spread of only 9 points.

How could other countries thus insulate their export pricing from their domestic economies? Mr. Borch cites three factors:

Others had the freedom to devalue their currencies when their trade and their balances of payments got in trouble. Meanwhile, for good technical reasons under the International Monetary Fund, the U.S. was unable to institute similar compensatory competitive steps.

Others have been very careful to protect those domestic industries they consider important to their economy, or to their employment, from what they consider might be disruptive imports through preferential direct subsidies to industries in some form.

Others have tax structures which provide a wide variety of incentives to promote exports and to penalize imports. This factor Mr. Borch considers perhaps the most important of the three.

GROWING AND PERMANENT

"The U.S. will remain at a growing and permanent disadvantage as long as these structural tax differences exist," says Mr. Borch. "While our tax officials undertook a massive effort beginning in 1962 to make sure that export income of U.S. corporations was taxed here in full, foreign countries have continued to permit the shifting of export income to a tax haven subsidiary, for example, or have given extra deductions for costs tied to exports, such as extraordinary depreciation deductions for export-related assets.

"But I believe the most important of the trade-affecting measures built into the tax structure by our trading partners is the heavy reliance on indirect taxes that are not reflected in the price of their exports and are imposed at the border on imports," declares Mr. Borch.

"When the rules of the General Agreement on Tariffs & Trade (GATT) were written 25 years ago, they provided that the member countries could exempt their exports from indirect taxes, which then were understood to be mainly sales and excise taxes, and charge an appropriate compensating border tax on imports. At the same time, the GATT rules forbade both export rebates and border levies for direct taxes—those taxes imposed on personal and corporate income, and for social security.

"What we did not foresee," explains Mr. Borch, "was the full impact of the difference in tax structures in Europe and Japan, relying heavily on high rate indirect taxes, with a simultaneous shift in this country away from indirect taxes toward almost total reliance on the income tax as a source of national revenue."

As a result, when the European manufacturer exports to the U.S. or elsewhere, his government rebates or waives the actual total amount of his indirect taxes that are included in his domestic price. His product then reaches the U.S. where it crosses the border free of U.S. taxes. Thus his export product price reflects his domestic price, less his own domestic tax, and no U.S. tax.

But when a U.S. manufacturer exports to Europe, his price not only reflects all of the U.S. taxes for which he receives no rebate, but also an additional border tax equal to that nation's indirect taxes. In the case of automobiles, for example, those border taxes are 33.3% in France, 11% in Germany, and 36.6% in the U.K. And the border tax is usually imposed on the landed cost, including the European customs duty.

UNITY WITH IMPUNITY

The U.S. supported the establishment of the EEC and supported the UK's entry. We observed with little complaint special preferences for some 18 African countries because they were former colonies of Belgium, France, and Italy. But eyebrows began to rise as the EEC entered into still more special agreements with Greece, Turkey, Tunisia, Morocco, Israel, and Spain.

The EEC has now given these special preferences to more than 30 countries, and an intention has been indicated to provide similar preferential treatment for all Mediterranean countries and much of Africa.

While the EEC explains that it has a "responsibility" to these nations as less developed countries, others have observed that the EEC also has a "responsibility" to the rest of the world and that it is not serving that responsibility by requiring in return reverse preferences which cannot be defended as a "benefit" to the less developed.

It is now anticipated that preferential association agreements covering all or most industrial products will soon be negotiated between the enlarged EEC and those European Free Trade Assn. countries that have not applied for membership in it. This would mean that all of Western Europe, most of the nations bordering on the Mediterranean, and most of black Africa would be bound in a discriminatory trading and investing bloc.

A similar bloc may well rise in the Pacific, predicts Dr. Herman Kahn, director, Hudson Institute, Croton-on-Hudson, N.Y. "We believe that it is very likely that by 1980 each of the major nations of the Pacific hemisphere will be conducting more than 50% of their trade and making or receiving more than 50% of their investments with other countries in the Pacific hemisphere."

Dr. Kahn foresees the principal components of this Pacific hemisphere trading and investment community to be Japan, South Korea, Taiwan, Hong Kong, Singapore, Thailand, South Vietnam, Indonesia, the Philippines, Australia, New Zealand, and North and South American countries including Brazil, Colombia, Venezuela, Mexico, the U.S., Canada, and perhaps Argentina and Chile.

He cites the following factors as important in creating the community:

The continued economic growth of Japan at much greater than the world rate, and the growth of Japanese international trade at no less than the rate of world trade in general.

The continued rapid growth of other countries in the Far East and their increasing share of world trade.

The expanding need of the developed countries, particularly the U.S. and Japan, to export manufacturing operations to low labor cost areas such as Singapore or Taiwan, and increasingly by the end of the decade to such areas as Malaysia, the Philippines, and Indonesia as well.

A shifting orientation of Australia and New Zealand away from Europe and toward Japan, the Pacific, and the U.S.

Increased Japanese investment and marketing interest in South America, and especially in Brazil, the only major country other than the U.S. where Japanese have gone in large numbers to settle as immigrants.

"Since the Americas face both across the Atlantic and across the Pacific, it is possible for an Atlantic hemisphere trading and investment area and a Pacific trading and investment area to exist simultaneously and for the members of both to trade at least 50% with each other," observes Dr. Kahn.

BLOC BUSTING?

The growth of blocs suggests that reductions in trade barriers are a matter not only of interest but of action among our trading partners. Situated between the two, our challenge is to be part of the action of both.

From 1934 to 1967, every major initiative for free trade came from the U.S. But those initiatives took place within a context of U.S. dominance.

"The central fact of the last 25 years," believes Commerce Secretary Peter G. Peterson, "has been the conviction—ours as much as that of other countries—that the U.S. was dominant both in size and competitiveness in the international economy. The practices, institutions, and rules governing international trade and payments were structured to fit that fact.

"We as a nation and the world as a whole were too slow to realize that basic structural and competitive changes were occurring," the former Bell & Howell chairman reported when he was assistant to the President for international economic affairs. "As a result, international policies and practices were too slow in responding."

It is unlikely that a failure to recognize basic structural and competitive changes will recur. Rather, facing strong and strengthening competitors in Europe and Asia, our challenge is one of uniting in economic strategies and objectives to adapt to that new reality—and of getting our trading partners to do the same.

Perhaps inevitably, recognition of that new reality has brought a sharp polarization of opinion as to the appropriate response. Organized labor, traditionally favoring free trade in the interests of the lowest prices for consumers, has swung heavily to protectionism in the belief that it would protect U.S. jobs. Others, examining the same evidence, conclude that the answer is free trade reflecting increased equality.

This polarization of views may be momentarily useful. Certainly the ardent pronouncements of labor for protectionism are unsettling to our friends overseas and cannot have failed to heighten their interest in lesser alternatives. By the same token, the idealism of the free traders has focused attention on structural inequities and the practical consequences of suddenly unrestrained trade as well.

Thus the issue may light the way for both us and our trading partners. The issue is one of two-way trade benefiting *both* sides. The objective, clearly, must be fair trade.

WHAT IS FAIR TRADE?

While *protectionism* literally involves the protection of industries by the imposition of barriers to imports and *free trade* envisions the removal of such barriers, fair trade is more difficult to define. Let's examine a bit further what we have today.

Tariffs are less a factor now than in the past due in part to the success in reducing tariffs during the Kennedy Round of negotiations under the GATT. Tariff concessions on dutiable nonagricultural products by the four largest industrial participants—the U.S. the EEC, the UK, and Japan—averaged slightly more than 35% and covered about $20 billion of trade. With the Kennedy Round cuts this year, tariffs on such products will average only 9.9% in the U.S., 8.6% in the EEC, 10.8% in the UK, and 10.7% in Japan.

But as the tariffs have come down, nontariff barriers have become more conspicuous—in part because the tariffs have loomed less important but also, in the opinion of some, because nations have been adding nontariff barriers to improve their bargaining position in anticipation of upcoming negotiations.

Robert E. Baldwin, former chief economist in the Office of the U.S. Special Representative for Trade Negotiations, defines a nontariff barrier as any measure (public or private) that causes internationally traded goods and services to be allocated in such a way as to reduce potential real world income.

A list of some 800 such trade-distorting measures was compiled by GATT by asking each member to name its complaints against the others. But the thing that makes such barriers thorny is that, while they may distort trade, they are often adopted for social, health, or technical reasons.

The French, for example, require the presence of a French inspector during the manufacture of pharmaceuticals. Manufacturers outside France, having no French inspectors, are unable to ship their products into the country even though the motive may well be one of public health. By the same token, the American Society of Mechanical Engineers' Code is the sole standard of acceptability for boilers and pressure vessels in the U.S. Products must be inspected and certified by an inspector licensed by the National Board of Boiler & Pressure Vessel Inspectors, a safety qualification impossible for foreign firms to meet.

Among types of barriers distorting trade are the following listed by the National Assn. of Manufacturers (NAM), New York:

Government procurement—U.S. suppliers in many cases are totally excluded from foreign government purchasing, or even from purchases by private bodies abroad utilizing government funds. One of the easiest ways to exclude outside suppliers is simply to fail to provide adequate information concerning bidding opportunities or to provide it so late that a proposal cannot be readied in time to "be considered."

Import quotas—Quantitative import restrictions exist in a number of countries for a variety of products. In addition to the levels of the quotas themselves, many problems arise in relation to administration, with licenses often issued in an ad hoc discretionary manner. Import quotas used by the U.S. include limits on crude oil and petroleum products, textiles, and beef.

State trading—Although GATT provides that state trading organizations should not discriminate, the provisions are ambiguous and discrimination is in fact common. State trading may result in strict limits on the level of imports, price regulation, mark-up policies which discriminate heavily in favor of home products, or in standards policies which strictly limit the feasibility of importation. State trading organizations also often subsidize exports, or dump exports, creating artificial conditions of competition for U.S. exporters in third country markets.

Export subsidies—The industrial countries already have an agreement to refrain from subsidies on manufactures. The export incentives which do exist therefore take hidden or indirect forms, or are embodied in tax provisions or export financing terms.

Tax mechanisms—Tax devices can be used to block imports or create incentives for export, or both. Thus, the tax on automobiles may be applied in terms of cubic displacement or horsepower, favoring smaller European or Japanese cars over U.S. cars. The tax on value added, widely used in Europe as described by Mr. Borch, is another example, but general sales taxes such as those in Japan or in the various states of the U.S. or general manufacturers taxes such as those in Canada are also examples of this general problem.

Special levies—Charges on imports which vary with internal market conditions, or with specific criteria regarding contents of the product, can be very trade-distorting. The most important example is the variable levy for European Common Market agriculture while a U.S. example is the American Selling Price method of valuation for certain chemicals. The charges are designed to make imports a residual factor, after the domestic production has been assured of sale at the supported prices.

Customs procedures—classification of products can affect the duties or other charges just as the valuation of the product determines the size of the duty in most cases. The degree of administrative discretion for classification and valuation is significant in some countries while special charges are also often made in ad hoc fashion to cover discretionary rulings on customs clearance procedures.

Sandards—The mere fact that product standards differ from country to country is an impediment to importation as described in the case of pharmaceuticals into France or boilers into the U.S. New, complex products which have multiple components and purposes are facing increasing difficulties in achieving suitable registration. Even after registration, importation may be restricted by testing and inspection requirements, prepackaging specifications, inadequate government facilities for regulation of imports, and administrative discretion often leading to preferential treatment of home-produced goods.

The development of regional standards, such as Europe-wide standards, should be resisted wherever possible, warns NAM's director of international affairs, William R. Pollert, in favor of international standards and discussions leading to such standards, open to all countries wishing to participate. (Only recently the U.S. has in fact been invited to participate in talks in the EEC regarding such standards for electrical equipment.)

But both the Rome Treaty and the Stockholm Convention contain provisions designed to eliminate all forms of trade restriction among members of the EEC and the European Free Trade Assn. Studies of nontariff barriers have been made in each organization and detailed codes of behavior set forth in some areas.

"Unless the U.S. soon joins these two regional trading groups in multilateral negotiations on non-tariff trade distortions, they may reach regional decisions that run counter to U.S. trade interests and yet prove impossible to change," warns Prof. Baldwin.

WILL GUIDELINES EMERGE?

"Perhaps the spadework being done now within the EEC will produce principles that can be applied more generally," suggests Dr. Harald B. Malmgren, deputy special representative for trade negotiations. "Each of the EEC member governments has programs of very active intervention in industrial policies within its own country. It will be interesting to see how they reconcile within the EEC these things each government has thought of as its own province."

He believes we should insist that the Europeans hold parallel talks with the U.S. and the other major trading powers to explore the multilateral impact of their bilateral discussions. "Such talks in parallel could be formal or informal, but they ought to be under the GATT where we have explicit rights," says Dr. Malmgren.

He also urges that the U.S. move ahead with a multilateral effort to reduce nontariff barriers and to harmonize national policies which affect world markets. "The GATT program of work is now awaiting a go-ahead from the U.S. and the EEC. It would be desirable to press ahead with this work, so that a multilateral negotiation was going on in parallel with talks on European enlargement. Such a broader effort would not have the glamour of the Kennedy Round, nor would it necessarily bring quick results. It would, however, begin to solve some problems," believes Dr. Malmgren, "and insure against new ones developing. And it would provide for all other GATT members a means for controlling the evolution of the EEC itself."

But above all, Dr. Malmgren emphasizes that we must end our policy of "wait and see," supported by our implied willingness to accept almost any economic damage, in return for a fragile unification scheme.

"Our notions about political objectives, which are very vague, many times in the past have overridden our economic interests. We have no common foreign economic policy and our grandiose political objectives are nebulous," says Dr. Malmgren. "We are unable to have a confrontation, for example, with the EEC over their preferential arrangements with Africa because [people in] the State Dept. say, 'We don't do very much for Africa and therefore we should let the EEC do something.' But when you ask them what our interest there is precisely. nobody can define it. They simply say, 'We are experienced diplomats and we know.'

"But I question all that because I have worked on political and military security matters myself. Hereafter, if a political man objects to an economic policy he should be able to explain precisely what our political interest is and how the economic policy in question affects it."

Dr. Malmgren suggests that much of our failure to have a foreign economic policy arises from the fact that there are more than 60 agencies, departments, or other institutional mechanisms which have direct interests and decision-making powers in international economic issues. "We have had a situation in which the various agencies spent

much time and energy discovering who had which memo from whom and, most important of all, whose cover memo would be on top of all other position papers and appeals when the President reviewed the matter and took action.

"But whatever the cause, the fact is that there has been no coherent, overall foreign economic policy," declares Dr. Malmgren. "It would be far better to have even a broad economic strategy or policy than the present ad hoc array of conflicting decisions, based upon specific political pressures in confrontation with department policies and vague foreign policy objectives."

ECONOMICS AS POLITICS

The fact that Dr. Malmgren accepted his new post as deputy special representative for trade negotiations shortly after this IW interview suggests he has hope. One reason may well be the recently appointed special representative for trade negotiations, William D. Eberle. The former chairman of American Standard Inc., New York, brings a blend of optimism and practicality to planned negotiations.

"This will be our first real attack on nontariff barriers," says Mr. Eberle, "and we expect to be going in with the principle that while you ought to have the right to make the decisions in your own country, those decisions should not have a cost impact on third countries. Each country can make any decision it wants, but it should pay for it domestically.

"The terms free trade, liberal trade, and protectionism to me are meaningless. There will be no such thing as free trade because of domestic social and political problems," believes Mr. Eberle. "So what you're really talking about is, what is the fair market assessability of necessary domestic actions that will give us the greatest opportunity to expand trade, improve the standard of living, keep costs down, and create jobs.

"If you take that kind of an approach, then you have to look at the structure worldwide or in sectors, or both, in terms of how you get there," says Mr. Eberle. "As you move to maximize trade, such things as common standards, common government procurement policies, and other common codes would be a tremendous help."

But Mr. Eberle emphasizes that there must be adjustment mechanisms in a trade system, just as in a monetary system, so that if a country has a problem it can provide a temporary cure while the adjustment is taking place.

"The question is one of market disruption which can take place in just a couple of years today, and no country can allow another with a temporary advantage to come in and disrupt a whole economy," believes Mr. Eberle. "So we need to develop some safeguards that will allow national economies to be retained *within* some international multilateral concept.

"Maybe a country would be permitted to use tariffs or import quotas for a certain length of time. Maybe you could only have five of these at any one time so you would have to select and to phase one out before you could add a new one," conjecture Mr. Eberle.

"Tying all this together, including domestic adjustment assistance, would in turn require other new concepts. Perhaps an import has to grow 5% faster than the domestic market before you can apply for adjustment assistance protection just as with the monetary system, where if you get outside certain margins you have to adjust," suggests Mr. Eberle.

"There are only three approaches the world can take," says Mr. Eberle: "Treat each country as it treats you on a retaliatory basis, pull back into trading blocs, or pursue the multilateral approach—which may be the most difficult but makes the most sense. The question is what's best for the world and for this country."

Men facing questions such as these—men in industry, men in labor, and men in government both at home and abroad—have their work cut out for them. Clearly the rules and concepts of the 1950s will no longer do.

"As city, state, and regional economies have become fused into a single and highly interacting national economy in this country," says Roy L. Ash, president, Litton Industries Inc., Beverly Hills, Calif., "so individual economies are fusing into a single world economic system.

"Increasing economic and business interdependence among nations is the keynote of the next two decades—decades that will see major steps toward a single economy evolve out of today's increasingly interacting, but still separate, economies."

The U.S. discovered economics on Aug. 15, 1971. If men of good will can put that discovery to work, perhaps we can at last untie our hands.

STRATEGY FOR SURVIVAL

1. To increase productivity, we will use the best tools available. We will make clear that better tools mean more jobs rather than less.
2. To restore the will to work, we will give greater rewards to those who work than to those who do not.
3. To reduce ruinous inflation, we will relate wage increases to productivity.
4. To regain the seeds of wealth, we will insist upon competitive capital formation and recovery policies.
5. To guard our economic well-being, we will urge that economic decisions be made upon that basis—and no other.
6. To compete effectively abroad, we will insist upon trade rules and tariffs that are fair and equitable.
7. To improve our quality of life, we will act to achieve the goals we desire—at a price we can afford.
8. To achieve our goals of growth and prosperity for all Americans, we will form a partnership of purpose among industry, labor, and government.
9. To implement these steps, we will reassert our heritage as Americans by speaking out now and commanding attention in all places of influence and decision.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 724, S. 3526, to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, at this time I ask unanimous consent that there be an additional period now for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

CRITICISM OF LIFETIME TENURE FOR FEDERAL JUDGES

Mr. HARRY F. BYRD, JR. Mr. President, if more and more power is centralized in the Federal Government, it seems to me that we need to appraise more critically the justification for the lifetime tenure appointment of Federal judges. As a matter of fact, in a democracy why should any public official have a lifetime appointment?

Mr. President, I have introduced Senate Joint Resolution 106 to require that Federal judges be subject to reconfirmation by the Senate every 8 years. A hearing was held this past Friday by the Senate Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary on Senate Joint Resolution 106.

I want to emphasize that I fully support the concept of an independent judiciary. The joint resolution I have introduced simply provides a method by which the courts might be made more accountable to the people.

Mr. President, in this whole modern world the only persons who have lifetime appointments, lifetime tenure, are kings, queens, maharajas, emperors, and U.S. Federal judges.

Mr. President, I ask unanimous consent that a copy of my testimony before the Subcommittee on Constitutional Amendments be printed at this point in the RECORD.

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

TESTIMONY CONCERNING S.J. RES. 106 BY SENATOR HARRY F. BYRD, JR.

Mr. Chairman, and distinguished members of the subcommittee, I appreciate the opportunity to appear before you today to discuss my proposal, Senate Joint Resolution 106, to require that federal judges be subject to reconfirmation by the Senate every eight years.

As more and more power is centralized in the federal government, we need to appraise more critically the justification for life appointment of federal judges.

I have had prepared a legal memorandum covering many of the points of law involved in the issue of judicial tenure. I believe it will be of interest and assistance to the Subcommittee. I request that this memorandum be included in the record of this hearing at the conclusion of my testimony.

At the outset, let me state that I fully realize the complexity of the problems involved in this issue.

I doubt that any proposed solution could be devised that would be endorsed by all. The questions involved are both basic and complex: basic, in that they involve fundamental issues; complex, in that they have many ramifications.

It is a most difficult undertaking to seek to strike a reasonable balance between the principle of judicial independence and the principle of the accountability of public officials.

Nevertheless, I think the effort is worth making.

There is widespread dissatisfaction with the existing system, under which some judges are exercising dictatorial powers. I believe that a full and open discussion of the questions involved will be healthy and valuable. This hearing provides one opportunity for such discussion, and should the constitutional amendment I have proposed be acted upon favorably by the committee, the ensuing debate in the Senate and House will help to direct additional public attention to what I believe is one of the most serious problems in our democracy today.

Finally, of course, should the Compress approve the amendment, the forum of debate would be opened in the 50 state legislative bodies, and a true sounding of the feelings and opinions of the people would be possible. Regardless of the ultimate outcome of this national debate, I believe that it would encourage thoughtful scrutiny of the whole question of the proper role of the judiciary in a modern nation committed to the principles of separation of powers and checks and balances.

Let me begin this discussion by outlining what my proposed amendment would do, and what it would not do.

I want to emphasize at the outset that I fully support the concept of an independent judiciary. The amendment I have introduced simply provides a method by which the courts might be made more accountable to the people.

The philosophy of this proposal I am making was perhaps best expressed by Thomas Jefferson, when he said:

"In questions of power, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

My amendment provides that federal judges serve in office for a term of eight years, at the end of which term they would be automatically nominated for reconfirmation by the Senate, unless they requested otherwise. If reconfirmed by the Senate, the judges would serve for an additional eight years.

During the period of consideration by the Senate as to whether or not to give its advice and consent to the reconfirmation of any judge, that judge would continue in office. Moreover his new, eight-year term of office would commence from the day after the date that the Senate approved the reconfirmation—or from the day after the expiration of his earlier term, whichever date is later.

The amendment would not affect any judge sitting prior to its ratification.

In separate legislation not requiring a change in the Constitution, I propose that if a judge were not reconfirmed, he would be retired at full pay. This would protect the financial independence of the judiciary.

This, then is the basic mechanism which I am suggesting.

The question arises at once: Is this a radical proposal, out of keeping with American tradition, or is it rather a reasonable means of achieving accountability of judges without destroying their basic independence? I submit that it is the latter.

In the first place, the facts show that 47 of the 50 states now have fixed tenure for their own judiciary. Only Massachusetts, Rhode Island and New Hampshire now provide life tenure for state judges.

It is interesting to observe that the present arrangements in the states are largely the result of changes based on experience. Most of the original states provided life tenure for judges, and the trend toward fixed terms did not make great headway until well into the 19th century. As late as the 1820's, 19 of the then 24 states still maintain life terms.

So the present condition, with only three states retaining the life tenure system, is the result of a fairly modern development.

The experience of Virginia may be of significance. Originally the state constitution provided for life tenure. In 1850, a revised constitution established the practice of popular election of judges. Twenty years later, Virginia converted to the present method of election by the General Assembly for specific terms of years.

The present Virginia system, which is directly parallel to the method which I have proposed for the federal judiciary, has worked well. Even though elected by the General Assembly, the Virginia judiciary never has hesitated to assert its independence. The Virginia Supreme Court has exercised its long-established power to strike down legislative enactments.

A letter furnished by the Executive Secretary of the Supreme Court of Virginia reveals that to his knowledge, in no case within the last 40 years has a justice of the court been denied a second term after he has once been elected by the legislature.

The experience of Virginia indicates that any fears of lack of independence on the part of judges who are subject to legislative reconfirmation are without foundation.

Indeed, I know of no documented assertion that the independence or integrity of the judiciary has been compromised in any of the 47 states as a result of fixed tenure. If the Committee has such evidence, I would hope it would make it a part of the record of these hearings.

When we stop to think about it, why should any official in a democracy have lifetime tenure? In the modern world, only kings, queens, emperors, maharajahs—and United States federal judges—hold office for life.

It would seem to me that the trend toward fixed tenure in the states is in line with the over-all movement in American government toward a more broadly based democracy. Several of the 20th century amendments to the Constitution have reflected this movement, including the 17th Amendment (providing for the direct election of Senators), the 19th Amendment (guaranteeing the right of women to vote) and the 24th Amendment (abolishing the poll tax).

In addition to Constitutional amendments, much of the statutory legislation enacted by the Congress in recent years has provided for increased participation by the people in government, notably including the fields of elections and the environment.

Each of these amendments and laws has, to some degree, represented a departure from past practice—not, indeed, a departure from traditional values, because democratic values are the core of our political system—but a change from practices that had become established through the years. If we are to have a broadly based political system, a "participatory democracy" if you will, then we must not be afraid of change.

I do not fear change.

Most certainly, I do not fear change which is based upon the will of the people.

I think all of the amendments to the Constitution, with the exception of the 18th Amendment (Prohibition), have been desirable additions.

I particularly favor the 17th Amendment, providing for the direct election of United States Senators, which was a substantial departure from the original Constitution adopted in order to widen participation in the democratic process.

I think the time has come to consider another desirable addition, namely the elimination of life tenure for federal judges.

I say again—why should any public official in a democracy have lifetime tenure?

I do not conceive this to be a liberal-vs.-conservative issue. Senator Robert M. LaFollette, Sr., of Wisconsin, perhaps one of the leading progressives of this century, in 1920 denounced "the alarming usurpation of power by the federal courts." He called for constitutional and statutory changes to end lifetime tenure for federal judges.

Certainly I see no reason why the question of lifetime appointment for judges, as opposed to a reasonable system of reconfirmation, should not be submitted to the people of this nation.

I want to emphasize again that favorable action on my proposal by the Committee and by the Congress would do only one thing: it would simply permit the question of a constitutional change to be determined by the geenral public through their elected representatives in the 50 states.

It is true, of course, that the Framers of our Constitution provided for life tenure for judges, conditioned only on "good behavior."

But in this as in every case where one considers a change in the Constitution, one must bear in mind that the men who constructed the framework of the Constitution also provided for its repair; they themselves devised a system for amending our basic law. They had that special wisdom which understands the limitations of time and place—the wisdom to know that there was that which they did not know.

It goes without saying that the reason why this hearing is possible, the reason why this very subcommittee exists, is that we have an orderly method for considering improvements in the organic law of the United States.

But more particularly in the case of the "good behavior" provision for judges, all the evidence indicates that it was conceived to protect a supposedly weak judiciary from executive and legislative pressure. Certainly no one at the Constitutional Convention suggested that the federal courts should or could invade the domain reserved for the States and the other two branches of the federal government.

It is instructive to look at the reasoning of Alexander Hamilton, for example. In *The Federalist*, No. 78, an article often cited to buttress the argument that no increase in judicial accountability should be made, Hamilton said that the judiciary "may truly be said to have neither force nor will but merely judgment . . ."

He added:

". . . It proves incontestably that the judiciary is beyond comparison the weakest of the three departments of power, that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks."

Hamilton said further that there was no real threat to liberty from the judiciary "so long as the judiciary remains truly distinct from both the legislature and the executive."

This, however, is precisely the problem today.

Because of excessive activism on the part of the federal courts, creating incursions into the realm of the other branches of government, the judiciary no longer can be said to be "truly distinct from both the legislature and the executive." As a result, the liberty which Hamilton saw as secure in the late 18th century is in peril in the eighth decade of the 20th century.

For well over a century after the creation of this nation, the unwritten canon of judicial restraint, as expressed by such eminent justices as Holmes, Brandeis, Stone, Hughes, and Frankfurter, was one of our most hallowed legal principles. To protect itself and the other branches of government the Supreme Court refused to pass on political questions; it deferred to state common law principles; it refused to enunciate Constitutional rulings unless absolutely necessary; it refused to rule upon moot questions; it deferred to a state's interpretation of its own constitution and statutes; and it strictly interpreted the rules concerning "standing" to bring a lawsuit.

But in this century, and particularly since the 1950's, first the Supreme Court and later the lower federal courts have cast aside much of the doctrine of restraint. The case law involved in this transition to ultra-activism is set forth in outline in the legal memorandum which I am submitting today to accompany my testimony; suffice it to say here, in summary, that in all too many instances the federal courts have gone well beyond the sphere of *interpreting* the law, and into the domain of *making* the law.

Under these circumstances, we are faced with a dilemma. Judges who are accountable to no one are invading the sphere of the elected representatives of the people, handing down decisions which have great impact on the lives of the citizenry. This situation is basically inequitable and contrary to the spirit of democracy.

Under existing law, no real solution is available for the present dilemma. It is not possible to legislate resurrection of the doctrine of judicial restraint.

As things now stand, the only steps that can be taken when judges step out of line are six, and none of them represents a genuine reform:

1. Impeachment.
2. Removal of appellate jurisdiction of the Supreme Court (in general or) in particular cases.
3. Abolition of lower courts entirely.
4. Alteration of the size of the Supreme Court.
5. Executive refusal to enforce the decrees.
6. Congressional refusal to appropriate money for the operational expenses of the Court.

None of these possible steps would affect a structural change of the kind needed to afford true accountability. Most of them have a punitive quality which is ill suited to real solution of the problem of excessive judicial activism.

The Constitution established a subtle system of checks and balances; the question is whether the checks upon the mid-20th Century Judiciary are not entirely too subtle.

Impeachment, for example, has not provided a very useful means of policing the judges. Thomas Jefferson referred to the impeachment process as "a bungling way of removing judges . . . an impractical thing—a mere scarecrow."

Lord Bryce, in his observations of our government, said: "Impeachment is the heaviest piece of artillery in the Congressional arsenal, but because it is so heavy it is unfit for ordinary use."

Characterizing congressional lethargy in this area, Woodrow Wilson said of impeachment:

"It requires something like passion to set them a-going; and nothing short of the grossest offenses against the plain law of the land will suffice to give them speed and effectiveness."

For lasting reform, aimed at setting the judiciary within the same restrictions on power and authority that are applicable to the legislative and judicial branches, some change in the law will be necessary.

Really basic reform could best be achieved through a system automatically applicable to all members of the federal judiciary, as I have proposed. It is nondiscriminatory in its approach and would serve to guard the interests of the people, through the representatives in the Senate, without compromising the fundamental independence of the judges who would be subject to reconfirmation.

In connection with the issue of independence, we already have seen that the experience of the states indicates no jeopardy of the judiciary's independence need be feared from a fixed-tenure system. But we need to look further into this question of independence. We need to consider what is the real *purpose* of judicial independence.

I think the true purpose of independence never was better stated than by Professor Philip Kurland of the University of Chicago Law School, who I understand is to be a witness at this hearing. In a discussion of the proposal by former Senator Tydings of Maryland to create a commission of judges to police the judiciary, Professor Kurland stated:

"It should be kept in mind that the provisions for securing the independence of the judiciary were not created for the benefit of the judges, but for the benefit of the judged."

I believe this to be a cardinal principle. Judicial independence should not be regarded as a fortress for the members of the judiciary, whether or not one believes that some judges are actual or potential oligarchs; on the contrary, it is supposed to be a shelter for the true rights of the people.

It is my contention that a uniform, reasonable system of fixed tenure and reconfirmation, such as I am proposing in Senate Joint Resolution 106, would enhance the rights of the people. Therefore it is, in its main thrust and intent, in line—not in conflict—with the real purpose of judicial independence.

There is no need to provide any official in a democracy with the prerogatives of a medieval baron in order to safeguard his independence of judgment. Indeed, to insulate a judge—or any other public official—from all accountability for his actions is to invite arbitrary action contrary to the will and welfare of the people.

Life tenure, devoid of restraint and accountability, is not consistent with the movement of this nation toward a greater voice for the people in the operations of their government. I think it is time that we abolished it.

I emphasize that every state, save three, has some form of fixed tenure for judges.

I submit that basic questions about the nature of our democracy are involved in the issue of judicial tenure. Such basic questions are best decided at the level closest to the people themselves. Therefore I hope that this sub-committee and its parent Committee will act favorably upon my proposed amendment, that there will be a full debate and final approval by the Congress, and that the question will be taken to the people through their elected representatives in the several state legislatures.

Mr. Chairman, I appreciate the opportunity to testify before the subcommittee today.

I ask that the text of S.J. Res. 106 be included at this point in the Record of the hearing.

S.J. RES. 106

Joint resolution proposing an amendment to the Constitution of the United States with respect to the reconfirmation of judges after a term of eight years

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Notwithstanding the provisions of the second sentence of section 1 of article III of the Constitution, each judge of the Supreme Court and each judge of an inferior court established by Congress under section 1 of article III shall hold his office during good behavior for terms of eight years. During the eighth year of each term of office of any such judge, his nomination for an additional term of office for the judgeship which he holds shall be placed before the Senate in the manner provided by the law, for the advice and consent of the Senate to such additional term, unless that judge requests that his nomination not be so placed. Any judge whose nomination for an additional term of office is so placed before the Senate may remain in office until the Senate gives its advice and consent to, or rejects, such nomination. If the Senate gives its advice and consent to an additional term of office, that term shall commence from the date of such advice and consent, or the day immediately following the last day of his prior term of office, whichever is later.

"SEC. 2. The terms of office established by section 1 of this article shall apply to any individual whose nomination for a judgeship is submitted after the ratification of this article to the Senate for its advice and consent."

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that a letter from the Executive Secretary of the Supreme Court of Virginia be printed at this point in the RECORD.

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

SUPREME COURT OF VIRGINIA,
Richmond, Va., May 15, 1972.

Senator HARRY BYRD, JR.,
Old Senate Office Building,
Washington, D.C.

Attention: Mr. Edward White

DEAR SENATOR BYRD: This is a reply to an inquiry from your office concerning whether or not any elected member of the Supreme Court of Virginia, in recent years, has been defeated when his name was presented to the General Assembly for re-election.

I have thought about the matter, and I cannot recall, within the last forty years, that any elected member of the Court has not been reelected when his term expired. There has been, to my knowledge, one instance when a judge who was given an interim appointment to the Supreme Court was defeated in his bid for election. This was the case when Honorable Stafford Whittle was elected about 1900.

I hope this information will be of some value to you. If I can help in any other way, please let me know.

With kind personal regards and best wishes.

Sincerely,

HUBERT D. BENNETT.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Mr. Justice Albertis S. Harrison, Jr., of the Supreme Court of Virginia. Mr. Justice Harrison served as commonwealth attorney of his native county of Brunswick in Virginia. He served as a member of the Virginia Senate, the attorney general of Virginia, Governor of Virginia, and he is now serving as a member of the Supreme Court of Virginia.

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

SUPREME COURT OF VIRGINIA,
Lawrenceville, Va., May 16, 9972

Hon. HARRY F. BYRD, JR.,
United States Senate,
Washington, D.C.

DEAR SENATOR BYRD: Your letter of the fifth, sent to my Richmond office, has just reached me.

You asked the following question: "Has the fact that Virginia's Judiciary must be re-elected by the Legislature at stated intervals affected adversely the independence of the Judiciary?"

I can state unequivocally that in my opin-

ion the necessity that judges in Virginia be reelected by the General Assembly at stated intervals has not affected adversely the independence of the Judiciary. I would observe that with one or two exceptions the members of the Judiciary in Virginia have universally been reelected by the Legislature.

I might further add that during my entire career at attorney, public official and a member of the Supreme Court of Virginia I have never heard a single judge or justice in Virginia voice opposition to Virginia's system, which does require reelection of judges of lower courts every eight years and of the Supreme Court every twelve years.

Trusting that this answers your inquiry, and with kindest regards, I am

Sincerely,

A. S. HARRISON, Jr.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Mills E. Godwin, Jr., former Governor of Virginia, submitted in support of H.R. 106. I would point out that former Governor Godwin is one of the leading attorneys of Virginia. He served in the Virginia House of Delegates, he served as Lieutenant Governor of Virginia, and as Governor of Virginia.

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

STATEMENT OF MILLS E. GODWIN, JR.

Mr. Chairman: I am happy to have the opportunity to submit my statement in favor of the Constitutional Amendment under consideration today.

At the outset, I would like to make it clear that during my years as a practicing attorney, FBI agent, State Legislator, Lt. Governor, and Governor of Virginia, I have never heard any criticism or objection to Virginia's system that requires appellate judges of the lower courts of record to be re-elected every eight years.

During my service as a member of the General Assembly of Virginia, I had the opportunity to vote on initial election of judges as well as re-election of judges. As Governor of the Commonwealth of Virginia, I appointed and concurred in the re-election of countless judges. In not one instance during my service in such capacities did a judge ever fail to be re-confirmed. However, the possibility existed and continues to exist today for the legislature of the Commonwealth of Virginia to withhold reconfirmation. I feel that the existence of this reconfirmation process has been a good influence on the judges of Virginia.

To me, it is perfectly obvious that if our system is a valid one, the same argument that supports it would apply at the federal level.

I believe very strongly in an independent judiciary, but we must face the fact that legislative and Congressional failure to check the advance of judicial supremacy has resulted at times in the establishment of a judicial oligarchy.

The whole truth is that the only determent on a judge is his conscience and history conclusively establishes in some few instances this is not a determent.

The honest judge, and the judge who follows the dictates of the Constitution would have nothing to fear from Congress. The dishonest judge, or the one who substitutes his own ideology for the Constitution, should not be re-confirmed.

It is a well established fact that life tenure for judges was not established out of consideration for the judges but rather out of consideration for those who were to be judged.

It was felt in England that those people being judged would receive a more objective hearing of their case if the judge were free from the power of the King to withdraw his judge's commission or cut off his pay. This English experience was the basis for life tenure in the United States. By granting this life tenure, we not only made them independent of the appointing authority but also independent of the People for whose service they are appointed.

Many states began with life tenure for their judges, but today forty-seven of our fifty states have fixed tenure for their judges. From this one observation alone, one can only conclude that the People desire their judges to be responsible to the People, in most instances through their elected representatives in the state legislatures, after a fixed tenure of service.

In a democracy such as ours, of the people—by the people—for the people, it seems to be a logical step for the people to re-affirm their faith at fixed intervals (through their elected representatives) in judges whose decisions affect their lives from before birth until after death.

All of my public life, whether in a legislative or executive capacity, I have been accountable to the people. From experience ranging from law enforcement—to advocate—to Governor, I can testify that this accountability to the people is a weighty one as you gentlemen are aware. Under the existing system of life tenure for judges, there is no accountability to anyone at any time. I cannot reconcile this existence of non-accountability in a democratic system.

Judicial independence is held in trust for the people and only the people should determine whether they would like to exchange some judicial independence for more judicial accountability.

It is precisely because I believe so deeply that the people of the United States should make the determinations as to whether they would like Federal Judges appointed for a fixed renewable term that I support this Bill.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the RECORD testimony prepared for the subcommittee by J. Sloan Kuykendall, of Winchester, Va. He is senior partner in the firm of Kuydendall, Hall, & Whiting in Winchester. Incidentally, he is a native of the great State of West Virginia, having been born in Romney. He is a member of the American Bar Association, the American Law Institute, the American Judicature Society, the American Bar Foundation, and is a fellow in the American College of Trial Lawyers. He served as commonwealth attorney for Frederick County and he was president of the Virginia State Bar Association. At present he is president of the Virginia Board of Bar Examiners. He is an outstanding attorney in our State.

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

BIOGRAPHICAL INFORMATION

(By J. Sloan Kuykendall, Esq.)

(NOTE.—Mr. Kuykendall is a senior partner in the firm of Kuykendall, Hall & Whiting in Winchester, Virginia.

A graduate of the University of Virginia Law School, Mr. Kuykendall was admitted to the Virginia Bar in 1931.

He is a member of the American Bar Association, the American Law Institute, the American Judicature Society, the American Bar Foundation, and is a Fellow in the American College of Trial Lawyers.

He served as Commonwealth Attorney for Frederick County from 1942 to 1947.

In 1957–58 he was President of the Virginia State Bar.

At present he is President of the Virginia Board of Bar Examiners.)

Mr. Chairman, and distinguished members of the subcommittee:

Responding to the request of Senator Byrd, I state my views regarding Senate Joint Resolution 106 respecting tenure for Federal Judges.

The amendment to the Constitution proposed by Senator Byrd focuses attention once more on the role of the judiciary in our democratic form of government. When the Constitution, as drafted by the Convention of 1787, was submitted to the Thirteen States for ratification, the provision for life tenure for Federal Judges came into question. Alexander Hamilton dealt with this question in the Federalist Papers. In Paper No. 78, Mr. Hamilton justified tenure for judges during good behavior by the argument that the Judicial Branch of the Government was the weakest of the three coordinate branches, and he observed:

"From the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its coordinate branches. . . ."

He further observed:

"To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules and precedents which serve to define and point out their duty in every particular case that comes before them. . . ."

He reasoned, therefore, that courts were impotent to enforce upon the people and the coordinate branches of Government a will of the courts that may prove to be at variance with the rights and demands of the States and the people, and with the views and commitments of the Executive and Legislative Branches. He insisted that independence of the judiciary can be assured only by providing life tenure for judges during good behavior. The provision for tenure during good behavior was placed in the Constitution, and ratification was effected, before the courts had had an opportunity to function and before it could be determined exactly to what extent the courts would extend their jurisdiction and would enforce their decisions and decrees. Further, the scope and nature of judicial review respecting constitutionality of congressional enactments or executive action was not part of the colonial experience, nor did the courts of England exercise the ultimate judgment as to the validity of acts in question.

Since Hamilton's day, the scope of judicial review and the power and authority of the courts have developed and increased to a point not envisioned by the framers of the Constitution and the advocates of life tenure. It is, therefore, proper at this time to seriously reconsider the tenure provision of the Constitution to determine whether the considerations that prompted the inclusion of this provision in the Constitution as originally drafted are valid and compelling at this time.

Since the founding of the Republic, the scope and nature of judicial review, as exercised by Federal Courts, has been greatly enlarged. Not only has the number of litigated cases increased over the years, but our history has witnessed the adoption of twenty-six amendments to the original Constitution. The Fourteenth Amendment, with its equal protection and due process clauses, has provided a broad avenue for judicial opinions, some of which have not, I believe, adhered to the spirit or letter of the Constitution or the principle of *stare decisis*.

The interpretation and application of the broad and general language of the commerce clause (Article I, Section 8) and the equal protection and due process clauses (Fourteenth Amendment) call for the utmost in judicial restraint in order to avoid trespass upon the legislative and executive powers and functions, and the established jurisdic-

tion of the States and the rights of the people. The power of the judiciary is unlimited except in the exercise of judicial restraint. Some judges have exercised a very high degree of restraint, whereas other judges have envisioned a broad and expansive role for the courts.

Alert and ingenious minds have used appropriate language to attain a desired judicial result while purporting to be merely interpreting the Constitution. Today, Congress, the President, and the People can be made subject to the will of the judicial mind under the guise of constitutional interpretation. It is, therefore, in order for the Senate to consider a longer range and continuing check on the exercise of judicial power.

When the intent of the Constitution is clearly expressed, one can judge whether a decision of the court is within the meaning of the Constitution. However, when a court deals with the general language of the commerce, due process and equal protection clauses, which afford no inherent standards that limit their application, the courts may in cases of first impression, determine whether a legislative act, executive directive, or non-governmental act falls within the purview and influence of those clauses. However, once there has been a judicial pronouncement of the highest court respecting a given set of facts calling for the application of either one or all of those general constitutional provisions, then there is judicial precedent that should be followed. It is in cases where judges depart from the express language of the Constitution and controlling precedent that a judge may be readily said to have violated the obvious restraints upon him.

In areas where the general language of the Constitution is susceptible to varied interpretations, the judicial function is put to its most difficult test. The ultimate check on the judiciary is the self-imposed restraint of the judges in an effort to avoid the imposition of their will rather than adhering to the Constitution or precedent. This is a high and serious responsibility. It is submitted that the exercise of this unique and delicate function, that of constitutional interpretation, is a continuing one and ought then to be subject to some control.

It is, therefore, submitted that it is proper that the Senate should have the duty to review the continuing performance of those clothed with judicial power. It is taken as fundamental that the people themselves are the ultimate repository of power in this Republic. The Senate is properly constituted and qualified to pass upon the continuing fitness of those who occupy the bench. The proposed reconfirmation by the Senate constitutes a moderate check upon the life tenure of a judge who now enjoys the last vestiges of an unrestrained arm of government. This procedures, which comes into play once in eight years, serves to add symmetry and a degree of responsibility to each of the co-equal and coordinate branches of government. The proposed amendment assures that the judiciary, as is true of all other branches of the Federal Government, is subject to review and are answerable to the governed through their representatives.

There are those individuals, who in good faith but mistakenly, exhort the courts to engage in new and bold enterprises of judicial activism. They see the Supreme Court and the lower Federal Courts as having a duty to rescue this nation from the supposed failures of the other branches of government; and further envision the courts as a special guardian for defining and operating the political processes in America. What is more disturbing is the plea for the judiciary to strike out boldly in identifying ideals and setting public policy they deem appropriate, and commanding public officials to begin the pursuit of those ideals, as formulated and characterized by the judiciary.

This open appeal to judges to rewrite the Constitution in their own image flies in the face of the best traditions of Anglo-American jurisprudence. That everpresent temptation to substitute one's own will for that which the Constitution plainly or by necessary implication directs or prohibits is one of the continuing and pervasive problems of our constitutional form of government.

But the unarticulated or perhaps patent recognition that judges do and will make law jeopardizes the concept of the rule of law and the role of the judiciary as a dispassionate referee, and it undermines the restraints which the Constitution should place on all citizens, even the judiciary.

From the vantage point of this observer, the seductive sirens of aggressive judicial activism nullify the famous phrases of Mr. Chief Justice Marshall in *McCulloch* v. *Maryland* (1819), "It is the Constitution we are expounding. . . ." It is further submitted that the judges or justices of the Federal system are not ordained with any monopoly of a "finer vision" of what the best means for achieving a particular social goal may be in the absence of constitutional direction or mandate.

If it be admitted that the courts have effectively abandoned the precepts of faithful constitutional construction, judicial self-restraint, and adherence to precedent, there is no reason why they should not be subject to some restraint also. There is no reason why admittedly policy conscious judgments should not be subject to some further scrutiny by the duly elected representatives of the people. If it be further admitted that the abstract policy decisions are an encroachment on the functions of Legislative and Executive Branches, a constitutional amendment making the judiciary's behavior responsible to the Senate is the only reasonable, moderate and controlled mode of assuring that Federal Judges or justices remain servants of the people rather than public rulers.

Some of the most searching and scathing criticisms of the failure of the judges or justices to exercise self-restraint and avoid the temptation to substitute their own will for judgment has been made by their brethren of the bench. One of the most famous of all dissents in Supreme Court history is that of Mr. Justice Holmes in *Lochner* v. *New York*, 198 U.S. 45, 25 S. Ct. 539, 49 L.Ed. 937 (1905).

In that case, the majority of the court held invalid a New York statute which prohibited employees of bakeries from working more than sixty hours in any one week. The court held that the statute was an impermissible exercise of the police power and that no reasonable foundation existed for upholding the legislation on the grounds of health of the workers. The majority embraced the concept of "liberty of contract". That majority reasoned that under the circumstances the "freedom of master and employee to contract with each other in relation to their employment, and in defining the same, cannot be prohibited or interfered with, without violating the Federal Constitution."

In his succinct and eloquent dissent, Mr. Justice Holmes condemned the court for writing into the Constitution the theory of laissez faire economists under the guise of constitutional interpretation. Justice Holmes went on to say:

". . . The 14th Amendment does not enact Mr. Herbert Spencer's Social Statics. Some of these laws (limiting or regulating hours or working conditions) embody convictions or prejudices which judges are likely to share. Some may not. But a Constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the state of laissez faire. It is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar, or novel, and even shocking, ought not to conclude our judgment upon the question whether statutes embodying them conflict with the Constitution of the United States.

"General propositions do not decide concrete cases. The decision will depend on a judgment or intuition more subtle than any articulate major premise. But I think that the proposition just stated, if it is accepted, will carry us far toward the end. Every opinion tends to become a law. I think that the word "liberty", in the 14th Amendment, is perverted when it is held to prevent the natural outcome of a dominant opinion, unless it can be said that a rational and fair man necessarily would admit that the statute proposed would infringe fundamental principles as they have been understood by the traditions of our people and our law. . . ."

Again, in the New Deal era, the laissez faire concept, which had been written into the judicial opinions of the latter half of the 19th Century and early parts of the 20th Century, came into question as Congress passed a series of enactments designed to ameliorate the effects of the Great Depression. In *U.S. v. Butler*, 297 U.S. 1, 53 S. Ct. 312, 80 L. Ed. 477 (1936); the Supreme Court invalidated the Agricultural Adjustment Act of 1933. Mr. Justice Stone, later Chief Justice, took issue with the court's declaration that the congressional act was not justified or sanctioned under the Commerce Clause, Article I, Section 8 of the Constitution.

"That the governmental power of the purse is a great one is not now for the first time announced. Every student of the history of government and economics is aware of its magnitude and of its existence in every civilized government. Both were well understood by the framers of the Constitution when they sanctioned the grant of the spending power to the federal government, and both were recognized by Hamilton and Story, whose views of the spending power as standing on a parity with the other powers specifically granted, have hitherto been generally accepted.

"The suggestion that it must now be curtailed by judicial fiat because it may be abused by unwise use hardly rises to the dignity of argument. So may judicial power be abused . . . The power to tax and spend is not without constitutional restraints. One restriction is that the purpose must be truly national. Another is that it may not be used to coerce action left to state control. Another is the conscience and patriotism of Congress and the Executive. "It must be remembered that legislators are the ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts." Justice-Holmes, in *Missouri, K. & T. R. Co. v. May*, 194 U.S. 267, 270.

"A tortured construction of the Constitution is not to be justified by recourse to extreme examples of reckless congressional spending which might occur if courts could not prevent—expenditures which, even if they could be thought to effect any national purpose, would be possible only by action of a legislature lost to all sense of public responsibility. Such suppositions are addressed to the mind accustomed to believe that it is the business of courts to sit in judgment on the wisdom of legislative action. Courts are not the only agency of government that must be assumed to have capacity to govern. Congress and the courts both unhappily may falter or be mistaken in the performance of their constitutional duty. But interpretation of our great charter of government which proceeds on any assumption that the responsibility for the preservation of our institutions is the exclusive concern of any one of the three branches of government, or that it alone can save them from destruction, is far more likely, in the long run, "to

obliterate the constituent members" of "an indestructible union of indestructible states than the frank recognition that language, even of a constitution, may mean what it says: that the power to tax and spend includes the power to relieve a nation-wide economic maladjustment by conditional gifts of money."

In recent years, the Federal Courts, often led by the Supreme Court itself, have taken unto themselves a broad range of problems which had heretofore been deemed beyond the ambit of their jurisdiction. My remarks here must be limited to certain salient examples of a general tendency which I see in the Federal Courts today. Consequently, it is not within the scope of my remarks to catalog exhaustively and critique the many opinions which have come from the courts in recent times. My chosen emphasis will be upon what is generally termed the "voting cases", because the problem and the marked change of the attitudes of the Federal Courts can be succinctly summarized.

In *Colvegrove* v. *Green*, Mr. Justice Frankfurter cautioned against courts entering the "political thicket" of reapportionment cases in delivering the opinion of the court:

"It is hostile to a democratic system to involve the judiciary in the politics of the people. And it is not less pernicious if such judicial intervention in an essentially political contest be dressed up in the abstract phrases of the law. . . . The one stark fact that emerges from a study of the history of Congressional apportionment is its embroilment in politics, in the sense of party contests and party interests. . . .

"To sustain this action would cut very deep into the very being of Congress. Courts ought not to enter this political thicket. The remedy for unfairness in districting is to secure State legislatures that will apportion properly, or to invoke the ample powers of Congress. The Constitution has many commands that are not enforceable by courts because they clearly fall outside the conditions and purposes that circumscribe judicial action."

Yet, in 1962, the Supreme Court reached the opposite result in *Baker* v. *Carr*, 369 U.S. 186, 82 S. Ct. 691, 7 L.Ed. 2d 663 (1962). The court held that there was jurisdiction, standing and a justiciable controversy presented, and that the Federal Courts could reapportion voting districts under the equal protection clause of the Fourteenth Amendment. Justices Frankfurter and Harlan dissented. Mr. Justice Frankfurter then stated:

"The notion that representation proportioned to the geographic spread of population is so universally accepted as a necessary element of equality between man and man that it must be taken to be the standard of a political equality preserved by the Fourteenth Amendment—that it is, in appellants' words, "the basic principle of representative government"—is, to put it bluntly, not true. However desirable and however desired by some among the great political thinkers and framers of our government, it has never been generally practiced, today or in the past. It was not the English system, it was not the colonial system, it was not the system chosen for the national government by the Constitution, it was not the system exclusively or even predominantly practiced by the States at the time of adoption of the Fourteenth Amendment, it is not predominantly practiced by the States today. Unless judges, the judges of this Court, are to make their private views of political wisdom the measure of the Constitution—views which in all honesty cannot but give the appearance, if not reflect the reality, of involvement with the business of partisan politics so inescapably a part of apportionment controversies—the Fourteenth Amendment, "itself a historical product," . . . provides no guide for judicial oversight of the representation problem. . . ."

Yet the *Baker* case was not the terminus of the march of the court. In 1964, the Supreme Court decided *Reynolds v. Sims*, 377 U.S. 533, 84 S. Ct. 1362, 12 L.Ed. 2d 506 (1964). The court held that the federal analogy which would allow the States to have one house of the bicameral legislature to be elected on a basis other than population was rejected as inapposite and in violation of the equal protection clause of the Fourteenth Amendment. In *Reynolds*, Mr. Chief Justice Warren said:

"We hold that, as a basic constitutional standard, the equal protection clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. Simply stated, an individual's right to vote for state legislators is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State . . .

". . . We . . . find the federal analogy inapposite and irrelevant to state legislative districting schemes. Attempted reliance on the federal analogy appears often to be little more than an after-the-fact rationalization offered in defense of maladjusted state apportionment arrangements. . . ."

". . . Lower courts can and assuredly will work out more concrete and specific standards for evaluating state legislative apportionment schemes in the context of actual litigation. For the present, we deem it expedient not to attempt to spell out any precise constitutional tests. . . . Thus, we proceed to state here only a few rather general considerations which appear to us to be relevant."

In an able dissent, Mr. Justice Harlan said of the majority opinion:

"Since it can, I think, be shown beyond doubt that state legislative apportionments, as such, are wholly free of constitutional limitations, save such as may be imposed by the Republican Form of Government Clause (Const. Art. IV, Sec. 4), the Court's action now bringing them within the purview of the Fourteenth Amendment amounts to nothing less than an exercise of the amending power by this Court."

The most disturbing aspect of the majority decision is the self-evident resort to the unarticulated assumptions of the court, that it is the court's function to alter the form of government, and that judges should use their offices in order to enforce and expand their views of a properly constituted Republican form of government. Unfortunately, the Constitution has not, and did not, require the decision which was pronounced in 1964. It is submitted that we have before us the very problem which disturbed Mr. Jefferson.

In Jefferson's letter to Abigail Adams in 1804, he expressed his fears of allowing the judiciary to pass upon the validity of enactments of other branches of government. He feared that to allow the courts to decide constitutional questions, not only for themselves but for the other branches of government, contained the seeds of judicial despotism. Under his interpretation of the Constitution,

"That instrument meant that its co-ordinate branches should be checks on each other."

Jefferson's fear of judicial despotism or judicial usurpation is no less to be feared today. It is equally self-evident that the courts, be they the Supreme Court or the lower Federal Courts, are by their example great teachers in interpreting and handing down constitutional law. If the judge decides that his views are to be written into law, how is it then that we live under the rule of law—not of men? Can we continue to say that the courts exercise only judgment, not will, as Hamilton claimed? How then can the rule of law be explained?

It is submitted that the various excursions of the Supreme Court and the Federal judiciary into various areas of policy making and administrative directives have damaged the traditional concepts of the function of the courts and the rule of law in the eyes of American citizens.

In the area of criminal law, for example, the past decade has witnessed the transformation of the Federal Constitution into a code of rules, practices, and detailed procedures as intricate as many congressional enactments. And yet, we, and the people, are told that the court is merely interpreting the Federal Constitution.

The list of recent examples of judicial policy making could grow much longer. But I trust that these few illustrations suffice to characterize the nub of the problem.

But in addition, there are other compelling reasons for periodic review of the tenure of the Federal judiciary. Not only should the acts of judges be reviewed to determine whether they practice proper judicial restraint in dealing with the powers and the authority of the coordinate branches of government and the rights and powers of the States and the people. I refer to questions of health, demeanor on the bench, age, and attitude toward responsibility and willingness to perform the work assigned with diligence and dispatch. I realize that there exists the power of impeachment for misbehavior, but in my opinion only the grossest kind of conduct would ever be dealt with in an impeachment proceeding. The impeaching process is fraught with very grave doubts and uncertainties, whereas a periodic review for judicial fitness would, in my judgment, give greater assurance of proper judicial conduct.

As a further justification for the tenure provision in the Federal Constitution, Mr. Hamlton argued that the provision

". . . is conformable to the most approved state constitutions, and among the rest, to that of this State." (N.Y.)

If this be conceded to be a valid justification for tenure during good behavior at that time in the history of our country, then it may logically be said that at this time the tenure provision for Federal Judge should be altered to conform to the majority of the state constitutions putting a time limit on tenure. I am advised that today only three States in the Union, Massachusetts, Rhode Island and New Hampshire, provide life tenure for their judges. It is apparent, therefore, that the overwhelming majority of States consider that life tenure during good behavior is unwise and that there should be a time limitation on a judgeship.

I hold to the view that a person who possesses the character, training, experience and firmness of conviction, requisite for the proper administration of the judicial process, will not be concerned that he may, in his judicial pronouncements, offend the political sensitiveness of members of the Senate. Such a man would rather surrender his judicial position that to give expression of views that he could not conscientiously embrace. I am confident that the Senate would not withhold confirmation of a judge for an additional term because he differed with the political or philosophical views of a majority of the Senate.

In considering whether it be appropriate to add yet another amendment to the Constitution, I believe it must be admitted by all minds that any change ought to offer at least reasonable promise of a better future than the present holds. Any change incorporated into the Constitution should embody fundamental law. This amendment, I believe, offers reasonable grounds to believe that it is a mode of attaining a better balanced Republic. It will serve to put limits on the exercise of the judicial power.

Once again, we are benefited by the thoughts of Thomas Jefferson, who said:

"I am certainly not an advocate for frequent and untried changes in laws and con-

stitutions. I think moderate imperfections had better be borne with; because, when once known, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also, that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times."

In essence, I believe that this amendment goes toward the preservation of the best features of our constitutional democracy and our heritage of limited and responsible government. Macauley, the British statesman, rightly observed:

"Reform, that you may preserve."

J. SLOAN KUYKENDALL.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that testimony by Paul Shuford, of Richmond, Va., be printed in the RECORD. He is an outstanding attorney in that city, is president of the Richmond Bar Association, a very large bar association of 900 attorneys.

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

BIOGRAPHICAL SKETCH—PAUL MASON SHUFORD

Mr. Shuford is president of the bar association of the city of Richmond, an association composed of approximately 900 lawyers and judicial members, membership in which is open to all lawyers maintaining an office in the metropolitan area. It has an outstanding record in the field of judicial support and reform, and has long been recognized for the leadership it provides in matters of social and civic concern, such as legal aid, lawyer referral, Richmond Community Action program and others.

Mr. Shuford has been a practicing attorney for over 24 years, and is a partner in the firm of Wallerstein, Goode, Dobbins and Shuford. He has been admitted to practice in all the State and Federal courts in his area and has been a member of the bar of the Supreme Court of the United States since 1952. He is a member of and has served on numerous committees of the American Bar Association, the Virginia State Bar, the Virginia Bar Association and the American Judicature Society. He has taught classes at Washington & Lee University law school and at the Richmond College of Law; and under the nom de plume of "Cato" was the author of a regular weekly editorial column dealing with legal matters, which was the recipient of a "silver gavel award" for its outstanding contribution to the public understanding of law.

Mr. Shuford was graduated from Washington & Lee University and its law school, where he was a member of Phi Beta Kappa and the Order of the Coif. He served in the Army Air Corps in World War II and received the Distinguished Flying Cross twice, the Soldiers Medal, the Air Medal three times and the Purple Heart.

STATEMENT BY PAUL M. SHUFORD

Mr. Chairman and members of the subcommittee: I appear before you simply as a practicing attorney, deeply concerned . . . as I know you are . . . with the proper administration of justice. I have no novel suggestions to offer, and certainly I am not so fatuous as to believe that I can add to your knowledge or awareness of the many problems which our country faces in this very critical and delicate area of concern. It is my hope that I may lend some support to the thrust of S.J. Res. 106 . . . a support based primarily on 24 years of the active practice of law and a continuing,—and I like to think a sometimes constructive, participation in the governmental and political affairs of my native state.

In my view, the establishment and maintenance of a proper and efficient system for the administration of justice is not dependent upon any one concept or class of persons. Certainly it is not something that should be left entirely to lawyers, notwithstanding that profession's greater involvement in and more intimate knowledge of the many intricacies and subtleties of the law. Lawyers have a special role, obviously, but the overall responsibility is one that must be shared by everyone, particularly those in positions of political leadership and authority. This is especially true in connection with that particular aspect of the problem brought into focus by S.J. Res. 106.

This aspect to which I refer is perhaps best encompassed within the familiar phrase "balance of power", as that phrase is applied to the interaction of authority between the legislative, executive and judicial branches of government. Too often, I fear, our concerns with questions related to this "balance of power" are seen as being purely "political" in nature . . . a view that regrettably tends to highlight the presumed selfish and partisan elements involved in such concern to the derogation of the more noble elements implicit in expressions of concern for a better "administration of justice". Yet the former is essentially and unavoidably intertwined with the latter.

Only in a limited sense can it be said that citizen justice is ultimately dependent upon the courts. Partly from initial concept and partly from development, we have come to accept a certain "ultimacy" in judicial decrees . . . and in certain limited areas, i.e.: those pertaining to the protection of certain basic—and I do mean "basic"—rights, I feel this is both proper and preferable to alternative approaches. My concern, however, is directed at the great and growing evidence that acceptance of a properly limited doctrine of judicial supremacy has been and is being expanded into a doctrine of absolute and unlimited judicial supremacy. To the extent that view controls our affairs, we are necessarily deprived of the free exercise of our "political" rights . . . rights which, though semantically and practically distinguishable from our "judicial" rights, are just as essential a part of our total package of "rights" as any category of rights that can be imagined.

"Justice" is not limited to judiciary determined matters. Social justice, economic justice, political justice . . . all are, or should be, as fully, if not more generally, dependent on legislative enactment and executive action than on judicial decree. It is the sum total of these rights that, in company with those "personal" rights which are more properly subject to individual judicial determination, comprise the full package of our rights and privileges as citizens. It is cause for grave concern, then, whenever any one branch of government undertakes to arrogate to itself a supremacy of power which would diminish the power of the others to freely exercise their respective responsibilities to the electorate. . . power that should be limited only by the clear terms of the constitution and the will of the people as expressed at the ballot box.

I will not belabor this philosophical approach further. Suffice it to say that my concern for the proper and efficient administration of justice necessarily involves a concern for matters political, as well as judicial; and, accordingly, that it embraces a concern for the "balance of power" questions posed by S.J. Res. 106.

The more precise purpose of my statement is to express to you my conviction that a periodic reappointment and/or reconfirmation of judges by the executive and/or legislative authority does serve a very valid purpose in helping preserve this essential "balance of power," without, in my opinion, reducing the essential freedom of the judiciary to dispense justice fearlessly and impartially. I could never countenance—I would oppose with all the vigor and resources at my command—any proposal for the popular election of judges, even though I know many states follow such a practice. I do not want judges to be answerable to the popular—perhaps even the emotional or passionate—will of the moment. What I do want is to see that there shall be no person or class of persons in authority who are beyond the effective control or something other than their own notions of what is "best" for the people of these United States.

Under no stretch of the imagination could the proposal before you—nor my statements in support thereof—be construed as any effort to interfere with the proper independence of the judiciary. Indeed, the amendment, if adopted, could never serve to diminish a proper independence—as opposite to an arrogant assumption of undelegated power—unless the Senate of the United States were to act in an irresponsible and irrational way. S.J. Res. 106 would not serve to make any Federal judge dependent upon or subservient to the will or emotions of the people of his district or circuit—but only to make him periodically answerable for the overall performance of his "judicial" duties to the entire Senate of the United States. Since those with ultimate legislative or executive authority . . . that is, those who are expected to exercise a certain amount of "activism" on behalf of the public . . . are subject to the direct will of the people, I deem it a salutary thought that those in judicial authority—who are not supposed to be activist "doers" but rather restrained "protectors"—should be subject to some counter balancing authority or power in order to preclude an absolutely uncontrolled "activism."

A system similar to that proposed by S.J. Res. 106 has existed in Virginia almost from the beginning of our history. It has worked well. Largely because of the re-appointive power of our general assembly, our judges have exhibited an appropriate and healthy respect for the exercise of the legislative and executive functions. At the same time, our judges, in my considered judgment, have never felt intimidated nor evidenced any reluctance to decide any case according to their respective views of the law. They have simply eschewed, to a far greater extent than many members of the federal judiciary, attempts to "make" law. They have given due respect to the right of the people—through their elected representatives—to choose what is "best," unless such choice was plainly unconstitutional. In return, I have never known of a case in Virginia in which one of our judges has been challenged—or even criticized—legislatively because of the content or result of a decision. The only significant legislative criticism of judges has been due to well-supported charges of a lack of judicial temperament and rudeness from the bench. There have been no instances of failure to reappoint.

If this proposed amendment were adopted, I would expect the effect to be the same, as between the United States Senate and federal judges. The psychological impact of knowledge that they were not beyond all control, once on the bench, would serve to make federal judges more conscious that their responsibility and authority is limited to an exercise of the judicial function only. There would be a better balance of power between the three functions of government than now exists, and public confidence in and acceptance of judicial determinations would be thereby enhanced.

Though history could prove me wrong, I have every confidence that the United States Senate would respond to this more even

'balance of power' by acting responsibly in reconfirming federal judges. Certainly I am not prepared to limit my support of S. J. Res. 106 on the assumption that this body will be less cognizant of its duty or would not act as maturely and responsibly in this area as has the general assembly of Virginia.

Virginia's trial judges are subject to reelection or reconfirmation every 8 years; our appellate judges every 12 years. As a practical matter they enjoy life tenure. But I am convinced that this is due in no small measure to the fact that our judges eschew any legislative prerogatives . . . and I am equally convinced that many of them, at least, have eschewed such a legislative role primarily because they know they are not forever beyond the reach of the legislature.

In conclusion, I respectfully submit that each branch of government has an equally important—though different—responsibility to the American people in regard to the preservation and protection of our liberties. When this equality is threatened by any of these branches, it is incumbent upon the other two to restore it, without in any way seeking to establish a *superior* position on the part of either of them. This I conceive to be the purpose of S.J. Res. 106 . . . This I believe would be its results, if adopted.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent to have printed in the RECORD a biography and a statement by the president of the State Association of Bar Presidents.

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

BIOGRAPHICAL SKETCH—EARL Q. GRAY, ESQ., ARDMORE, OKLA.

University of Oklahoma, A.B. 1910. University of Chicago, J. D. Cum Laude, 1913, Phi Beta Kappa, Order of Coif. 1957, President, Oklahoma Bar Association, 1964–65, President, Oklahoma Bar Foundation. 1960–61, Member of three-man Committee to Investigate Members of Oklahoma Supreme Court. 1964–65, Chairman, Oklahoma Committee for Administration of Justice. 1967–72, Member ABA Committee on Judicial Selection, Tenture and Compensation. 1963–72, Oklahoma State Delegate to American Bar. 1971–72, Chairman of National Conference of Bar Presidents.

STATEMENT OF EARL Q. GRAY OF ARDMORE, OKLA., REGARDING SENATE JOINT RESOLUTION 106 OFFERED BY SENATOR BYRD OF VIRGINIA

I should make clear that I speak for myself only and not for any group or organization of which I may be a member.

The proposed joint resolution would alter the provision of the Constitution which gives members of the Federal Judiciary life tenure and bring their tenure up for review after each 8 years of service. I would definitely favor such a constitutional amendment.

When I was in a one room grade school in the Texas Panhandle, the teacher and our small textbook on "Government" told us that there were three branches of the government; executive, legislative and judicial, each independent of the control of the other, and that their independence was protected by the constitution. Years later the members of the Law Faculty at the University of Chicago told us much the same thing, but one instructor after relating a decision of the Supreme Court added, "and there is no appeal from that Court on this earth." We, of course, knew that. We did not look at it as a warning of things to come, as we might have done. For many years what the teachers had told us about the independence of the three separate branches of the government remained substantially correct.

The Supreme Court had always had the power to decide first whether they had jurisdiction and then to decide the issues as they wished; and their decision was final—no appeal on this earth. Prior to and during my law school days, they in general exercised judicial restraint. They quite well stayed within the guidelines of prior decisions of their own Court, gave reasonable consideration to decisions of other courts, respected the rule that powers not granted to the Federal government were reserved to the state, ruled business to be interstate commerce only when it was moving interstate, gave reasonable credence to state court judgments, did not unwarrantably free state-convicted criminals, deferred generally to state court interpretation of their own laws and constitutions and followed other time tested rules.

Justice Cardozo said:

"The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant, roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to "the primordial necessity of order in the social life." Wide enough in all conscience is the field of discretion that remains."

Chief Justice Charles Evans Hughes said:

"We do not write on a blank sheet. The Court has its jurisprudence, the helpful repository of the deliberate and expressed convictions of generations of sincere minds addressing themselves to exposition and decision, not with the freedom of casual critics or even of studious commentators, but under the pressure and within the limits of definite official responsibility."

These statements gave evidence of rules which the Supreme Court accepted as guidelines. Some relaxation of these limitations became evident after Franklin D. Roosevelt appointed several members of the Court. Then after the death of Chief Justice Vinson in 1953 the Court rapidly lost sight of those guiding principles.

In 1966 came the notorious *Miranda Decision (Miranda vs. Arizona—16 L. Ed. (2) 694)*, a 5 to 4 decision. Chief Justice Warren wrote the opinion for the 5. He pronounced the rule that any person held for interrogation by officers must be warned in advance clearly and in unequivocable terms that he has a right to remain silent, that anything he said might be used against him and that he has a right to an attorney before answering. Without this prior warning the confession could not be used in evidence.

The Constitution says nothing about any such warning. The requirement of the warning was an enactment of a constitutional amendment by the five man majority of the Court. The requirement that he would be furnished a lawyer at the expense of the state during the investigation proceedings if he is unable to pay one was also an enactment of new law by the five men.

Though the case is known by but one title, there were, in fact, four cases involved from four different states. All four were reversed.

The decision was opposed by the four states involved in the four cases, by 27 other states which joined to support the four states involved, and by the United States. On the other hand, no one supported the decision as rendered except, of course, the convicted men.

Justice White, dissenting, stated that, "This Court, as every member knows, has left standing literally thousands of criminal convictions"—based at least in part upon such confessions.

Justice Harlan, dissenting, stated that, "The Court had jumped the rails."

That the Court knew it had jumped the rails—enacted new law, soon became evident. In the very next case of the kind coming before the Court, *Johnson vs. New Jersey*, 16 L. Ed. (2) 882, the Court announced that it would give the decision in the Miranda case only prospective effect and not retroactive effect. If the decision stated the law on the day it was announced, it stated the law of the day before, one year before and ten years before. Logically it should have been applied to every prior conviction.

So as appears, the country school teacher, the grade school textbook on "Government" and the law school faculty are no longer correct. The Judicial branch has taken over the Legislative field. The Miranda case is just one of many where the Court "jumped the rails."

QUALIFYING JURORS FOR THE DEATH PENALTY

In 1968 in *Witherspoon vs. Illinois*, 20 L. Ed. (2) 776, in a 6 to 3 opinion the Court held that the practice followed previously for more than 100 years of "Qualifying jurors for the death penalty" by asking whether they were constitutionally opposed to it was all wrong and in violation of the constitution. The question was in substance merely asking them whether they would be willing to return a verdict under the existing law. As long as the state must accept jurors constitutionally opposed to a death penalty, there will be no such verdicts. Since then no person has been legally executed.

THE POLL TAX

In 1937 in *Breedlove vs. Suttles, 82 L. Ed. 252*, the Court with Charles Evans Hughes as Chief Justice has unanimously sustained the poll tax as valid. In 1966 in *Harper vs. Virginia, 16 L. Ed. (2) 169* in a 6 to 3 decision written by Justice Douglas, they decided exactly to the contrary and ruled the poll tax unconstitutional.

PRAYER IN SCHOOL

In 1962 in *Engle vs. Vitale, 8 L. Ed. (2) 601*, the Court outlawed the practice of daily prayer in school although the prayer was undenominational and its participation on the part of the students was voluntary.

BIBLE READING

In 1964 the Court, in *School District of Abington, Twp. vs. Schempp, 10 L. Ed. (2) 844* held that the reading without comment of verses from the Bible and the recitation of the Lord's Prayer by the students in unison was in violation of the Constitution.

COMMUNISTS IN GOVERNMENT

In 1966 in *Elfbrandt vs. Russell, 16 L. Ed. (2) 321*, the Supreme Court reversed the Supreme Court of Arizona and held that Arizona could not discharge an employee who refused to take an oath which stated in net effect that he was not a Communist. Whatever Communist Arizona had in its employ Arizona was required to keep. This was a 5 to 4 decision with Justice Douglas writing the opinion.

WELFARE WITHOUT DELAY

In 1969 the Court, in *Shapiro vs. Thompson, 22 L. Ed. (2) 600*, held that welfare was a constitutional right and with bland disregard for the practical consequence of its edict held that the denial of welfare payments to newly migrated welfare seekers pending a period of residence was a denial of "equal protection of the law."

These and other decisions make it most evident that the majority of the Court during those years took jurisdiction of whatever they wanted to take and ruled whatever they wanted to rule. They exercised no judicial restraint. They did not allow themselves to be restricted by the lack of basis

in the statutes or in the Constitution nor by earlier decisions of their own Court.

It is said that Queen Victoria when Prince Albert died bewailed, "Now there is no one to tell me 'No'." There was and is no one to tell the majority of the Court "No." So they did as they pleased. The people might object, the Congress might object, the executive might object, but object was all they could do. No one could change it. It stood with the same binding effect as if it were well grounded in the statutes and constitution and in all prior decisions. When Justice White told the others that "as every member of the Court knows" the Miranda decision is contrary to thousands of earlier decisions, it did not change the result. The 5 to 4 Miranda decision written by Chief Justice Warren became the law—and it still is.

It is, of course, essential that some court have final authority. There must be a final answer to every dispute. It is not, however, necessary that judges with that awesome power have it for life. There should be some method of terminating the authority of those who choose to rule according to their own whims and prejudices rather than according to established law.

We are supposed to have a government of law and not a government of men.

With no available grounds for removal except bad conduct and no procedure for that available except the completely impractical procedure of impeachment, there is no remedy at all.

The legislative branch and to an extent executive branch of the government are not independent but are subject to the control of the judicial branch. I think most of us would agree with the nominee to the Supreme Court who said that the Court should not be a "continuous constitutional convention."

Federal Judges appointed for life and with a most liberal life time pension have complete independence, are responsible to no one. In the words of Thomas Jefferson they have a "freehold of irresponsibility." Some men can stand that kind of independent security, respected position of authority and power. Some cannot. Like prosperity, some people cannot stand it.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business again be closed.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FOREIGN RELATIONS AUTHORIZATIONS ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The ACTING PRESIDENT pro tempore. The Chair again lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3926) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 12 o'clock noon. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Senate will proceed to the consideration of the conference report on higher education, S. 659. I would imagine there will be some controversy involved in the conference report. Senators are alerted to the possibility there will be rollcall votes and there could be final action tomorrow. I cannot say. No agreement has been entered into with respect to that matter.

ADJOURNMENT

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

The motion was agreed to; and at 12:25 p.m. the Senate adjourned until tomorrow, Tuesday, May 23, 1972, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 22, 1972:

DEPARTMENT OF THE TREASURY

Charls E. Walker, of Connecticut, to be Deputy Secretary of the Treasury. (New position.)

U.S. TAX COURT

The following-named persons to be Judges of the U.S. Tax Court for terms expiring 15 years after they take office:

William H. Quealy, of Virginia (Reappointment.)

Arnold Raum, of Massachusetts (Reappointment.)

Irene Feagin Scott, of Alabama (Reappointment.)

U.S. CIRCUIT COURTS

J. Clifford Wallace, of California, to be a U.S. circuit judge, ninth circuit, vice James M. Carter, retired.

U.S. COURT OF CLAIMS

Marion T. Bennett, of Maryland, to be an associate judge of the U.S. Court of Claims vice Linton M. Collins, deceased.

U.S. DISTRICT COURTS

Samuel P. King, of Hawaii, to be a U.S. district judge for the district of Hawaii, vice C. Nils Tavares, retired.

FOREIGN CLAIMS SETTLEMENT COMMISSION

Kieran O'Doherty, of New York, to be a member of the Foreign Claims Settlement Commission of the United States for a term of 3 years from October 22, 1970, vice Sidney Freidberg.

ENVIRONMENTAL PROTECTION AGENCY

Robert Lewis Sansom, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency, vice Donald Mac Murphy Mosiman, resigned.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Kenneth W. Schultz, xxx-xx-xxxx xxx-... TR (major general, Regular Air Force) U.S. Air Force.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 22, 1972:

IN THE DIPLOMATIC AND FOREIGN SERVICE

Nominations beginning Philip W. Arnold, to be a Foreign Service information officer of class 2, and ending Robert C. Wible, to be a Foreign Service information officer of class 7, which nominations were received by the Senate and appeared in the Congressional Record on Apr. 4, 1972.

HOUSE OF REPRESENTATIVES—*Monday, May 22, 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:

Behold, how good and pleasant it is when brothers dwell together in unity.—Psalm 133: 1.

O God, we are thankful that Thou art alive in the world—and that Thou callest upon us to join Thee in making Thy love a reality in the whole earth.

Bless, we pray, our President, the Speaker of the House, the Members of this body, and all of our leaders as we work with other nations in seeking to dwell together in unity.

Please, God, do not allow us to rationalize out of the tough issues but with Thy help let us face them and do the right thing about them. 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 PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 13150. An act to provide that the Federal Government shall assume the risks of its fidelity losses, and for other purposes.

The message also announced that the Senate agrees 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. 14582) entitled "An act making supple-