is the negative power of denying funds. Surely this was never the intention of the framers of the Constitution, nor has it come about by the proper procedure of constitutional amendment. Take the bill to limit the ability of the executive to carry on indefinitely an undeclared war. I thoroughly approve the intent of the bill. But ought it to be necessary? Does not the Constitution vest in Congress and in Congress alone the power "to declare war"?

This clause occasioned hardly any debate in the Constitutional Convention. The executive was at first envisioned, as Sherman of Connecticut put it, as "nothing more than an institution for carrying the will of the legislature in effect," Congress being declared the "depository of the supreme will of the society"!

When the debate opened on the powers of the executive, even those favoring a vigorous single executive, rather than a council or committee set up by Congress, opposed giving him the power to make war—a power which at that time was everywhere the prerequisite of the executive. Fear was expressed that if the executive power within the Federal Government were to encompass peace and war, the President would be rendered a monarch "of the worst kind; to wit, an elective one."

Power seemed extremely dangerous to the founders of our Federal system. They were anxious to vest it where the people could best influence its exercise. I believe we were at that time the only country entrusting the war power to the legislature.

I digress into these historic reminiscences only to support my point that failure to exercise the powers vested in Congress results in their diminution, if not total loss.

It is, of course, the immense scope and complexity of the governmental activities financed by taxes that has brought out the enormous growth of bureaucratic influence on the way the money collected from the American people is spent. The chairman of the House Appropriations Committee has pointed out that Congress usually makes only relatively small changes in the budget submitted by the Administration. Beyond this, the increasing use of Federal power has—as Madison predicted—allowed the Federal bureaucracy to exercise what in effect are discretionary powers in disposing of public moneys.

When Congress does not exercise the power vested exclusively in it to make the laws that govern the United States, its power to do so atrophies. Indeed, I submit that Congress has already lost much of its power by not using it.

Congress may change the Administration's budget by 1 or 2 per cent, but to all intents and purposes Congress no longer has control over the budget. Like any other parliamentary body in a free society, it does, however, have the power of legislative oversight as well as the right to refuse to vote appropriations if it judges that in the past they have not been used in accordance with the laws it has enacted.

It is my firm belief that the present procurement situation can be remedied only if Congress will use these two important powers to compel reform. It is not in the nature of a powerful bureaucracy to improve its way unless prodded by someone with power from without.

Since Congress itself can no longer control in detail how appropriated moneys are spent, its constitutional control of the purse strings now depends more than ever on the judicious exercise of its investigatory function, and on the negative power to refuse funds.

SENATE—*Thursday, June 1, 1972*

The Senate met in executive session at 11 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

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

We bow before Thee, O Lord, not in our own merit but in our need. So often when we would do good, evil is present with us. We do those things we ought not to do and leave undone those things we ought to do. Forgive our sins, overrule our mistakes, correct our errors, complete our inadequacies, and renew us in mind and heart. Give us Thy higher wisdom for our daily duties.

We pray Thee, O Lord, to inspire and undergird the President, the Members of this body, and all our leaders, that there may come to the Nation a new reality of justice for all and the fulfillment of the long awaited kingdom where Thou dost rule in righteousness.

Hear us, in the Redeemer's name. Amen.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of May 31, 1972, Mr. FULBRIGHT, from the Committee on Foreign Relations, reported favorably, with an amendment, on May 31, 1972, the bill (S. 3390) to amend the Foreign Assistance Act of 1961, and for other purposes, and submitted a report (No. 92-823) thereon, which was printed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the President pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Italo H. Ablondi, of New York, to be a member of the U.S. Tariff Commission, which was referred to the Committee on Finance.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senate adjourned in executive session last night; hence it is convening in executive session today, but under the unanimous-consent agreement last night, the following business will be transacted as in legislative session.

The Senator from Montana is recognized.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 31, 1972, be dispensed with.

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

AUTHORIZATION FOR APPROPRIATIONS FOR PROCUREMENT OF VESSELS AND AIRCRAFT AND CONSTRUCTION OF SHORE AND OFFSHORE ESTABLISHMENTS IN THE COAST GUARD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 785, H.R. 13188.

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

The legislative clerk proceeded to read as follows:

H.R. 13188, to authorize appropriations for the procurement of vessels and aircraft and construction of shore and offshore establishments, and to authorize the average annual active duty personnel strength for the Coast Guard.

The 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 Commerce with amendments, on page 1, line 7, strike out "$81,070,000" and insert "$81,740,000"; on page 2, line 10, strike out "$15,100,000" and insert "$18,100,000"; after line 13 insert:

(3) a long range search and rescue helicopter.

In line 22, after the word "following", strike out "$45,650,000" and insert "$46,040,000"; on page 4, line 20, after the word "of", strike out "39,074" and insert "39,449"; and, on page 5, after line 2, insert a new section, as follows:

SEC. 4. Section 475, title 14, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary of the Department in which the Coast Guard is operating is authorized to lease housing facilities at or near Coast Guard installations, wherever located, for assignment as public quarters to military personnel and their dependents, if any, without rental charge upon a determination by the Secretary, or his designee, that there is a lack of adequate housing facilities at or near such Coast Guard installations. Such public housing facilities may be leased on an individual or multiple-unit basis. Expenditures for the rental of such housing facilities may not exceed the average authorized for the Department of Defense in any year except where the Secretary of the Department in which the Coast Guard is operating finds that the average

is so low as to prevent rental of necessary housing facilities in some areas, in which event he is authorized to reallocate existing funds to high-cost areas so that rental expenditures in such areas exceed the average authorized for the Department of Defense."

(2) by amending subsection (e) to read as follows:

"(e) The authority provided in subsections (b) and (c) of this section shall expire on June 30, 1973."

(3) by adding new subsections (f) and (g) as follows:

"(f) The Secretary of the Department in which the Coast Guard is operating shall annually, not later than April 1, commencing April 1, 1973, file with the Speaker of the House of Representatives and the President of the Senate a complete report of the utilization of the authority granted in subsections (a), (b), (c), and (d) during the preceding calendar year.

"(g) The authority conferred by subsection (a), (b), (c) or (d) may not be utilized after April 1, 1973, unless all reports required by subsection (f) have been filed with the Congress."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-819), explaining the purposes of the measure.

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

GENERAL STATEMENT

The Committee is concerned about the continuing deterioration in the personnel retention rates in the Coast Guard. Limitations in personnel and operational funds have resulted in stretching Coast Guard resources to the breaking point.

The committee concurs with the House of Representatives with respect to the projects which H.R. 13188 authorizes for funding, but in several instances the Committee has determined that greater resources will be needed than are authorized in the House bill, and also found need to provide for an additional helicopter.

This bill will permit the continuation of the icebreaker replacement program previously reviewed by the Committee, by permitting the acquisition of one new icebreaker and the renovation or major repair of three others. Funds are provided for abatement of pollution from Coast Guard vessels, and as amended the funds should be adequate to permit an accelerated vessel modification program for all vessels assigned to the Great Lakes. Funds are also provided for other major vessel renovations and improvements.

This bill will permit the continuation of sition of three long range search aircraft, two fixed wing aircraft and one helicopter, and funds for an additional administrative aircraft and the renovation of nine fixed wing HC-130 aircraft. These amounts are essential if the Coast Guard is to continue to expand its role in the protection of human and marine resources.

The bill provides authorization for construction of 18 major facilities and also authorizes the Coast Guard to continue to abate pollution from shore stations.

To permit the Coast Guard to improve its position with respect to the retention of personnel the Committee authorized an increase in the average active duty personnel strength of 598 men which should permit some relief in the average work week for watchstanding personnel—which is now over 60 hours per week. The Committee also authorized continuation of the program under which the Coast Guard leases housing facilities for use as public housing at those locations where insufficient public housing is available.

The Coast Guard has jurisdiction over bridge alterations to improve navigability. The bill authorizes $12,500,000 for alterations during fiscal year 1973.

EXPLANATION OF AMENDMENTS

1. The Coast Guard has an obligation to be an example to the entire domestic fleet in abating pollution from vessels. The Committee believes that the Coast Guard should set the best possible example in areas of serious pollution. Accordingly the Committee added $670,000 to permit the Coast Guard to complete pollution abatement modifications to all vessels assigned to the Great Lakes in fiscal year 1973.

2. The Coast Guard's principal role in protecting human and marine resources can not be accomplished to remote areas such as Alaska without sufficient suitable aircraft. Accordingly the Committee added $3,000,000 for acquisition of one additional long range search helicopter which will be suitable for basing at Alaskan Coast Guard facilities, such as Cordova, Alaska.

3. The House of Representatives authorized the rebuilding of moorings at Cheboygan, Michigan for the Cutter *Mackinaw*. During the hearings before this Committee the Coast Guard indicated that it would require $390,000 beyond the amount included by the House for this project and upon review of the proposed project the Committee added that amount.

4. In order that the Coast Guard can operate two cutters recently provided for in supplemental appropriations, an increase of 300 men in the authorized strength was provided. An additional 75 men were approved to permit the Coast Guard to assume the burden of operating a Coast Guard base at Kodiak Alaska, upon the deactivation June 30, 1972 of the present Naval facilities which now provide many services for the Coast Guard units located in Kodiak.

5. Present authority for leasing housing facilities for use as public quarters expires June 30, 1972. On that date the Coast Guard will have aproximately 1,600 units under lease. A serious situation would arise should these leases need to be terminated for there are not enough public housing facilities presently authorized for construction to provide decent housing for Coast Guard personnel.

The Committee felt that the Coast Guard should be required to report annually as to its utilization of the authority proposed to be conferred by this amendment and therefore provided that the authority would cease in any year that the Secretary fails to file such a report with the Congress. The report will be on a calendar year basis and will be due on April 1st of each year. Thus the report will be available to the Congress during the annual authorization and appropriation cycles.

ESTIMATED COST OF THE LEGISLATION

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510) the cost of enactment of this legislation is $145,880,000 for fiscal year 1973.

RETIREMENT OF BILL BROWNRIGG

Mr. MANSFIELD. Mr. President, I did not know until I read the newspaper this morning, or heard it somewhere, that William Brownrigg, assistant secretary to the minority, is retiring.

I want to take this means to express my personal appreciation to Bill Brownrigg, as well as those of my colleagues, for the unfailing courtesy, consideration, and understanding he has shown during his 25 years of service as an official in this body.

I could not let this occasion pass without telling Bill Brownrigg publicly how much I personally am appreciative of all that he has done over the years, which he has done so capably and with such distinction.

Mr. SCOTT. Mr. President, I join in what the distinguished majority leader has just said about Bill Brownrigg. We will miss him. He has done a splendid job. He has been at all times courteous and zealous in the performance of his duties. He has been effective, good-natured, always willing to put himself out for the Members of the Senate.

We wish him well in his retirement and great happiness in whatever course he pursues from now on.

JOINT SESSION TONIGHT TO HEAR PRESIDENT NIXON ON HIS TRIP TO MOSCOW

Mr. SCOTT. Mr. President, tonight, there will be a special session, where Members of the House and Senate will hear what President Nixon has to say about his trip to Moscow.

I hope that all Senators will make every effort to be present, even though we are in debate, and, I understand from the majority leader, there are not likely to be any votes today. But, I do hope that all Senators who can will attend the joint session at 9:30 p.m. this evening, to mark the historic occasion when President Nixon returns from Moscow with a great many accomplishments and some important and substantive achievements for the reduction of tensions in the world.

THE CHAPLAIN'S PRAYER

Mr. SCOTT. Mr. President, having heard the Chaplain's prayer this morning, I am reminded of the story of the traveler who was church shopping. He had gone to a new town and he was trying out the various churches. At one of them, as he knelt in prayer, the congregation was intoning from the Book of Common Prayer the well-known St. James version language:

We have left undone those things which we ought to have done; and we have done those things which we ought not to have done; and there is no health in us.

The traveler said to himself, "Thank heaven, I have found my 'crowd' at last."

QUORUM CALL

Mr. MANSFIELD. Mr. President, if I may be recognized, I should like to suggest the absence of a brief quorum.

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

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

SENATE RESOLUTION 312—COMMENDING THE RETIRING SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, ROBERT G. DUNPHY

Mr. MANSFIELD. Mr. President, on behalf of the distinguished minority leader and myself, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

S. Res. 312, commending the retiring Sergeant at Arms and Doorkeeper of the Senate, Robert G. Dunphy.

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

There being no objection, the resolution (S. Res. 312), was considered and unanimously agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 312

Whereas the Senate has been advised of the retirement, effective June 30, 1972, of its Sergeant at Arms and Doorkeeper, Robert G. Dunphy; and

Whereas Robert G. Dunphy has held the office of Sergeant at Arms and Doorkeeper of the Senate since January 14, 1966; and whose service to the Senate first began in September 1941; and

Whereas Robert G. Dunphy at all times has discharged the difficult duties and responsibilities of his office with dedication, fairness, understanding, and the highest integrity; and

Whereas his outstanding service and devotion to duty have earned for him the confidence, respect, and affection of all those whom he has served: Now, therefore, be it

Resolved, That the Senate commends and expresses its gratitude to Robert G. Dunphy for the outstanding manner in which he has performed the difficult duties and responsibilities of the office of Sergeant at Arms and Doorkeeper of the Senate since January 14, 1966.

SEC. 2. The Secretary of the Senate shall promptly transmit a copy of this resolution to the said Robert G. Dunphy.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Washington (Mr. JACKSON) is now recognized for 15 minutes.

THE MOSCOW ARMS AGREEMENTS

Mr. JACKSON. Mr. President, let me begin by welcoming President Nixon back tonight from his travels abroad. With him to the summit went the hopes of all Americans for progress toward a lessening of international tensions and the instabilities that cause wars. Our individual views of the results of the summit may vary, but I am sure that all of us respect the President's sincerity and the scale of his efforts in Moscow.

Mr. President, President Nixon will come before a joint session of Congress this evening to explain the results of the Moscow summit to Congress and the American people. This may provide the first opportunity we have had to receive a clear and precise description and explanation of the strategic arms limitation treaty signed last week. I am sorry to say that all we have had up until now is the elaborate stage management of a vague, confusing, and contradictory collection of rumors, announcements, and background briefings that leave the American people without any clear notion as to what has been agreed upon in Moscow.

This confusion has caused understandable dismay among members of the press corps who have attempted to report upon the terms of the SALT accords—confusion that makes it difficult to evaluate the terms—and the implications of the terms—that have been agreed to at the summit. This much, however, has clearly emerged: the agreements do not "freeze" the strategic arms balance in any sense of the word "freeze" that I have ever heard. Until the President makes public the still private understandings with the Soviets without which the agreements are impossible to interpret, we will not know precisely what is "frozen," what is "chilled," and what is actually warmed-up. At first glance most of the freezing appears to be on the American side while most of the warming up is on the Soviet side.

From the accounts I have seen, Mr. President, the concluding phase of the negotiations, and the briefings and ceremonies surrounding the announcements in Moscow, had all the appearances of a comic opera. We have learned, for example, that we and the Soviets were locked in airborne negotiations even as the plane carrying the two SALT delegations from Helsinki was making its way to Moscow for the signing ceremonies. The press was unable to obtain a copy of the final agreements because—imagine this—the only copy available was the one signed by the President and Secretary Brezhnev, and a copy could not be made from that until the TV crews had completed their coverage of the signing ceremonies.

This, Mr. President, is no way to negotiate. Something is dreadfully wrong with an approach to such difficult and vital negotiations that allows them to be carried out under the sort of pressure imposed by public relations requirements. There is at least some reason to believe that these circumstances led to last minute concessions by the United States that have had the result of increasing the permissible number of Soviet nuclear missiles. Summits are difficult at best, and summits in election years before nationwide television audiences are a very doubtful instrument of sound diplomacy. One must ask whether we would not have been better off to wait a week or a month for a more secure agreement rather than insist on the hasty signing of a less secure one.

Mr. President, although the texts of the treaty and the executive agreement contain few numbers, many more numbers have been discussed in connection with the SALT accords. In the last several days we have heard these: 1,054, 1,618, 313, 41, 42, 62, 84, 710, 740, 656, 950, and zero. The crucial question for the Nation and for the cause of world peace is whether these numbers add up to stable parity or unstable inferiority. It may clear the air to discuss some of them.

First, 1,054—this is the maximum number of land-based ICBM's that the United States is permitted to retain under the agreement.

Second, 1,618—this is the maximum number of land-based ICBM's that the Soviet Union is permitted to retain, given our understanding of the agreement. I emphasize "our understanding" because the figure 1,618 is a U.S. intelligence estimate and not a Soviet-supplied number. This vagueness on the Soviet part is most unfortunate and can only lead to uncertainty and possible tensions. The agreement would be much improved by the use of specific numbers on both sides.

Third, 710—this is the maximum number of submarine launched ballistic missiles that the United States is permitted to deploy under the agreement. It is arrived at by adding our present 656 Polaris/Poseidon missiles to our potential, under the agreement, to replace 54 of our Titan missiles with new submarine launched ballistic missiles.

Fourth, 1,016—this is the maximum number of submarine launched ballistic missiles that the Soviet Union is permitted to deploy under the agreement. It is arrived at by adding to the present Soviet forces—operational or under construction—a total of 210 submarine launched ballistic missiles. To achieve this total the Soviet would retire their obsolete SS–7 and SS–8 ICBM's and replace them with new submarine based missiles. This would give the Soviets a total of 62 modern nuclear—Y class—submarines.

Fifth, 84—the total permissible number of Soviet missile-firing submarines that can be deployed under the agreement. This is derived by adding 22 Soviet G-class submarines to the 62 Y-class submarines that they are permitted to construct.

Sixth, 44—the total permissible number of American missile-firing submarines that can be deployed under the agreement.

Seventh, 313—this is the maximum number of "heavy" ICBM's that the Soviet Union is permitted to deploy under the agreement. This again is a U.S. intelligence estimate, not a confirmed Soviet figure. Each of these missiles can carry at least a 25-megaton warhead and perhaps, eventually, as much as 50 megatons. Of course, the Soviets are free to replace single large warheads with many MIRV warheads per missile when they are able to do so.

Eighth, zero—this is the maximum number of "heavy" ICBM's that the United States is permitted to deploy under the agreement.

These numbers, Mr. President, are merely representative of the thrust of the agreements—which is to confer on the Soviet Union the authority to retain or deploy a number of weapons based on land and at sea that exceeds our own in every category, and by a 50-percent margin. Is this parity?

Now there will be some who argue that numbers do not matter; that both sides have sufficiency; and that therefore the strategic balance is stable. How curious it is that the people who hold to the numbers do not matter doctrine

are the same ones who believe that without an immediate arms control agreement the world is in danger of a great nuclear war. Either numbers matter or agreements do not—you cannot have it both ways.

Among those who acknowledge that numbers do indeed matter there will be those—and I am afraid the administration must be counted among them—who argue that because we have more MIRV warheads than the Soviets, it is safe for us to have granted the Soviets—as we have done—a license to outdistance us by 4 to 1 in overall payload. What this overlooks is the fact that the Soviets are hard at work on MIRV technology themselves, a loophole big enough to drive a bus through. When they achieve a sophisticated MIRV—and they most certainly will—the combination of their vastly superior payload and modern MIRV technology will give them superiority in warheads as well. Is this parity?

Mr. President, all Americans are concerned to see the stability of the strategic balance increased. We all desire the increased security that flows from the inability of a potential aggressor to execute a disarming first strike against our deterrent forces. Unfortunately, I see nothing in the present agreement that lessens the threat to the security of our deterrent forces. On the contrary, far from freezing us in a condition of stable deterrence, the agreement permits the Soviet Union to continue its offensive buildup in a way and on a scale that could prove highly destabilizing. Simply put, the agreement gives the Soviets more of everything: more light ICBM's, more heavy ICBM's, more submarine launched missiles, more submarines, more payload, even more ABM radars. In no area covered by the agreement is the United States permitted to maintain parity with the Soviet Union.

In the weeks and months ahead Congress will have an opportunity to examine with great care the provisions and implications of these agreements. I hope that we shall soon have made available to the American people all of the private understandings with Moscow so that we might begin the difficult task of assessing these complex agreements. I was greatly disturbed, for example, to learn only yesterday that Secretary Laird has ordered the cancellation of a theoretical study conducted by one of our research organizations of the application of laser technology to ballistic missile defense. Nothing in the agreements as they have been published would call for this action. Was this done under a private understanding with the Russians? It is perfectly obvious that there is no way in the world we can monitor Soviet adherence to a provision that reaches into the minds of scientists and prohibits them from speculating on the impact of some future technology on national security.

The Senate has grave responsibilities under the Constitution to give advice and perhaps consent to these agreements. I am confident that we will approach this task with a view to assuring the best possible outcome for our own security and for world peace.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the agreement previously entered into there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements by Senators limited to 3 minutes.

Is there morning business?

Mr. COOPER. Mr. President, I ask unanimous consent that I be permitted to proceed for 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I am very reluctant to have to object, but it has been the policy of the leadership to object all last year and this year to any extensions of the 3-minute rule. If the Senator from Kentucky will take his 3 minutes I will then be glad to yield to him my 3 minutes at the conclusion thereof.

Mr. COOPER. I thank the Senator.

The PRESIDENT pro tempore. The Senator from Kentucky is recognized for 3 minutes.

SALT NEGOTIATIONS

Mr. COOPER. Mr. President, I have listened with great interest to the statement of the Senator from Washington (Mr. JACKSON). I have just read his statement a few minutes ago and I have not had the opportunity to prepare a written statement in answer, but I do wish to make some comment.

I agree with him that when the treaty limiting the ABM nuclear system is presented to the Senate it should receive the most thorough consideration, and I know it will.

I do object to his characterization of the negotiations as being hurried, as having a public relations aspect, and, indeed, being referred to as "comic opera."

The Senator from Washington, who is a close friend of mine, and for whom I have great respect, knows these negotiations have been going on for 3 years. As a member of the Committee on Armed Services and the Joint Committee on Atomic Energy, I know he has been briefed in full detail at any time he wanted to be briefed during these 3 years. I have been briefed here, and in Helsinki and Vienna by our negotiators. I know that the negotiations were thorough, steadily made progress and changes occurred in the positions of the negotiators, both United States and Soviet. As they worked to come to agreement on every issue which he discussed.

I would like to say first, speaking of the anti-ballistic missile agreement which the Senator hardly referred to, will be presented to the Senate, as a treaty and we will have every opportunity to examine it in full detail. The treaty provides parity so far as anti-ballistic-missile systems are concerned, with respect to sites, number of launchers, number of radars. Both are permitted to modernize or upgrade their system.

Now, I wish to speak to his statement regarding offensive nuclear systems. As the Senator knows, this agreement will not be submitted to the Senate as a treaty. It is an interim agreement which stays in force for 5 years; and if at the end of that 5-year period or at any time earlier our country should consider that the agreement is breached, or our security is threatened, the interim agreement would be abrogated. And, any treaty following negotiations, on offensive nuclear systems submitted to the Senate would receive searching examination by the Senate, and if the Senate believed it did not protect our country it would not approve it.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, if the Chair will recognize me, I yield my 3 minutes to the Senator from Kentucky.

The PRESIDENT pro tempore. The Senator from Kentucky is recognized for 3 additional minutes.

Mr. JACKSON. I thank the Senator. Mr. President, will the Senator yield.

Mr. COOPER. No, I only have 3 minutes. I am sorry.

Now, I will address myself to the agreement on offensive systems—and answer the Senator's statement that the agreement gives superiority to the Soviets. I do not agree.

The Senator failed to say that there is nothing in this agreement, the interim agreement, which prohibits the United States from maintaining vast superiority in bombers, its forward-based aircraft in Europe and aircraft carriers; also the agreement denies the type of radars which would enable—as he has argued so many times—the Soviet Union to upgrade its SAMS into an anti-ballistic-missile system, and as an antiaircraft system against standoff missiles on bombers, and European-based aircraft.

The Senator is correct in his numbers of offensive missiles, but numbers do not necessarily mean parity. Our ICBM's are being MIRV'ed; our Polaris submarines—31 of them—are being MIRV'ed, by conversion to Poseidon missiles, and today we have an advantage of 2 to 1 in warheads, the element of nuclear systems which actually detonate or strike another country; and there is a capability of adding to those warheads so that we could reach a number of even 10,000 more.

The Senator said the Soviet Union will in time MIRV its missiles. I have no doubt that in time they will be able to develop MIRV and arm their missiles; but I repeat that at the end of 5 years unless there are new and unforseen developments we will certainly have the advantage over them in warheads. If the situation should change it is open again and no treaty would be agreed to, in my view, concerning land-based missiles or other offensive systems unless we were satisfied as to national security.

I wish to ask one question. What is the alternative to this treaty and agreement? If we had not come to this agreement with the Soviet Union to halt the nuclear arms race we would be arguing again the whole antiballistic missile deployment question, which if developed would cost this country $50 to $70 billion, with no effective protection for our missile system or our people, and we would be adding to our offensive systems more and more land-based missiles and

submarines at an equivalent great cost of tens and tens of billions of dollars.

The United States had a choice of building up its force of land-based missiles for a number of years, and it could have built large missiles like the SS–9 which it has not done. The United States made the choice, for smaller, more accurate systems. I do not know that during that time my distinguished friend urged the Department of Defense to increase the number or size of its land-based missiles.

The United States and Soviet Union negotiated on the system and missiles both countries have at present. With our deliverable warheads we are so far superior in numbers to them that there is no way, in our view, for the Soviets to achieve superiority in 5 years. It is an interim agreement and if a treaty on offensive nuclear systems comes back and we are not in parity, we would still have our options. But what is the alternative? To continue the costly, deadly arms race?

The PRESIDING OFFICER (Mr. BAYH). Is there further morning business?

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

Mr. JACKSON. Mr. President, I shall be brief.

First, let me say I am well aware of the fact that we are in the fourth year of negotiations. We have had long, drawn-out negotiations at Helsinki and Vienna. I said in my remarks that "the concluding phase of the negotiations and the briefings and ceremonies surrounding the announcement in Moscow had all the appearances of a comic opera." I think we will be able to prove that in the course of the hearings because a lot was done in the closing hours beginning at 5 a.m. in the morning.

I would say to my friend from Kentucky, for whom I have great admiration and respect, that we do have specified in the agreement the permitted number of submarines, but can the Senator tell the press where the number of ICBM's that is to be permitted can be found in this agreement? All I have is our intelligence estimate; we still have to get an agreed figure as to what the Russians have, or will have, on the cutoff date, which is July 1. There is some unfortunate ambiguity here.

I think that the real question is: Where will we be 5 years after this agreement? Nothing in the agreement prevents the Soviets from deploying MIRV during this period.

I would point out to the Senator that it is totally misleading to leave the impression that because we have more warheads now than the Soviets have, they will not have more warheads than we will have at the end of 5 years. If they simply MIRV their 313 heavy missiles with one of their MIRV options that would give them 6,260, compared to our current 5,700. That is just the 313 Soviet heavy missiles. In addition, of course, the Soviets could have 1,100 land and 950 sea-based missiles, all MIRV'ed.

The Senator asks what is the alternative to the agreement. I think the alternative is an agreement that gives us parity. After all, President Nixon ran in 1968 on a program in which, in speech after speech, he insisted that we should maintain nuclear "strategic superiority."

We do not get superiority under the agreements. We do not even get parity. The aim of the agreement should have been an equalization of forces on both sides so that there would be parity. The Russians, under this agreement on offensive strategic weapons systems, get superiority in this area—there is no denial of it—in both numbers and in the payload of those numbers. I think the American people certainly should get all the facts.

Is it not rather sad that it is now coming out that the State Department, only after I prodded them yesterday, is going to come forth with the secret understandings? Why does a U.S. Senator have to get up and demand that there be a full disclosure? Should we not have, to paraphrase what someone has said, open covenants openly interpreted? One cannot begin to know what has been agreed by looking only at the agreements arrived at in Moscow that have so far been made public, and I think that is indeed a regrettable way in which to start.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, does the Senator need any time?

Mr. SAXBE. Mr. President, I yield my 3 minutes to the Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, the Senator from Washington asked why a Senator of the United States should be required to ask for information, implying that information will not be provided the Senator. I do not know on what ground he makes that statement. The administration has stated it would furnish to the Senate, with the treaty, all and full information as is required by law and precedent.

I would ask, also, where does the Senator secure his information that there were secret understandings? If Dr. Kissinger and the Soviet negotiator made some agreement, I ask him what was discussed and what was agreed which was so fearful? I know the Senator could have asked at any time what the state of the negotiations were and he would have received that information at that time. I asked and I received it right up to the meeting in Moscow. We both knew the framework of the negotiations.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. COOPER. I will repeat again, as far as the land-based missiles and other offensive systems are concerned, we do have great superiority now, at least twice as many warheads, and we can increase those to 10,000 or more warheads.

Of course, the Soviets may be able to do the same. But they have not yet done so.

I repeat, during those 5 years, if there is no treaty in this area, if there is a change which affects the security of the United States, these treaties and agreements have a provision which permits either country to abrogate it upon notice.

Certainly if, at the end of the 5 years, the situation is changed from that of our superiority today to Soviet superiority, I would say that any treaty submitted to the Senate at that time would receive the most searching examination, and could be rejected.

The Senator knows of my regard for him, but I must say I do not believe that there should be raised here suspicion that something has been held back, that there have been some secret understandings. There are none, but to raise the question, which the Senator has a right to do—engenders in the minds of the people of the country the suspicion that there are secret understandings.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I yield the Senator my 3 minutes.

Mr. MANSFIELD. Mr. President, who has the floor?

The PRESIDING OFFICER. The 3 minutes of the Senator during morning business have expired. Is there further morning business?

Mr. JACKSON. Mr. President, would the Senator from West Virginia yield me 3 minutes?

Mr. MANSFIELD. Mr. President, I yield 3 minutes to either of the two Senators.

The PRESIDING OFFICER. The Chair recognizes both Senators for 3 minutes.

Mr. JACKSON. Mr. President, needless to say, the distinguished Senator from Kentucky knows how I feel toward him personally. We have worked together on so many matters and we have disagreed together on so many matters that I think we have a very fine understanding and respect for the integrity of each other.

Does the Senator from Kentucky want to say now that there are no secret understandings? The State Department indicated last night that they are now going to reveal some of the secret understandings. For example, how can we direct a cutoff of laser studies in connection with antiballistic missile defense unless there are some secret understandings with the Soviets? There is nothing in the published agreement that authorizes or requires that: I am just asking the question.

Mr. COOPER. Requires what?

Mr. JACKSON. In my remarks I pointed out that Secretary Laird has directed the termination of a study on the use of lasers as an antimissile defense system. I pointed out that this can only come from some secret understanding with the Soviets. There is nothing in the treaty or the agreement that would explain that action.

Let me tell the Senator how confusing this is. The New York Times published a story on page one showing a chart that under the agreement the Soviets were to have 42 Polaris-type missile submarines and the United States 41. If full disclosure had been made, these false and confusing numbers would not have come out.

All one had to do was to talk to members of the press. They were astounded when they were told that the Soviets could have up to 84 submarines under this agreement. I think the handling of this complex agreement was unfortunate at best.

I just ask the Senator, does he now

want to tell the Senate that there are no secret understandings in relation to the treaty and to the agreement that is to be submitted to the Senate?

Mr. COOPER. Yes. I will takes the responsibility on myself to say that full and complete documentation regarding the treaty and agreement will be submitted to the Senate——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. The protocol already supplied, itself details some of the questions the Senator has been asking. The statement of Secretary Laird may or may not have involved all this matter. We will be able to find out the reasons.

The PRESIDING OFFICER. The time of the Sentor has expired.

Mr. ELLENDER. Mr. President, I yielded my 3 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, I admire the Senator, but he has been implying to the Senate and the country that there were some kind of agreements secretly arrived at which will not be presented to the Senate. That is not so. There are detailed studies, scientific matters, which probably have been at the working level of the scientists and the negotiators, but, of course, the administration would come to explain in full detail the judgments upon which these agreements were reached.

Mr. JACKSON. Can I clarify——

Mr. COOPER. The Senator knows this is exactly the reason why the agreements reached this form. I know the Senator knows a great deal about nuclear weapons systems and that he knows exactly why we have come to the present status. Even with my limited experience compared with his, I can reason it out based on the evidence.

Mr. JACKSON. Mr. President, I just want to clarify one point. Does the Senator from Kentucky understand that there are no secret understandings between the United States and the Soviet Union in relation to the treaty and to the agreement?

Mr. COOPER. I believe there are none.

Mr. JACKSON. There are none?

Mr. COOPER. Because only yesterday, I believe, the Department of State said that all material affecting this agreement would be presented to the Senate. And also I believe it for another reason. We have complained in the Senate about the lack of information on many subjects, but there has been no lack of information from the ACDA nor from Ambassador Smith or CIA or the NSC telling us what was going on.

Mr. JACKSON. In fairness to my friend——

Mr. COOPER. So I say no, there will not be any secret understandings. There are papers which apply to the progress of the treaty, the development of positions and all that, but no kind of secret understanding which would permit one country to do something and the other country to be restrained of which we will not be fully aware. On the whole concept, no.

Mr. JACKSON. I understood the Senator from Kentucky to say that the State Department, the executive branch, will eventually submit other understandings that may exist. But I do not want to confuse that with the question I put earlier, which is the fundamental question: Are there secret understandings between the United States and the Soviet Union that bear on the treaty and the protocol that we have not yet seen? Does the Senator know?

Mr. COOPER. Of course, standing here, I could not say categorically no—there are no such agreements. But I can state what I believe. Does the Senator know? I will ask him that.

Mr. JACKSON. No. I am trying to obtain information.

Mr. COOPER. All right, I say the same thing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HRUSKA. Mr. President, I yield the Senator from Kentucky 3 minutes.

Mr. COOPER. But the Senator's question, while I think it is proper to raise it, if unchallenged, could be interpreted to mean that we have some knowledge that there are secret understandings. So I am glad that the Senator has said he does not know.

Mr. JACKSON. Well, I pointed out to the Senator that the Secretary of Defense has directed the stopping of research in one area that cannot be justified from the language that appears in the treaty and the protocol. I have pointed that out just to illustrate that there must be some secret understanding.

I want to emphasize that the administration has an obligation to make available to the Senate without delay any secret understandings that relate to the treaty and the protocol. I would point out to the Senator that we do not know, for example, what the Russian position happens to be on the number of land-based ICBM's that will be permitted. There is nothing in the agreement, as the Senator knows, that specifies the number of Soviet ICBM's permitted under the agreement. I would point out that the 1,618 figure I have used is simply an American intelligence estimate, and I do not know what the Russians are going to say they are entitled to deploy as of July 1.

Mr. COOPER. First I shall respond to the question about Secretary Laird. I am sure that the Senator's committee could call him up and find out exactly what he means. But it would seem to me to be unlikely that in any way it would conflict with the agreement, because under the agreement, as the Senator knows very well, both the Soviet Union and the United States can upgrade their anti-ballistic-missile systems. The Senator will agree to that, I am sure.

Mr. JACKSON. Well, of course, as the Senator from Kentucky knows, this truncated version of an anti-ballistic-missile system is not effective. In 1970 I led the effort to eliminate an ABM system around Washington, D.C. Also the Senator knows that the administration case, which I argued for the administration, in behalf of the ABM system does not have any credibility when the ABM defense of Minuteman is confined to one site, as it would have to be under the proposed treaty. So it will be interesting to see how the administration will justify its request for funds based on this new agreement, and I speak without any partisanship, because, as the Senator knows, I carried the burden on this issue and got it through the Senate by one vote. But now we are going to have a situation in which we have agreed to an ABM system around Washington——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, if the Chair will recognize me a second time, I yield 3 minutes to the Senator from Washington.

Mr. JACKSON. Which the Senate has, by almost unanimous vote, rejected. The administration has agreed to something that we will not implement, knowing full well that it is not acceptable to the Congress of the United States. I do not call that progress. It would have been better, frankly, to have had zero ABM on both sides, as compared with what the administration agreed to in Moscow.

Mr. COOPER. Well, it is certainly better than to have an area-wide system. I voted with the Senator last year on that matter, and received some criticism for it. But I go back to his two points. Referring to the statement of Secretary Laird about some later system, I can say the treaty permits—to both the United States and the Soviet Union—the updating, the modernization of their antiballistic missile system, within the limits of radars and launchers so there is nothing to prevent that under the treaty, in my view.

Second, as to the number of land-based missiles, the Senator seems to express a belief that it could go forward. The text of interim agreement itself says no additional sites can be used or considered after July 1, 1972. The proper departments and agencies in the executive branch have told us, and I am sure they have told the Senator, that they are able to detect by means of satellites any additional number of ICBMs or silos that would be opened following July 1, 1972; so I do not think we should leave the impression that that is not correct.

Mr. JACKSON. Mr. President, will the Senator explain to the Senate why the agreement was explicit in giving the number of Soviet submarines, but not the number of Soviet ICBM's?

Mr. COOPER. I think the Senator has received the same intelligence from the ACDA and from the Defense Department. They state that we know the number of existing operational ICBM's in the Soviet Union, and the sites, the silos that have been under construction.

Mr. JACKSON. Will the Senator yield right on that point? Then why did the Russians fail to acknowledge that crucial number? They acknowledged the numbers in connection with submarines, and their numbers in that case disagreed with ours.

I think the Senator knows I cannot go into any detail, but the Senator is well informed in the intelligence area, and he knows that in the past we have had some big gaps in our ability to identify the numbers of land-based ICBM's. That is all I want to say. But is it not amazing that the Russians would acknowledge the numbers that they are bound by as far as nuclear submarines are concerned, but have failed

to acknowledge the number of land-based ICBM's to which they are limited? What is the reason for that discrepancy?

Mr. COOPER. Let me say that article 1 of the text of the interim agreement does not state the precise number of fixed land-based missiles, either for the Soviet Union or for the United States, but in the information supplied by the administration along with the announcement of the treaty, information on the defense agreement does state the number of ICBM's.

The PRESIDING OFFICER. All time allotted for the transaction of morning business has now expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time for the transaction of morning business be extended to the hour of 12 o'clock.

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

Mr. MANSFIELD. Mr. President, I have been listening to this debate with some interest and with some concern, because it appears to me that what we are doing is shooting the gun before we put the bullet in. We are now waiting for the facts which the President, the State Department, and the Defense Department, I am sure, will present to us. On that basis and at that time, I think we will be in a better position to know what we are saying, what we are doing, and where we are going.

The distinguished Senator from Washington has mentioned the fact that there has been a cancellation of research in certain areas, which raised questions in his mind, and perhaps he has a good argument with respect to that. But may I say that, so far as I am concerned, there has been a cancellation about which there is no equivocation, and that was the cancellation of the ABM project in Montana, on Saturday last. It was shut down, period. In place of it, they are going to build an ABM system around Washington, D.C.

I think the distinguished Senator from Washington has raised some very pertinent questions, because if an ABM system is built around the capital, there will be no missiles to back it up. It will be much more expensive, much more tortuous, much more controversial.

I am not at all certain that I intend to vote for an ABM around the Nation's capital, but I am certain that, insofar as I know the facts and anticipate knowing them, I will vote for the Nixon-Brezhnev agreement; because I want to see the arms race brought to a close or at least lessened.

As did the distinguished Senator from Kentucky, I visited the American representatives of the SALT group in Helsinki, and I was encouraged by what they told us. We did not meet at the same time, but just a few days apart, and I know the distinguished Senator may have met with them more often than I did.

I think we ought to wait until the facts are in and the administration has presented its case. There is enough in the world's nuclear arms stockpile today to equal 15 tons of TNT for every man, woman, and child in this world, on the face of the globe. Most of his material is in the hands of two countries. I think we ought to wake up to the fact that if we keep up this spiraling arms race, we are going to weaken ourselves at home still more; and if we are not strong at home, we cannot be strong overseas.

So this is a matter on which I hope we would withhold judgment—although I have made some statements today—to give the President, the Secretary of State, and the Secretary of Defense a chance to present their arguments; and then we can arrive at a final judgment, but not before.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JACKSON. I point out to the distinguished Senator from Montana that I led the fight to kill the proposed ABM system around Washington, D.C. As provided in the proposed treaty, it is useless. It is a waste of the taxpayers' money. We went into that in the ABM debate. I just want to point up one of the obvious facts in connection with the SALT negotiations on the ABM system.

The Moscow agreements have been blown all out of proportion. They are not going to stabilize the strategic situation.

I point out that the Senator is properly concerned, and all of us have been concerned and deeply interested in the arms negotiations. I have been monitoring the work of the negotiators; and we are now in the fourth year.

I know that the Senator from Montana has taken the lead in emphasizing the dreadful situation that exists as to the number of nuclear warheads. But I am sure the Senator from Montana is aware that under this agreement the Russians have been given a license to continue adding warheads. My only plea here is in the interest of letting the American people get the facts. There is no freeze, properly so-called.

When a great newspaper like the New York Times publishes on the front page the breakdown on who gets what under agreement and it turns out later that those responsible for giving out the information were so confusing as to be wrong, I think it is sad.

Mr. President, I ask unanimous consent to have printed in the RECORD articles published in the New York Times and the Washington Post, in which the State Department announces that it will make public the secret understandings to which I have referred.

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

[From the New York Times, June 1, 1972]

CONGRESS PROMISED FULL ARMS BRIEFING

(By Bernard Gwertzman)

WASHINGTON, May 31.—The Nixon Administration said today that it would inform Congress fully of all private understandings reached with the Soviet Union about the arms limitation agreements signed in Moscow last Friday by President Nixon and Leonid I. Brezhnev, the Communist party leader.

A senior State Department official said that the understandings covered the Soviet and American interpretations of the treaty limiting each side to 200 defensive antiballistic missiles and of the five-year executive agreement putting some limits on land-based and submarine-launched missiles.

The interpretations were worked out with the Russians in written form, the official said, and will be sent to the Congress "in the near future" in conjunction with the strategic arms limitation agreements.

The Russians and Americans agreed that the private interpretations could be made public as part of the legislative process that requires two-thirds Senate ratification of the ABM treaty and Congressional approval by majority vote of the five-year executive accord.

JACKSON STATEMENT CITED

Disclosure of the procedure followed a statement this morning by Senator Henry M. Jackson, Democrat of Washington, that he could not support the accords until all "secret understandings" were made public.

Interviewed on the National Broadcasting Company's "Today" show, Mr. Jackson, a senior member of the Armed Services Committee, said that "the secret part may be quite substantial."

Apparently the Administration, stung by his remarks, decided to have a State Department spokesman announce that all the interpretations would be made known.

Meanwhile, the Administration continued its campaign to promote the Moscow meeting as a major success for Mr. Nixon. Plans were announced for the President to address a joint session of Congress at 9:30 p.m. tomorrow, about half an hour after he is due to arrive at Andrews Air Force Base, outside of Washington, at the end of his 13-day trip.

Mr. Nixon, in his speech, which will be broadcast nationally on television and radio, is expected to focus on the strategic arms accords as the chief positive result of the summit meeting.

The Administration, meantime has begun mailing transcripts of two news conferences held in Moscow last Friday night by Henry A. Kissinger, the President's special adviser on national security, on the strategic arms agreements. Gerard C. Smith, the chief United States negotiator of the accords, participated in the first news conference.

The transcripts go into some detail on the accords, the State Department official said.

Aides to Senator Jackson said that he did not mean to imply that the Administration had signed "a secret treaty" with the Russians. Rather, they said, he was concerned about uncertainties in the language of the accords.

They cited, for instance, a distinction in the offensive-missile agreement between heavy and light missiles. They said that it was important to know more exactly what missiles those terms referred to.

The senior State Department official said that this was the type of question that would be clarified once hearings on the agreements began. It is anticipated that both the Senate Foreign Relations and Armed Services Committees will conduct the hearings.

Senator Jackson, who heads the Armed Services subcommittee on the strategic arms limitation talks, has not flatly opposed the accords but has made evident in several statements his disquiet about them.

He said this morning that as the result of the accords "we don't even have parity" with the Soviet Union. He cited the numerical lead—1,618 to 1,054—Moscow will have in land-based missiles, and noted that 313 of those missiles known as SS–9's "have more destructive power by many times than all of our land-based and sea-based missiles."

The Senator also said that the accords would not lead to any savings in money because of continuing and new programs being pushed to modernize current systems. "I think it's outrageous that we convey the impression we're going to stop the arms race," he said.

Mr. Kissinger said in Moscow that the five-year accord would slow down the Soviet building program and provided the hope that a more permanent agreement could be negotiated in that period.

[From the Washington Post, June 1, 1972]

HILL TO GET SECRET DETAILS OF ARMS PACT

The administration acknowledged yesterday that it plans to keep some aspects of the U.S.-Soviet strategic arms limitation (SALT) agreements secret until the documents are presented to Congress.

The still secret material is contained in detail "interpretive" statements and appendices to the formal treaty on antiballistic missile (ABM) limitations and the interim five-year executive agreement limiting offensive missile deployment.

"All interpretive statements agreed to in conjunction with the SALT agreement will be forwarded to the Congress when the SALT treaty and the agreement are forwarded to Congress for its consideration in the very near future," said State Department spokesman John King.

Other government sources said U.S. and Russian officials had agreed to hold up release of the appendices until the documents are presented to Congress, perhaps early next week.

These appendices, sources said, cover "nuts and bolts" specifics not included in the text of the agreements signed Friday at the Moscow summit conference.

U.S. officials unanimously denied that any portions of either agreement would be kept permanently secret. Noting that Sen. Henry M. Jackson (D–Wash.) said that President Nixon might have made "quite extensive" secret arms deals with the Russians, one official said. "There were no secret agreements."

Sources said they did not know the extent of the still unreleased appendices or why they were not being immediately released. But on some occasions in the past, some material on treaties has been withheld until the documents were presented to Congress to give added impact to the presentation.

The President's unusual plan to address a joint session of Congress immediately after his return here was seen as an effort to undercut congressional opposition to the Soviet-American arms control agreements.

His speech will begin only a half-hour after his arrival at Andrews Air Force Base from Warsaw. Mr. Nixon will fly by helicopter directly to the capitol grounds.

The President advanced his scheduled arrival time in Washington by one hour to make the address in prime television time.

Mr. Nixon apparently needs Congressional endorsement not only for the antiballistic missile (ABM) treaty he negotiated with Soviet leaders but for the five-year "executive agreement" limiting offensive land- and submarine-based missiles.

The ABM treaty limiting each country to 200 defensive missiles at two locations requires ratification by two-thirds of the Senate.

The interim executive agreement limiting ICBMs to those already existing or under construction would require a majority vote in both houses, under a provision of the 1961 Arms Control and Disarmament Act, which requires affirmative legislative approval of any agreement to limit U.S. armaments.

Mr. JACKSON. Mr. President, my plea to the administration is this: Let us get all the facts out on the table as soon as possible. The people in the press corps have been calling me and have been saying: "You must be wrong about these numbers." Then I have to explain what the numbers are. This is a job that the White House should have undertaken. Does not the majority leader agree with that? Is it not important that the facts be made known to the American people and this unfortunate confusion ended.

Mr. MANSFIELD. Of course, it is important. But I would at least wait for the President to return to this country, to give him a chance, through the White House, through his departments, to send the pertinent information to Congress, and give as much of it as possible to the American people through that channel.

I would hope that we would at least try to keep an open mind. Although, as of now, I can see no justification for an ABM system ringing the Nation's Capital, I am going to try to keep an open mind until all the facts are before me, and then I will arrive at a judgment.

Mr. JACKSON. I am trying to keep an open mind, too. I made that clear in my statement. But does not the Senator think that Senators should not prejudge this situation until they get the facts as to what was really agreed upon? Would it not have been helpful for the administration to have stated simply, when the treaty and protocol and agreement were published in Moscow, that other understandings, interpretations or agreements were to be published later? Would not the Senator agree on that?

Mr. MANSFIELD. No; I would disagree, even though the distinguished Senator has a point. I would wait until the President returned.

Mr. JACKSON. Could they not tell us that other understandings or agreements are outstanding?

Mr. MANSFIELD. I do not know that other agreements are outstanding. I have read in the newspapers something about secret agreements. I know of none. I have heard of none.

Mr. JACKSON. Understandings.

Mr. MANSFIELD. Understandings. They may be working papers. We have to allow for working papers.

I would hope that we would wait until the chips are in hand and, if we have doubts, then resolve them on the basis of knowledge. So far as I am concerned, I already have come out in favor of the Nixon-Brezhnev agreement, because it is a step toward peace. It may be a risk. But, in my opinion, based on what I know up to this time, it is a risk worth taking.

For example, $200 billion a year is spent on global military expenditures, and the vast annual arms expenditures account for 6.5 percent of the entire world's gross national product. I am reading this from the Washington Post. This is two and one-half times what all governments spend on health, one and a half times their expenditure on education, and 30 times more than the total of all official economic aid given to developing countries. So this is an important factor.

The administration has worked hard and long to achieve this success. I think the President is coming back from Moscow with agreements based on substance; and I think that he, in the name of all our people, should be given the chance to explain what he has achieved, and the appropriate departments as well as the White House should give us access to the pertinent information applicable thereto.

Mr. President, I ask unanimous consent to have printed in the RECORD the article written by Anthony Goodman, entitled "World's Nuclear Arms Stockpile Equals 15 Tons of TNT Per Capita," published in today's Washington Post.

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

[From the Washington Post, June 1, 1972]

WORLD'S NUCLEAR ARMS STOCKPILE EQUALS 15 TONS OF TNT PER CAPITA

(By Anthony Goodman)

UNITED NATIONS.—More than 23 million people are serving in the world's armed forces, while the global nuclear stockpile is equal to at least 15 tons of TNT for every man, woman and child on the planet, according to a recently published U.N. report.

Drafted by an international committee of 14 scientists and economists, the survey is titled "Economic and Social Consequences of the Arms Race and of Military Expenditures."

The panel estimated world military expenditures at more than $200 billion a year, or roughly equal to the gross national product of the developing countries of Africa, South Asia and the Far East with a total population of 1.3 billion people.

The vast annual arms expenditure also accounts for about 6.5 per cent of the entire world's gross national product, the committee found.

This is 2½ times what all governments spend on health, 1½ times their expenditure on education, and 30 times more than the total of all official economic aid given to developing countries.

The report, originally presented to the last session of the U.N. General Assembly and now available in booklet form for $1.50, noted that governments spend $25 billion annually on military research, compared with $4 billion on medical research.

In a survey of world military arsenals, the report said the number of intercontinental ballistic missiles (ICBMs) increased from virtually none at the start of the 1960s to 2,150 by the end of the decade. This included some 55 nuclear-missile submarines armed with 800 missiles capable of delivering about 1,800 warheads.

Another striking statistic is the increase in the world's stock of supersonic fighters from an estimated 6,000 at the start of the last decade to double that number by the end of the 1960s.

Soaring stockpiles have been accompanied by even more sharply rising costs, with a modern fighter plane costing 10 times the aircraft of 10 years ago which it replaced. A sophisticated modern interceptor plane could cost more than $10 million, compared with only $150,000 for the corresponding aircraft of World War II.

While chemical and bacteriological weapons, by contrast, account for only an insignificant proportion of total arms expenditures, "the ominous shadow they cast over the world is totally disproportionate to their cost," the report noted.

The panel found that six countries, out of about 120 with any significant military expenditure, accounted for four-fifths of world arms expenditure during the 1960's. They are the United States, the Soviet Union, France, Britain, China and West Germany.

Developing countries, with nearly half the world's population, account for only some 6 per cent of military spending. But during the past decade the rate of growth of their military expenditures increased more sharply than the world average.

Against a world rise of about 3 to 4 per cent a year, military spending in the developing countries has been increasing at the rate of some seven per cent annually, the report said.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HART, from the Committee on Commerce, with amendments:

H.R. 7088. An act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of

Pennsylvania, and for other purposes (Rept. No. 92–824).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with an amendment:

S. 3442. A bill to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance and for other purposes (Rept. No. 92–825).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 3384. A bill to amend the Water Resources Planning Act to authorize increased appropriations (Rept. No. 92–826).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. WILLIAMS:

S. 3659. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date. Referred to the Committee on Labor and Public Welfare.

By Mr. METCALF:

S. 3660. A bill to authorize the Administrator of the Environmental Protection Agency to engage in a feasibility investigation for the Montana-Wyoming aqueducts unit, Pick-Sloan Missouri River Basin project. Referred to the Committee on Interior and Insular Affairs.

By Mr. MILLER (for himself, Mr. TALMADGE, Mr. ALLEN, Mr. GRIFFIN, Mr. PERCY, and Mr. CHILES):

S. 3661. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966. Referred to the Committee on Agriculture and Forestry.

By Mr. ALLEN (for himself and Mr. SPARKMAN):

S. 3662. A bill to provide for the establishment of the Tuskegee Institute National Historical Park, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. TAFT (for himself, Mr. BEALL, and Mr. STAFFORD):

S. 3663. A bill to improve the quality of child development programs by attracting and training personnel for those programs. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILLIAMS:

S. 3659. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date. Referred to the Committee on Labor and Public Welfare.

Mr. WILLIAMS. Mr. President, multiple sclerosis, known as the "great crippler of young adults," is a disease afflicting both males and females. It is characterized by patchy and scattered areas of degeneration within the brain and spinal cord and by loss of motor and sensory functions corresponding to those areas of the nervous system damaged by the disease process.

In the vast majority of cases, multiple sclerosis makes its first appearance in the very prime of human life between the 20th and 40th year. Although there are many variants of the disease process, most patients with multiple sclerosis suffer intermittent attacks of motor and sensory disturbances interspersed with periods of partial or apparently complete recovery. Sooner or later, however, the repeated attacks usually leave their mark in the form of permanent defects in such functions as vision, speech, balance, and bodily movement, with many of the patients becoming completely incapacitated with the passing of time. The cause of multiple sclerosis is unknown and there is neither a preventive nor a cure for the disease.

The life expectancy of a patient with multiple sclerosis is approximately 85 percent of that of the population at large. And, since it has been estimated that some 250,000 persons are afflicted with this disease in the United States alone, it is apparent that these persons have or will experience some 7,400,000 man-years of partial or total disability.

If it is assumed that, on the average, each of these M.S. victims could have earned $5,000 per year had he not been afflicted, this disease alone accounts for a loss in earnings amounting to $1.250 million each year. Not only is the loss of earning power in itself of substantial proportions, there is also the need to expend at least an equal sum for their nursing and medical care.

And the tragedy is not one which is limited to the individuals afflicted with M.S. There may be, on the average, as many as eight persons within the family circle of the patient who contribute to his care—either through defraying the cost or through providing all or part of his requisite care or, in the case of dependents, through being deprived of adequate housing, education, social interplay, and so forth. Thus, it is apparent that some 2 million persons in the United States suffer indirectly from this catastrophic disease.

From a more personal standpoint, we must never forget that multiple sclerosis affects the most dynamic and productive segment of our society, that is, the young adult, the parent, the developing business leader, the young scientist, and so forth.

Thus it is apparent that multiple sclerosis is a serious drain on the development of the future leadership of the Nation. The Census Bureau has estimated that persons in the 20 to 40 age group—the age of greatest incidence of multiple sclerosis—will increase by 40 percent within the next 10 years. It must be assumed, therefore, that the number of cases of multiple sclerosis will increase by no less than this amount.

Of all the major neurological diseases, there is none with more promising leads for meaningful research than multiple sclerosis. The incidence of the disease is lowest near the equator and is highest in those populations residing at or above 40 degrees longitude north and south. Furthermore, multiple sclerosis is characterized, at least during an exacerbation of the disease process, by an immune response of substantial proportions—a response which can be detected in the cerebrospinal fluid, in the brain and spinal cord, and in the blood. There can be little doubt that this response indicates the presence of some unknown agent—either from within or from outside the body—and that the identification of this agent might form the basis for the development of an effective preventive or cure.

Despite the existence of these and other promising clues, too few of our more imaginative and creative scientists have directed their energies to developing through research a practical means for control of this disease. While this unfortunate situation is due in part at least to the relative paucity of the available funds to support research on multiple sclerosis—as compared with those amounts available to support research on other diseases—it may be due in much larger part to a complacent scientific and lay public who are not aware of the magnitude of the problem nor of the possibilities for meaningful research.

Toward this end, the National Multiple Sclerosis Society is reevaluating its program of research. This assessment is being conducted by its Research Evaluation and Planning Committee under the chairmanship of the eminent professor of neurology of the Washington University School of Medicine in St. Louis—Dr. James L. O'Leary. However, it has become evident that the goal of finding a cure could be accomplished more quickly and effectively through a bold national initiative undertaken through the resources of the Federal Government.

It is for this reason that I am today introducing legislation for the creation of a National Commission on Multiple Sclerosis. This Commission would be composed of 11 members, appointed by the President, and who have demonstrated interest and expertise in achieving means for preventing and arresting the further spread of multiple sclerosis. The Commission will be charged with making a thorough evaluation of current research activities in the field of multiple sclerosis and related neurological diseases and will be responsible for developing a plan for the conquest of this disease in the shortest possible time. The Commission will also be empowered to make recommendations with respect to the need for new legislative approaches to the problem or for the revision of existing legislation.

The establishment of such a Commission would, in my judgment, stimulate the interest of both the scientific and lay communities—leading to more creative and imaginative scientific efforts in this regard.

In addition, this effort should give greater impetus to a better coordination of private and governmental research activities and will help to better clarify the role of the National Institutes of Health in regard to their multiple sclerosis research initiatives. This latter point is particularly important since there are estimated to be in the United States alone, some 250,000 other cases of neurological disease which appear to be related to multiple sclerosis in one or another important aspect. It should be borne in mind that in developing a practical answer to multiple sclerosis, it is almost certain that a corollary benefit of substantial proportions will accrue to an understanding of these other diseases as well.

Mr. President, we have seen what great strides medical science has been able to make over the years in reducing the incidence of many of mankind's crippling diseases. The Congress has had a major

impact on these successes by showing its concern for speedier progress and by substantially funding creative approaches to new medical research. Most recently, we have encouraged further advances in the area of heart and cancer research. Multiple sclerosis deserves our equal attention and the bill I offer today will be an important first step in the same direction.

By Mr. MILLER (for himself, Mr. TALMADGE, Mr. ALLEN, Mr. GRIFFIN, Mr. PERCY, and Mr. CHILES):

S. 3661. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966. Referred to the Committee on Agriculture and Forestry.

Mr. MILLER. Mr. President, I am pleased to introduce for myself, Senator TALMADGE, the distinguished chairman of the Senate Committee on Agriculture and Forestry, and Senators GRIFFIN, ALLEN, PERCY, and CHILES the administration's bill to amend existing child nutrition legislation. This is consistent with my longstanding policy of supporting constructive legislation and programs in the area of child nutrition on a bipartisan basis.

In the past 4 years, substantial progress has been made in school food service. The number of needy children reached with a school lunch has increased from about 3 million to 8.4 million. Over 1 million children are receiving school breakfasts, and the President has asked for additional funds for a further substantial expansion in school breakfasts in fiscal 1973.

Over $80 million in equipment assistance has been made available in the past 4 years. And funding for this summer's special feeding program will be 2½ times that of last year.

In spite of this impressive record, more can and should be done. I am convinced that the proposals of the administration are needed and embody a substantial number of operating principles that will accelerate progress and promote efficiency in school food services.

The administration's proposals build upon the experience of both the Department of Agriculture and State educational agencies. They will provide the Congress with a sounder base upon which to make annual appropriations in support of school food services.

One of the principal changes that would be made under the bill I am sponsoring would be to place Federal funding of the school lunch and breakfast programs on a performance basis. The statistical apportionment method of distributing funds to States—which is now authorized for both the lunch and breakfast programs—has resulted in increasing inequities among the States. The new performance method of funding will guarantee States an average payment for each lunch or breakfast served. Thus, those States needing to reach more schools and more children will not have to lower rates of Federal assistance to already participating schools and children.

Last November, Congress took a partial step in this direction by enacting Public Law 92–153. The bill I am sponsoring, in effect, incorporates that performance funding principle into the permanent legislation for basic—section 4—school lunch assistance, special—section 11—school lunch assistance, and for the school breakfast program. For section 4 assistance, the bill would guarantee a minimum average rate of reimbursement of 6 cents per lunch.

I have been informed that in previous years, Iowa and many other States would start out the year paying 4 cents reimbursement per lunch, but, typically, the funds would be exhausted before the end of the school year. The State would then have to notify the schools that there would be no reimbursement after April 14, May 1 or whatever, thus causing severe budget problems. The 6 cents guaranteed minimum average reimbursement rate for the current fiscal year—which was included in Public Law 92–153 at my urging—helped alleviate this problem, but the bill I am introducing will take care of the problem once and for all.

The bill also contains new minimum and maximum family income eligibility standards for free and reduced price school meals for economically needy children. Each year, the Federal poverty index will be the minimum standard for free meals—it is now the minimum standard for free or reduced price lunches. For the fiscal year 1973, the poverty index for a family of four is $4,110. State and local eligibility standards for free meals may be set up to 15 percent above the minimum standard—up to $4,726 for a family of four in 1973. And schools will be able to offer reduced price lunches—which by law cannot exceed a 20 cent price—to children from families with incomes up to $5,343 in 1973.

The bill proposes to double the existing appropriation authorization for nonfood—equipment—assistance for each of the 3 fiscal years 1973, 1974, and 1975. During that 3-year period, half the funds appropriated by the Congress would be reserved for the exclusive use of needy schools now without a food service. We need to place increased emphasis on bringing food services to these schools. This 3-year reserve of equipment funds—and the proposed performance funding concept—will help make that increase in emphasis possible.

Other provisions of the bill will simplify and revise State matching requirements; authorize both an advance and reimbursement system of disbursements to participating schools; simplify the basis of providing administrative expenses to cooperating State agencies; enlarge membership on the National Advisory Council on Child Nutrition; and extend the lunch and breakfast programs to the Trust Territory of the Pacific Islands.

I urge my colleagues in the Senate to review these legislative proposals. They will provide a sounder legislative base on which to manage the child feeding job so that our children benefit from the food abundance our farmers supply to this country.

I hope that it will be possible to take early action on these proposals so that they can become effective for the 1972–73 school year.

I ask unanimous consent that a short summary of the bill, a section-by-section analysis, and the text of the bill be printed in the RECORD at this point.

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

SUMMARY OF THE PROVISIONS OF THE PROPOSED CHILD NUTRITION LEGISLATION

FEDERAL SCHOOL LUNCH AND SCHOOL BREAKFAST FUNDING

1. The outdated method of distributing a fixed amount of lunch and school breakfast funds to States each fiscal year, by apportionment formula would be replaced by a performance method of funding. It would provide States a predictable basis on which to develop and expand these two programs.

2. Under the performance method, States would be guaranteed an average payment for each lunch or breakfast served during any fiscal year, with additional special payments for lunches or breakfasts served free or at a reduced price.

3. The level of the guaranteed average per-meal payment to States would be determined under the annual appropriation process, but the level of the payment under section 4 could not be less than an average of 6c per lunch.

4. No State would receive less in section 4 lunch funds, or section 11 lunch funds, or school breakfast funds, than it received in the fiscal year 1972.

THE SCHOOL BREAKFAST PROGRAM

1. The breakfast authority would be made permanent, paralleling the permanent authority for the lunch programs.

2. The program would be open to all schools. State educational agencies would be directed to give any technical or supervisory assistance needed to help start a program in schools with a special need for a breakfast program.

ELIGIBILITY STANDARDS FOR FREE AND REDUCED PRICE MEALS

1. Systematic guidelines would be established under which States and schools would establish eligibility standards for free and reduced price lunches.

2. A minimum-maximum income range, by family size, would be established, annually, within which States and schools could establish their standards.

3. Each year, the minimum Federal standard for a free lunch would be the poverty level; the maximum would be 15 percent above the poverty level. The standard for reduced price lunches in a school could be up to 30 percent above the poverty level.

4. Standards for school lunches and breakfasts would be identical.

NONFOOD (EQUIPMENT) ASSISTANCE FOR NEEDY SCHOOLS

1. The annual appropriation authority would be increased to $20 million for each of the fiscal years 1973–75; thereafter, the annual authorization would be $10 million.

2. To increase emphasis on bringing lunch and breakfast programs to needy schools without a food service, 50 percent of the funds made available in 1973–75 would be reserved for the exclusive use of such schools. The Secretary of Agriculture would be authorized to waive the State or local matching requirement for that portion of these reserved funds used to buy equipment for schools in circumstances of severe need.

SCHOOL LUNCH MATCHING FUNDS

1. Matching requirements would be simplified. The 3 to 1 matching requirement for section 4 funds from sources within the States (which includes children's payments), would be eliminated.

2. Matching from State tax revenues would be a percentage of the State's share of section 4 and 11 school lunch funds and school breakfast funds, beginning at 2½ percent in fiscal 1973 and increasing to 7½ percent by

fiscal 1977. States with per capita incomes below the U.S. average would have a proportionate reduction in matching.

3. State legislatures are given more lead time to plan to meet the matching from State tax revenues by relating matching to the previous year's expenditures.

ADVANCE PAYMENTS TO SCHOOLS

States would have permissive authority to disburse school lunch and school breakfast funds to schools on an advance or a reimbursement basis. Only a reimbursement basis is now authorized for school lunch. This authority for advance payments is already authorized for the school breakfast program.

STATE ADMINISTRATIVE EXPENSES

The basis for making Federal funds available for State administrative expenses would be simplified.

EXTENSION OF PROGRAMS TO THE TRUST TERRITORIES OF THE PACIFIC ISLANDS

The school lunch, school breakfast, and nonfood assistance programs would be extended to the Trust Territory of the Pacific Islands. The Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa already are eligible.

NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

Membership in the Council would be increased by five members. Two of the new members would be concerned with school feeding at the local level—one from a rural school and one from an urban school; one would be the parent of a school-age child; and two would be students, one of whom was eligible for a free or reduced price lunch.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section of the bill amends section 3 of the National School Lunch Act.

The change proposed by the bill would merge the separate appropriation authority for special assistance (now set forth in section 11 of the Act) with the appropriation authority for food assistance (now set forth in section 3 of the Act).

Other sections of the bill propose that Federal funding of both the section 4 and section 11 phases of the school lunch program be changed to a "performance" basis, i.e., that State would be guaranteed a specified average payment under section 4 for each lunch served and an additional average payment under section 11 for each free and each reduced price lunch served. A merging of the appropriation authorities for food assistance and for special assistance would add flexibility to the Federal funding structure without affecting the specified level of assistance to be guaranteed under each phase of the program.

It is intended that the annual appropriation request under the merged authority would indicate the estimated portion of the appropriation to be expended under each phase of the program, based upon the levels of the guaranteed payment and the projected number of total lunches and free and reduced price lunches to be served. The actual portion expended under each phase, however, would depend upon the actual number of total lunches and of free and reduced price lunches served.

SECTION 2

This section of the bill amends section 4 of the National School Lunch Act which currently specifies how available food assistance funds will be apportioned to the States. Section 4, as amended by the bill, would contain the special provisions of the Act concerned with the section 4 phase of the program: (1) the method of distributing funds to States; and (2) the purpose for which the funds are to be expended (moved from section 8 of the Act). Under the bill, the use of section 4 funds would not be limited to the cost of obtaining food. Such payments would be a general contribution to the schools' cost of operating a school lunch program. The method of distributing section 4 funds to States would be changed from an "apportionment" basis to a "performance" basis.

Under the present Act, an annual appropriation is authorized for section 4 purposes, to be apportioned to the States on the basis of a formula which takes into account the relative number of lunches served in each State in a prior period (two years prior to the year in which the funds are apportioned) and the relative need of the State as measured by its per-capita income. Each State then establishes per-meal rates of section 4 assistance to schools within the State, based on its apportioned share of the available funds for the fiscal year and the projected number of lunches to be served in that year.

The use of a "relative need" factor in the distribution of section 4 funds was of most relevance prior to the time additional special assistance funds were provided to help finance free and reduced price lunches in all schools under the P.L. 91–248 amendments to the Act. Additionally, the use of past participation data in the formula, in effect, penalizes those States most in need of reaching additional schools. As a result, interstate differences in the per-lunch rates of section 4 assistance have become more a function of the apportionment formula than of a sound Federal financing structure. P.L. 92–153 was designed to partly alleviate this problem by overlaying the statutory apportionment formula with authority for the distribution of additional food assistance funds on a performance basis—assuring all States a minimum average payment of 6 cents per lunch in food assistance in the fiscal year 1972.

This bill proposes to permanently amend the National School Lunch Act by replacing the "apportionment-formula" method of distributing the funds with a "performance" method. Under it, each State would be guaranteed a prescribed average section 4 payment for each lunch served to children.

The bill would require the Secretary of Agriculture to prescribe and announce the level of the guaranteed average per-lunch payment (called National average basic payment in the bill) for each fiscal year. The bill provides that this payment shall not be less than 6¢ per lunch. In submitting fiscal year budget requests, it is contemplated that the Secretary would inform the Appropriation Committees of the level of the guaranteed average payment upon which the budget request was based and that the Appropriations Committees would review the appropriateness of the proposed level in reporting out the Department's annual appropriation act for consideration by the Congress.

In no event would the annual amount of section 4 funds made available to a State be less than the amount of section 4 funds it received in the 1972 fiscal year.

Within the funds made available under the guaranteed average basic payment, each State educational agency would retain its present authority to adjust per-lunch rates of section 4 assistance for individual schools, within a maximum rate established by the Secretary for all States. A number of State educational agencies, for example, point out that it is desirable to provide higher rates of section 4 assistance to secondary schools because, on the average, teen-age children should be served lunches containing larger portions than those contained in the lunches served to younger elementary-age children.

SECTION 3

This section amends section 5 of the National School Lunch Act which now authorizes a program of nonfood (equipment) assistance for schools.

The program authorized by section 5 has not been funded since 1947. However, the Child Nutrition Act of 1966 does authorize an equipment assistance program and this bill proposes changes in that authority to increase its effectiveness. This bill, therefore, would eliminate an authority that has been inoperative and is no longer needed.

Section 5 of the Act, as amended by this bill, would bring together existing provisions of the Act concerning agreements between USDA and State educational agencies and methods of paying Federal funds to States—provisions that now appear in portions of sections 7 and 11 of the Act. In moving these provisions to section 5 of the Act, no substantive changes are proposed. However, in making payments of section 4 and section 11 funds to States, the Department of Agriculture would need to take into account that a section 8 of the Act, as amended by this bill, would authorize States to disburse funds to schools on either an advance or reimbursable basis.

SECTION 4

This section of the bill amends section 6 of the National School Lunch Act which is concerned with certain direct Federal expenditures under the program.

It was necessary to make technical changes in the language of section 6 in view of other provisions of the bill which place sections 4 and 11 funding on a performance basis. It is intended that the Secretary would request a single appropriation to cover the specified direct expenses but the request would indicate the estimated use of the requested sums for (1) Federal administrative expenses; (2) for nutritional training and surveys; and (3) for direct food procurement.

SECTION 5

This section of the bill amends section 7 of the National School Lunch Act which now principally deals with the matching of Federal school lunch funds by funds from sources within the State. Since 1956 each dollar of Federal section 4 assistance funds was required to be matched by $3 of funds from sources within the State (including payments made by children for fully paid or reduced price lunches). P.L. 91–248, effective for fiscal year 1972, required that State revenues constitute a certain percentage of the matching funds. The 3 to 1 matching requirement has been eliminated and the matching out of State revenues has been applied as a percentage of payments to States under sections 4 and 11 of the School Lunch Act and section 4 of the Child Nutrition Act of 1966. The changes proposed are designed to clarify certain areas of the matching requirement that are unclear, or have proved to be unworkable under present law, and to alleviate developing problems with the requirement for State revenue matching when State educational agencies administer the school-lunch program in nonprofit private schools.

Under the bill, States would place in jeopardy full payments made to them under sections 4 and 11 of the School Lunch Act and section 4 of the Child Nutrition Act if they failed to meet the matching requirement. If, for example, a State was determined by the Secretary to have met only 90 percent of its required matching from State revenue, the State would be required to repay 10 percent of all the school lunch and breakfast funds paid to it for that fiscal year.

Since under the bill all matching would be met out of State revenues there would be legal barriers to including payments out of Federal funds to nonprofit private schools in determining the State's matching requirement. The matching requirement, therefore, only applies to public schools. To complete the restructuring of the matching requirements, the special matching provisions in the last sentence of section 9 of the Act—which now apply only to nonprofit private schools in which the program is directly

administered by the Department of Agriculture—would be eliminated.

The bill also recognizes that the proposed performance basis for funding the program would mean that State Legislatures could not know, at the beginning of the fiscal year, how much State revenue would need to be appropriated each year to meet the matching requirement. To alleviate this problem, the bill provides that the amount of State revenue matching would be calculated upon the previous year's use of Federal funds under sections 4 and 11 of the School Lunch Act and section 4 of the Child Nutrition Act.

The proposed bill also changes the language of the present Act concerning the guidelines to be used by States in expending the State matching revenues. The present language of the Act is designed to provide that each participating school should receive the same proportionate share of such State funds as it receives of the Federal funds made available to the State under the food and special assistance phases of the lunch program, the breakfast program, and the program of nonfood assistance. Operating experience since the passage of P.L. 91-248 has indicated that this is a wholly impractical requirement. A State cannot really insure such a use of State revenues unless it withholds their distribution until after the end of the fiscal year. More importantly, this requirement could render questionable such desirable uses of State revenues as the provision of funds to local school systems to permit such systems to hire supervisory personnel or the reserving of some State revenues for the exclusive use of needy schools.

SECTION 6

This section amends section 8 of the National School Lunch Act which now provides for agreements between State educational agencies and schools to which section 4 funds are to be disbursed.

The bill provides that the agreements would cover the disbursement of both section 4 and section 11 funds and would authorize State educational agencies to disburse such funds to schools on either an advance or reimbursement basis. Currently, the Act authorizes only the reimbursement basis and this is an especial hardship on the school serving a very high percentage of free and reduced price lunches. The bill contemplates that the Federal regulations issued by the Secretary would prescribe the general procedures under which State agencies could make the newly authorized advance disbursements. It is intended that such advances would be reasonably related to the expected payments to be earned by the schools for the number of lunches that would be served; that within each fiscal year the amounts advanced would be periodically adjusted, based upon monthly claims submitted by schools for the actual number of lunches being served; and that the advance-and-settlement cycle would be completed within each fiscal year for which advance payments are made to a school.

Under this bill, the provisions now set forth in section 8 of the Act, which deal with the type of assistance authorized under section 4 of the Act, would be moved to section 4.

SECTION 7

This section of the bill amends section 9 of the National School Lunch Act.

Section 9 of the Act now: (a) Prescribes the nutritional standards to be established under the program; (b) sets forth provisions with respect to the service of free and reduced price lunches; and (c) outlines other program requirements concerning nonprofit operations, utilization of Federally donated foods, etc. The bill reorganizes the numerous provisions of the section into three subsections. The new subsection 9(a) deals with the nutritional standards and its provisions have not been changed. The new subsection 9(b) deals with the service of free and reduced price lunches and the bill makes substantive changes in these provisions. The new subsection (c) deals with a number of miscellaneous program requirements.

Under the changes in section 9 proposed by this bill, the Secretary of Agriculture would continue to prescribe an income poverty guideline and it is intended that such a guideline generally conform with the Poverty Index published by the Bureau of the Census. The Secretary's poverty guideline would be the minimum Federal mandatory eligibility standard for a free lunch. Currently, such guideline is the minimum mandatory standard for a free or a reduced price lunch.

The bill also establishes guidelines under which States may elect to establish income eligibility standards for free lunches and reduced price lunches at levels higher than the mandatory minimum Federal standard.

Each State educational agency would prescribe the income guidelines, by family size, to be used by schools within the State in determining those children eligible for a free lunch. It is intended that a State could establish a single set of family-size income guidelines for use by every school within the State or the State could establish a range of family-size income guidelines within which each school could elect the specific income guidelines it would use. By family size, the income guidelines established by the State educational agency for free lunches could not be more than 15 percent above the Secretary's income poverty guideline.

Under the bill, schools could elect to also offer lunches at a reduced price to children from families with incomes above those that would qualify for free lunches. If the school elects to serve reduced price lunches, the income guidelines for eligibility, by family size, shall be no more than 30 percent above the Secretary's income poverty guideline. The price of such a reduced price lunch could not exceed 20 cents, the limitation now set forth in the Act.

Currently, schools are mandated to consider a third factor in their eligibility standards, i.e., the number of children in the family attending school or service institutions. State officials have almost uniformly reported that the complexity of a three-factor eligibility standard makes it difficult both to explain the required standard to local school officials and to insure that families fully understand their children's eligibility. The use of a two-factor formula—income and family size—is deemed to be equally effective in reaching needy children.

The bill would require the Secretary of Agriculture to announce each year's income poverty guideline no later than May 15 of the preceding fiscal year in order to provide States with a desirable leadtime in which to prescribe their income guidelines for free and reduced price lunches and to inform schools of any changes in the guidelines. Once announced, the poverty guideline could not be reduced by the Secretary for the fiscal year for which it is effective.

SECTION 8

This section amends section 10 of the National School Lunch Act which deals with the direct Department of Agriculture administration of the school lunch program in nonprofit private schools when State law prohibits the State educational agency from assuming responsibility for the program in such schools.

The changes made in this section of the bill are those required to place the funding of both the section 4 and section 11 phases of the program on a performance basis for those nonprofit private schools for which the Department of Agriculture has direct responsibility.

SECTION 9

This section amends section 11 of the National School Lunch Act which deals with the special assistance phase of the program.

The section 11 special assistance phase of the program would be placed on a performance basis for Federal funding paralleling the method proposed for section 4 funds under the bill. Each State would be guaranteed an average payment for each free lunch served in a fiscal year and for each reduced price lunch served. As in the case of section 4 funds, the bill contemplates that the level of the guaranteed average payments (called National average free lunch payment and National average reduced price lunch payment in the bill) would be determined under the annual appropriation process.

Although the total amount of the special assistance to be paid to a State in a fiscal year would be determined by the use of two National average payments (one for free lunches and one for reduced price lunches), it is not the intent of the bill that the State agency would be required to use the funds earned under the free-lunch average payment for free lunches and those earned under the reduced price lunch average payment for reduced price lunches. The State agency would have the authority to use the funds earned by the State under section 11(a) of the Act to vary rates of special assistance for free and reduced price lunches for the schools within the States as it deems will best accomplish program purposes, within national maximum per-lunch rates of special assistance payments established by the Secretary for all States.

Because of the revisions made by the bill in other sections of the Act (sections 5, 7, 8, and 10), subsections (c) through (g) of the present section 11 are no longer needed. The present subsection 11(h) would be redesignated as subsection 11(c).

SECTION 10

This section amends subsection (d) of section 12 of the National School Lunch Act which deals with the definition of terms used in the Act.

The definition of "State" is amended to extend the school-lunch program to the Trust Territory of the Pacific Islands which currently is eligible only for the Special Food Services Program for Children, and section 32 and section 416 food donations. The definitions of "nonfood assistance," "participation rate," and "assistance need rate" are eliminated because they are no longer used in the Act as it would be amended by this bill.

SECTION 11

This section of the bill amends section 14 of the National School Lunch Act which establishes a National Advisory Council on Child Nutrition.

The bill would enlarge the membership of the Council by five persons. Two of the new members would represent those who are concerned with program operations and supervision at the local level—one from a rural school system and one from an urban school system. One of the new members would be the parent of a school-age child, who is intended to reflect the views and experiences of parents who take an active part in local organizations concerned with elementary and secondary school programs, especially school food service programs. The fourth and fifth new members would be students, one of whom would be eligible for a free or reduced price lunch.

SECTION 12

This section of the bill revises section 4 of the Child Nutrition Act which authorizes the operation of a school breakfast program.

Under the bill, the breakfast program authority would be permanent.

The principal change in the program pro-

posed by this bill is to authorize a "performance" method of funding—paralleling that proposed in the bill for the school-lunch program. However, Federal funding of the breakfast program would be carried out under one account rather than the two accounts (section 4 and section 11) proposed for the lunch program. The funds made available to schools would be for the general support of the program.

Each State would be guaranteed an average payment for each breakfast served by participating schools (called the National average breakfast payment in the bill). Average payments would also be guaranteed for each breakfast served free or at a reduced price (called the average free breakfast payment and the average reduced price breakfast payment in the bill). As is the case for section 4 and section 11 school lunch assistance, the level of these guaranteed payments would be determined during the annual appropriation process. Within maximum Federal per-breakfast rates for basic free and reduced price assistance, the States would retain authority to vary rates of assistance between individual schools.

Under the provisions of section 4(e) of the Act, as amended by this bill, schools would be required to use the same eligibility standards for free and reduced price lunches and breakfasts and observe the same conditions concerning the public announcement of such standards and the use of a "statement-type" application.

SECTION 13

This section amends section 5 of the Child Nutrition Act of 1966 which authorizes a program of nonfood (equipment) assistance for needy schools with no, or grossly inadequate, equipment.

The bill would increase the authorized annual appropriation to a maximum of $20 million for each of the fiscal years 1973, 1974, and 1975, and would authorize a maximum of $10 million for each fiscal year thereafter. Currently, $15 million is the maximum authorization for the fiscal year 1973, and thereafter the annual maximum is $10 million.

The increase in the level of the authorized annual appropriation would be accompanied by a new provision that would reserve 50 percent of the sums annually appropriated for the exclusive use of needy schools without a food service during the three fiscal years 1973–75. It is not the intent, in establishing this reserve, to include as a school without a food service a newly constructed school which is replacing a school (or schools) which was serving food.

The 50 percent of funds so reserved in the three fiscal years will be apportioned among the States on the basis of the enrollment in schools without a food service in the various States. If a State cannot use its share of the funds reserved for no-program schools, it will release the unneeded amounts for reapportionment to other States which can use additional funds for such schools. If there are unexpended funds out of this reserve at the end of a fiscal year, it is the intent that such unexpended funds be similarly reserved for use by no-program schools when carried over into a succeeding fiscal year under the authority of section 3 of this Act.

Thus, there would be an increased emphasis on using nonfood assistance funds to bring needy no-program schools into the lunch or breakfast program in the next three fiscal years. Thereafter, the level of the maximum annual appropriation would be decreased and the appropriations would be apportioned on the basis of the relative number of lunches and breakfasts served in the various States.

The bill continues the provision that funds from sources within the State shall finance 25 percent of the cost of the equipment acquired under this program. A change in the wording of this provision has been made to make it abundantly clear that this 25 percent provision is to be applied on a statewide basis—not school-by-school. This clarification gives States flexibility in obtaining the required State or local contribution, making it possible for the State agency to pay 100 percent of the acquisition costs when, in the opinion of the State agency, such a payment should be made. In addition, the Secretary is authorized to waive the matching requirement for any portion of the funds made available for the exclusive use of no-program schools in circumstances of unusual need.

SECTION 14

Section 14 of the bill amends section 7 of the Child Nutrition Act of 1966 which deals with Federal funds for State administrative expenses.

When the Act was passed, the program of section 11 school lunch assistance was confined to selected needy schools and the new child feeding programs—breakfast, nonfood, and the nonschool program (section 13 of the National School Lunch Act)—were limited programs, largely pilot in nature. This bill, therefore, makes language changes to reflect the need to generally strengthen State supervision and technical assistance to schools and institutions participating in all child nutrition programs.

In providing Federal funds to States it is the intent that the Secretary of Agriculture utilize such funds in a manner he deems will best increase and strengthen such State supervisory activities and provide an incentive to States to accept intrastate administration of all child nutrition programs in all eligible schools and institutions.

SECTION 15

This section of the bill amends section 10 of the Child Nutrition Act of 1966 which, among other things, authorizes State educational agencies to use up to one percent of their apportionments of program funds for developmental projects.

With the elimination of the "apportionment-formula" method of distributing school lunch and breakfast funds to States, an alternate method was necessary to determine the annual amounts of program funds State educational agencies could be authorized to use for developmental projects. Under the bill, the Secretary could authorize States to fund developmental projects out of the funds made available to them under the guaranteed average payment for school lunches and school breakfasts and the funds apportioned to them for nonfood assistance in an amount which represents one percent of the funds utilized by the States under these authorities in the preceding fiscal year.

SECTION 16

Subsection (a) of this section of the bill is intended to correct a drafting oversight in previous legislation.

Under the provisions of section 11 of the Child Nutrition Act (and section 13 of the National School Lunch Act), the benefits provided to children under the school breakfast program, the nonfood assistance program, and the special food services program are not to be considered to be "income or resources" for purposes of taxation, welfare, and public assistance programs. Inadvertently, this prohibition was not extended to benefits derived from the school lunch program and the bill proposes language changes to make clear that school lunch benefits also are subject to such a prohibition.

Subsection (b) of this section would change the definition of State to extend the child nutrition programs authorized under this Act to the Trust Territory of the Pacific Islands.

S. 3661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the National School Lunch Act is amended by striking out "to carry out the provisions of this Act, other than sections 11 and 13" and inserting "to carry out sections 4 and 11 of this Act."

SEC. 2. Section 4 of the National School Lunch Act is amended to read as follows:

"BASIC LUNCH ASSISTANCE

"SEC. 4. (a) For each fiscal year the Secretary shall make basic lunch assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this Act under agreements with such State educational agency, by a national average basic payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act: *Provided,* That, in any fiscal year such national average basic payment shall not be less than six cents per lunch and that the aggregate amount of the basic lunch assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 4.

"(b) Except for funds transferred and reserved under section 10 of the Child Nutrition Act of 1966, the basic lunch assistance payments received by each State educational agency for each fiscal year under subsection (a) of this section shall be used by the State educational agency to assist schools of the State in financing the cost of operating a school lunch program under this Act, including the cost of obtaining, preparing, and serving food. The amount of the basic lunch assistance payment to any school for any fiscal year shall not exceed an amount determined by multiplying the number of lunches served by the school to children in the school lunch program under this Act during such fiscal year by a maximum per lunch rate of basic lunch assistance prescribed by the Secretary for all States."

SEC. 3. Section 5 of the National School Lunch Act is amended to read as follows:

"PAYMENTS TO STATES

"SEC. 5. The State educational agency of each State desiring to participate in the school lunch program under this Act and to receive payments under sections 4 and 11 of this Act shall enter into an agreement with the Secretary and submit a State plan of child nutrition operations in accordance with section 11 of this Act. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under the provisions of section 4 and of section 11 of this Act and the time or times such amounts are to be paid. The Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified."

SEC. 4. Section 6 of the National School Lunch Act is amended to read as follows:

SEC. 6. For each fiscal year there is hereby authorized to be appropriated such amounts as may be necessary to cover the direct Federal expenditures under this Act and the Child Nutrition Act of 1966, including

"(1) his administrative expenses under this Act and the Child Nutrition Act of 1966: *Provided,* That the amount so expended by the Secretary each fiscal year shall not exceed 3½ per centum of the aggregate amount of payments made by the Secretary in the preceding fiscal year under sections 4 and 11 of this Act and sections 4 and 5 of the Child Nutrition Act of 1966;

"(2) amounts to supplement the nutri-

tional benefits of the programs carried out under this Act and the Child Nutrition Act of 1966 through grants to States or other public or private agencies, and through other means, for the purpose of providing nutritional training and education for workers, cooperators, and participants in such programs; and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966: *Provided*, That in any fiscal year the amount so expended by the Secretary for such training, education, surveys and studies shall not exceed 1 per centum of the aggregate amount of the payments made by the Secretary in the preceding fiscal year under sections 4 and 11 of this Act and sections 4 and 5 of the Child Nutrition Act of 1966; and

"(3) to purchase agricultural commodities and other foods to be distributed among the States, schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act and of the Child Nutrition Act of 1966, also be applicable to expenditures of funds by the Secretary under this Act and the Child Nutrition Act of 1966."

SEC. 5. Section 7 of the National School Lunch Act is amended to read as follows:

"STATE MATCHING

"SEC. 7. For the fiscal years beginning July 1, 1972, and July 1, 1973, payments to any State under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966 shall be made upon condition that the payments disbursed to public schools of the State shall be matched during such fiscal year by State revenues (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local, level) in an amount at least equal to 2½ per centum of such payments made to such State for the preceding fiscal year; for each of the two succeeding fiscal years, such payments shall be so matched in an amount at least equal to 5 per centum of such payments for the preceding fiscal year; and for each fiscal year thereafter such payments shall be so matched in an amount at least equal to 7½ per centum of such payments for the preceding fiscal year. In the case of any State whose average annual per capita income is below the average annual per capita income of all the States, the matching requirement for any fiscal year shall be decreased by the percentage which such per capita income of the State is below such per capita income of all the States. For purposes of this section, the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which data are available and certified to the Secretary by the Department of Commerce."

SEC. 6. Section 8 of the National School Lunch Act is amended to read as follows:

"SEC. 8. Payments made to any State for any fiscal year under sections 4 and 11 of this Act shall be disbursed by the State educational agency, in accordance with such aggreements approved by the Secretary as may be entered into by such State agency and the schools in that State which the State educational agency determines are eligible to participate in the school-lunch program under this Act. Lunch assistance disbursements to schools may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary."

SEC. 7. (a) The first sentence of section 9 of the National School Lunch Act is designated as subsection (a) of that section.

(b) The second through the seventh sentences of section 9 of the National School Lunch Act shall be designated as subsection (b) of that section and are amended to read as follows:

"(b) The Secretary not later than May 15 of each fiscal year shall prescribe an income poverty guideline setting forth income levels by family size for use in the subsequent fiscal year, and such guideline shall not subsequently be reduced to be effective in such subsequent fiscal year. Any child who is a member of a household which has an annual income not above the applicable family size income level set forth in the income poverty guideline prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guideline for each fiscal year, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such fiscal year in making determinations of those children eligible for a free lunch. The income guidelines for free lunches to be prescribed by each State educational agency shall not be less than the applicable family size income levels in the income poverty guideline prescribed by the Secretary and shall not be more than 15 per centum above such family size income levels. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during such fiscal year in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents, if a school elects to serve reduced price lunches. Such income guidelines for reduced price lunches shall be prescribed at not more than 30 per centum above the applicable family size income levels in the income poverty guideline prescribed by the Secretary. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year and shall make determinations with respect to the annual income of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household. No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names or by other means."

(c) The eighth through the thirteenth sentences of section 9 of the National School Lunch Act shall be designated as subsection (c) of that section and the last sentence of such subsection shall be amended by deleting the phrase "under the provisions of section 10 until such time as the Secretary" and inserting in lieu thereof the following phrase "under this Act until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 10 of this Act the Secretary".

SEC. 8. Section 10 of the National School Lunch Act of 1946 is amended to read as follows:

"SEC. 10. If, in any State, the State educational agency is prohibited by law from administering the school-lunch program under this Act in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of sections 4 and 11 of this Act directly to the nonprofit private schools in such State for the same purposes and subject to the same conditions as are authorized or required under this Act with respect to the disbursements by the State educational agency to schools within the State."

SEC. 9. (a) Subsections (a) and (b) of section 11 of the National School Lunch Act are amended to read as follows:

"(a) For each fiscal year the Secretary shall make special lunch assistance payments at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served free during such fiscal year to children eligible for free lunches, in schools in such State which participate in the school lunch program under this Act under agreements with the State educational agency, by a National average free lunch payment for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act, plus the result obtained by multiplying the number of lunches served during such fiscal year at reduced price to children eligible for reduced price lunches in such schools during such fiscal year by a National average reduced price lunch payment determined by the Secretary for such fiscal year to carry out the purposes of this Act: *Provided*, That the aggregate amount of the special lunch assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 11.

"(b) Except for funds transferred and reserved under section 10 of the Child Nutrition Act of 1966, the special lunch assistance payments received by each State educational agency for each fiscal year under this section shall be used by such State educational agency to assist schools of the State in financing the cost of providing free and reduced price lunches to children under subsection 9(b) of this Act. The amount of the special lunch assistance payment that a school shall from time to time receive, within maximum per-lunch rates for special free lunch assistance and for special reduced price lunch assistance established by the Secretary for all States, shall be based on the need of the school for special assistance in meeting the cost of providing free and reduced price lunches in the school."

(c) Subsections (c), (d), (e), (f), and (g) of section 11 of the National School Lunch Act are repealed and subsection (h) of such section is redesignated as subsection (c).

SEC. 10. Subsection (d) of section 12 of the National School Lunch Act is amended by inserting "the Trust Territory of the Pacific Islands," before "or" in paragraph (1); by striking out paragraphs (4), (5), and (6); and by redesignating paragraph (7) as paragraph (4).

SEC. 11. Section 14 of the National School Lunch Act is amended as follows:

(1) Subsection (a) is amended by striking out "thirteen" and inserting "eighteen" and by inserting after "(or the equivalent thereof)," the second time it appears the following: "one member shall be a supervisor of a school-lunch program of a school system in a rural area (or the equivalent thereof), one member shall be a supervisor of a school-lunch program in a school system in an urban area (or the equivalent thereof), one member shall be the parent of a school-age child, two members shall be students participating in the school-lunch program under this Act, one of whom shall be eligible for a lunch free or at a reduced price,";

(2) Subsection (b) is amended to read as follows:

"(b) The fourteen members from outside the Department of Agriculture first appointed to the Council shall be appointed as follows: Five members shall be appointed for terms of three years; five members shall be appointed for terms of two years; and four members shall be appointed for terms of one year. Thereafter, all members shall be appointed for terms of three years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary."; and

(3) Subsection (e) is amended by striking out "seven" and inserting "ten."

SEC. 12. Section 4 of the Child Nutrition Act of 1966 is amended to read as follows:

"SCHOOL BREAKFAST PROGRAM

"SEC. 4. (a) For each fiscal year there is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of subsection (b) of this section.

"(b) For each fiscal year the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection (e) of this section), served during such fiscal year to children in schools in such State which participate in the breakfast program under this section under agreements with such State educational agency, by a National average breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a National average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfast payment prescribed by the Secretary for such fiscal year to carry out the provisions of this section: *Provided*, That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section.

"(c) Except for funds transferred and reserved under section 10 of this Act, the breakfast assistance payments received by each State educational agency under paragraph (b)(1) of this section shall be disbursed by the State educational agency to assist schools in the State in financing the cost of operating a breakfast program under this section, including the cost of obtaining, preparing, and serving food. The amount of such basic breakfast assistance payment to any school for any fiscal year shall not exceed an amount determined by multiplying the number of breakfasts served during such fiscal year to children in the school breakfast program under this Act by a maximum per-breakfast rate of basic breakfast assistance prescribed by the Secretary for all States. The breakfast assistance payments received by each State educational agency under paragraphs (b)(2) and (b)(3) of this section shall be disbursed by the State educational agency to assist schools in the State in financing the cost of serving free and reduced price breakfasts to children under paragraph (e) of this section. In any fiscal year, the amount of such funds that a school shall from time to time receive, within maximum per-breakfast rates established by the Secretary for all States, shall be based on the need of the school for assistance in meeting the cost of providing free and reduced price breakfasts in the school. Breakfast assistance disbursements by State educational agencies to schools may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

"(d) To assure access to a school breakfast program by schools drawing attendance from areas in which poor economic conditions exist, by schools in which a substantial proportion of the children enrolled must travel long distances daily, and by schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families, each State educational agency shall provide such technical and supervisory assistance as is required by such schools in their planning for the inauguration of a school-breakfast program.

"(e) Breakfasts served by schools participating in the school-breakfast program shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students. Such breakfasts shall be served free or at a reduced price to children in the school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the National School Lunch Act.

"(f) If, in any State, the State educational agency is prohibited by law from administering the school-breakfast program under this Act in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of subsection (b) of this section directly to the nonprofit private schools in such State for the same purposes and subject to the same conditions as are authorized or required under this section with respect to the disbursements by the State educational agency to schools within the State."

SEC. 13. (a) The first sentence of subsection (a) of section 5 of the Child Nutrition Act of 1966 is amended by striking out "for the fiscal year ending June 30, 1973, not to exceed $15,000,000, and for each succeeding fiscal year, not to exceed $10,000,000" and inserting "for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, not to exceed $20,000,000, and for each succeeding fiscal year, not to exceed $10,000,000".

(b) Subsection (b) of section 5 of the Child Nutrition Act of 1966 is amended to read as follows:

"(b) Except for the funds reserved under subsection (e) of this section, for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, the Secretary shall apportion the funds appropriated for the purposes of this section among the States on the basis of the ratio that the number of lunches and breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9 of the National School Lunch Act and subsection (e) of this section) served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches and breakfasts served in all States in such preceding fiscal year: *Provided*, That the amount to be apportioned to the Trust Territory of the Pacific Islands for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, shall not be less than the amount apportioned to American Samoa for each such fiscal year. If any State cannot utilize all of the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States in the manner set forth in this subsection for apportioning funds among all the States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State."

(c) The first sentence of subsection (c) of section 5 of the Child Nutrition Act of 1966 is amended by (1) striking out "Funds" and by inserting "Except for funds transferred and reserved under section 10 of this Act, funds"; and (2) by inserting before the period at the end of such sentence "by purchase or rental".

(d) Subsection (d) of section 5 of the Child Nutrition Act of 1966 is amended to read as follows:

"(d) If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools within the State, the Secretary shall administer such program in such private schools. In such event, the Secretary shall withhold from the funds apportioned to any such State under the provisions of subsection (b) of this section an amount which bears the same ratio to such funds as the number of lunches and breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9(a) of the National School Lunch Act and section 4(e) of this Act) served in nonprofit private schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches and breakfasts served in all schools within such State in such preceding fiscal year: *Provided*, That, for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, any amount withheld under this subsection from funds apportioned to the Trust Territory of the Pacific Islands shall be based on the ratio of the number of children in that State enrolled in nonprofit private schools to the number enrolled in public schools."

(e) Section 5 of the Child Nutrition Act is amended by adding a new subsection (e) as follows:

"RESERVE OF FUNDS

"(e) In each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, 50 per centum of the funds appropriated for the purposes of this section shall be reserved by the Secretary to assist schools without a food service. The Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children enrolled in schools without a food service in the State for the latest fiscal year for which the Secretary determines data are available at the time such funds are apportioned to the total number of children enrolled in schools without a food service in all States in such fiscal year. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service in such State for the latest fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of children enrolled in all schools without food service in such State in such fiscal year. The

funds reserved, apportioned and withheld under the authority of this subsection shall be used by State educational agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service. If any State cannot utilize all the funds apportioned to it under the provisions of this subsection to assist schools in the State without a food service, the Secretary shall make further apportionments to the remaining States in the same manner set forth in this subsection for apportioning funds among all the States and such remaining States, or the Secretary in the case of nonprofit private schools, shall use the additional funds so apportioned or withheld only to assist schools in the State without a food service. Payments to any State of the funds apportioned under the provisions of this paragraph shall be made upon condition that at least one-fourth of the cost of equipment financed shall be borne by funds from sources within the State: *Provided*, That the Secretary is authorized to waive this condition for that portion of the funds utilized to finance equipment in schools operating under circumstances of unusual need."

SEC. 14. Section 7 of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a) The Secretary may utilize funds appropriated under this section for advances to each State educational agency for use for its administrative expenses or for the administrative expenses of any other designated State agency in supervising and giving technical assistance to schools and service institutions in their conducting of programs under this Act and under the National School Lunch Act. For each fiscal year there is hereby authorized to be appropriated such sums as may be necessary for the purposes of this section."

SEC. 15. Section 10 of the Child Nutrition Act of 1966 is amended by striking out "and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects" and inserting "and may authorize each State educational agency to utilize for the financing of developmental projects a portion of the funds made available to it each fiscal year under the provisions of sections 4 and 5 of this Act and sections 4 and 11 of the National School Lunch Act which portion shall not exceed 1 per centum of the total amount of funds used by such State agency in the preceding year under the provisions of sections 4 and 5 of this Act and sections 4 and 11 of the National School Lunch Act".

SEC. 16. (a) Subsection (b) of section 11 of the Child Nutrition Act of 1966 is amended by inserting after "this Act" the first time it appears "or under the National School Lunch Act,".

(b) Subsection (a) of section 15 of the Child Nutrition Act of 1966 is amended by inserting "the Trust Territory of the Pacific Islands" before "or".

By Mr. TAFT (for himself, Mr. BEALL, and Mr. STAFFORD):

S. 3663. A bill to improve the quality of child development programs by attracting and training personnel for those programs. Referred to the Committee on Education and Labor.

Mr. TAFT. Mr. President, I introduce today the Child Development Personnel Training Act of 1972. With increasing demand for day-care and child-care programs, I believe that it is important to focus our immediate attention on the recruitment and training of high-caliber professional and paraprofessional personnel.

There is no area of more critical importance than the care and education of our children. In his testimony before the subcommittee on employment, manpower and poverty, Dr. Jule Sugarman estimated that a total of 7,500,000 children are currently in need of some type of child-care services. An estimated 456,000 additional professional and 529,000 additional paraprofessionals would be required to meet this current need according to Dr. Sugarman.

The Child Development Personnel Training Act provides grants to colleges, universities, State, and local educational agencies, private training organizations, national organizations, and producers of television programing to develop programs including the recruitment, training, and retraining of personnel and the development of educational materials for young children. The Secretary of Health, Education, and Welfare will insure the coordination of all existing federally assisted training programs with the programs established under this act.

To require each staff member to have a college degree would be too costly both in terms of financial resources and human resources. Paraprofessional personnel, with the supervision of trained specialists, can be very effective in working with children. For this reason, half of the funds authorized in this bill are allocated for the recruitment and training of paraprofessionals. The office of Child Development in HEW has developed a midlevel profession of child development associates. These qualified personnel are paraprofessionals, who will be certified in all States. CDA training programs may be developed with funds authorized in this bill. The retraining of already certified elementary and secondary school teachers under this bill, will provide additional employment opportunities for these people and will effectively utilize their education and talents.

I believe that this bill will provide an effective framework for the training of qualified child development personnel so essential to the success of these rapidly expanding programs.

This is a companion measure to H.R. 14717 introduced in the House of Representatives on May 2 by the gentleman from Idaho (Mr. HANSEN).

In introducing this bill I am pleased to be joined by the following cosponsors: the Senator from Maryland (Mr. BEALL) and the Senator from Vermont (Mr. STAFFORD).

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

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

S. 3663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Development Personnel Training Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

SECTION 1. The Congress recognizes that one of the major barriers hindering the development of quality child development services at the present time is the lack of sufficiently trained and prepared professional and paraprofessional staff; further that the number of children being placed in child development and child care will increase significantly in the next decade because of the impact of Federal welfare and child development programs and the continued entry of mothers of young children into full-time employment outside the home, and that this increase will, in the future, place an intolerable strain on the already limited numbers of personnel qualified for work in early childhood programs; that the development of quality early childhood programs depends, therefore, on the availability of trained personnel in far greater numbers than present training programs can respond to; and finally, that parents can be helped effectively to use child development techniques with their own children that will lessen or prevent the need for compensatory education programs for older children.

SEC. 2. It is the purpose of this Act to respond to the demonstrated need for child development personnel in the 1970's; by stimulating the development of sufficient training and educational programs in every State and region of the United States to assure an adequate supply of personnel to meet the staffing requirements of early childhood programs.

EARLY CHILDHOOD PERSONNEL DEVELOPMENT PROGRAMS

SEC. 3. The Secretary of Health, Education, and Welfare is authorized to make grants to or enter into contracts with institutions of higher education, State and local child development agencies, State and local educational agencies, child development programs, private companies and organizations engaged in teacher training, teacher training institutions, national child development organizations, and producers of television programing, for the purpose of establishing, developing, or upgrading early childhood personnel training programs which shall include, but shall not be limited to, the development of programs to—

(A) provide postgraduate level training for teachers of professional and paraprofessional early childhood personnel and for teachers of teachers of such personnel;

(B) attract and recruit personnel, both male and female, including students and older Americans, to training for and subsequent employment in child development programs;

(C) retrain personnel prepared for and/or experienced in education at levels other than early childnood so as to enable them to function effectively in early childhood programs;

(D) provide preservice and inservice training of professional and paraprofessional personnel for teaching, management and supervisory, and administrative posts in early childhood programs, including the training and certification of Child Development Associates;

(E) help parents and high school students understand and practice sound child development techniques;

(F) develop educational television programs and accompanying materials for training early childhood personnel, parents, and high school students in the principles of child development;

(G) develop and refine certification criteria and techniques for professional and paraprofessional early childhood personnel.

APPROPRIATIONS

SEC. 4. There are hereby authorized to be appropriated to carry out this Act $40,000,000 for the fiscal year ending June 30, 1973, $60,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for each of the succeeding fiscal years ending prior to July 1, 1979.

DISTRIBUTION

SEC. 5. At least 50 per centum of the funds appropriated pursuant to section 4 shall be used for the development of programs to attract, train, retrain, or certify paraprofessional personnel and shall be apportioned among the States. Half of such 50 per centum

shall be allotted among the States so that the amount allotted for each State bears the same ratio to such half as the number of economically disadvantaged children, as determined by the Secretary, in the State bears to the number of such children in all the States; and the other half of such 50 per centum shall be allotted among the States so that the amount allotted for each State bears the same ratio to such half as the number of children younger than age six with mothers who work full-time outside the home in that State bears to the number of such children in all the States.

SEC. 6. The remaining 50 per centum of the funds appropriated pursuant to section 4 shall be used for the other purposes enumerated in section 3 and for such related purposes as the Secretary may deem appropriate to carrying out the purposes of the Act.

SEC. 7. Priority shall be placed on the development of those personnel development programs which promise to become self-sustaining after Federal assistance has ceased.

COORDINATION

SEC. 8. The Secretary shall take whatever steps he deems appropriate to achieve the coordination of all federally sponsored early childhood personnel training programs already in operation with the programs to be established under this Act and to assure the coordination of training programs with employment opportunities for early childhood personnel.

DEFINITIONS

SEC. 8. As used in this Act, the term—

(a) "State" means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) "Early childhood programs" and "child development programs" means programs in children's homes or in day-care homes, schools, day-care centers, neighborhood centers which provide day care and/or educational services for children younger than age seven, or who have not reached the first grade.

(c) "Early childhood personnel" means any person working or volunteering in an early childhood program.

(d) "Professional early childhood personnel" means persons trained, either by attaining the A.A., B.A., M.A., or Ph. D. level through academic study, or on the basis of a credentialed combination of education and work experience that has been assessed as providing the person with specific competencies required to perform professional early childhood duties.

(e) "Paraprofessional early childhood personnel" means persons trained to less than A.A. degree level for service in early childhood programs.

(f) "State and local child development agencies" mean any State or local government agencies responsible for the operation and/or supervision of early childhood programs.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3458

At the request of Mr. PERCY, the Senator from Kentucky (Mr. COOK), the Senator from Rhode Island (Mr. PASTORE), the Senator from Minnesota (Mr. MONDALE), the Senator from Indiana (Mr. HARTKE), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 3458, a bill to amend the Civil Rights Act of 1964 in order to make discrimination because of physical or mental handicap in employment an unlawful employment practice, unless there is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

S. 3599

At the request of Mr. PERCY, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 3599, a bill to expand and improve the direct food distribution program.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 999

At the request of Mr. MANSFIELD for Mr. CHURCH, the Senator from Texas (Mr. TOWER) was added as a cosponsor 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.

AMENDMENT NO. 1204

At the request of Mr. DOMINICK, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of amendment No. 1204, intended to be proposed as a substitute to the bill (S. 1861), the Fair Labor Standards Amendments of 1972.

NOTICE OF HEARING ON A NOMINATION

Mr. KENNEDY. Mr. President, I wish to announce that the Committee on Labor and Public Welfare will hear testimony on the nomination of Mr. William A. Carey, of Illinois, to be General Counsel of the Equal Employment Opportunity Commission, on Thursday, June 8. The committee's hearing will be held in room 4232, New Senate Office Building, and will begin at 9:30 a.m.

EXTENSION OF TIME FOR THE COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE ITS REPORT ON S. 3419

Mr. KENNEDY. Mr. President, under a prior unanimous-consent agreement, the Committee on Labor and Public Welfare is due to report on S. 3419, the Consumer Product Safety Act, on June 1, 1972. I ask unanimous consent that the committee's time for filing such report may be extended to midnight of June 5, 1972. I understand that such extension is agreeable to the chairman of the Committee on Commerce.

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered, and, pursuant to the order of the Senate of March 24, 1972, the Committee on Government Operations is discharged from further consideration of the bill.

ADDITIONAL STATEMENTS

PROPOSED INCREASE IN SOCIAL SECURITY BENEFITS

Mr. CASE. Mr. President, the social security system provides benefits for 91 percent of America's older people. The social security system covers the great majority of retired workers, and more than half of the retired workers in the Nation rely solely on social security benefits. Consequently, the social security benefit system is the most important economic factor in the lives of older citizens.

I am supporting a 20-percent increase in social security benefits so that the needs of older people can better be met.

A 20-percent increase, along with the other changes in the social security benefits now contemplated, would raise the minimum monthly benefit from $70.40 to $84.50. It would increase the benefits for widows from $114 per month to $153 per month. Benefits to retired couples would be increased from $222 per month to $269 per month, and benefits to single retired workers would be increased from $133 to $162.

More people will be able to participate in the social security system if the new social security amendments are passed. The retirement age for men will be lowered from 65 years to 62 years—the same as for women. And those who opted for early retirement will receive full benefits instead of reduced benefits. Moreover, it will be easier for those who would like to join the social security system after retirement from jobs not covered by social security to do so sooner and to receive larger benefits.

But all of this depends on prompt action by the Senate. More than half the Senate has announced its support for the 20-percent benefit increase. Most Senators, I am sure, are in favor of the other changes in the social security law. But the key element is action—and I hope the Committee on Finance is now prepared to get this important measure to the Senate floor so that the Senate can work its will and insure that older people will have a decent chance to get along in today's world of rising costs.

AN OCEAN DUMPING DANGER AVERTED

Mr. BOGGS. Mr. President, this past weekend was one of glorious weather along the east coast. The weather and the holiday weekend attracted many thousands of visitors to our beautiful ocean beaches in Delaware.

Therefore, the timing of an action by the U.S. Army Corps of Engineers was particularly ironic. At the beginning of the weekend, the corps issued a permit that would have allowed the dumping of 2,500,000 gallons of sewage sludge a few miles off the Delaware coast.

Fortunately, this danger was averted, thanks to prompt action by Governor Peterson of Delaware and Governor Holton of Virginia. The two Governors are to be commended highly for their prompt decision and action.

But the possibility that the dumping might have occurred points up the continuing difficulties that have occurred

due to the delay in the creation by Congress of an effective system regulating ocean disposal of wastes.

For the benefit of the Senate, I should like to describe the development of this sludge-dumping situation, and its resolution.

Last month, an unknown, but toxic, material was discharged into the sewage treatment facilities serving the Norfolk, Va., area. The material killed the bacteria used in treating the sewage in one of the three digesters.

To return the system to working order, the Hampton Roads Sanitation District requested an Army Corps of Engineers permit, under an 1888 act, to transport the accumulated sewage out to sea. This would allow the district to cleanse the faulty digester, so it could resume operation.

On Friday, May 26, the Norfolk District of the Army Corps of Engineers issued a permit to the sanitation district allowing the accumulated sewage to be barged to a point several miles off Cape Henlopen, Del. The site was to be the same one where the city of Philadelphia, unfortunately, now dumps its sewage sludge. Senators will be interested to know that the 1888 act does not affect transportation on the Delaware River.

Because of what was considered to be the emergency nature of the situation, the Norfolk district issued the 5-week permit without preparing an environmental impact statement.

Once he learned of the permit and proposed dumping, Governor Peterson contacted Governor Holton and asked that the dumping not take place because of its potential hazard to Delaware.

At Governor Holton's request, the Hampton Roads Sanitation District recalled its barge before it had reached the designated dumping site Tuesday. The barge has since returned to the Norfolk area, where sanitation district officials are trying to find an alternative land-disposal site for the sewage.

Three points are highlighted by this case.

First, it underlines the immediate need for a resolution of the difference between the House and Senate ocean dumping bills.

Nearly 6 months have passed since the Senate passed legislation, similar to a House-passed bill, to control ocean dumping. Yet no resolution of differences has occurred.

Because the enactment of an effective law regulating dumping at sea would have prevented this problem, without environmental brinkmanship, I would hope that the conferees can meet soon to complete action on the bill.

Second, it is clear that incomplete attention was given to the provisions of the National Environmental Policy Act in the permit consideration. That act requires the preparation of an environmental impact statement for any such activity undertaken with a Federal permit. No such impact statement was requested or prepared, apparently in view of the so-called emergency nature of the case.

It is my understanding that the President's Council on Environmental Quality knows of no precedent for waiving the procedures of the National Environmental Policy Act, although they can be expedited. They should not have been neglected in this case.

Finally, the emergency faced by the Hampton Roads Sanitation District points up the need to develop emergency plans to handle such eventualities as an unexpected breakdown by a sewage treatment system.

I think we all recognize the need to assist organizations like the Hampton Roads Sanitation District in meeting the dangers of a major breakdown of their system. The district has acted in a cooperative spirit since the danger to Delaware was brought to their attention. And they still have a large quantity of sludge to get rid of, with no place to put it.

I would hope that the Environmental Protection Agency can work with the communities of our Nation to help them develop emergency procedures to meet such a major breakdown. Those steps must not be made on an ad hoc basis, a basis that may adversely damage a neighboring State.

EXPANSION OF BEVERLY NATIONAL CEMETERY, IN NEW JERSEY

Mr. WILLIAMS. Mr. President, on March 23 of this year my distinguished colleague from New Jersey (Mr. CASE) and I introduced proposed legislation to authorize the Secretary of the Army to acquire additional acreage for the purpose of expanding the Beverly National Cemetery in New Jersey so that sufficient burial spaces would be available for our veterans in future years. This is a companion bill to one introduced in the House by Representatives ROE and HUNT.

We felt this action was necessary so that the many New Jersey men and women who served so valiantly in our Armed Forces would not be deprived of the opportunity to be buried in a national cemetery in their home State.

On May 15, 1972, the New Jersey State Senate passed a resolution memorializing the Congress to act expeditiously upon this legislation. I am in complete agreement with this objective. I ask unanimous consent that the text of the New Jersey Senate Resolution No. 19 be printed in the RECORD.

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

SENATE RESOLUTION No. 19

Whereas, The National Cemetery at Beverly, in Burlington county, has reached its capacity and has for several years been closed to further veterans' burials; and

Whereas, Unless action is taken to provide additional land for expansion of National Cemetery facilities in New Jersey, thousands of New Jersey men and women who served valiantly in our armed forces in time of war will be deprived of the opportunity to be buried in a National Cemetery in their native State; and

Whereas, To provide sufficient burial space for veterans in the future within this State the Federal Government must act expeditiously to acquire such lands as are available, so that they may be used and preserved for such purposes; and

Whereas, In recognition of the needs, legislation has been introduced in both Houses of the Congress of the United States, by Senators Williams and Case (S 3413) and by Representatives Roe and Hunt (HR 13,006), of this State, to authorize the Secretary of the Army to acquire 130 acres, estimated sufficient to provide veterans' burial spaces for the next 20 years, for expansion of Beverly National Cemetery, with provision for diminishing reimbursement, over a period of 13 years, to municipalities which may suffer loss of tax-ratable real estate by reason of such acquisition; now, therefore

Be it resolved *by the Senate of the State of New Jersey:*

1. That this House hereby respectfully memorializes the United States Congress to act expeditiously upon the legislation now pending before it for the expansion of Beverly National Cemetery; and

2. That duly authenticated copies of this resolution, signed by the President and attested by the Secretary, be transmitted to the Vice President of the United States, the Speaker of the House of Representatives, the Chairman of the Veterans' Affairs Committees of the respective Houses, to which S 3413 and HR 13,006 have been referred; and to each of the members of Congress elected from this State.

(Adopted by the Senate May 15, 1972).

ARTICLES ON SALT AGREEMENT

Mr. BUCKLEY. Mr. President, 5 days have now elapsed since the terms of the SALT agreement were released in Moscow. We are now beginning to see some of the dimensions of what was agreed to, and I submit that they allow no room for an easy euphoria, or for the expectation that we can cut back still further in our investment in military research, technology and development.

In the last few days a number of columns and newspaper editorials have appeared which point up some of the very large dangers inherent in the treaty limitating our strategic offensive weapons. Three of these, an editorial published in the Wall Street Journal of May 30, a column by Crosby Noyes in the Washington Star on the same date, and a column by Joseph Alsop in the Washington Post on May 31, sketch the high risks we will be called upon to underwrite as the high price for slowing down the Soviet Union's massive expansion of her strategic capabilities. I ask unanimous consent to have these articles printed in the RECORD at the conclusion of my remarks.

As I have stated, we are being asked to assume some very high risks. It may well be that this body will decide it is necessary for us to assume them, given the drab alternative which we now face after almost 10 years of neglect with respect to the state of our defenses. I hope that the question of ratification will be the subject of the most searching debate; and in the process that we will realize the urgent need to modernize our strategic forces, whether or not the Senate decides to place its seal of approval on the agreements.

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

[From the Wall Street Journal, May 30, 1972]

GO SLOW ON SALT

A look at the strategic arms pact signed in Moscow Friday at least clears up the mys-

tery of why the Russians went through with the summit despite the mining of Haiphong. From their standpoint the pact guarantees that the United States will stand nearly still while they continue to improve their strategic arsenal.

From the American standpoint this does not necessarily mean the treaty part of the agreement ought to be rejected when it reaches the Senate, but it does mean a lot of hard questions need to be asked. It remains to be seen if questions will in fact be asked in any serious way, given the euphoria the signing has created. This mood makes it hard enough simply to get the numbers right, or at least to get the right numbers.

A comforting chart on the front page of the New York Times shows the Soviets merely inching into the lead in submarine-launched missiles, 710 to 656. But when you turn inside to the texts of the agreements, you find first of all that there are almost no numbers; the limits are expresed in possibly ambiguous terms of deployment as of given dates. The only exception concerns "'modern ballistic missile submarines." Here the numbers are definite. The U.S. shall have no more than 44 submarines with 710 missiles, while the Soviet Union is entitled to 62 submarines with 950 missiles.

These numbers can be reconciled, more or less, since to reach the higher totals both sides have to dismantle some older weapons. But as the pact defines old weapons the Soviets have a lot more to cash in, and the plain fact is that the "limitation" allows them to go on turning out submarines like sausages.

As of last July, the Soviet lead in land-based missiles, then 1,510 to 1,054, was offset by a U.S. lead in Polaris-type submarines. The U.S. had 41 boats with 656 missiles while the Soviets had 20 boats with 320 missiles. Building up to the 710 figure will take the Soviets another two-to-three years, then they can go to 950 by cashing in obsolete missiles. For them, the five years of the offensive-weapons agreement can be a pretty good five-year effort at arms building.

Now, even this kind of program does not in itself put the United States in any dire peril. Since nuclear weapons are so enormously destructive, the U.S. force probably can, other things being equal, provide an effective deterrent even if the Soviets do gain a 3–2 lead in both land-based and sea-based missiles. The U.S. also had European-based weapons not counted in these totals, though they have not usually been thought of in a strategic role. And at the moment at least, the U.S. lead in multiple warhead technology goes it a considerable lead in the number of deliverable warheads, probably the most important single measure of strategic strength.

But MIRV technology is not covered by the agreement, and the Soviet missiles are much larger and could eventually carry many more warheads each. Given both more missiles and larger ones, the Russians could win a huge, probably decisive, edge in warhead numbers simply by catching up in multiple-warhead technology. Their MIRV program has apparently been lagging badly, but to win the advantage they need only to do five years from now what we can do already.

If that happens the peril will be dire indeed. Even if the worst does not happen, it remains true that the pact freezes the areas in which the Russians have the advantage, like number and sizes of land-based missiles, while giving them a chance to catch up in areas where they lag, like submarines and MIRV.

One other aspect of the agreements is at least as worrisome. The limits on offensive weapons last only five years, while the treaty limiting defensive weapons is perpetual. Even with withdrawal and review provisions, this probably means the two sides are frozen forever into a system of mutual assured destruction. The idea is that if each side knows the other can retaliate overwhelmingly, neither will start a war. This is fine so long as both sides are rational and in control of events. Yet World War II started because a madman took over a major nation and World War I started though absolutely no one wanted it. If this happens again, mutual assured destruction guarantees the utter devastation of both nations.

Mutual assured destruction is probably the best we can do under present technology, through the pact outlaws defensive arrangements that might make it more stable. But if technological advance permits the defense of populations, might not we want to pick up that option? Are we sure enough of the answer we want to foreclose the question in perpetuity?

Perhaps the risks in the treaty are outweighed by intangible political gains. It is after all the first arms pact of the missile era; we ourselves would be glad to run the risks if the payoff is a reasonable Soviet Union. But it is not necessary to say such gains should be forever ignored to say they have been often promised and seldom delivered. And the tangible parts of the pact are no great testimony to the notion the Soviet will now stop trying to press for every advantage.

So as the Senate reviews the treaty it ought to recognize that the stakes are high, in terms of risk no less than benefit. It is not a treaty to be confirmed in a fit of euphoria, if indeed it is a treaty that ought to be confirmed anytime during a presidential campaign.

[From the Washington Star, May 30, 1972]

RUSSIA GETS N-SUPERIORITY ON A SILVER PLATTER

(By Crosby S. Noyes)

It is now only too obvious why the Moscow summit meeting came off as scheduled. Considering what they are likely to achieve as a result of it, no other problems, including the outcome of the war in Vietnam, are even approximately on the same magnitude of importance to the leaders of the Soviet Union.

It was of major importance, of course, to Richard Nixon as well. The series of agreements—the whole atmosphere of the Moscow meeting—was of very great value in an election year. The fact that most of the agreements were prepared months ahead of time and would have come into effect anyway is largely beside the point. The fact that it may take months for the American public to understand the price that was paid for a few hours of Kremlin cordiality is an essential part of the meeting's success.

The Russians played hardball in Moscow and they won. The crowning achievement of the meeting is said to have been an agreement on the limitation of offensive and defensive strategic nuclear arms. And it probably is the most disadvantageous agreement of its kind that the United States has ever entered into.

As most Americans had understood the strategic arms limitations talks that have been dragging on for nearly three years in Vienna and Helsinki, the objective was to work out an agreement that would freeze the nuclear arms race between the United States and the Soviet Union at a rough parity that would diminish both the danger of war and the cost of continuing unrestricted competition. As a concept, it was sound enough.

But the agreement reached in Moscow, in fact, does no such thing. On the contrary, it virtually assures the Soviet Union a very significant superiority in every important area of nuclear weaponry within the next five years. Far from being a freeze on anything, it permits the development of the Russian nuclear arsenal well beyond the capacity which most American experts believe they will be able to achieve.

To the extent that parity has been established in the SALT agreement, it applies only to defensive missiles, which the Russians from the outset were anixous to limit. Under the terms of the agreement, both sides, essentially, would remain vulnerable to the other. We would not have a credible defense against a first strike aimed at our land-based missile sites; the Russians would not be able to defend themselves against retaliation against their major cities.

But the apparent trade-off here is obviously not equal. Each side, under this formula, would be equally vulnerable to a first-strike nuclear attack against its offensive missile force and to a retaliatory blow to its cities. But since, under this formula, a nuclear first-strike could offer a strong probability of wiping out a very major part of the retaliatory force, the odds are clearly stacked in favor of the side that launches the first, all-out nuclear assault.

So it is in the area of offensive weapons that the Moscow agreement counts most. And in this area the Russians have won a very significant, if not decisive advantage, consecrated in a formal agreement between the two countries.

As administration spokesmen have been explaining the agreement, there is a kind of trade-off between quantity and quality in offensive weaponry between this country and the Soviet Union.

It is conceded that the Russians, under the provisions of the agreement, will be permitted to have more land-based missiles (at least 1,600) than we have (1,050). It also is conceded that if the Russians take advantage of all the options offered them, they also would have a substantial numerical advantage in submarine-launched missiles (about 950 to 700).

It is being argued, however, that because the United States has developed multiple warheads that can be independently targeted (MIRV), the Russian numerical superiority is offset. As of today, for instance, it is pointed out that we have 5,700 deliverable warheads on our existing missiles as against 2,500 for the Soviet Union. Furthermore, we are being told, it is unlikely that the Rusisians will take * * * offered to them under the SALT agreement.

Both arguments are highly suspect. The qualitative advantage assumed by administration spokesmen must be rated as temporary and highly misleading. There is nothing in the agreement that would prevent the Russians from developing multiple warheads of their own in the near future, and indeed it is almost a dead certainty that they will.

The qualitative argument, furthermore, cuts both ways. The largest Soviet warheads, MIRV-ed or not, are immensely more powerful than the largest American weapons. For example, the 313 SS–9 (or larger) weapons that the Russians will be permitted under the agreement represent at least the equivalent in explosive power of 4,725 of the largest American weapons.

To assume that the Russians will not take advantage of the options offered them under the SALT agreements is incredible. For the last 10 years, they have maintained a staggering momentum (17 new submarines and 25 new missile sites presently under construction) in an effort to achieve nuclear superiority over the United States. They can surely be counted on to take every advantage of an agreement which, in effect, hands them that superiority on a silver platter.

[From the Washington Post, May 31, 1972]

THE ARMS AGREEMENT

(By Joseph Alsop)

With masterly shrewdness, plus a lot of help from the media, President Nixon has largely managed to slur over the true nature of the main bargain that he made in Moscow. Not one-tenth of one per cent of

the electorate can possibly understand what the President did.

Briefly, he has accepted an arms limitation treaty that grants the Soviets a 3 to 2 lead in nuclear-strategic power, at least for some years to come. The treaty may do worse than that. But the agreed figures, which have been so under-stressed, are the best place to begin any analysis.

In submarines of the Polaris-Poseidon and Yankee classes, the Soviets can build up to 62, against 41 for the United States. For this startling advantage, the Soviets only pay by dismantling their few ancient and obsolete SS–7 and SS–8 missiles.

In submarine missile-launching tubes, again, the Soviets are to have about 950, against about 670 for the United States.

Of the vital radars on which anti-ballistic missile systems wholly depend, the Soviets are to have ten, against six for the United States.

And in intercontinental ballistic missiles, the Soviets are allowed approximately 1,500 against about 1,100 for the United States.

If these figures seem shocking, it is because they really are deeply shocking. But the figures are not the end of the story alas. There is also the very grave problem of what the experts call "throw-weight."

Throw-weight is simply the numbers of thousands of pounds of warhead a ballistic missile can deliver. The Soviets have consistently built more powerful missiles than we have in the United States. The resulting throw-weight ratio built into the new treaty can be variously estimated. But it is at least 2½ to 1 in favor of the Soviets; and it may be as high as 4 to 1 in their favor!

This throw-weight ratio in turn means that the Soviet engineers and scientists have 2½ times more chance of making great weapons improvements than our engineers and scientists. The new treaty only limits missile numbers. It places no restriction whatever on "inhole improvement," to use the jargon of the Pentagon.

These facts, in turn, are undoubtedly more important than the point being stressed at the White House—the point that we still have a considerable superiority in numbers of nuclear warheads because we have MIRVed our missiles. The Soviets are also working hard on MIRVing. They are behind in this area because they began by choosing the wrong technological approach.

Because our missiles have such limited throw-weight, our MIRVed warheads are just about useless as counterforce weapons. Over time meanwhile, the Soviets can rather easily MIRV their huge SS-9 missiles. Of these, they are allowed no less than 313.

With their huge throw-weight, those 313 SS-9 missiles can easily be converted, by good MIRVing technology, into a first-strike force. Such a force will be capable of destroying our Minuteman missile system on the ground. The larger numbers of U.S. missile warheads will not count for very much, rather obviously, when and if the missiles themselves can be knocked out in their silos.

In sum, the President has taken a calculated risk of the most hair-raising character. For reasons that will be shown in a second report, the military chiefs agree that it was a sound risk to take. If the President deserves blame, it is only blame for lack of forthrightness with the country.

But only consider the figures on nuclear submarines above cited! Here, we were long supposed to have an unbreakable monopoly. Now, the U.S. chiefs of staff say it is actually to our advantage to accept 3 to 1 ratio against the United States, even in these same nuclear submarines. The theorists of safety-through-weakness have a lot to answer for.

THE MASSACRE AT LOD AIRPORT

Mr. RIBICOFF. Mr. President, the bloody massacre at Lod Airport in Israel should bring home to all Americans the nature of Israel's enemies and the need for strong, effective measures to combat this new menace to international travel. The heaviest responsibility for this barbarous act must be placed on those governments which permit the terrorists gangs to operate openly within their territory.

Lebanon, which has received considerable assistance from our own country and other western nations, must not continue to permit itself to be used as a base and safe haven for cold-blooded murderers. Today's Washington Post contains a chilling account from Beirut of the totally immoral remarks of the official spokesman of the Popular Front for the Liberation of Palestine, the terrorist group responsible for the outrage. The freedom enjoyed by the PFLP in Lebanon is not only a direct effront to Lebanon's sovereignty, but a threat and a challenge to all civilized nations. Unless immediate prompt action is taken by the Lebanese authorities against these murderers, the world community must not be surprised if Israel acts directly against the sources of this new barbarism.

Any attempts to compare the actions taken by Israel recently to rescue the passengers of the hijacked Belgian airliner with the massacre at Lod are misguided and reprehensible.

I was gratified by the prompt statement of condemnation issued by our State Department. I would also agree with King Hussein's statement that the people who planned and carried out this attack were "sick." But these verbal expressions must be followed up by concrete actions against the terrorists themselves and their protectors. What future assaults against totally innocent civilians must occur before the world community unites in taking firm steps to protect itself from these madmen?

I ask unanimous consent that the Washington Post article, "Arab Guerrillas Call Three Assassins 'Fantastic' People" 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 Washington Post, June 1, 1972]

ARAB GUERRILLAS CALL THREE ASSASSINS "FANTASTIC PEOPLE"

(By Lewis B. Simons)

"They obeyed their orders. They were fantastic people."

In an apartment on one of Beirut's main thoroughfares, Bassam Zayix, spokesman for the Popular Front for the Liberation of Palestine (PFLP), heaped delighted praise on the three Japanese terrorists who had turned Tel Aviv airport into a bloodbath Tuesday night.

"They were trained by us here in the Arab world," Zayix said. The mission of the Japanese trio, he said, was "to raise the temperature" of Arab-Israeli hostility. "I foresee that coming through Israeli reprisals—perhaps successful Israeli reprisals—and the Arab reaction to them," he said.

"Our operation could mark a turning point."

While the PFLP waited with anticipation for reprisals, officials in Lebanon and other Arab nations waited with apprehension. Special security cautions were taken at Beirut airport.

And in Tokyo, the Japanese government and press reacted with shock and disgust. "We can't believe it," most officials said.

The government expressed its regret to Israel that Japanese nationals were involved in the attack. And Israeli Premier Golda Meir told a special session of Parliament that she did not regard the three gunmen as representatives of their country. "The friendly relations between Israel and Japan will remain unhampered," she said.

As well as Tokyo police could determine initially, the three terrorists were members of the United Red Army, an extremist, revolutionary organization.

Together with another Japanese radical group, the United Red Army has been linked with the murders of 11 police and defense officials since September, 1967. Earlier this year, 12 members of the United Red Army were discovered slain by their comrades in an intrafaction purge.

In March, 1970, several "soldiers" of the group hijacked a Japanese Airlines plane to North Korea. Later, other "soldiers" went to Beirut to make contact with the PFLP.

Last October, police reported, an Arab member of the PFLP, identified as Ruvashi Ghanen, went to Japan and met with members of the United Red Army. The two groups issued jointly a booklet entitled "Arab Guerrillas and the World Red Army."

The PFLP dismissed any suggestions that the Palestinians could not carry off the bloody airport attack themselves and so had to turn to a Japanese suicide squad. "Let them say what they like," retorted Zayix. "Arabs from the occupied territories participated in this operation, too. Besides, the three Japanese were members of the PFLP . . . We have Irish members too."

The Front spokesman also denied that the Japanese were a kamikaze unit. "They were not planning to kill themselves," he said.

The man who apparently died by his own hand grenade, has been identified as Ken Torio, 23. His accomplice who was found dead is identified as Jori Sugisaki, 23. The third man, Daisuke Nanba, 23, was captured. Japanese police said there was doubt that the names were real and that their passports were forgeries.

Zayix's allusion to Irish members of the PFLP corroborated a recent statement by the militant Irish Republican Army saying that the IRA had relations with Al Fatah, the largest guerrilla element of the Palestinian movement.

The Front also claims members from other foreign countries throughout Europe, the United States and Africa. Leaders of America's Black Panther Party have said some of their members received training in Palestinian guerrilla camps.

Black African liberation movements and the Syrian-based Eritrean Liberation movement, which operates in Northern Ethiopia, have especially strong ties with the Front.

The Palestinians have used young women in love with guerrillas to carry weapons on international flights. Last year, an Israeli military court convicted an elderly French couple and two Moroccan sisters of attempting to smuggle explosive devices into Israel for use by the guerrillas.

In addition to recruiting foreign members, a Front spokesman said, the PFLP "maintains close relations with all the revolutionary movements of the world."

But beneath this grandiose view of worldwide revolutionary brotherhood, the Front made clear that the raid by the three Japanese was a direct response to Israel's successful aborting of a guerrilla attempt to free imprisoned colleagues by hijacking a Belgian jetliner three weeks ago.

The guerrillas were infuriated by the "arrogant" way the Israelis have paraded their "invincibility" since then, Zayix said.

Asked if the PFLP had any moral misgivings about the Japanese assault, Zayix replied:

"None at all."

He said that the three terrorists were instructed to open fire not on the passengers of the Air France airliner which brought them to Tel Aviv, but on those disembarking from an El Al flight due to arrive 10 minutes later, as well as their friends and relatives waiting to welcome them.

"We were sure that 90 to 95 per cent of the people in the airport at the time the operation was due to take place would be Israelis or people of direct loyalty to Israel," he said.

"Our purpose was to kill as many people as possible at the airport, Israelis, of course, but anyone else who was there.

"There is a war going on in Palestine. People should know that. Why don't they go to Saigon?"

(This article was compiled from dispatches by the Tokyo bureau of The Washington Post, David Hirst, Beirut correspondent of The Manchester Guardian and news agencies.)

ADDRESS BY PATRICK L. GRAY III, ACTING DIRECTOR OF THE FBI

Mr. HRUSKA. Mr. President, last week the Acting Director of the FBI, Patrick L. Gray III, gave an excellent address at the fourth annual crime control conference of the Governor of Mississippi. This was Mr. Gray's first speech outside Washington since he succeeded the late J. Edgar Hoover.

While paying tribute to Mr. Hoover for bequeathing to the American people "an investigative agency free of scandal or corruption, sound in principle and organization, and thoroughly dedicated to prompt, efficient, and impartial service," Mr. Gray indicated that he intended to "build on the sturdy foundation created by Mr. Hoover and the dedicated men and women of the FBI."

Pledging to oppose "any proposal which might contain seeds for the possible growth of a national police force," Mr. Gray promised continued close cooperation with State and local law enforcement agencies to insure that all citizens will receive the most effective criminal investigative services possible.

Because I believe this very eloquent and impressive speech should be read by all Senators, I ask unanimous consent that it be printed in the RECORD.

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

CHALLENGES WE FACE TOGETHER

(By the Honorable L. Patrick Gray III)

The past three weeks have been the most interesting and enlightening of my career. They have provided me a unique insight into the talent, energy, and insight with which J. Edgar Hoover directed the FBI for nearly 48 years.

His legacy to us is an investigative agency free of scandal or corruption, sound in principle and organization, and thoroughly dedicated to prompt, efficient, and impartial service to the American people.

The challenge confronting my FBI associates and me is great—great in terms of its magnitude and complexity, and greater still in terms of opportunity. We can render no higher honor to Mr. Hoover, or render no greater service to the American people, than to continue to build on the sturdy foundation created by Mr. Hoover and the dedicated men and women of the FBI.

To borrow words of Shakespeare, "What is past is prologue."

Nothing is more certain in life than the inevitability of change.

To keep pace with steadily advancing technology and constantly shifting trends in crime, the months and years ahead undoubtedly will present many challenges to the FBI's procedures and techniques—but there will be no change in the deep respect for civil liberties, the strict conformity with due process, and the adherence to other fundamental principles that have characterized the FBI's performance of duty over the years.

To those of you who represent law enforcement agencies, let me reaffirm some of the principles I have in mind.

First, on the matter of jurisdiction, the FBI must—and will—continue to show full respect for the sovereignty of state and local authorities.

The FBI and the American people look upon America's state and local peace officers—numbering nearly 400,000 strong—as the Nation's principal defense against crime. It was Woodrow Wilson who warned of "the paralysis which has sooner or later fallen upon every people who have looked to their central government to patronize and nurture them." I share those views.

Occasionally there have arisen proposals to vest in the FBI responsibilities which would seem to conflict with those of state and local authorities. Such proposals raised fears that a national police force was on the horizon.

I am unalterably opposed to any proposal which might contain seeds for possible growth of a national police force. So was Mr. Hoover. As long as I am head of the FBI, the FBI will not take the first small step which might lead to the formation of a national police force.

Second, the FBI must—and will—continue to render to other law enforcement agencies the assistance requested, consistent with America's constitutional framework and within the limitations placed on our authority by the Congress, the elected representatives of the people of the United States.

The FBI is totally committed to serve all the people of the United States, and we will discharge the trust and responsibilities placed in our hands. One of the most effective ways of accomplishing this is through full and complete cooperation with you in meeting the criminal challenge to the well being of our society.

During the early 1960's a tidal wave of crime began to mount across the United States.

As a Nation, we, the people of the United States, entered the 1970's determined to reverse the malignant growth of the criminal invasion.

The Federal Government moved quickly to develop new tools and to use existing tools provided by the Congress of the United States.

Prominent among the new tools furnished us is the Organized Crime Control Act of 1970, which provides much greater witness protection and immunity than before and has expanded the FBI's jurisdiction in cases involving major gambling operations and the infiltration of legitimate businesses by racketeers.

We have been using the previously existing tools against professional hoodlums and racketeers with highly telling effect including court-approved wiretaps, an invaluable technique authorized by Congress in 1968 and first used in 1969.

I want to emphasize that in this tightly limited and controlled use of electronic equipment, the FBI conforms strictly with a law which has the sanction not only of Congress, but of our courts. This technique is employed only with the approval of the Attorney General and with the specific authority and order, in each instance, of a Federal court.

FBI electronic surveillances are instituted and maintained in a manner designed to afford the fullest protection of individual liberties while, at the same time, upholding society's right to protect itself against the ravage of organized crime.

The fundamental right of any society is to preserve itself and to maintain its government as a functioning and effective entity. This concept is basic to American law.

Chief Justice Charles Evans Hughes, a noted civil libertarian, observed in a decision handed down 31 years ago:

"Civil liberties, as guaranteed by the Constitution, imply the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of unrestrained abuses . . ."

During 1971, electronic surveillances which were authorized by Federal courts led to the arrest of 1,120 leading and supportive vice and racketeering figures by FBI agents. Most of these arrests were made under the illegal gambling provisions of the Organized Crime Control Act of 1970.

Several arrests involved police officers. As you may know, the Act specifically covers police corruption, as well as bribery of other state or local officials, in connection with prohibited gambling operations.

You also are aware that illegal gambling generates the organized crime bankroll used to finance other rapacious activities such as drug trafficking, loan sharking and the like. The investment capital of organized crime flows from illegal gambling.

I believe that the record reveals that electronic surveillance conducted in accordance with law has proven to be a most successful weapon in the battle our society is waging against organized crime. We must not lose that weapon.

There remain, however, other areas for legal reform—reforms to combat crime while preserving individual rights. Something is wrong with a criminal justice process which seems not to deter or to rehabilitate.

An FBI special study launched nearly 10 years ago and continuing to this day shows that more than two-thirds of the persons arrested on Federal charges in 1970 were repeaters. The average time span between their first and latest arrests was five years and five months, and they had been arrested an average of four times each in this period.

Another study of some 16,000 offenders released to the community in 1965 showed that 63 percent of them had been rearrested within four years. Fifty-six percent of those released on probation and 61 percent of those released on parole were rearrested in this four-year period. The younger the age group at time of release, the higher the rate of rearrest proved to be.

Figures such as these clearly illustrate that far more is involved in stemming the crime problem than successful investigation and arrest. The offender must be given valid cause to believe that he will be dealt with fairly, yet realistically and effectively, by all whom he encounters along the paths of our criminal justice process.

Addressing the American Bar Association last summer, the then Attorney General John Mitchell spoke of the growing abuse of the criminal process and warned of "the Hydra of excess proceduralisms, archaic formalisms, pretrial motions, post-trial motions, appeals, postponements, continuances, collateral attacks, which can have the effect of dragging justice to death and stealing the very life out of the law."

"We face in the United States a situation," Mr. Mitchell continued, "where the discovery of guilt or innocence as a function of the courts is in danger of drowning in a sea of legalisms."

That "sea," I might add, abounds with extremely cunning sharks. I refer, for example, to the "continuance experts" who seek postponement after postponement, and

invoke delay after delay, while the case grows old, witnesses waver or become unavailable, and the accused walks the streets on personal recognizance or penny ante bail.

In discussing this very problem, a newspaper in your state capital editorialized in 1968, "One of the greatest causes of increasing violence in Mississippi is that so many offenders are certain their trials can be delayed indefinitely—and that if and when they are brought to trial, they can somehow escape punishment."

I refer also to the "court shoppers" such as the attorney who was quoted in a Washington newspaper this year as saying he could "plead to anything" before one particular judge "and know that my may will walk out of the courtroom on probation."

And I refer to the "plea bargainers" whose success in arranging reduced charges prompted a veteran jurist to complain, "I personally have had a murder case prosecuted before me as simple assault. And a rape case was recently prosecuted as assault and destroying property, to wit, the undergarments."

The breakdown of our courts may ensure the rupture of our social fabric and guarantee that might will be right. No American would then be free, nor would liberty survive. That is why we can neither condone nor ignore the antics of that peculiar breed of officer of the court who deliberately obstructs the orderly processes of justice, browbeats judges, and treats the courtroom as a theater of war.

On repeated occasions Chief Justice Warren Burger has warned of the heavy damage being done to our legal system by these exhibitionists.

Addressing the American Law Institute in Washington last May, the Chief Justice noted the encroachment of "incivility" in the courtroom. "All too often," he observed, "overzealous advocates seem to think the zeal and effectiveness of a lawyer depend on how thoroughly he can disrupt the proceedings or how loud he can shout or how close he can come to insulting all those he encounters—including the judges."

The out-of-court conduct of most of these attorneys has been no less scandalous. They exploit misunderstanding; they encourage confrontation; they appeal to those who place rule by mob above rule by law.

One of the legally trained agitators to whom I refer has been quoted as telling a street audience in our Nation's Capital last September, "I have come out of a prison yard . . . where I was privileged to meet, yes, convicted murderers, child molesters, holdup artists, second-story men, and they were the finest and most decent men I had ever met."

Is it any wonder that disrespect for law, contempt for authority and distorted values prevail among those to whom this activist directs his strongest appeal? They are the tarnished legions from whose ranks have come the makers of Molotov cocktails and dynamite bombs, the destroyers of Government records, the desecrators of our flag, who resort to violence in futile attempts to achieve that which they cannot gain by the ballot.

Persons who pursue this philosophy comprise a militant assault force against the American way of life. They demand rights for themselves but utterly disregard the rights of others. They use their freedom of speech to shout down and deny freedom of speech to those who may hold opposing views.

I believe that peaceful debate, dissent, and assembly are vital life signs of our Republic. They are unalienable rights of the American citizen long protected by the Bill of Rights. Violent conduct in the exercise of these rights, however, is not protected by the Constitution, the Bill of Rights, or the Court decisions. Our Constitution is not a suicide pact.

Under Executive Directives and laws of Congress, the FBI will continue to investigate acts by individuals and organizations that threaten the security of the Nation and the rights and freedoms of American citizens. This is an area which I expect to draw the heaviest salvoes of protest and complaint because those who would alter drastically our form of Government must—and will—remain vehemently opposed to the work of the FBI in behalf of all the American people.

Appearing before a Subcommittee of Congress just 12 weeks ago, Director Hoover expressed the philosophy which he had developed during a lifetime of service to the American people in these words:

"You are honored by your friends, and you are *distinguished* by your enemies."

By every definition of the word, his was a most distinguished career. Those of us who carry on his work—the work of the FBI—will strive to merit the confidence and support of those who honored him, that vast majority of Americans who are law-abiding citizens of these United States.

THE PRESIDENT'S JOURNEY TO MOSCOW

Mr. PERCY. Mr. President, the President's journey to Moscow clearly is a major step forward in achieving peaceful and mutually beneficial relations between the Soviet Union and the United States. It constitutes, as well, a significant contribution toward assuring peace throughout the entire world.

Among the major accords signed during the summit talks, none matches, of course, the primacy and uniqueness of the Strategic Arms Limitation Treaty. There is no doubt in my mind that this represents a vital move toward controlling the nuclear arms race, which has been spiralling ever upward. The arms race, if permitted to continue unchecked, would go on draining off the precious, and, in many cases irreplaceable, resources which both of our nations urgently need to solve critical domestic problems. We all know this.

The ABM portion of the treaty will be submitted to the Senate for its advice and consent. It will certainly receive the careful scrutiny, not only of the Committee on Foreign Relations, of which I am a member, but of this entire Chamber, as well. I am confident that the SALT treaty will emerge from this Senate scrutiny and public debate, recognized as the most significant step we have taken for peace since the ending of World War II.

The public debate has already begun and as a contribution to the record being compiled for the final weighing by the Senate of the SALT agreement, I ask unanimous consent to have printed in the RECORD the remarks made by Senator HENRY M. JACKSON and myself during the course of the Today Show, of the NBC–TV network, on May 31, 1972.

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

AN INTERVIEW WITH SENATORS PERCY AND JACKSON

FRANK MCGEE. Five days ago President Nixon and Soviet leaders reached an agreement on the long-pending nuclear arms control package. The agreement would limit the number of long-range offensive missiles, ICBM's, both land-based and submarine-launched, as well as antiballistic missiles, ABM's, at the levels now in operation or under construction.

Well, how does the Senate feel about this? One of them is a treaty and will require Senate ratification.

For the pros and cons of the Senate ratification, we switch now to Washington and there Senator Charles H. Percy, Republican of Illinois, believes this is the proper course to follow; Senator Henry M. Jackson, Democrat of Washington, has some serious reservations about the agreement. With them is Today Washington Editor Bill Monroe.

Gentlemen.

BILL MONROE. Good morning, Frank. Senator Jackson, before we get in the pros and cons, why don't you tell us just briefly what is in the section of this arms control package that includes the treaty on defensive missiles or ABM's.

Senator HENRY M. JACKSON. Well, Bill, it permits both sides to have an ABM system around their respective capitals. It permits both sides to have a system, an ABM system, in defense of one area of their missiles It would mean, of course, a dismantling of one of our sites, at Malmstrom in Montana, which is now under way In my judgment, it's a useless system.

MONROE. Senator Percy, before we get in the pros and cons, why don't you tell us as briefly what is in the executive agreement that would run for five years covering offensive missiles.

Senator CHARLES H. PERCY. Very wisely, the President refused to enter into an ABM agreement until we have a limitation and agreement on offensive weapon systems. Essentially what this does is freeze both sides at the present level of ICBMs and submarine-launched missile systems. And if they're to increase the submarine-launched system, they must then give up certain of the ICBMs that they now have.

So it's a freeze. And inasmuch as they were in a very heavy construction program, 250 ICBMs a year, 128 submarine-launched missiles, and we were not in any construction program, this of course gave us a decided advantage.

Senator JACKSON. Well, what I . . .

MONROE. Let's get further into the pros and cons. Taking the whole package, the treaty on defensive missiles, ABMs, and the agreement on offensive missiles, what's good and what's bad about the whole package? Senator Jackson?

Senator JACKSON. Well, Bill, first of all, there's no freeze. They're giving up what we call the SS7s and 8s, their outdated missiles that they were going to phase out that we phased out years ago, the Titans and the Thors and the Jupiters. And I would point out that the end-result here is no freeze at all, because they can go ahead with MIRVs. It will be possible for them to have 84 submarines to our maximum of 44 submarines. They'll have 1,016 missiles on their subs to our little over 700. I would point out that they will have an overall advantage, a very large one, on land-based systems. They get 1,618 maximum to our 1,000. I would point out that they will have the ability to upgrade these systems. And finally I would point out, because the press has been misled—we had—on the front page of the New York Times they had a story showing that the subs would be the same as the United States, that is, the Polaris type, but there's another factor: there have been some secret understandings with the Soviets that have not yet come out, and frankly I can't pass on this treaty until they make public all aspects of the treaty and the secret part may be quite substantial.

MONROE. Senator Percy.

Senator PERCY. What's really happened—you can always, as two horse traders, argue who got the best of the trade. But I think what's really happened is that we have reached a point where we can now say we

have taken the first step to arrest and stop the arms race, the nuclear arms race, which was running at horrendous costs for both of us.

You can't have an agreement unless there's certain advantages for both sides. It must be in their mutual interest. Otherwise it's not going to be adhered to anyway.

Here we do have a situation where the 62 submarines that they have sounds formidable. But we must recognize that we are way way ahead in MIRVing. So far as . . .

MONROE. MIRVing being installing the multiple warheads . . .

Senator PERCY. Multiple heads independently targeted on them. We can't say that we don't have adequate defense. We both have sufficiency now. We certain have in our ICBM arsenal 1,054. We also have 450 big bombers against 140 for them. We also have 200 fighter bombers. We have 7,000 nuclear heads in Europe alone which are not under this treaty agreement.

So we have sufficiency. And they have sufficiency. It's in our mutual interest to—to put a freeze on this thing and say enough is enough.

MONROE. Senator . . .

Senator JACKSON. Well, what I . . .

Senator PERCY. While what we've really saved is not building an ABM system on either side which then means they don't have to keep up their offensive construction, we don't have to keep ours up.

Senator JACKSON. Well . . .

MONROE. Senator Jackson says there is no freeze.

Senator JACKSON. That's precisely right.

Senator PERCY. There literally is. You can mix, you can change the mix. And of course there is no freeze on the MIRVing. And here we have a technological advantage in superiority that Senator Jackson would recognize. We're way ahead of them.

Senator JACKSON. Well, I . . .

Senator PERCY. But you each have to have maybe equally * * * unhappy about certain things but happy about other things—the main point is, we've now taken this first step to say it's sensible between the superpowers to limit this nuclear arms race. And I think Senator Jackson feels that in principle it's wise to say that.

Senator JACKSON. Well, look. Look, let's just get this right down to the bare knuckle points of this thing. You can talk till you're blue in the face, but we don't even have parity under this agreement.

Now, Mr. Nixon started out that we were going to maintain a superior posture. We don't even have parity. When they have 1,618 missiles land based, we have 1,054. Bear in mind that 313 of those missiles—that's these huge new ones—have more destructive power by many times than all of our land-based and sea-based missiles. I'm just giving you the qualitative aspect.

Numerically they outreach us in both directions. And to convey to the public that we're going to save money here is nonsense, because the administration is coming up and asking for billions for the ULMS program, that's the advanced Navy program. The Russians are going to spend billions. And I think it's just outrageous that we convey the impression we're going to stop the arms race, because it won't.

MONROE. We have a question from Frank MCGEE.

MCGEE. Senator Jackson, the only part of this that the Senate will be required to vote on is the treaty affecting ABMs.

Senator JACKSON. That's right.

Mr. MCGEE. A moment ago, you called it a useless system anyway. Well, why not go ahead and approve it, then?

Senator JACKSON. Well, look, there are two things I want to make very clear. The ABM part involves the treaty. That'll be passed on only by the Senate. The so-called freeze, which is a misnomer, will be passed on by both the House and the Senate, because under the Arms Control and Disarmament Agency Act any executive agreement must be approved by the Congress, House and Senate.

Now, I fought very strongly against putting an ABM system around Washington, D.C. We killed it in the Armed Services Committee. It's useless, won't defend anything. And you can't defend your hardened missile sites with a one-site system. That was the whole thrust of the ABM debate. I handled it for three years; I know a little bit about this one. I got it through by one vote. It's a useless system.

Senator PERCY. Frank, if I could interject, this is exactly what I've been saying and Senator Cooper and others who fought the ABM for years, that it is a useless system. And it's about time . . .

Senator JACKSON. On a—on a one-site basis.

Senator PERCY. . . . we realized this. I would like to answer one thing that Senator Jackson has said, because he's right in that they do have more missiles than we have. But we have three times as many warheads as they have.

(Both Senators talk at once.)

MONROE. Senator Percy and Senator Jackson, Senator Jackson of Washington, Senator Percy of Illinois, time for a station break.

ISRAEL INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, I wish to join Senators in paying great tribute to the 24th anniversary of the creation of the State of Israel. Only 24 years ago, on May 15, 1948, these courageous and determined people once again saw the rebirth of the Jewish State.

In those few years, Israel has come to be recognized as a free and sovereign nation in the international community. During that time more than 2½ million Israelis have made impressive and substantial achievements. Agriculturally, economically, and socially, Israel continues to demonstrate to the world her desire and will to survive as one of the great nations of the world.

But the burdens on Israel and her people have not diminished. Although Israel continues to seek peace and good relations with her Arab neighbors, the tensions between these peoples have remained constant. It was President Johnson who stated in June 1967 that:

> Each nation in the area must have the right to live without threat of attack or extinction.

Israel believes in and wants a permanent peace, but many of her neighbors apparently do not. As a result, the cost of maintaining a strong defense through equipment and manpower has greatly affected the Israeli economy.

Still another enormous burden on the people and the economy of Israel is the vast migration of Soviet Jews to their national homeland. In 1971 more than 15,000 Jews immigrated to Israel, as a result of cruel and unjust treatment by the Soviet Government. This figure is expected to reach more than 35,000 for 1972. Israel is a necessary and vital hope for the Soviet Jews, but this influx is surpassing her capacity to meet their needs.

The nation of Israel, in striving to defend and protect her independence, and to provide for her people and those who seek her shelter, continues to need American support—our aircraft, our armaments, and our financial assistance. The American people have responded generously in providing this greatly needed aid, with approximately three-fourths of private gifts and loans to Israel coming from the United States. But for that nation to remain economically viable, this support must continue and grow.

Mr. President, on this occasion of the 24th anniversary of Israel Independence Day, we in the United States must recommit ourselves to the support of this free nation. I personally send my best wishes to the people of Israel, and offer them my deepest respect and support.

CURRENT HEALTH ISSUES BEFORE CONGRESS

Mr. HANSEN. Mr. President, the ranking Republican members of the Committee on Finance, the Senator from Utah (Mr. BENNETT), recently gave a speech before the Hospital Financial Management Association in Salt Lake City dealing with current health issues before Congress.

As is his trademark, Senator BENNETT deals in a scholarly and efficient manner with this entire problem area. I ask unanimous consent that his speech, delivered on May 19, 1972, be printed in the RECORD.

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

CURRENT HEALTH ISSUES BEFORE THE CONGRESS

I appreciate the opportunity to speak to this group today on current health issues before the Congress. Probably the most important health legislation currently pending before the Congress is H.R. 1, the Social Security Amendments of 1971, which contains a number of very significant amendments to the Medicare and Medicaid programs. As the ranking Republican member of the Senate Committee on Finance, which has jurisdiction over this bill, I have become familiar with these Medicare and Medicaid provisions. We have been working on this bill for a number of months now, and we expect to complete our work sometime within the next month.

Today, both Medicare and Medicaid have become vast and expensive programs. The tota State and Federal expenditures for medicare and Medicaid in fiscal 1972 are estimated at over $17 billion. As this figure shows, the Federal Government has become very large purchaser of health care since the advent of Medicare and Medicaid. The amendments embodied in the current legislation are really the first major changes that the Congress has made in these programs since they were enacted in 1965. The Finance Committee staff published a detailed report on the programs in early 1970, and the Committee held an extensive series of oversight hearings later that year. All of this work has resulted in a number of very significant legislative proposals for changes in the programs.

The amendments to the Medicare and Medicaid programs will have an impact on all segments of the health care field. Patients, physicians, hospitals, nursing homes and health insurance companies will all be affected in one way or another by the changes.

In fact, these amendments have an added significance in light of the increasing pressure over the past few years for an increased Federal role in the financing of health care. It seems clear that any expanded Federal health insurance programs will draw heavily upon the patterns established by Medicare

and Medicaid. I will discuss some of the various national health insurance proposals and the prospects for an increased Federal role in the financing of health care a bit later.

First, however, I would like to discuss some of the major provisions in H.R. 1.

Nearly all the provisions in the bill address the two major problems which we have faced with Medicare and Medicaid. The first problem is the sky-rocketing costs of these programs. And the second is the sometimes uneven quality of health services which has been delivered to recipients. To give some further indication of how rapidly the costs of Medicare have escalated, you might be interested to know that under current financing, the Medicare hospital insurance trust fund has a projected deficit over a twenty-five-year period of $247 billion, which the Finance Committee must deal with through a substantial increase in the Medicare payroll tax starting next year, and through provisions to tighten administration of the program. Additionally, the cost of the Part B program which covers physicians' services has nearly doubled in the past five years.

The first of the major Medicare provisions in H.R. 1 is directed at getting a handle on rapidly increasing hospital costs. As you know, Medicare currently reimburses hospitals and extended care facilities on a reasonable cost basis. This reimbursement method in perhaps too many instances has emphasized the "costs", and not the "reasonable" reimbursing hospitals for whatever expenses they have been able to document, except for certain expenses obviously excluded by specific regulations. H.R. 1 contains a provision which would change this. The provision basically attempts to put a limitation on reasonable costs, and it would operate in the following fashion.

The Medicare program would group similar facilities within an area and look at the costs of each of these similar institutions. The Secretary would be given authority to establish limitations on overall costs which would be recognized as reasonable for comparable services in comparable facilities in the area.

For example, if the per diem costs of the facilities were all grouped around $95 a day, and one similar institution had costs of $135 a day, the Secretary would be authorized to restrict the reimbursement to this latter facility. As you can see, this provision basically further defines reasonable in terms of the costs incurred by similar institutions. The Secretary would be required to give public notice as to those facilities which had excessive costs, and after such notification, beneficiaries would be liable for the payment of costs which were determined to be excessive.

The bill also contains a provision which gives the Secretary authority to experiment with prospective reimbursement mechanisms. Many experts in the hospital field have claimed that prospective reimbursement is the best way to control hospital costs. There may be a great deal of truth to this. However, prospective reimbursement may not be the panacea that some claim it is. We know the costs reimbursement method has its troublesome, inflationary aspects. However, prospective reimbursement has problems of another nature with which we must be concerned. First, when the Government negotiate a rate in advance, it puts a certain burden on the Government to closely monitor the services provided in order to determine that the quality of those services does not decline. For example, if we set a flat rate of a certain number of dollars per day, the hospital can merely cut back on the quality of its services and thus achieve a surplus of revenues over expenses. Secondly, prospective reimbursement involves a negotiation—the Government negotiating rates with hospitals. We have learned from experience with other programs that it is often difficult for the Government to obtain expert arms-length public interest negotiators who have the same incentive for tough bargaining that the institutional negotiators would have.

In spite of these potential problems, we should certainly authorize the Secretary to engage in a number of experiments and demonstrations with various methods of prospective reimbursement so that we can carefully examine the results of these demonstrations and, if they are successful, or show promise, we can give further consideration to using this type of reimbursement generally throughout the program.

H.R. 1 contains another provision which relates to hospital costs, specifically, hospital capital expenditures. Under present law, a hospital can make large capital expenditures which may have been disapproved by the State or local health planning council and the hospital would still be reimbursed by Medicare and Medicaid for the associated capital costs for that expenditure. Medicare, as you know, does not reimburse directly for capital costs, but does reimburse indirectly through the allowance for depreciation and interest on debt. The amendment in the bill would prohibit reimbursement for the associated capital costs, if the costs were for an addition to a facility or a new facility which had been specifically disapproved by the State or local health planning agency.

Essentially, this provision represents the first attempt by the Federal Government to put real teeth into our current health planning legislation. Under the partnership for health program, the Federal Government is strongly supporting State and local health planning activities. It seems good common sense to line up our Federally financed benefit efforts with these Federally financed planning efforts.

I would like to mention one other provision in H.R. 1 which relates to hospitals and which I think would be of special interest to this group—institutional planning. One of the things that became really apparent with the advent of the Medicare program was that in many cases hospitals—and particularly smaller hospitals—did not really have an adequate capacity to develop fiscal plans such as operating and capital budgets.

The Advisory Committee on Hospital Effectiveness established by the Secretary of Health, Education, and Welfare stated in its report a few years ago: ". . . the fact must be faced that deficiencies in hospital management owe something, at least, to inattention, indifference, or lack of information on the part of some hospital boards, and some trustees with the best intentions and energy have not been adequately informed by administrations on what the functions of a hospital trustee, or a hospital should be. . . . The requirement that detailed budgets and operating plans be prepared annually as a condition of approval for participation in Federal programs can be expected to disclose management inefficiencies in such health care institutions as a necessary first step toward bringing about needed improvements. Especially, the Committee believes this requirement will compel the attention of many hospital trustees to lapses in management that would not be permitted in their own businesses."

Following receipt of this report the Department of Health, Education, and Welfare strongly recommended to the Congress that we include a provision in the Medicare amendments which would require that an institution have a written overall plan and budget reflecting an operating budget and a Capital expenditures plan. The full plan would be expected to contain information outlining the services to be provided in the future, the estimated costs of providing such services, and the proposed method of financing such costs. The plan is expected to be prepared under the direction of the governing body of the institution and would cover a five-year period. The plan would not be reviewed for substance by the government or any of its agents. The purpose of the provision is to assure that health institutions carry on budgeting and planning on their own; not for the government to play a roll in that planning. As hospital financial managers you people know better than any one the importance of financial management to health institutions. This provision should not imply that existent financial management in those institutions with current planning and management activities is necessarily inadequate; rather, the provision is aimed at assuring that all hospitals avail themselves of planning and management expertise.

Thus far, I have discussed primarily those Medicare provisions in H.R. 1, which relate to health facilities. I should tell you that the Congress is also concerned about the rapidly rising increases in physician's charges. The Medicare program currently pays physicians "reasonable and customary" charges.

This means, essentially, that a physician's customary charge will be recognized up to a certain limit. That limit has been set at the 75th percentile for similar charges in a given area.

Basically, the provision in H.R. 1 would limit the rate at which this "ceiling" on reasonable charges would be raised from year to year. It contains a formula to limit the rate of increase by factors representing the costs of practice in an area and the average increases in earnings in the area.

All of these provisions relate primarily to the unit costs of services under the Medicare and Medicaid programs. Each of these provisions has been approved by the House Ways and Means Committee and the House of Representatives as a whole. They have been tentatively approved by the Senate Finance Committee and, after formal approval by the Committee and the full Senate, should become law later this year.

As a result of the Finance Committee studies of the Medicare and Medicaid programs, it was clear to us that additional provisions were necessary to control the utilization of services under the programs, if we were really to get a "handle" on the rapidly increasing expenditures. A concern over the utilization of services leads directly, in turn, to a concern over the quality of the services utilized.

It is these two concerns, utilization and quality, with which I personally and the Committee on Finance have been occupied over the past few years, and which lead to my introducing the "Bennett Amendment" two years ago.

This amendment would establish Professional Standards Review Organizations (or PSRO's) throughout the United States. These organizations would be formed by practicing physicians on a local basis, though they would have a minimum size of 300 physicians. The review oragnizations would be charged with reviewing whether services provided under Medicare and Medicaid were necessary and met proper quality standards. The review would be carried out on a formal basis using physician, patient and institutional profiles, and regional norms of care and treatment. These review organizations are not intended to replace hospital review activities where such hospital review is effective. The PSRO is intended, rather, to supplement effective hospital review and replace ineffective review.

The Bennett Amendment has been approved by the Finance Committee and I am confident that it will be approved by the full Senate and become law this year.

As I mentioned earlier, all of these Medicare and Medicaid provisions assume an added importance in view of the mounting pressure over the past few years for an increased Federal role in the financing of health care, as any expanded Federal health insurance programs will probably draw heav-

ily upon the patterns established by Medicare and Medicaid.

The bill we are currently working on, H.R. 1, contains a rather significant expansion of Federal health insurance protection. For the first time it would bring those people who receive Social Security disability benefits into Medicare. To be eligible, however, a person would have to be disabled for at least two years. It is estimated that this provision will bring about 1½ million disabled people into the Medicare program at a cost of some $1.5 billion.

With the passage of H.R. 1, we will have Federally financed health insurance for the disabled and the aged through Medicare and for the poor through the Medicaid program.

Whether or not the Congress will expand the Federal health insurance programs beyond this point is an issue which will most probably be decided over the next few years. As you know, a substantial number of organizations, legislators and citizens are calling for enactment of some type of National Health Insurance legislation, and bills have been introduced or are being prepared which reflect the viewpoints of such diverse organizations as the American Medical Association, the AFL–CIO, the American Hospital Association and the health insurance industry. There is a great variation between these national health proposals. Some call for a minimal Federal role with the Government granting tax credits for the purchase of private health insurance. Others call for complete Federal financing of health care paid for through Federal general revenues and payroll taxes, accompanied by a vastly enlarged Federal role in controlling the delivery of health care. Still other proposals call for a more limited approach of Federal insurance against the costs of catastrophic illnesses. This latter problem—the devastating financial effects of a catastrophic illness—is one which is a cause of great concern to many Americans.

All of these National Health Insurance proposals fall within the jurisdiction of the Finance Committee. My own feeling is that the Congress will probably move in the near future to provide improved health insurance protection for the poor, perhaps through the establishment of a more uniform nationwide Medicaid program.

I think the major issue to be decided over the next few years is whether the Congress will decide to provide health insurance protection for those groups most in need—the aged, the disabled and the poor—and rely on the private sector to provide health insurance to the remainder of the population, or whether the Congress will choose to institute a national health insurance program.

I have been pleased to sponsor President Nixon's health insurance program in the Senate. The major feature of this proposal would require employers to provide a basic minimum health insurance package for their employees. The health insurance packages would have to meet minimum standards and the employer would have to pay at least 75 percent of the premium costs.

I am not, at this point in time, wedded to the details of any particular health insurance proposal. I do feel that the wisest course to follow is to build upon the strengths of the present public-private system and to work to eliminate its weaknesses. President Nixon expressed this idea well in his health message to the Congress early last year:

"We should avoid holding the whole of our health care system responsible for failure in some of its parts. This is a natural temptation in dealing with any complex problem to say: 'Let us wipe the slate clean and start from scratch.' But to do this—to dismantle our entire health insurance system, for example—would be to ignore those important parts of the system which have provided useful service.

While it would be wrong to ignore any weaknesses in our present system, it would be equally wrong to sacrifice its strengths. Our efforts to reform health care in America will be more effective if they build on these strengths."

Thank you again for providing me with this opportunity to visit with you.

ETHNIC HERITAGE STUDIES CONFERENCE RESOLUTION

Mr. SCHWEIKER. Mr. President, recently, in Washington, a National Coordinating Assembly on Ethnic Studies was convened to discuss the increased attention being given in our country today to the study and awareness of the heritages and backgrounds of the various ethnic and minority groups that make up our country.

I have been honored to be the Senate sponsor of the Ethnic Heritage Studies Programs Act, which has been approved as an amendment to the omnibus Higher Education Act, and have been privileged to work with many different individuals and groups in this growing field of ethnic studies.

The Coordinating Assembly on Ethnic Studies adopted a resolution in support of the ethnic studies legislation. I ask unanimous consent that the resolution and excerpts from a statement describing the recent conference be printed in the RECORD.

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

RESOLUTION OF THE NATIONAL COORDINATING ASSEMBLY ON ETHNIC HERITAGE STUDIES, WASHINGTON, D.C., APRIL 28–29, 1972

Whereas the Participants of the National Coordinating Assembly on Ethnic Studies, representing a broad spectrum of ethnic, cultural and minority groups of this nation, concerned with cultural and ethnic priorities for America have fully reviewed and thoroughly discussed the various aspects of the bill relating to the establishment and support of ethnic heritage studies, as originally introduced by Senator Richard S. Schweiker of Pennsylvania and Congressman Roman Pucinski of Illinois and now contained in the amendments to the Higher Education Act (S. 659), they have resolved:

(1) to register our approval and strong support for the basic concept of federal support for ethnic heritage studies which will provide assistance designed to afford opportunities to learn about the nature of each person's own cultural heritage and to study the contributions of the cultural heritage of the ethnic groups to this nation.

(2) As the representatives of various ethnic, cultural, minority, and academic groups, upon return to our communities, to actively work for the prompt passage of the above bill.

(3) and, to demand that full funding be given to Title IX, the Ethnic Heritage Studies Bill (S. 659), upon the final passage of this measure.

A NATIONAL COORDINATING ASSEMBLY ON ETHNIC STUDIES

An organization concerned with the promotion and advancement of Cultural, Educational and Research activities on Ethnic Affairs in the United States, was created during a 2-day Conference held in Washington, D.C. April 28–29–1972.

The Conference sponsored by the Washington Committee on Ethnic Studies brought to Washington some 50 Ethnic and Inter-ethnic communal organizations from the major metropolitan areas of the United States. During the 2-day meeting the participants put together a national organization to promote and develop Ethnic Studies and established an Advisory Council made up of ethnic and academic representatives to work for the prompt passage of the *Ethnic Heritage Studies Bill* (S. 659). The Bill was originally sponsored by Sen. Richard S. Schweiker (R-Pa.) and Congressman Roman Pucinski (D-Ill.) and is now known as TITLE IX of the Higher Education Act. Elected as officers of the new organization were, Dr. Richard Kolm, President—Dr. Jaipaul, Rev. (Dr.) Silvano Tomasi, C.S., Col. Casimir Lenard, (USA-Ret'd), Dr. Andrew T. Kopan, Dr. F. Richard Hsu, Dr. Myron B. Kuropas, Dr. Michael S. Pap, Monsignor Geno Baroni, Dr. Hyman Chanover and Dr. Frances Sussna as Vice-Presidents.

The Conference which stressed Unity, Strength and Pride in Ethnic Heritage registered strong support of the Schweiker bill and *demanded* that *full* funding be given to Title IX upon the final passage of the measure.

Conferees attending the meeting were concerned with the cultural and ethnic priorities of the nation and represented a broad spectrum of cultural, and racial groups. Among these were: The Council of Ethnic Groups in Western New York of Buffalo, The Polish American Congress, Inc., The Czechoslovak National Council of America, The Greater Cleveland Intercollegiate Academic Council on Ethnic Studies, Inc., The Italian Coalition of New York, The Detroit Area Inter-ethnic Studies Association, The American Association for Jewish Education of New York, The Lithuanian-American Community of the U.S.A., Inc., The American Slovenian Catholic Union and The Armenian National Cultural Association. Also taking part were representatives from the Bulgarian, Mexican, Greek, Hungarian, Slovak, Philippine, Latvian, Chinese, Korean and Russian communities as well as many others.

At a luncheon on Capitol Hill with various Congressmen and Senator Schweiker, the Senator stressed that ethnic pride and ethnic identity can be positive forces in bringing diverse peoples together to solve community as well as national problems. "This new ethnic studies legislation" said Schweiker, "can be a *key national catalyst* for all ethnic and minority groups to join together for a better understanding of their backgrounds, heritages and traditions." He declared once again that "the melting pot theory is dead" and called for "a recognition of all individuals and groups" for the *positive* contributions each of them make to the American mosaic. "We are pioneering new realms and rewriting the social dynamics of America" continued Schweiker, "and this *group* knows how to bring America together again", he told his audience.

CIVILITY TO COMBAT VIOLENCE

Mr. SPARKMAN. Mr. President, I am alarmed at the world's continuing capactly for violence, both nation against nation and individual against individual or groups of individuals. I think it is time that we all joined together in a call for a return to mutual respect and civility to help head off the growing number of insane acts of violence throughout the world.

I do not subscribe to the notion that society at large is responsible for individual acts of violence, but each of us must do his or her part to cool the temperature in areas of conflict.

A number of events in recent days has brought home strongly to all of us the need for calm thinking on how to head off violence before it happens. Among these are:

The attempted assassination of Alabama Governor George Wallace;

The killing of three persons and wounding of eight others at a shopping center in Raleigh, N.C.;

The senseless murder of some 25 civilians at a Tel Aviv airport by leftists;

The bombing explosion in Northern Ireland which killed eight persons and wounded many others as well as continued violence in that country;

And, an attempt by demonstrators in Ithaca, N.Y., to douse a policeman with gasoline and set him afire.

While it may be impossible to deter the insane individual bent upon violence, the rest of us might be able to influence such persons by exemplifying and stressing the necessity of mutual respect and civility.

It is neither possible, nor even desirable, that all persons throughout the world agree with each other, especially on political matters.

But at least we can express our differences in a civil manner and with a respect for the rights of others—especially the right to be free from terrorism and violence.

THE EQUAL RIGHTS AMENDMENT

Mr. PERCY. Mr. President, when the Senate approved the equal rights amendment in March of this year, that action brought to a close the 49-year debate in Congress over equal rights for men and women. I am proud of the step that Congress took in providing a constitutional amendment and am hopeful that each of the States can move swiftly to ratify it. Eighteen States have already done so.

In my own State, the amendment has been accepted by the Illinois Senate and is now pending final action by the House. I am hopeful that it will be approved in the very near future.

One member of the Illinois House of Representatives who has been particularly active in the fight for women's equality is Representative Giddy Dyer. A recent article which Representative Dyer wrote for the Chicago Tribune represents much of my own thinking on the matter. Her comments help to place the constitutional amendment in proper perspective by answering some of the questions about what the amendment will and will not do.

I feel that a constitutional amendment is the best way to achieve equality under the law. Amending individual labor, marriage, contract, and corporate laws would be piecemeal, time-consuming, and ineffective. Only a constitutional amendment will provide the universal applicability and impetus to States to reform their laws and practices to be consistent with the constitutional mandate.

There is no question, but that tradition and law have worked together to relegate women to an inferior status in our society. We are compelled to recognize, however, that equality can no longer be legally conditioned upon sex, that women, as they assume new roles in our society, deserve as a matter of law equal treatment under the law. It is still a matter of simple justice.

Mr. President, I ask unanimous consent that Representative Dyer's article entitled "Common Sense and Equal Rights," published in the Chicago Tribune, be printed in the RECORD.

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

FOR WOMEN AND MEN: COMMONSENSE AND EQUAL RIGHTS

(By Representative Giddy Dyer)

Is equal rights an idea whose time has come?

To answer this question it is important to understand the meaning of "equality of rights under the law," as guaranteed in the proposed 27th Amendment to the United States Constitution, now before the Illinois General Assembly for ratification.

What will the Equal Rights Amendment do? First, it will not affect private lives and social customs. No amendment can turn a crude man into a gentleman; nor does it prevent a gentleman from treating another person courteously if he chooses.

WHAT ABOUT HOME?

What about the home? Will it wipe out the financial obligation of the husband and father? Definitely not. It places a mutual responsibility on both parents for the support and care of the children. Most wives would be surprised to find that a married woman living with her husband can in practice get only what he chooses to give her.

I agree with Rep. Florence Dwyer (R., N.J.), who said, "It would not take women out of the home. It would not downgrade the roles of mother and housewife. Indeed, it would give new dignity to these important roles. By confirming women's equality under the law, by upholding women's right to choose her place in society, the Equal Rights Amendment can only enhance the status of traditional women's occupations.

"For these would become positions accepted by women as equals, not roles imposed on them as inferiors."

Will the Equal Rights Amendment wipe out the right of the mother to keep the children in case of divorce? The Equal Rights Amendment would extend this right to both sexes equally. The court could then determine custody on the basis of what is best for the children.

Will the Equal Rights Amendment wipe out the laws which protect only women against sex crimes, such as rape? The Equal Rights Amendment will extend the protection of laws to both sexes. Young boys should have protection against sex abuse as well as women.

Will the Equal Rights Amendment make women subject to the draft and to combat duty equally with men? Congress has the power now to draft women as well as men if it wishes to do so. The stated position of the President, the Joint Chiefs of Staff, and decision makers in the Pentagon is to abolish the draft in favor of a volunteer army for combat duty.

WOMEN COULD VOLUNTEER

Women could volunteer under the same basis as men if they choose. The draft would be used only in case of a national emergency in which all of us would be involved—men and women, young and old, soldier and civilian.

Keep in mind that equality does not mean sameness. Men and women can be assigned different tasks according to the functions they perform best. Both sexes would be eligible for exemptions when there are dependents.

What about the protection women now have from dangerous and unpleasant jobs? Labor legislation enacted in the '20s and '30s to protect women from dangerous working conditions now serve only to act as a deterrent to promotions to more pleasant and better paying jobs. Certainly it was a step forward to take Nellie, the sewing machine girl, out of the sweat shop, but must we now keep her on the assembly line while her brother goes upward to the administrative and executive positions?

Labor Department statistics show that very few women apply for heavy lifting jobs, but if they pass the physical requirements, why shouldn't women be entitled to them? Men don't object to women staying at home and lifting 50-pound children, loads of wash, or the garbage cans, or working all night to take care of a sick child if this is necessary.

Why should their hours be arbitrarily limited in the job market? Where regulations are needed for clean air, pure water, and sanitary toilets, shouldn't men be protected from unhealthy or unsafe conditions, too?

RIGHT TO PRIVACY

Finally, will the Equal Rights Amendment wipe out women's right to privacy? Definitely not. In the Supreme Court ruling, Griswold vs. Connecticut, the right to privacy was upheld. This assures reasonable separation of men and women in dormitories, prisons, and toilet facilities.

In this year of 1972, 52 years after women were given the right to vote, over 100 years since the 14th Amendment granted equal protection, isn't it about time that women moved from second-class to first-class citizenship?

Our society has many problems crying out for solution. A violent attack on a Presidental candidate has shocked us all. A solution to these problems will come from brain power, not brawn. It is time for men and women to join in full partnership as human beings to work together to solve the problems in America today.

THE IMPORTANT QUESTION OF INSTITUTIONAL MEMBERSHIP ON THE SECURITIES EXCHANGES

Mr. TOWER. Mr. President, a securities exchange is a marketplace for the purchase and sale of securities, where professional securities firms, acting largely as agents, bid for, and offer to sell, securities, through the intermediaries of selected securities firms acting as specialists in the various securities issues listed on the exchange. The Securities and Exchange Commission has been concerned for 40 years with increasing the public, or agency, orientation of the exchanges, so that public investors will have the highest priority in the execution of orders and will be treated equally as among themselves, whether they are individuals or institutions. However, this successful correction of the "private club" nature of earlier exchange history is now being jeopardized by the movement of institutions onto exchanges in order to avoid the impact of the existing commission rate structure. This reversal of the trend toward increasing the public orientation of the exchanges requires a statement of congressional policy to stop the process.

The SEC "has traditionally attempted to prevent any group of investors from benefiting by their professional market position to the detriment of public in-

vestors in general. Witness the Commission's vigorous application of the 'insider trading' doctrine and its requirement that the primary exchange adopt rules restricting and regulating the activities of its members which entail the most potential for abuse-specialist activities and floor trading activities. In the days when exchanges were considered by some to be 'private clubs,' existing primarily for the benefit of their members, individuals were permitted to purchase seats and simply trade for their own account, much as some institutions seek to do now. The Commission has constantly sought to minimize the extent of such activity." [1]

What are the advantages that would accrue to membership for institutions?

The paper states:

First, a member can trade without payment of a commission (i.e., at his 'cost') or at the intra-member rate. As soon as he makes an eighth he is profitable, unlike the nonmember who must recover his commission expense. This enables the member to swing in and out of the market and speculate on short swing changes in trading trends. Perhaps even more important, however, is the input of trading information received by the member both from other members and from activity on the floor. From his communication with other members, from his knowledge of the way market professionals such as specialists, floor brokers and block positioners operate and from his knowledge of trading activity in the particular securities and the market as a whole (which activity he may observe or hear about even before it appears on the tape) he is in a position to foresee short-term market movements. Add to this his ability to implement trading decisions in seconds and it is evident that members have a great incentive to engage in short-term trading. These short swing speculations may cause public orders to be executed at a different price than otherwise, may delay the execution of public orders, may interfere with the specialist and may wipe out an attractive trading situation before the public can act.

It seems obvious then that membership on an exchange does carry with it definite trading advantages. If member firms are taking too great an advantage of their trading position, let us work to constrict that activity. If the regulations over such trading are not stringent enough, let us tighten those regulations. If the potential for abuse in such trading is too great, let us abolish that trading. But what rationale can exist for allowing that category of trading to expand in a quantum jump by permitting institutions—whose trading activity and capital resources far exceed that of current members—to join exchanges and trade simply for themselves. To the Commission that step would completely reverse the direction we have been moving and would be a significant step backwards to the concept of the 'private' club, in direct contradiction to our reading of the Exchange Act which charges us with promoting fair dealing on exchanges, insuring fair and orderly markets and protecting investors.[2]

Another type of advantage that will accrue to the institutions if unrestricted membership on exchanges is permitted is a greatly increased ability to increase the share of individual savings which can be channeled into pooled investments rather than into individual investments. Presently, the public brokerage firm utilizes only what it makes in commissions to sell and service the investor—about 1 percent of the total investor dollar. The mutual fund industry utilizes 9 percent of the investor dollar, and life insurance companies utilize 100 percent of the first year's premium. If the institutions can also utilize an at-cost trading advantage to help attract investors, in addition to the large amounts they now spend on the persuasive process, they can be expected to increase considerably the share of the investor dollar that goes into pooled investments.

The argument is made that the prime reason for allowing institutions to join exchanges is to save some transactions expense for the ultimate benefit of the mutual fund shareholder or insurance policyholder. The savings which these types of pooled investments should be entitled to, however, are provided in the negotiated rate requirements for institutional sized orders. To permit pooled investments to have in addition the trading advantages of proximity and access to trading information on the floor, the ability to act immediately on attractive trading situations, and to speculate on a very short-term basis, without at the same time imposing any obligations on them to the public investor or to market stability, is simply not fair.

The SEC also points out in this regard that even the institutions doing the best job of recapturing commissions for beneficiaries recover only a dollar a year from each $2,500 in assets managed, or 0.04 percent. Even that extremely small savings will substantially disappear when negotiated rates reach the $100,000 level. Hence what we are concerned with here is not really any significant cost savings to the ultimate beneficiaries, but substantial savings to the mutual fund management companies and the insurance companies, which make money with their brokerage subsidiaries. The arguments for institutional membership simply cannot legitimately be based on a rationale of saving money for institutional beneficiaries.

A public business requirement for exchange members is desirable, because it will help to assure that the securities markets do not become the closed preserve of the pooled investment medium. Such a development would be unfavorable for the individual investor and for the flexibility he should have, in our free market system, to invest in securities in either an individual or pooled manner, or both. The SEC feels that with unrestricted institutional membership would come the economic and psychological disenfranchisement of the smaller individual investor. The paper further states:

Public investors making a decision to participate in the nation's equity markets must feel confident that no other investors have a preferential trading position which would enable those other investors (professionals) to exhaust attractive investment situations before the public can act. The trading advantages which accrue to membership offer a great incentive for members to speculate with short term trading, an unnecessary interference with the auction process and an unwarranted intrusion on the integrity of the pricing mechanism. Public investor representatives appearing in the Commission's hearings over the last three years have reported that many of their constituents feel the deck is stacked against the little guy. Institutions receive vast amounts of research and information that the small investor never sees. Even when the information is made available to the small investor, the institutional accounts seem to be called first. Instead of working to reverse this trend, some now urge that institutions be granted the trading and commission rate advantage of membership. We have all agreed that the confidence and participation in our securities markets of small investors is vital to the depth and liquidity of those markets and thus to the economic health of the nation. Is it fair to public investors to permit institutions, which already have a trading expertise and research capacity beyond all but the most sophisticated of investors, to also enjoy the additional advantages of membership? Is this course calculated to encourage the small investor to participate in the equity market? The questions answer themselves.[3]

It is contrary to my philosophy of our free market system for the individual to be excluded, de jure or de facto, from individual equity ownership in the publicly held American business firm. Institutional investment does provide a desirable supplement and alternative to individual investing in the market, where individuals desire investment advice and management services. Clearly this is a vital service for many individuals who cannot or prefer not to make investment decisions themselves.

Yet it also clearly would not be wise for the SEC or for Congress to allow institutions to gain advantages over the individual investor greater than the transaction cost efficiencies of large orders. Such advantages would, however, come with unrestricted institutional membership, in contradiction to the expressed purpose of the Securities Exchange Act to require that the exchanges be "public institutions—not private clubs to be conducted only in accordance with the interests of their members." Let institutions compete for the investor's dollar with the benefits of economics of scale in transaction costs and the advantages of professional money management, not with the various "insider" advantages which unrestricted exchange membership would provide for them as against the individual investing directly in the market. Exchanges could not be considered to be "public institutions" if they offer pooled investments privileged access to public market facilities without imposing public responsibilities on them.

The basis of a publicly oriented system of stock exchanges is the existence of a strong brokerage community, to serve as the agents for buy-and-sell orders and to serve as specialists in the various securities issues. One of the disadvantages to the public investor that would flow from unrestricted institutional membership would be the diversion of large-order commission revenue from the general brokerage community, which then would restrict the ability of that community to serve the general investing

[1] Securities and Exchange Commission White Paper on Institutional Membership Presented by Chairman William J. Casey to the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs. U.S. Senate, on Apr. 20, 1972, p. 12.

[2] Op. cit., pp. 13–14.

[3] op. cit., p. 15.

public. In other words, with unrestricted exchange membership, the pooled investment medium can manage to enjoy the benefits of access to the public facility of an exchange without bearing any of the costs involved in keeping that facility open to the public investor; that is, keeping a viable brokerage community which holds itself available to public orders. The exclusion of institutional orders from the support of the general brokerage function will weaken the ability of brokerage firms to provide research, advisory, custody, and transaction services for the general investing public. At the same time, the institutional investor will be reaping the advantages of trading on these public facilities at cost, which is allowing him an unjustified cost advantage over the individual investor.

There is no reason why the institutions cannot simply do their own block trading and swapping outside the exchanges, among themselves, if they feel there are no advantages to exchange membership that warrant any expense of membership above the bare cost of transactions as principals on the exchanges. But this would be a rather illiquid way of handling their large buy and sell needs, and hence they prefer to transact business through exchanges, where the public, smaller order marketplace can facilitate the movement of these blocks of stock and help establish realistic valuations of securities. Hence, institutions do gain economic advantages from the existence of such public facilities that justify the additional expense to them of helping to maintain the general agency market, either through the means of paying brokerage commissions to participate in the market or through the means of being themselves members of the exchanges under an obligation to do primarily an agency; that is, public business.

At present, institutions are allowed to control broker-members of certain regional exchanges, even if these brokers transact business only for their affiliated institutions. Certain other regional exchanges require that half the transactions of such brokers be nonaffiliated. The New York Stock Exchange and the American Stock Exchange require that at least 80 percent of the broker's business be nonaffiliated, which is the level which the SEC presently feels is needed to establish a satisfactory public brokerage status.

The regional exchanges and the institutional community interested in membership are challenging the authority of the SEC to require a public business standard for exchange membership. In order to make its decision regarding this requirement effective, the SEC will have to undertake a 2-year proceeding under section 19(b) of the Securities Exchange Act.

In the meantime, the institutional community is under a possible fiduciary duty to seek membership on the exchanges, since some courts appear to believe that this obligation exists. Presently, the institutional membership of the regional exchanges has not severely cut into the revenue flowing into the general brokerage community. However, if Congress does not clarify the status of the exchange membership franchise vis-a-vis public orders and affiliated trading in the immediate future, institutions will probably feel that they must seek membership to achieve member rates on transactions costs and to satisfy any fiduciary duties they may be found to have in this regard. They cannot very well wait 2 more years for the SEC to attempt to affirm judicially its authority in this area.

The uncertainty of a 2-year period where no one involved can adjudge the longer run economies of being members of securities exchanges is not likely to inure to anyone's benefit. The dislocations that will occur in 2 years if the SEC wins its case will be substantially greater than they are now, and the brokerage community may in fact be seriously weakened by that time if institutions continue to join exchanges. The public simply cannot win in any result of continued delay in establishing a firm policy in regard to the public nature of securities exchanges.

The proposal has been made by the Senator from New Jersey (Mr. WILLIAMS) in S. 3347 that the establishment of a public business requirement on the exchange membership franchise should be tied to the attainment of a $100,000 negotiated commission rate level, which the SEC does not expect to reach for another 2 years, if there are no seriously adverse developments to delay that schedule. The rationale of this proposal is that the institutions are now paying "too much" for brokerage, and should have the right to continue to join exchanges in order to bypass the fixed-rate structure between the present $300,000 level and the eventual $100,000 level, until the $100,000 negotiated rate level is reached. This proposal is faulty in its assumption that present fixed-rate commissions on transactions between $300,000 and $100,000 are unjustified and should not be allowed to be charged. But the SEC, and, effectively, Congress, have acknowledged the legitimacy of the transitional continuation of fixed rates in that transaction range, while the brokerage community adjusts its cost structure to the gradual reduction of its large-order revenues. This gradualism is necessary in order to prevent widescale brokerage house failure, similar to or worse than that occurring during the 1970 market crisis, which would shake the confidence of the investing public in the market mechanism and restrict the availability of capital to American business.

Since the gradualism in achieving fully negotiated rates on institutional size orders is a matter of public policy, it cannot be also asserted that the institutions are presently paying unjustified brokerage fees in the $300,000 to $100,000 transaction range. As I stated in my letter of May 24 to Senator WILLIAMS requesting him as chairman of the Securities Subcommittee to call an executive session of the subcommittee to consider this legislation:

> The decision on the extent and timing of this downward movement in the negotiated rate level is essentially an independent economic one, depending upon the ability of the securities industry to adjust to and survive under the substantially reduced revenue situation they face in the process—this adjustment being necessary not for the sake of existing exchange members as individuals but for their aggregate importance to the soundness of the securities markets and therefore for the economy and the American public. But the decision regarding institutional membership is not dependent on such an economic development; it is the decision that Congress must make regarding whether the exchanges are to exist to serve the public or to act as private clubs for institutions to utilize to gain investment advantages over non-institutional investors and non-members. No one blames the institutions for attempting to maximize their trading advantages and minimize their costs, within the bounds of the present law, and, in fact it may actually be their fiduciary duty presently to seek exchange membership; however, this merely serves to point up the fact that Congress must act affirmatively in this area if the presently unclear public policy regarding exchange membership is to be resolved.

Therefore, Mr. President, I have urged the Subcommittee on Securities to take early and positive action on the question of institutional membership, so that legislation can have adequate time to proceed through the Senate and House before this session of Congress ends, if it has committee and member support in both the Senate and House. The SEC unanimously recommends the early passage of the Sparkman-Bennett bill, S. 1164, with certain modifications, which would establish a clear congressional policy in favor of publicly oriented securities exchanges. I believe that the great majority of the Senate will support the small investor approach of this legislation, and I hope that our committee will agree to report legislation to the floor on this subject, and on the urgent question of operations reform in the securities industry, within the month of June.

NEW JERSEY HIGH SCHOOL STUDENT PLACES IN WRITING CONTEST CONDUCTED BY THE PRESIDENT'S COMMITTEE ON THE HANDICAPPED

Mr. WILLIAMS. Mr. President, Timothy Horan, a Riverside, N.J., high school senior, recently placed fifth in a national writing contest conducted by the President's Committee on the Employment of the Handicapped. Writing on the contest theme "The Ability to Work," Timothy depicted his community's unawareness of handicapped citizens—their problems and their needs.

Like Timothy, I believe that we who serve the public must lead the way in focusing attention on a neglected group who constitute one of the Nation's largest minorities. Proposed legislation I have introduced in the past few weeks to create an Office of the Handicapped (S. 3158), to call a White House Conference on the Handicapped (S.J. Res. 202), to provide supplementary education assistance (S. 3407), and to provide greatly increased assistance to the States for the education of all handicapped children (S. 3614) will refocus this attention, and commit the Nation to assuring the rights

of all individuals having disabilities. In addition, the Subcommittee on the Handicapped has begun a very thorough examination of the operation of the Vocational Rehabilitation Act, programs which have long provided very basic support to handicapped individuals.

I am honored therefore to ask unanimous consent to have printed in the RECORD Mr. Horan's excellent and sensitive article, which so well explains how far we have to go in recognizing the handicapped people of America.

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

EMPLOYMENT OF THE HANDICAPPED: HOW WELL IS MY COMMUNITY INFORMED?

George Bernard Shaw: "The worst sin toward our fellow creatures is not to hate them, but to be indifferent to them: that's the essence of inhumanity."

Although my community, as a social group, feels compassion for the handicapped, most of its members in corporate enterprise, government, education, and religion are unaware of the problems of the impaired worker. Therefore, the plight of the handicapped worker is not in conquering his physical malady, but in proving to an unenlightened environment that he has the ability to provide for himself.

A community unfamiliar with the capabilities of the handicapped comes to faulty conclusions as to their qualifications. For example, having witnessed an accident in which a car struck a telephone pole, medical student Morris Robbins immediately tried to save the injured victims within the vehicle. Opening the door, he severely damaged both of his hands since a stray cable had electrified the car. As a result, one hand had to be amputated. Now a bone specialist, Dr. Robbins notes that patients sometimes lack confidence in his ability to perform intricate operations. Nevertheless, he overcomes this situation by demonstrating his medical talents.

Elected to serve all the people of the community, local government is nescient to the existence of the handicapped. "Never have I received any complaint from a disabled person in the community," stated town councilman William Ryan. "Then, again, neither have I worked with a handicapped person nor have I ever had direct contact with such a community resident, although I'm sure that there must be at least one in the town. The township does not sponsor any project or special drive for the handicapped, but I guess that they could be included in our new rap-session program," concluded the representative, still not positive that a disability problem exists. Unknowingly, the town councilman has alienated the handicapped and denied them an opportunity to contribute as equal members of the community. Moreover, he has presented a solution only to include them, not to integrate with them.

In conjunction with the local government, the library is an integral part of community life. "We have not recognized that there is a definite need in the library for information concerning the employment of the handicapped," commented Mrs. Alice Yardumian, librarian. "Few, if any, inquiries for such literature are made. Furthermore, the library has only two volumes about the topic. If the township committee would provide the necessary funding, the library could offer expanded service to the handicapped. However, under the current system this is not feasible." Although the librarian wants to help solve the problem, she does not feel that it is within her sphere of influence.

After sacrificing so much for the preservation of freedom, the disabled veteran also finds that people are oblivious to the question of his working ability. On a country road in Germany, Harry Joseph, an Army tank operator, suffered the loss of his left leg and left arm when a German bazooka shelled his tank. Following the war, Harry discovered that people had interest in him and wanted to aid him. Yet, today, twenty-seven years later, the community has forgotten Harry and the sacrifice that he made. Although Harry has secured a responsible position in customer-service relations, he feels that other disabled veterans are not as fortunate as he. "Local newspapers should bring the handicapped into the limelight," said Harry. "Let the people of the community know what handicapped workers can do for business as well as for community life. In my corporation a handicapped worker is treated as an equal, an asset to the company. Still, when my fellow workers leave the office, they completely remove themselves from the prbolems of a disabled veteran." Likewise, John McIntire, a World War II amputee, having received an injury in an airplane crash, feels that the people of the community are "so wrapped up in their own problems that they don't want even to try to become involved with amputees like myself. I want to work, and I'm glad I am able to fulfill the duties of my job. Nevertheless, only through television and other mediums of communication can everyone know that the disabled veteran wants to do his share."

Industry sometimes restricts the handicapped even though it claims equal opportunity for all persons. In many types of employment, required liability insurance regulations prevent the hiring of an impaired worker. For instance, Albert McCay, an uninsurable wheelchair case, ironically, could find work only as an inside salesman for an insurance firm. Thus, the equal-opportunities law presents inequities in a system designed to eliminate such discrimination.

Although concerned with the problem of disability, leaders are unable to transmit their knowledge to the apathetic majority. As a special-education coordinator, Robert Bice has tried to relate directly to the handicapped. "The community does not comprehend the difficulties in educating the handicapped. I have tried to make the handicapped aware of their role in society. However, unless the community is educated likewise, any progress made with the handicapped is lost." In the same way, Reverend Richard Thompson, as the spiritual head of his congregation, tries to incorporate the handicapped into his activities. However, he stated, "Without the necessary materials to instruct the public, my work is not effective. Since it is difficult to translate individual pain into mutual suffering, the community cannot readily identify with the disabled."

In conclusion, the words of Mathew Henry, "None so blind as those that will not see," describes my community. Such indifference to the handicapped will remain until each segment of my community becomes informed of the problem and of the definite role each must play in its solution.

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A LETTER FROM A PRISONER

Mr. PERCY. Mr. President, I recently received a letter from a prisoner which I found to be most thought-provoking. It offers a much different picture of a prisoner than that which is common. Here is an articulate, thoughtful man who has some very definite ideas about prisons and prisoners.

I ask unanimous consent that his letter be printed in the RECORD at the conclusion of my remarks. I do this not because I agree with every thought the writer has expressed, but because I feel that the thoughts contained in this letter are worthy of the attention and consideration of all Senators as we continue to grapple with the problems of our penal institutions and systems.

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

ANTHONY, NEW MEXICO-TEXAS,
April 12, 1972.

Hon. CHARLES PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I have read with interest your comments on prisons which were published in a recent edition of the Congressional Record. I as a federal prisoner agree with you on the dire need for prison reform; however, I contend that prison reform in itself is not enough. Crime did not begin in prison; therefore, it is practical to assume that crime will not end in prison. Through intensive introspection, and as a result of discussing the subject with various interested inmates of this federal prison, I firmly believe that we have formulated some

ideas which can be developed into a very effective means of reducing crime.

My plan upon release from this federal prison is to become involved in self-help groups comprised of former prisoners—groups that will be designed to inspire ex-convicts to create a new life style with positive direction devoted to the accomplishment of productive goals.

It is a profound fact that the ex-convict in American society has a stigma that follows him to the grave—and beyond. This stigma is largely the result of the attitude of society toward ex-convicts, to wit: An ex convict is automatically branded a non-person; a second rate citizen; he is stripped of his right to vote; he is forbidden to own property in some states; he is prohibited from entering most professional fields; he is greeted by a closed door by many potential employers once that party learns that he is an ex-convict; he is required to register as a convicted felon in many states; he is not allowed to hold public office; etc.

With this constant bombardment of negatives—this gross oppression—confronting an ex-convict, what is his next move?

He resorts to lies. He becomes frustrated, bitter. He strikes back by returning to criminal activities to obtain what society has denied him, and his return to crime results in his once again being committed to prison, thereby perpetuating the fraud that I see the American system of prisons to be. The prison system is nothing more than an extension of American society; therefore, I must conclude that American society, at least in terms of its attitude toward prisons, former prisoners and prisoners, is also a fraud.

Criminologists utilize the bell curve to establish a norm and the two extremes—the norm being the "average citizen", flanked by the "super citizen" to the right of the norm and those persons with criminal tendencies to the left of that curve. They accept as an established fact that a criminal element will always be present in society. I agree, with reservations. I contend that those persons who fall to the left of that norm possess the capability to remove themselves to the center or to the right of the graph. I do not accept the status quo, regardless of the findings of criminologists!

During this period of incarceration I have become acutely aware that it is the responsibility of prisoners and former prisoners to take that "first step of a thousand mile journey" to regain their dignity. I contend that *collective* efforts on the part of ex-convicts directing their combined energies toward proving to themselves and to society that they are humane individuals is the only effective means of keeping these persons out of prison. I see these efforts far more effective than the band-aid treatment that society provides in the form of prisons which serve only to dehumanize.

I foresee great potential in such concerted endeavors. Call these endeavors self-help groups, or unions, or what you may, but I prefer to call them a movement of ex-convicts who have reached a new level of consciousness regarding crime in America—a movement of humane individuals who are striving to create for themselves a new and fulfilling life style which will ultimately reduce the prison population in this nation.

I am not so bold as to say that I have the final solution to crime and prisons, but I do contend that such collective endeavors by sincerely interested ex-convicts will prove effective in inspiring an endless number of prisoners and former prisoners to embark upon a new life style that will cause them to be responsible individuals.

These efforts are not going to be accomplished without obstacles. We will need the support of persons who are sympathetic to our desire to accomplish these goals, and it is with this in mind that I solicit your comments on ideas presented in this letter.

Very truly yours,

JAMES M. HATTON, Jr.,
Register Number 46347–146.

EXPORTATION OF U.S. CATTLE HIDES

Mr. CURTIS. Mr. President, there has been a great deal of discussion lately with regard to an effort generated by domestic tanners and shoe manufacturers to restrict the exportation of U.S. cattle hides. the reason given for hide export restrictions is that shoe prices will have to be increased because cattle hide prices have advanced.

This is an old refrain, yet apparently it has been newly discovered by some individuals who choose to attack the President's economic program. What these same individuals forget is that during the previous administration a similar hue and cry was advanced by the same U.S. tanners and shoe manufacturers. It was in 1966 that the then Secretary of Commerce placed an embargo on hide exports in the name of holding down shoe prices. Even though the price of hides did fall as a result, the shoe manufacturers proceeded to increase the price of shoes anyway. The cattlemen of my State and all other States paid the bill to the tune of about $4 per head of every animal sold while the tanners and shoe manufacturers pocketed the profits.

Let us look at the situation a bit more closely. The price of cattle hides in the United States has indeed climbed in recent weeks. For example, the price of butt branded steer hides on a Midwest basis the week ending May 27 was $25 per hundredweight. For the same week, in 1971, the price was $11.50 per hundredweight—a price level near which they hovered for several years. It is interesting to note in passing that the price of like hides back in 1920 was in excess of $30 per hundredweight.

Now what has happened is that the world-wide situation is in a state of adjustment. The United States has developed a very healthy export market for approximately 40 percent of our entire cattle-hide production. Meanwhile, Argentina, the other large supplier of hides to the world, has had a severe decline in cattle slaughter the last couple of years and therefore this has tightened up considerably the total world supply. There is every reason to believe, however, that Argentina in 1972 will show an increase in cattle slaughter and therefore provide more hides in world trade.

Were it not for the substantial export market for U.S. produced hides, U.S. cattle producers literally would be giving them away. As it is, the value of the by-products with the current level of hide prices has meant that wholesale carcass beef prices sold by the meatpacker can be maintained at a point which otherwise would have caused higher beef prices to the consumer. Meanwhile, the number of hides exported from the United States in 1972 as compared to other recent years is about static.

It seems to me that there are several real culprits involved in this complex picture entirely apart from the price of U.S. cattle hides and the very healthy export market they enjoy. Among other things, domestic tanners have materially cut back their production due to extremely high labor costs and low productivity. Another factor has been the dramatic increase in importation of leather footwear, largely from Italy and Spain, which now accounts for approximately 40 percent of all leather footwear worn in the United States.

Rather than attacking the exportation of hides, which is so important to our U.S. balance-of-payments and balance-of-trades situation, it is my contention that something needs to be done about the more critical issues at hand—the very high level of leather footwear imports and the apparent low productivity of U.S. labor and its contribution to highly inflated shoe prices to the consumer.

Meanwhile, in deference to the shoe manufacturer, on May 30, 1972, the Price Commission granted an authorized price increase to certain manufacturers confined to the actual cost of the raw material going into shoes. Interestingly, the manufacturers are required to lower prices as their raw material costs decline—something these same manufacturers did not do back in 1966. This action should remove any need for hide export restrictions which would cause irreparable damage to the domestic beef-cattle industry and possible loss of export markets that have built up over the years.

I ask unanimous consent that two items on this subject be printed in the RECORD.

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

PRICE INCREASE CLEARED BY PANEL FOR EIGHT SHOE FIRMS

The Price Commission allowed eight shoe manufacturers to lift shoe prices, but the increases were custom-fitted to the industry to soften the impact of sharply higher leather costs.

In a departure from its customary practices, the commission limited the companies to a dollar-for-dollar pass-through of leather cost increases. Generally the commission grants a company a percentage increase in prices, enabling the concern to boost quotas enough to cover higher costs and to maintain its profit margin. In addition to the dollar-for-dollar pass-through, the panel granted each company a standard percentage increase to cover rises in nonleather costs, such as labor. But because the pass-through more strictly limits price rises, the combined package authorized for each company will work out to less than they might otherwise have received.

The decision reflects the commission's fear that sharp increases in shoe prices may hurt efforts to reduce the rate of inflation. Because of a world-wide shortage of hides, leather costs have risen about 100%. Since the wage-price freeze ended Nov. 14, the commission said. The Commerce Department is studying the hide situation and Commerce Secretary Peter G. Peterson has warned that retail shoe prices could increase by as much as $5 a pair by autumn unless hide prices decline.

The companies that received the pass-through authorization and percentage increases were F. W. Woolworth & Co., Kinney Shoe division, 1.65% on men's shoes, 0.46% on women's shoes and 0.49% on children's shoes; Brown Group Inc., 3.59% on shoes,

boots and handbags of the Brown Shoe division, and 3.16% on women's shoes made by the Samuels Shoe manufacturing unit.

Also, Interco Inc., 6.03% by the International Shoe unit, plus 3.62% on women's shoes and 3.25% on men's shoes made by the Florsheim division; Genesco Inc.'s Gemco Footwear Unit, 1.88%; U.S. Shoe Corp., 1.11% for domestic boots of the Texas Boot division, plus 1.92% for children's shoes of the Vaisey Bristol division, and 2.85% for men's shoes made by the Freeman's division.

Also, Morris Shoe Inc., 1.08% for the Lowell Shoe diivsion; Scholl Inc., 1.9%, and Athlone Industries Inc., 1.99% for women's casual shoes of the Henschel Shoe division.

In granting the increases, the commission ordered the companies to roll back any price boosts they had been permitted previously and to apply the new standards to the base-period prices that existed during the 90-day wage-price freeze imposed last Aug. 15. This may result in some decreases in shoe prices, a commission official said. The companies must report all price changes to the commission within 10 days.

Just as the companies are allowed to pass on leather costs on a dollar-for-dollar basis, they must also reduce shoe prices if their costs decline, the commission said.

The agency said it imposed the dollar pass-through limitation under a section of its rules that applies to cases where raw material costs increase sharply in a short time. In such situations, a company can't pass on any more than its actual increase in raw material costs.

In other actions, the commission granted Colgate-Palmolive Co. an increase averaging 1.8% on all its domestic sales. This will result in a 0.8% annual revenue gain.

The panel also cleared rate increases by four utilities. They were 12.5% by Bluefield (Va.) Water Works Co.; 11.4% in steam rates by Rochester (N.Y.) Gas & Electric Corp.; 6.1% by South Pittsburgh Water Co., and 0.61% by Wisconsin Public Service Corp.

The panel denied two increases, saying they were improperly justified. Lincoln Electric Co. requested a 17% increase covering iron oxide, and Tex Tan Western Leather Co., a unit of Tandy Corp., requested a 4.59 increase covering saddlery and leather goods.

In another pricing development, American Enka Co. and DuPont Co. are both increasing the price of their bulked continuous filament nylon products.

American Enka, a subsidiary of Akzona Inc., will raise the price of all its BCF nylon five cents a pound effective tomorrow, while DuPont is boosting the price of its heavier denier 3% effective today.

Industry sources put the current selling price at 79 to 80 cents a pound.

DuPont said its price rise reflected "very strong demand" for the nylon.

Bulked continuous filament nylon is used almost exclusively in carpets.

HIDE AND OFFAL VALUE—1971

January 2	$1.92
January 9	1.90
January 16	1.90
January 23	1.94
January 30	1.96
February 6	2.03
February 13	2.11
February 20	2.13
February 27	2.14
March 6	2.17
March 13	2.14
March 20	2.12
March 27	2.14
April 3	2.24
April 10	2.31
April 17	2.29
April 24	2.27
May 1	2.24
May 8	2.23
May 15	2.33
May 22	$2.26
May 29	2.26
June 5	2.21
June 12	2.23
June 19	2.20
June 26	2.18
July 3	2.17
July 10	2.16
July 17	2.15
July 24	2.13
August 7	2.11
August 14	2.14
August 21	2.15
August 28	2.20
September 4	2.23
September 11	2.19
September 18	2.18
September 25	2.20
October 2	2.19
October 9	2.18
October 16	2.18
October 23	2.22
October 30	2.22
November 6	2.28
November 13	2.24
November 20	2.21
November 27	2.25
December 4	2.31
December 11	2.25
December 18	2.24
December 25	2.26

1972

January 1	2.32
January 8	2.39
January 15	2.39
January 22	2.42
January 29	2.50
February 5	2.55
February 12	2.57
February 19	2.64
February 26	2.64
March 4	2.81
March 11	2.90
March 18	3.06
March 25	3.24
April 1	3.39
April 29	3.22
May 6	3.32
May 13	3.34
May 20	3.35

Midwest hide prices (butt branded steer)

July 2, 1966, $17.50–19.00.
July 9, 1966, $17.50–18.50.
July 16, 1966, $18.00–19.50.
July 23, 1966, $17.50–19.50.
July 30, 1966, $18.00–18.50.
August 6, 1966, $16.00–18.50.
August 13, 1966, $15.25–17.75.
August 20, 1966, $14.00–17.00.
August 27, 1966, $14.50–16.25.
September 3, 1966, $14.00–16.50.
September 10, 1966, $14.00–16.50.
September 17, 1966, $13.00–15.00.
September 24, 1966, $12.00–14.25.
October 1, 1966, $12.50–14.50.
October 8, 1966, $11.00–14.50.
October 15, 1966, $11.50–13.25.
October 22, 1966, $11.50–13.50.
October 31, 1966, $10.00–13.50.
November 7, 1966, $11.00–13.50.
November 12, 1966, $11.50–13.50.
November 19, 1966, $12.00–13.50.
November 26, 1966, $12.50–14.00.
December 3, 1966, $11.50–13.00.
December 10, 1966, $11.50–12.50.
December 17, 1966, $11.50–12.00.
December 24, 1966, $11.50–12.00.
December 31, 1966, $12.00–12.50.
January 1, 1967, $12.00–12.50.
January 14, 1967, $12.00–12.88.
January 21, 1967, $12.00–12.50.
January 28, 1967, $12.00–12.50.
February 4, 1967, $12.00–13.25.
February 11, 1967, $12.00 only.
February 18, 1967, $10.00–12.00.
February 25, 1967, $11.50–12.00.
March 4, 1967, $11.00–11.50.
March 11, 1967, $12.00–12.50.
March 18, 1967, $11.50–12.00.
March 25, 1967, $11.00–11.50.
April 1, 1967, $11.00–11.50.
April 8, 1967, $9.50–11.00.
April 15, 1967, $10.00–10.50.
April 22, 1967, $11.00–11.50.
April 29, 1967, $11.00–11.25.
May 6, 1967, $10.00–10.50.
May 13, 1967, $10.00–10.50.
May 20, 1967, $10.50–11.00.
May 27, 1967, $10.50–11.00.
June 3, 1967, $11.25–11.50.
June 10, 1967, $11.60–12.00.
June 17, 1967, $10.50 only.
June 24, 1967, $10.00 only.
July 1, 1967, $9.25.
July 8, 1967, $9.25–10.00.
July 15, 1967, $9.75–10.00.
July 22, 1967, $10.00–10.75.
July 29, 1967, $9.00–9.25.
August 5, 1967, $9.00 only.
August 12, 1967, $8.75–9.00.
August 19, 1967, $8.50 only.
August 26, 1967, $8.50–9.00.
September 2, 1967, $8.50–9.50.
September 9, 1967, $9.50–10.00.
September 16, 1967, $10.50 only.
September 23, 1967, $10.00–10.25.
September 30, 1967, $9.50–10.00.
October 7, 1967, $9.00 only.
October 14, 1967, $8.75–9.00.
October 21, 1967, $8.50–8.75.
October 28, 1967, $8.75–9.25.
November 4, 1967, $8.00–9.25.
November 11, 1967, $7.75–8.00.
November 18, 1967, $9.25 only.
November 25, 1967, $9.00–10.00.
December 2, 1967, $10.25–10.50.
December 9, 1967, $9.00–9.50.
December 16, 1967, $8.50 only.
December 23, 1967, $8.50 only.
December 30, 1967, $8.50 only.
January 6, 1968, $7.75–8.50.
January 13, 1968, $8.00 only.
January 20, 1968, $8.00–8.50.
January 27, 1968, $8.00 only.
February 3, 1968, $7.75–8.00.
February 10, 1968, $8.00 only.
February 17, 1968, $8.00–8.50.
February 24, 1968, $8.50 only.
March 2, 1968, $9.00 only.
March 9, 1968, $9.50 only.
March 16, 1968, $10.25 only.
March 23, 1968, $10.25 only.
March 30, 1968, $9.50 only.
April 6, 1968, $9.00–9.50.
April 13, 1968, $9.00 only.
April 20, 1968, $9.00 only.
April 27, 1968, $9.00 only.
June 4, 1968, $9.00–9.50.
June 11, 1968, $9.50–10.00.
June 18, 1968, $9.00–9.50.
June 25, 1968,
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June 8, $9.00–9.25.
June 15, $8.50 only.
June 22, $8.00–8.50.
June 29, $8.00 only.
July 6, $8.25 only.
July 13, $8.25–8.75.
July 20, $8.75 only.
July 27, $8.25–9.00.
August 3, $8.75 only.
August 10, $8.75–9.25.
August 17, $9.00–9.25.
August 24, $9.50 only.
August 31, $9.50–9.75.
September 7, $9.50–9.75.
September 14, $10.00–10.25.
September 21, $10.50 only.
September 28, $10.50–11.00.
October 5, $10.00–11.00.
October 12, $10.00–10.50.
October 19, $10.00–10.50.
October 26, $10.50 only.
November 2, $10.00–10.50.
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November 23, $11.00–11.50.
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December 14, $10.50 only.
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January 4, 1969, $10.50–11.00.
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February 22, $11.00 only.
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November 6, 1971, $12.00–15.00.
November 13, 1971, $11.50–13.00.
November 20, 1971, $13.50–14.00.
November 27, 1971, $13.25–14.25.
December 4, 1971, $14.00–15.00.
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December 18, $13.00 only.
December 25, $13.00–14.00.

1972

January 1, $13.50–$15.00.
January 8, $14.50–$15.50.
January 15, $14.00–$15.00.
January 22, $14.50 only.
January 29, $15.00–$15.50.
February 5, $15.00–$16.50.
February 12, $16.00–$16.50.
February 19, $17.00 only.
February 26, $16.00–$18.00.
March 4, $18.75 only.
March 11, $19.50–$20.00.
March 18, $21.00–$22.00.
March 25, $21.00–$23.50.
April 1, $24.00–$25.00.
April 8, $24.00–$25.00.
April 15, $22.63.
April 22, $22.00.
April 29, $22.00.
May 6, $23.75.
May 13, $24.50.
May 20, $25.25
May 27, $25.00.

These are Midwest prices for butt branded steer hides. In calculating the hide and offal value, we use the simple average when a range of prices are quoted.

ADDRESS BY EDWARD TELLER

Mr. BUCKLEY. Mr. President, on April 14, 1972, Edward Teller gave a significant speech in the Hungarian House of New York, as a part of a lecture series organized by the American Hungarian Historical and Library Association. I ask unanimous consent that the speech be printed in its entirety at the conclusion of my remarks.

Dr. Teller is of Hungarian origin. He came to this country in the late 1930's. He is a distinguished scientist and a loyal American. The respect, the success and admiration that is his, is well earned. He has served his new country with everything he has. He has tried to repay the indebtedness that he feels is his to this country. And he has done so three times. First, when he along with another Hungarian scientist, Dr. Leo Szilard, persuaded Albert Einstein as to the feasibility and necessity for the development of the atomic bomb. Dr. Einstein's word with President Roosevelt initiated the "Manhattan project." Second, when he convinced his colleagues about the possibility of the development of the H-bomb. He did this against tremendous odds. And third, now when Dr. Teller, inspite of irresponsible criticism and vigorous attacks on his integrity, took upon himself the responsibility and burden to appeal to the commonsense of his fellow Americans in order to awake the consciousness of our great country. He presents the facts as he knows them. His evolution of their effect on the world and his conclusions are worthy of attention.

For his relentless work for the survival of freedom his fellow Hungarian-Americans in 1969 presented to him the "freedom award" of the Hungarian Freedom Fighters Federation of the United States of America.

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

NATIONAL DEFENSE AND SECURITY

Despite popular notions, one can no longer talk of a military balance between the superpowers. Following World War II, United States superiority was enormous. However, that picture has changed drastically since. We approached parity ten years ago. The then Defense Secretary McNamara proposed atomic deterrence by assured destruction for the eventuality of a Russian attack. Like in the case of other McNamara theories, the assurance has been replaced by uncertainty.

The situation today is that the Russians have greatly superior land forces. They have advanced military air power. They are also forging ahead in naval strength. And they are getting constantly further ahead in nuclear explosives and in defense against a nuclear attack, not being hampered by budgetary and other limitations. Consequently, we cannot in good faith speak of a balance of military power. More than that, even if we should seriously strive to reach anything near equality, this would be impossible before 1980—even if we would be feverishly working for it.

Nevertheless, the situation is not quite as hopeless as it could be. Our nuclear arsenal though it cannot be regarded as an absolute deterrent, still has sufficient retaliatory power which could cause considerable havoc and will, hopefully, prevent the Russians from launching an atomic attack. Still, their intercontinental rockets can destroy in a first strike a large percentage of our retaliatory force before it can leave the ground. One has to bear in mind that rockets travel 10 to 20

times faster than the speed of sound and the incoming rocket is difficult to hit. We are beginning to develop such countermeasures, but the preparedness ratio in this field favors the Russians who have been perfecting their ballistic defense system for a full decade.

There exists the possibility that their defenses will soon be so strong that they could intercept and destroy what remains of our retaliatory force after a Soviet first strike.

In matters of defense one has to keep in mind not only the probable but also the possible. It is evident that should the Russians be able to successfully defend themselves while we could not, it would not take very long before the fate of these United States—a country which provided us with refuge and of which we have become loyal citizens—will be similar to that of Hungary or Czechoslovakia.

An equally unfortunate circumstance is our mental unpreparedness: the defeatist stance of our immediate successors, the younger generation which is soon to take over from us. What I as a professor have seen in my hometown, on the Berkeley Campus of the University of California, and also during my numerous lectures elsewhere, does not auger well for a sound defense. The trouble has spread over the whole western world. When I took part recently in the centennial exercises of the Institute of Technology at Aachen, West Germany, mob scenes indicated that in the well developed industrial parts of the free world much of the fabric of stable human character has disintegrated. Since a like situation is hardly tolerated beyond the Iron and Bamboo curtains the developing situation favors our adversaries.

Being among fellow Hungarians who are fully aware from bitter experience what it means to be defenseless against the onslaught of superior forces, gives me the chance to make a suggestion. We all owe gratitude to our new homeland. To express it in a positive way is our privilege and duty. What I suggest may not be pleasant, but it is of the utmost importance for the country that has adopted us. We, who either through personal experience or that of our kin found out about the Russians, sampled their mentality through direct contact, have a specific obligation: to urge our American friends to realize the ever-increasing dangers looming on the horizon. Once the great Russian thrust for world domination is on the march, it is difficult to foresee where and when it may stop. It is far better, therefore, to prepare for it while this is still in the realm of possibility.

That the Russians have superior power and that an equilibrium no longer exists is an undeniable fact. If we do not begin to remedy our shortcomings at once and keep at it purposefully and diligently, we shall not even reach parity with the Russians by 1980. But if we ourselves, and those Americans who have the future of the United States and the Free World at heart are unable to carry this message, and if our public opinion will listen instead to Senators like Proxmire, Fulbright and McGovern—then in a comparatively short few years our ability to defend ourselves and the western civilization will come to an abrupt end. This fate, to become a communist satellite, a colony of slaves, we must prevent.

The great advantage of a democracy is that everyone is permitted to help on his own initiative, everyone can contribute even if in a modest measure to the betterment of both private and public life. Thus each one of us can do his or her bit to see that we are not left behind. And this is a point where overzealous bureaucratic secrecy comes into the picture. I am among those who have valid reasons for being against the indiscriminate use of the red Top Secret rubber stamp. Despite this secrecy, we cannot keep a secret for a long time.

A theory, a chart, a drawing is but the embryo of any system. It is indeed a long and tortuous road to develop something tangible from a sketch. This painstaking, intricate scholarly process on the technological level is far too complicated to be snatched away by a spy. The minute details of development is what does bring the desired end result. At the end of WW II we were in the possession of the atomic bomb. Shortly thereafter the hydrogen bomb was perfected. But on account of our infatuation with official secrecy, we have fallen far behind. We oppose work on weapons in peacetime. Our adversaries have no such impediments and mental blocks. Today the Americans are ignorant of their danger because we have literally guarded the secret of Russian superiority more zealously than we have guarded our own classified information. If the American public would be given the evidence of our weakness, they would act accordingly, exerting their influence on our open political institutions, in the best interest of our country of humanity and of peace through strength.

We are in almost as bad a shape as we were at the end of the 1930s when the nazis were prepared and we had to start from scratch. Our greatest hope at the moment is that the position of our Polaris missile equipped submarines is constantly changing. God forbid that the Russians would ever be able to unscramble their course! But in every other aspect we are vulnerable. Though we Hungarians are in a minority, we must raise our voice and arouse public opinion favoring, at least, parity.

As I stated before, the Russians have better planes and missiles. Yet, essential details of their strength is a deep secret which we are not permitted to discuss. If I myself would know it, I could not tell you. Some of my colleagues, brilliant scientists, do not believe this to be so. Strangely, many liberal scientists favor secrecy. What a pity. For if and when the relevant secrets will be brought into the open, honest arguments can replace propaganda. This necessitates the declassification of all but the most sensitive intelligence information.

The beauty of democracy is its inherent openness. This quality is most beneficial to serious scholarship. But science cannot thrive if there is secrecy. We have to make science and high technology more desirable, more popular among our young people if we aspire for real progress, and if we want to survive in an ever more competitive world. It saddens me that right now there is but scant interest among the young to pursue a science career. Apparently they do not realize how important and how relevant it is for the future—their future.

If our allies, Europe and Japan primarily, will be allowed to team up their best talents and resources with ours, the picture can change for the better. To merit their full cooperation we have to lift the veil of unnecessary secrecy. Americans must come to grips with this urgent problem, not only for the sake of these United States but for the whole free world. Should we succeed in establishing a close scientific collaboration with those who are looking to us for leadership, then the world may expect a more peaceful future in which freedom will survive.

We must win over our young people to work for this ambitious and inspiring plan. It is a plan for survival.

PRESIDENT'S TRIP TO MOSCOW

Mr. TAFT. Mr. President, I wish to offer my heartiest support and congratulations to President Richard M. Nixon on his historic visit to Moscow last week. I am overwhelmed by the bipartisan support, initiated by the distinguished majority leader, which above all else, has demonstrated that Members of this body do in fact, put our country ahead of political aspirations. The final elimination of the funding cutoff provisions in the USIA State authorization bill this week was a most important manifestation of this sense of priorities.

The President, who will address a joint session of the Congress tonight, is bringing home a new hope for world peace. The many subjects of agreement are vital to the interests of both countries and the agreements greatly strengthen the prospects for world peace.

The unprecedented results are now on proud display for the rest of the world to note. President Nixon's accomplishments have been detailed on the floor many times. I can only add a note of encouragement to Members of this body, and all citizens of this Nation to give the President the encouragement and support that he so clearly deserves. They have made this world a safe place to live, and reduced the risks and tensions between the superpowers of this world.

I am hesitant at this time to refer to what is perhaps the most blatant show of bad taste and timing during this time of optimism for world peace. I reluctantly draw attention to a two-page advertisement in the New York Times, Wednesday, May 31, 1972. I do not intend to take issue at this time with the totally unfounded attack on President Nixon, but would rather note the voice of the working man, the pressmen at the New York Times, on their feelings as to how President Nixon is conducting the war in Vietnam.

The pressmen at the Times delayed the start of the first-edition press run of yesterday's issue for nearly 15 minutes to protest the contents of this paid advertisement seeking the impeachment of President Nixon. The pressmen said they would not operate the presses unless the advertisment was removed. The Times management, for economic reasons, declined to refuse the $17,850 ad.

The pressmen then asked that a statement of their viewpoint be printed with the advertisement, but production officials again refused, saying that it was a matter for the news department to look into. In a statement by the pressmen, that labeled the advertisement as "traitorous" and "detrimental to the boys in Vietnam and prisoners of war."

We the members of the New York Times press room want it known that we do not agree with the action or intent of the paid advertisement on pages 22 and 23 of the Wednesday issue, dated May 31, 1972, and are working under protest in printing it.

I am certain that Americans who saw the ad share the feelings of the pressmen. I do not feel a need to attack or defend. The New York Times pressmen have spoken for us all.

GUN CONTROL LEGISLATION

Mr. STEVENS. Mr. President, the significant increase in crime during the last decade and the assassination and attempted assassination of prominent Americans have brought about feeling among many well-meaning persons in the Congress of the United States and

elsewhere in our Nation that more stringent regulatory control should be placed on handguns—if not all guns.

More restrictive legislation would surely create a more lucrative black market in the sale of guns and ammunition and, like that other "noble" experiment—prohibition, swell the coffers of organized criminal syndicates.

Peaceful, decent, law-abiding citizens would be disarmed, and all the handguns would be held by criminals.

Handguns, like automobiles, can be dangerous in the hands of the careless, uninstructed, irresponsible or criminal. Yet it is the criminal and the assassin, not the gun, that is guilty—just as it is the irresponsible or drunken driver that is guilty, not the automobile.

Legislation to outlaw handguns would merely be another step down the road to denying the right of our people to bear arms.

The next step would be the confiscation of rifles; after that our shotguns.

This is like the man who asked for a loan of $30, but was told that only $10 was available. "That's okay," said the borrower, "I'll take the ten and you owe me twenty."

If restrictions on firearms and ammunition are necessary, the States are uniquely capable of responding to local needs. In my State of Alaska, where tens of thousands of people depend on firearms for their subsistence, the needs are far different than in the State of New York, for example. A uniform Federal law cannot meet the needs of the widely divergent communities of America. The most graphic example of this is rural Alaska where the provisions of the Gun Control Act have created great hardships for those in areas not accessible to sellers of firearms and ammunition.

Cries for gun-control legislation were the inevitable aftermath of the shooting of Gov. George Wallace. Every thinking citizen abhors that act. Yet the banning of the sale of .38-caliber handguns would not have prevented that tragic event.

Furthermore, the man who the State charges shot Governor Wallace had been arrested 2 months before on a charge of carrying a concealed weapon. That charge was reduced to a simple "disorderly conduct" when the alleged assailant agreed to plead guilty to a lesser charge, paid a $38 fine and walked out, a free man.

Mandatory penalties must be placed on those who misuse firearms or unlawfully carry firearms, but the right of law-abiding citizens to use guns for lawful purposes must be protected.

MARY GEORGE JORDAN WAITE

Mr. ALLEN. Mr. President, on May 19, 1972, Mrs. Mary George Jordan Waite, of Centre, Ala., completed a year of distinguishing service as president of the Alabama Bankers Association. She was the first woman in the United States to serve as president of a State banking association.

Even more impressive than this important milestone is the quality and quantity of dedicated service which Mrs. Waite has given to the people of Centre and Alabama. Mrs. Waite was the first woman to serve as director of the Alabama division of the American Cancer Society; the first woman to serve on the Alabama Banking Board; the first woman to receive an honorary State farmers degree from the American Future Farmers of America; and the first woman to serve on the executive committee of the Choccolocco Council of the Boy Scouts of America.

In addition, Mrs. Waite served 2 years as president of the Centre Chamber of Commerce and is the immediate past president of the Alabama Federation of Women's Clubs. A member of the American Legion Auxiliary, Mrs. Waite is past department president; past national vice president; and past girls nation director.

I have in my hand a list which bespeaks many of the outstanding achievements of Mrs. Waite, and I ask unanimous consent that it be inserted in the RECORD immediately upon the completion of my remarks.

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

(See exhibit 1.)

Mr. ALLEN. No, Mr. President, Mrs. Waite did not wait for women's liberation before giving of her talents, abilities, and skills to her people. She has been a doer and a mover since the first day she entered professional life.

As a wife, a mother, a Sunday school teacher and as a professional businesswoman, this gracious lady has made all who know her aware of her exceptional abilities and capabilities. I am proud to claim the friendship of Mary George Jordan Waite, and I know that in the days to come, she will continue to make many outstanding contributions to the people of her community, our State, and our Nation.

EXHIBIT 1

MARY GEORGE JORDAN WAITE

Chairman and President of Farmers & Merchants Bank, Centre, since 1957.

President Alabama Bankers Association—1971–72 (After May 19, 1972—Past President of Association).

Native of Centre, Alabama.

Graduate Huntingdon College, Montgomery—Graduate School of Banking of the South, LSU.

Taught English at Cherokee County High School for 5 years.

Sunday School teacher, First United Methodist Church (Young Adults).

Member Finance Committee—Assistant Organist—Member Wesleyan Service Guild.

Chairman Board of Trustees, Cherokee County High School.

Past president, Centre Chamber of Commerce (President for 2 years).

Member American Legion Auxiliary—past Department president; past National Vice President; past Girls Nation Director.

Member Pratt-Centre Business & Professional Women's Club—past club president; chosen as State Woman of Achievement in 1968.

Member Centre Literary Club—past club president.

Immediate past president of the Alabama Federation of Women's Clubs; General Federation of Women's Clubs Family Economics Division Chairman.

Secretary-Treasurer, International House, Jacksonville State University; Member Teacher Hall of Fame Advisory Board—Jacksonville State University.

Member Board of Directors State 4–H Foundation; One of 8 National 4–H Alumni Award winners 1970 (First Alabama woman, only two other men); State 4–H Alumni Award winner 1967 and 1969.

Member National Association of Bank-Women, Inc.—past state president and Regional Vice President, National Committees on Public Relations and Legislation.

Member Alabama Bankers Association; Past Public Relations Committee Chairman; past Chairman Federal Legislative Committee; Finance Committee; Member of Board Alabama Bankers Educational Foundation.

Past member American Bankers Association Federal Legislative Advisory Committee (First woman).

Past member State Banking Board (First woman).

Member Advisory Council, Alabama Small Business Administration.

Director, Alabama Division, American Cancer Society (First woman).

Member Alabama Women's Hall of Fame Board of Directors.

Received Honorary State Farmers degree from Alabama Future Farmers of America in 1970 (First woman).

Listed in Who's Who Among American Women, Alabama Lives, Personalities of the South, Who's Who in Banking, Who's Who in Commerce and Industry.

Member International Platform Association.

Member Executive Committee, Choccolocco Council Boy Scouts of America (First woman); 1971 Finance Drive Cherokee County Boy Scouts (First woman).

Married to Dan Waite, Jr.; One daughter, Betty Graves—two granddaughters and one grandson.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. BAYH). All time for morning business has now expired.

ORDER FOR ADJOURNMENT TO 12 NOON TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that upon conclusion of the joint session tonight, the Senate stand in adjournment until 12 noon tomorrow.

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

ORDER FOR ADJOURNMENT FROM FRIDAY TO MONDAY, JUNE 5, AT 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 12 noon on Monday, June 5, 1972.

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

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 13150) to provide that the Federal Government shall assume the risks of its fidelity losses, and for other purposes.

NOMINATION OF RICHARD G. KLEINDIENST

The PRESIDING OFFICER (Mr. BAYH). Under the previous order, the Senate, in executive session, will now resume debate on the nomination of Mr. Richard G. Kleindienst for the office of Attorney General of the United States.

The question is on confirmation of the nomination of Mr. Richard G. Kleindienst to be Attorney General of the United States.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. TUNNEY. Mr. President, I ask unanimous consent that, during the debate today on the Kleindienst nomination, I be allowed to have two staff aides on the floor; Jane Frank and Tom Gallagher.

The PRESIDING OFFICER (Mr. STEVENSON). Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, Justice Brandeis once said:

Sunlight is the best disinfectant.

Unfortunately, during the long weeks of the Judiciary Committee's investigation, we had very little sunlight on this nomination.

And for that reason it is essential that we focus on the real meaning of this debate as it opens.

The issue here is not the President's right to name his own man as Attorney General. The people of this country elected Richard Nixon and until they elect a new President, he has that right. In fact, as everyone knows, before the Anderson story and before the Life mazazine story, the first vote in the committee on this nomination was unanimous.

Perhaps we were all too shortsighted at that first vote. I say this not only because, as things have developed, we have learned a good deal about how Mr. Kleindienst makes decisions and about how he tells the public about those decisions, but also because, in the second set of hearings on his nomination, all of us had a rare and unsettling chance to see with new awareness the erosion of effective law enforcement in this country.

This erosion did not start with Richard Kleindienst—nor in all probability will it end with him.

To a considerable extent Kleindienst is a victim of circumstance because his nomination has become the focal point for a new look at what is wrong with our whole system.

No one in this body is hypocritical enough to pretend that corporate influence is not exercised in every administration. And no one can be very comfortable sitting in judgment upon another.

But the Senate has a responsibility here that cannot be ignored, for we are confronted with a nomination that reveals with unmistakable clarity what has gone wrong.

This is by no means the first time the Senate has been embroiled in controversy over a Presidential nominee. And I am sure it will not be the last. But the facts and circumstances surrounding this nomination, I believe, force upon this body a special responsibility to the American people. I say this because in a very real sense what is at issue here is the right of every citizen to believe that the law applies equally to all.

The nominee before us, if confirmed, will be responsible in symbol and in fact for the administration of justice in this country. Every Member of the Senate knows that.

But more importantly, Richard Kleindienst knew that when he came before the Judiciary Committee. More than anyone else in the country, save only the President and John Mitchell, Kleindienst knew the implications of the questions raised about him and the importance of the fullest possible disclosure of the facts.

And yet the hearing record is filled with the most outrageous kind of lapsed memory, convenient evasions, and deliberate destruction of documents.

Richard Kleindienst cannot be charged with all of the defects in that record. The International Telephone & Telegraph Corp. established that it is second to no one in corporate arrogance before a Senate committee.

But Kleindienst is responsible and accountable for his own conduct in the matters before us. And he is responsible for the conduct of the Department of Justice under his direction as it hindered and evaded the efforts of members of the committee to learn the truth. Moreover, he is accountable for his perception of the standard of conduct which must apply to those who hold the public trust.

And, therefore, in my mind this nomination is a test of the Senate in the minds of the American people. No one in the Senate needs to be told that citizens all over this country believe government is not responsive to their needs. And every Member of this body knows, indeed has felt, the increasing cynicism and suspicion with which public officials are viewed.

But this nomination puts the issue to those people in a form stripped of all the niceties of academic discussion.

It says to the American people with no apologies—this is the way your Government deals with special interests—this is how the system works if you are rich enough and strong enough and persistent enough—this is how the big boys play the game.

And now those people are watching us—waiting to see whether the Senate cares enough to restore some faith in that system.

We have all talked about public confidence in government. We have all deplored the alienation of our young people. And we have all come face to face, in very personal ways, with the anger and desperation of those who feel there is a double standard of justice in this country.

And it is for that reason that we all have a stake in this debate. Because the fundamental issue before us is one that cannot be discounted or explained away as simply partisan politics. Regardless of the monetary pain and embarrassment this case may cause to Republicans or the momentary pleasure and glee it may provide to Democrats, we cannot ignore the fact that an affair like ITT hurts everyone in Government. It undercuts the foundation of trust upon which we all depend—and upon which our society itself depends.

And that is my quarrel with this nomination. I do not blame Richard Kleindienst for the fact that ITT felt it could bang on every door in the Government. Nor do I blame him for the pressures that were obviously unleashed upon him.

It is a sad fact but true that no administration is spared the corporate muscle that was applied here.

But the job of the Attorney General of the United States is to stand up to that pressure and reject it, not to join eagerly in serving its goal. It is the job of the Attorney General to deal fairly and honestly with the public, not to mislead them by elaborate semantic distinctions. And it is the job of the Attorney General, when called to explain his conduct, to provide the full record, not an evasive, sanitized version of the facts as he would like them to be.

We do not know all the facts of the ITT affair. And unless the Senate decides to demand those facts we never will know what happened there.

Nor do we know the full nature and extent of Richard Kleindienst's involvement in, and culpability for, the events that took place. And unless the Senate demands that knowledge, it cannot vote responsibly to confirm him.

But even with a record as confused and conflicting as this one, we know something about how Richard Kleindienst perceived the role of Attorney General when called upon to fulfill it. And that perception was fatally deficient.

I. THE ITT SETTLEMENT

The nature and extent of Kleindienst's participation in the process of settling the ITT cases went far beyond the customary and proper role of the Attorney General. In fact, the inescapable conclusion to be drawn from that involvement is that Kleindienst used virtually every informal method available to him to assure special treatment for ITT.

KLEINDIENST—ROHATYN

John Ryan, a lobbyist in ITT's Washington office, described by ITT officials as the company's "antitrust listening post," approached his neighbor Kleindienst at a social gathering in early 1971 and began complaining about the hardness of the Government's antitrust policy as it applied to the Government's three pending antitrust suits against ITT. At some point Ryan asked Kleindienst if he would be willing to talk to someone from ITT about the economic problems which ITT would face if the Government won its lawsuits against them. Kleindienst

agreed to do so and a meeting was eventually set up between Kleindienst and Felix Rohatyn, a member of ITT's board of directors and an official of the New York Stock Exchange.

Mr. Kleindienst met with Mr. Rohatyn five times in the next 2 months. And on all but one of those occasions neither his antitrust chief, Richard McLaren, nor any other Justice Department lawyer was present. In fact, McLaren was not even informed that the meetings had occurred.

There is nothing extraordinary in the Acting Attorney General hearing the plea of an official of a corporate litigant. What was extraordinary is that, by design, the two of them should be alone, the corporate agent—not himself a lawyer—appearing without his counsel, and the Acting Attorney General, totally unfamiliar with the details of the case or the issues being raised, without his counsel on the case; namely, the Assistant Attorney General responsible for "handling" the case. Moreover, although Mr. Kleindienst saw Mr. McLaren about ITT matters the day before the first Kleindienst-Rohatyn meeting, the upcoming meeting was not mentioned, nor was McLaren invited. Only afterward was McLaren asked by Kleindienst to set up a large meeting at which ITT could make a formal presentation of its hardship case to the Department. But even this task was not delegated to McLaren—Kleindienst himself called Rohatyn to tell him the meeting was on, and Kleindienst sat in on the meeting.

At that meeting on April 29, 1972, ITT made a formal presentation of its alleged hardships. A full array of ITT officials, lawyers, and economists met with McLaren and his staff attorneys working on the antitrust cases. Of itself, there was nothing extraordinary about the occurrence of such a meeting.

Yet the circumstances surrounding that meeting reveal the situation with particular clarity. Not only were McLaren and his key staff present, but Kleindienst himself was as well.

The key point is this—Kleindienst's presence could serve only one purpose—a silent but well-recognized signal to every member of the Department on the ITT cases. That signal says to the staff attorneys working on these cases that the Attorney General has a very personal interest in the matter and it is to be handled accordingly. Anyone who has ever worked in the Justice Department knows that. But most of all, Mr. Kleindienst himself knew what type signal he was giving to his subordinates by sitting in on that meeting.

In addition, however, we have the strange circumstances during the meeting itself. At that meeting Rohatyn was scheduled to meet with Kleindienst, McLaren, several Justice staff lawyers, two Treasury representatives, two ITT financial consultants, and ITT lawyers in McLaren's office at 10:30. At that hour, however, Rohatyn was called to a meeting in Attorney General Mitchell's office in connection with the stock market problems. Peter Flanigan was present at that meeting. Kleindienst, McLaren, and the others, presumably aware that Rohatyn was with the Attorney General, waited for 55 minutes for Rohatyn to arrive. If nothing else, that fact reveals in an unmistakable way the raw power which ITT could command within the Department, and particularly with Kleindienst himself.

Even assuming, however, that the mere presence of the Deputy at a single meeting, even if somewhat unusual, might not alone raise questions, that was not the end of it. Three more times, each at a critical juncture in the negotiations, Rohatyn scheduled appointments with Kleindienst. In each of those instances Kleindienst did not refer Rohatyn to McLaren when the request for an appointment was made, did not invite McLaren to attend, did not tell McLaren the meetings were scheduled, and did not tell him afterwards that they had occurred.

Finally, we have Kleindienst's direct involvement in conveying the Department's June 17 settlement proposal to ITT. On that day, having authorized a settlement offer to ITT, an offer which allowed ITT to keep the Hartford company it so desperately wanted, Kleindienst personally participated in a joint call with McLaren, relaying the good news not to ITT's lawyers who had supposedly been handling the case but to Rohatyn himself.

The obvious conclusion is that Mr. Kleindienst wanted to make sure that Mr. Rohatyn and ITT knew that he—Kleindienst—had taken care of their problems personally.

In sum, the fundamental and still unanswered question is why Kleindienst went out of his way to keep McLaren in the dark and Rohatyn in the light. The entire procedure by which the Justice Department traditionally deals with defendants involves a particular caution to keep the staff attorneys handling the matter or at least the Assistant Attorney General in charge, fully informed of all developments. Yet in this case the acting Attorney General did precisely the opposite. The question we are still left with is why.

KLEINDIENST AND WALSH

At the same time that Mr. Rohatyn was preparing his approach to Mr. Kleindienst, ITT President Harold Geneen contacted Lawrence E. Walsh, a partner in ITT's regular law firm, but himself previously uninvolved with ITT matters. Walsh was a former Eisenhower appointee to the Federal bench, Deputy Attorney General in the Eisenhower administration, and Deputy Negotiator in Paris during the first year of the Nixon administration. He was also a friend of Mr. Kleindienst's and was in contact with the Deputy Attorney General several times a week in his capacity as chairman of the American Bar Association committee which passes on all Federal judicial appointments. Walsh agreed to contact Kleindienst in an effort to persuade him to delay or back down from the filing of an appeal to the Supreme Court from the Government's loss in the District Court in the Grinnell case. McLaren had strongly recommended the appeal and Solicitor General Griswold, although he disagreed with McLaren on the legal theory, had reluctantly approved.

Walsh called Kleindienst the week before the date, April 20, on which the Supreme Court filing was due. He told Kleindienst he was sending him a letter on the ITT case, a letter which arrived April 16 by hand. This letter acknowledged that the Government would probably win the cases in the Supreme Court. In other words, the attorney for ITT was acknowledging to the Acting Attorney General that the Government could probably win its cases in the Supreme Court, but Mr. Walsh went on to argue that since the litigation had so many ramifications for the executive branch, other Departments should be consulted by Justice before the Supreme Court appeal. It said ITT understood that the Secretaries of Commerce and Treasury and the Chairman of the Council of Economic Advisers had views on the matter. Walsh said that he was approaching Kleindienst rather than McLaren because Kleindienst had "already been consulted with respect to the ITT problem," Walsh suggested that the Supreme Court filing be delayed so that ITT could make a further presentation on the need for interagency consultation. There was no mention of the fact that since 1969, as was well known to ITT, there had been at least one interagency committee consulting on antitrust policy.

It is significant that Mr. Walsh in his letter indicated that "you already have been consulted with respect to the ITT problem." How, we may ask ourselves, did Mr. Walsh know that Mr. Kleindienst had already been consulted, and in what way, and by whom, and where?

On April 19 Mr. McLaren told Mr. Kleindienst he disagreed with Mr. Walsh's position. But Mr. Kleindienst, who admitted in the hearings that he had not even read the Walsh letter, called in Mr. Griswold and asked if he could get an extension on the Supreme Court filing. Mr. Griswold said they were 9 days past the usual deadline for extensions, but could get one if there was a good reason. Mr. Kleindienst directed Mr. Griswold to try to get one and then called Mr. Walsh to tell him the good news.

And so the pattern is repeated—a direct intervention by Mr. Kleindienst for the sole purpose of postponing ITT's day of reckoning.

Again, the record is incomplete—but even with that record, Mr. Kleindienst's conduct raises grave questions.

He admitted he had not even read Walsh's letter when he ordered the Solicitor General to hold up the appeal to the Supreme Court. And so again we are left with the question why.

KLEINDIENST AND FLANIGAN

Although McLaren had professional economists on his own staff, he decided to obtain the views of an outside consultant on the ITT claims that the case had to be settled. He called Peter Flanigan of the White House and asked him to see if Richard Ramsden, a New York investment adviser and former associate of Flanigan's on Wall Street, who had worked on the LTV case as a White House fellow in 1970, could analyze the ma-

terials ITT had presented to the Justice Department in support of its hardship claim. No one knows why McLaren did not contact Ramsden himself.

On May 12 Flanigan gave Ramsden the ITT memorandum without identifying its source and asked Ramsden to prepare a report on the matters discussed, chiefly the impact on ITT stock if Hartford were to be divested.

The memorandum was one that was prepared by ITT to be used in a presentation to the Justice Department to demonstrate that settlement of the cases was imperative to ITT.

There is no question that the ITT memorandum was a lawyer's brief. It was designed to present the very best side of the ITT case. It was not in any way an attempt to be objective—the same way that we would not expect a lawyer who is arguing his client's case to do anything other than to bring out the strongest points of his client's case. We do not expect that lawyer to argue the other side of the case.

In other words, the ITT memorandum was not intended to be objective. It was intended to demonstrate, to persuade, to importune the Justice Department to drop its antitrust cases against ITT.

It is this memorandum which Mr. Flanigan of the White House gave to Mr. Ramsden, who was supposed to do the objective study of matters relating to the ITT case; and this memorandum, I repeat, was not identified by Mr. Flanigan as having been prepared by ITT.

When Mr. Ramsden completed his report on May 17 he called Mr. Flanigan to say he would be in Washington on May 20. Mr. Flanigan relayed the news to Mr. McLaren, who said he was going to Europe on May 19 and told Mr. Flanigan to hold onto the report until his return. On May 20 Mr. Flanigan called Mr. Kleindienst to inform him of the report's arrival. Mr. Kleindienst, too, told Mr. Flanigan to hold onto the report until Mr. McLaren's return.

Why, we may ask, did Mr. Flanigan feel that it was necessary to report to Mr. Kleindienst the fact that Mr. Ramsden's report arrived in his office when he had already been told by Mr. McLaren that Mr. McLaren was going to be away for a week?

I think that the inference can be drawn that Mr. Flanigan knew that the Ramsden report was a most significant document to the Justice Department, that it was going to be used by the Justice Department as justification to allow the merger of ITT with Hartford Fire after all.

At any rate, there is nothing in the record to show why Flanigan called Kleindienst to tell him about the Ramsden report, since Flanigan's testimony came before the revelation of the call, and Kleindienst said he could not remember the whole transaction. Sometime after McLaren's return on June 7, Flanigan personally delivered the report to Kleindienst and McLaren. Again there is no information on why Kleindienst was included or where the meeting took place.

Peter Flanigan is the mystery man in the ITT affair. He appears and disappears in this case like the ghost of Christmas Past.

But an even bigger mystery is his involvement with Kleindienst over the Ramsden report. Why did Flanigan call Kleindienst to tell him the report was finished when he had already told McLaren and McLaren told him to hold it, that he was going to be in Europe for a week?

Peter Flanigan is a man who does not waste words or effort on meaningless gestures. And yet he made a specific point to call Kleindienst.

Moreover, when he finally did transmit the report to McLaren, he brought it down personally to give it to both McLaren and Kleindienst. Flanigan claims he was only a "conduit," but, if that is all he was, he was certainly the highest paid messenger boy in Washington.

As a matter of fact, I cannot imagine a circumstance where a White House aide of the stature and importance of Peter Flanigan would personally carry a message or a report to the Justice Department if all he was to do was deliver it. Rather, the inference is that Mr. Flanigan personally carried the report from the White House down to the Justice Department for the purpose of having a few words with Mr. Kleindienst and Mr. McLaren. The record, of course, is inadequate. All we have is Mr. Flanigan's claim that he was nothing more than a conduit. Yet a man as busy as he was, a man who has to turn down, obviously, many phone calls a day and many meetings a day, was prepared to drop his duties and go down and deliver the report to Mr. Kleindienst and Mr. McLaren.

We will never know what kind of a conversation took place between Mr. Flanigan and Mr. McLaren and Mr. Kleindienst at that time. That is, we will never know unless the Senate demands to know; and it seems clear to me that the Senate should demand to know, and it should demand to know by reopening these hearings.

Kleindienst, of course, could not remember anything about the details. Nor could he remember anything about Flanigan's later call to him relaying more pressure. On June 29, after another private meeting with Kleindienst to keep the heat on, Rohatyn dropped in on Flanigan to deliver a little more. A few days later Flanigan passed it on to Mr. Kleindienst.

Again, Kleindienst could not remember—and Flanigan declined to mention it until after he left the stand.

And so we are left with another chapter half-written and more questions to be answered.

One thing we do know—Peter Flanigan carries the mail for big business in Washington. He knows it and so does Richard Kleindienst. And it would not take more than a wink between them to nail down a deal.

KLEINDIENST AND M'LAREN

Richard McLaren is in some ways a tragic figure in this case because of all those in Government who had a hand in this mess he alone fought the public's battle. But in the end he was outgunned and he knew it.

The record is not as complete as it should be, but it is complete enough to reveal McLaren's solitary stand against the concentration of economic power in this country.

He came to the Justice Department prepared to joust with the giants—and for 2½ years he did just that. But gradually and increasingly his vision of antitrust enforcement was overshadowed and then eclipsed.

He tried to sue Warner-Lambert to block a classic violation of the antitrust laws, and Mr. Kleindienst—acting as the Attorney General because, similarly as in the ITT case, Mr. Mitchell had ruled himself out on the basis of a conflict of interest derived from his old law firm in New York—as Acting Attorney General overruled Mr. McLaren.

He tried to block ITT's acquisition of Canteen Corp. before it was completed, but again Mr. Kleindienst, acting as the Attorney General because of Mr. Mitchell's former law practice, overruled Mr. McLaren.

Mr. McLaren tried to prevent a delay in the Government's appeal to the Supreme Court in the ITT-Grinnell case, and once again Mr. Kleindienst, as Acting Attorney General, overruled him.

Mr. McLaren consistently and adamantly rejected every attempt by ITT to prevent him from taking them to the Supreme Court. He declined their settlement offers, he refused their pleas.

Yet, in the end, after Kleindienst set the whirlwind in motion, McLaren lost that battle, also.

We do not know the whole story—but what we do know is that the entire record of Kleindienst's dealings with McLaren in the ITT cases was one which gravely undercut Mr. McLaren as the chief enforcer of the antitrust laws.

KLEINDIENST AND WILSON

During the last few days of July, Richard Dudman of the St. Louis Post Dispatch obtained a tip from sources he considered reliable that the ITT cases were about to be settled and that Kleindienst and Congressman BOB WILSON—who had been involved deeply in efforts to get ITT to help underwrite the Republican National Convention—had discussed the settlement on about July 17. When Dudman checked with ITT and the Justice Department on around July 30 or 31, neither would comment on the settlement story. When contacted by Dudman, both Kleindienst and WILSON "denied that they had discussed the matter." The story written by Dudman on August 1 reported the meeting anyway, and cited as corroboration a reported meeting between WILSON and Geneen late in June. In testimony before the committee, both WILSON and Kleindienst denied having been in contact at all during the 6-month period preceding the settlement.

After hearing WILSON's denial, Dudman rechecked his source who, as quoted on April 10, "reiterated that WILSON talked with Kleindienst in detail about the then pending settlement of the ITT-Hartford Fire Insurance Co. antitrust case

in mid-July." So the question is still open.

KLEINDIENST AND ROBERTSON

Kleindienst told the committee:

I would like to conclude my remarks by saying categorically and specifically that at no time, until some time in December 1971, did I have any knowledge of any kind, direct or indirect, that the ITT Corp. was being asked to make any kind of a contribution to the city of San Diego or to the Republican Party with respect to the prospective national convention of the Republican Party in San Diego.

However, in addition to the wire service story in August regarding the ITT gift and a New York Times article in September about ITT's contribution, Kleindienst and McLaren also had an exchange of letters with Reuben Robertson on the subject during September.

Robertson had been involved in a lawsuit challenging the ITT-Hartford merger in Connecticut and moved on September 17, 1971, to intervene in opposition to the Federal antitrust consent settlement. When asked whether he knew of Robertson, McLaren did not associate him with the ITT cases. Yet Robertson's testimony indicates that although he had over a period of time "enjoyed an excellent arms-length relationship with the trial staff lawyers working on the ITT litigation," when the settlement was announced "the staff attorneys were ordered to have nothing further to do with me or anyone connected with me." Orders denying Robertson access to attorney and documents came, he said "from the top."

On September 21, Robertson wrote Kleindienst, with a copy to McLaren, a hand-delivered letter, inquiring among other things what is the relationship between this settlement and ITT's reported financial support to the city of San Diego in connection with the site of the Republican Convention in 1972? McLaren answered the letter the following day, not by saying that he was unaware of ITT's support for the convention; but by asserting unequivocally, "there is no relationship whatsoever between the settlement of the ITT-Hartford litigation and any financial support which ITT may have offered to the city of San Diego."

Although Robertson's letter and an accompanying memorandum was the only challenge to the ITT consent decree, Kleindienst "had no recollection of the letter" and said that it was the kind of letter that was "routinely, by my staff, sent down to the various divisions of the department."

McLaren acknowledged that "I would not have written that unless I had checked with Mr. Kleindienst and asked him", referring to a part of his reply relating to contacts between Kleindienst and Congressman WILSON. "That letter, in the face of it, would indicate that the Antitrust Division or Mr. McLaren would have called me about it," admitted Kleindienst.

But, he said, "I do not recall the conversation" and "I have no recollection of that letter at all." As to the assertion that the convention pledge and settlement were unconnected, McLaren indicated he could make that statement "just out of my own knowledge and conviction." That approach is consistent with the draft of McLaren's reply to Robertson which was furnished to the committee. In that draft, it was stated: "We know of no relationship whatsoever between the settlement" and ITT's financial support for the convention. The final version, however, hardly suggested that its conclusion was based only on McLaren's own previous knowledge and personal conviction as McLaren says it was: "There is no relationship whatsoever," he stated emphatically. Yet McLaren later testified:

I may have had my secretary do the whole thing, Senator. I didn't take that very seriously, frankly, I thought that it was such an outlandish suggestion, and I know I didn't pay attention to it.

In an attempt to ascertain who in fact handled the drafting of the September 22 reply letter, members of the committee requested the actual file copy which would have shown who wrote the letter, who signed off on it, and who received copies. When asked for this, Kleindienst, who was Acting Attorney General, said, "I have no objection to your seeing the original document in this." After repeated requests for the document had been unanswered or evaded, the Department of Justice finally replied that no copy was made for the Department's files. Since Robertson's letter was a formal comment to the Department on the Hartford settlement, it is unusual that a copy of McLaren's reply was not made for the Department's litigation or settlement file. So again we are left with questions.

KEINDIENST AND O'BRIEN

In part, the hearings on the nomination of Richard Kleindienst to be Attorney General were resumed because of allegations of "duplicity" by columnist Jack Anderson. This allegation arose from a statement in a letter from Kleindienst to O'Brien—answering charges made by the Democratic Committee chairman—that "The settlement between the Department of Justice and ITT was handled and negotiated exclusively by Assistant Attorney General Richard W. McLaren."

In the hearings Kleindienst protested that—

To set up a meeting by which his company could present to the antitrust staff and other people in the Government, the financial-economic crisis argument is, in my opinion, completely removed from any suggestion that I negotiated or handled the settlement.

Of course, in addition to that one act, Kleindienst had been in communication with Ryan, Rohatyn, Walsh, and Flanigan concerning the ITT cases on perhaps 18 separate occasions during the spring and summer of 1971. He admitted the central impact of his activity:

Yes, I guess I set in motion a series of events by which Mr. McLaren became persuaded that, for the reasons heretofore discussed, he ought to come off his position with respect to a divestiture of Hartford by ITT.

This later testimony before our committee just does not square with the statement that Mr. Kleindienst made in his letter to Larry O'Brien that Mr. McLaren was exclusively responsible for handling the ITT merger cases. It seems very clear that Mr. Kleindienst was very much involved personally in the decision to settle the ITT antitrust cases. As I have indicated, there were numerous contacts between Mr. Kleindienst and various persons representing ITT, as well as with Mr. Flanigan and others.

Rohatyn's statement to Anderson's associate was that "I, as a director of ITT and an investment banker, handled some of the negotiations and presentations to Kleindienst and McLaren." At least at that point in time, Rohatyn thought his approaches were part of the "negotiations." Perhaps the semantic argument of whether Kleindienst's contacts with Rohatyn amounted to handling or negotiating can best be settled by reference to excerpts from Webster's International Dictionary:

Negotiate: to communicate or confer with another so as to arrive through discussion at some kind of agreement or compromise about something; to arrange for or bring about through conference and discussion: work out or arrive at or settle upon by meetings or agreements or compromises.

Handle: to deal with; act upon; dispose of; perform some function with regard to.

Two other aspects of Kleindienst's letter to O'Brien should be mentioned. First, he wrote that he had "no knowledge, direct or indirect," of the ITT pledge for the San Diego Convention. As discussed in the preceding section, even if he did not know before September, it was highly likely that such knowledge would have come to Kleindienst's attention in September, either through the press accounts or from Robertson's letter, and which Mr. Kleindienst said was answered by Mr. McLaren, a portion of which McLaren said he would not have put in the letter unless he had spoken to Mr. Kleindienst.

Second, Kleindienst indicated to Larry O'Brien that McLaren was out of town but that he would have him "communicate with you immediately with respect to the matter raised by your letter" when he returns. No further letter or explanation ever followed from McLaren.

Kleindienst's contacts with Ryan, Walsh, Rohatyn and Flanigan raise enough questions in themselves. His blanket and selective nonrecollections, suggest that the answers to those questions may be forth the effort to find.

Mr. President, it seems clear to me that the record in the ITT mess can be summarized in two facts: a virtually complete lapse of memory on critical issues by Mr. Kleindienst and numerous other witnesses; and also by—if I can use a basketball analogy—the "full court press" put on the Government by ITT. ITT decided it would go "man to man" on every major Government official in Washington until it cracked the Government's offense. And the fact is that it worked. It is really an extraordinary thing. ITT was brought to court by the Federal Government for the purpose of divesting itself of three corporations that it had recently merged with, Canteen, Grinnell, and Hartford, and so the president of ITT, Mr. Geneen, decided he would come to Washington and talk with every high administration offi-

cial he could find—the Secretary of Commerce, two different Secretaries of the Treasury, the Chairman of the Council of Economic Advisers, the Chairman of the Federal Reserve Board, the Attorney General, Mr. Mitchell. But the remarkable thing is that he now says that he came to Washington to talk to these officials only about antitrust policy generally and not about ITT and the problems that ITT was having with the Antitrust Division of the Justice Department.

At the time Mr. Geneen was in Washington discussing the so-called general antitrust policy with these various officials, there were four conglomerate antitrust cases in the Justice Department being litigated—four. Three were ITT cases.

It is absolutely inconcievable that Mr. Geneen or anyone else could think that when he was coming to Washington to discuss antitrust policy in general with the highest ranking administration officials, he could be talking about anything other than ITT.

Mr. President, it seems to me that the central question in this case is whether we have one system of justice for the powerful and for the rich, and another system of justice for the weak and the humble. When ITT gets into trouble, its president can come down and all the doors are open to them at the very highest levels of the executive branch and they can get action. But if it is a poor veteran with a veteran's problem, or a workman with a workman's compensation problem, we all know how he is treated by the bureaucracy. Oftentimes he has to wait months and months and months before he can get any kind of action at all on his claim.

An equally disturbing aspect of the ITT case, however, is that all of this lobbying occurs behind closed doors. The president of a corporation subject to antitrust litigation could discuss antitrust policy with the highest executives in the administration and not have anyone know about it—not have a record of it.

It certainly proves one thing, that we are going to have to have a change in the way the antitrust laws are administered. It seems to me that, in the future, during the course of an antitrust case, if a high-ranking official of a corporation that is a defendant in that litigation is going to lobby and pressure the top officials in the Justice Department and other Cabinet officials or the White House itself, then some safeguards are going to have to be applied, by requiring the record of such lobbying activity revealed publicly before such a case is settled. It seems to me that we need a ventilation of the whole system of settling antitrust cases.

But in this particular instance, the most peculiar thing is that Mr. Geneen, who was so anxious to discuss antitrust policy in "general" terms and supposedly not as it related to ITT, and who had all these meetings with these high-ranking officials prior to the settlement of its own antitrust cases, never was heard from again after the settlement of the ITT cases. The conclusion is obvious. Mr. Geneen had only one objective in his meetings with those officials and it had nothing to do with "general" antitrust policy, it was very specific—a favorable settlement of the ITT cases. Inasmuch as three of the four conglomerate antitrust cases in the Justice Department were ITT cases, I do not see how anyone can escape from that conclusion.

Mr. President, in some ways, I feel sorry for Mr. Kleindienst. I have the sense that Mr. Kleindienst, like Mr. McLaren, was overwhelmed by the "court" play of ITT and the power they could bring to bear.

But, sad as that may be for Mr. Kleindienst personally, the fact is, he was the Attorney General in the ITT cases and he had the responsibility to enforce the antitrust laws of this country with an even hand.

I do not know how many hours had been put into the case by the antitrust lawyers of the Department of Justice in this litigation. However, it is fair to say that thousands of hours had been put in. It is also fair to say that there had been a policy review and decision by Mr. McLaren to go forward before any suit was filed. And it is fair to say that the department had economists working for it in the department or accessible in other Federal agencies like the SEC that certainly could have given information on what the economic and financial impact of the ITT-Hartford divestiture would be.

Yet the department turned to Richard Ramsden, a 33-year-old stock analyst who analyzed the entire case in 2 or 3 days of work; and 2 years of work by the Antitrust Division evaporated as a result.

Mr. McLaren told the Judiciary Committee that the things that turned him around on the antitrust suits brought against ITT and its subsidiaries were: First, his own expertise; second, the ITT presentation; third, the Ramsden report; and fourth, the advice from a Department of the Treasury official who had attended the April 29 meeting.

Yet analyzing those reasons, we are left with a multitude of questions.

By his own admission, McLaren felt he could not rely simply on the experience of skilled antitrust lawyers.

So, he relied on Mr. Ramsden's expertise and the financial expertise of the Treasury Department officials who sat in on the meetings.

Let us explore for a moment those two inputs from the Department of the Treasury and from Mr. Ramsden.

The Department of the Treasury official, Mr. MacLaury, sat in on the meeting in which the ITT, through Mr. Rohatyn, made a financial presentation. The meeting lasted approximately 2 hours. After the meeting he took a brief look at the ITT materials supplied in that meeting and gave a brief "informal" opinion which he himself later admitted was not based upon any verification of the claims made by ITT. There was no research, no independent analysis, just a 2-hour presentation by ITT and a fast look at their memorandum later.

Can we really believe that thousands of hours of work by the Justice Department officials was discarded on the basis of a horseback opinion by a Treasury Department official after listening to 2 hours of commentary from ITT officials? I think it is highly unlikely.

Then we get to the Ramsden report. Richard Ramsden was perhaps the most forthright witness at the hearings. He told the committee plainly and simply that his report just did not stand for what Kleindienst and McLaren said it stood for. He said he made no effort to suggest what effect of such a divestiture would be on the Nation's balance of payments. He said that he was not trying to suggest that there would be a major adverse "ripple effect" on the stock market by the divestiture. As a matter of fact, he was uncomfortable that his report was alleged to suggest that.

Instead he said that what he was really attempting to do was to tell what the impact would be on the ITT stockholders.

Obviously there would be an adverse impact on the ITT stockholders. However, is the antitrust policy of the United States to be determined by the stockholders of the corporation which is subject to antitrust litigation? I think that clearly the answer is no.

So, we get back to this question again of why Mr. McLaren changed his mind. I cannot believe on my own part that Mr. McLaren changed his mind as a result of the Ramsden report which took 2 or 3 days to write, which did not address itself to the problem of the adverse ripple effect on the stock market, which did not address itself to our national balance-of-payments problem, but dealt solely to what the economic impact would be on the ITT stockholders.

I cannot believe in my own mind that a lawyer as careful and as intelligent as Mr. McLaren would reverse his opinion on the basis of this one report and an offhand opinion by a Department of the Treasury official after listening to 2 hours of presentation by an ITT official.

I cannot believe it. But I do believe, however, that the decision already had been made to reach a settlement for ITT before the Ramsden report was written, and that it was written solely as a crutch to justify that settlement.

And I think that explains why Mr. Flanigan treated the Ramsden report as being so special and so terribly important. I think that would help us understand why it was that Mr. Flanigan made a special point to call Mr. Kleindienst to tell him the report was ready after he had already talked to McLaren. And it helps us understand why Mr. Flanigan, after Mr. McLaren returned from Europe, delivered that Ramsden report personally.

The decision had been made. There was going to be a settlement, and the Ramsden report was going to be used as the thin reed, the crutch with which to justify that settlement.

I feel that Mr. Kleindienst stated the case very clearly when he first came before our committee. He said:

> I do not want to be confirmed if there is a cloud hanging over my head.

Well, after almost 10 weeks of hearings there are plenty of doubts and there is a very big cloud still hanging over Mr. Kleindienst's head with respect to what

really happened in the settlement of the ITT case.

There is a big cloud, and if we take Mr. Kleindienst at his word, if he feels he should not be confirmed as the chief law enforcement officer of this land if there is a cloud over his head, then I think we should respond to that suggestion. We should not confirm him until the cloud has been removed. We should send this nomination back to the Committee on the Judiciary, reopen the hearings, and finish the job we were forced to abandon.

The number of inconsistent statements under oath that were made in those hearings, both in the ITT affair and the matter of Harry Steward, the U.S. attorney in San Diego, alone demands that action. I for one, believe that the entire record should be referred to the Department of Justice for investigation and appropriate action where it is determined that perjury has been committed or suborned. And I will make such a motion at the next executive session of the Judiciary Committee.

I believe that one of the most outrageous aspects of the Kleindienst confirmation hearings was the fact that witnesses came before a Senate committee and felt they could play fast and loose with the truth. Witnesses under oath gave testimony that was completely contrary to the testimony of others under oath. And where there was not conflict, there was the largest collection of failing memories ever paraded before a Senate committee.

I do not suggest that Mr. Kleindienst perjured himself because his problem was his memory.

Personally, I would like to believe Mr. Kleindienst, and the reason I would like to believe Mr. Kleindienst is because as a person, I like the man. But we are not talking here about personal likes and dislikes. We are talking about the kind of confidence the people in the country will have with respect to the man who is the chief law-enforcement officer of the country.

THE HARRY STEWARD MATTER

I turn now to the matter of the U.S. Attorney in San Diego, Harry Steward. I do so because I believe it is even more pertinent to this nomination than the ITT case. I say this because Mr. Kleindienst had the personal responsibility to monitor the activities of U.S. Attorneys, and therefore was personally responsible for whitewashing Mr. Steward's activities in San Diego.

His conduct in that case demonstrates to me that he is not qualified to be Attorney General.

On February 13, 1971, despite strong evidence of serious misconduct and despite a finding by the criminal division of highly improper conduct by Mr. Steward, Mr. Kleindienst officially and publicly cleared Mr. Steward of any wrongdoing whatsoever and stated that he served with the full confidence of the Attorney General.

On March 24, 1972, after the hearings on Mr. Kleindienst's nomination had resumed at his request, a Life magazine article alleged that Kleindienst had whitewashed the Steward case. Because of the serious nature of the charges in the article, the direct involvement of Mr. Kleindienst, and the fact that the events occurred in my State, I undertook personally, through my staff, an independent examination.

That examination included sending one of my legislative assistants to San Diego to interview prospective witnesses and investigate the accuracy of statements contained in the Life article. Based upon that investigation, I requested that certain witnesses be called and certain documents be requested by the committee to determine the true facts concerning Mr. Kleindienst's role in the Steward case.

In a series of rollcall votes at subsequent executive sessions, a majority of the committee refused to call a number of these key witnesses with information bearing directly upon these charges.

As a result, the committee was reduced, in effect, to hearing only the Justice Department's rebuttal of what these witnesses would have said, without ever hearing the charges.

Nevertheless, with only the testimony of the Justice Department to rely upon, substantially all of the charges made against Mr. Steward in the Life article were confirmed, and the propriety of Mr. Kleindienst's actions in clearing him was placed in grave doubt.

The facts, as we have them, are these:

During the course of a Federal investigation of illegal gambling in San Diego County, a series of facts came to the attention of Federal agents which eventually led, in late 1969, to an investigation of gifts and political contributions by the Yellow Cab Co. in San Diego to various public officials and political candidates.

Key figures in the campaign contributions were C. Arnholt Smith, a prominent Republican financier and fundraiser in San Diego, and Frank Thornton, executive vice president of a San Diego ad agency called Barnes-Champ, owned by Smith. Smith had reportedly raised over a million dollars for the 1968 Republican presidential campaign. Thornton was and is reported to be Smith's chief political lieutenant. Also involved was Charles Pratt, president of the Yellow Cab Co. in San Diego.

The investigation was being conducted by the San Diego branch of the Los Angeles office of the Justice Department's Organized Crime Strike Force, with Michael De Feo, a Justice Department lawyer and a member of the Strike Force, principally in charge. Working with De Feo was Richard Huffman, a California State deputy assistant attorney general, who had also been appointed a special assistant to the U.S. Attorneys in Los Angeles and San Diego. Huffman's dual appointment was designed to allow coordination of Federal and State investigations where the laws of both jurisdictions might have been violated. Assistant De Feo and Huffman was A. David Stutz, an IRS investigator working under the supervision of the L.A. office of the IRS Intelligence Division.

The investigators had become suspicious of a payment of $2,068 made in September 1968, to Smith's company, the Barnes-Champ advertising agency, by Yellow Cab. The amount was listed by Yellow Cab as a business expense for a "wage and hour survey." However, there apparently was a strong doubt that any such survey would, or even could, be conducted by an advertising agency.

Also, the investigators were aware of a practice used in San Diego by which a corporation or corporate executive would arrange a secret political contribution by channeling it through an ad agency for phony services rendered. There was a history, not only in San Diego, but throughout the country, of covering up this type of corporate contribution by channeling the contribution through an ad agency for so-called services rendered. Typically, an executive would call the ad agency and saying "bill me $1,000—or some amount—for a 'design concept'. I want it to cost me that much but don't spend any time on it, just give it to me now over the phone." The "concept" would then be developed in the course of a 1-minute phone call, but the company would receive and pay a bill for a much larger service which had never been performed. A few days later, the ad agency would receive an order from a candidate for precisely the same dollar amount of campaign services, for example, radio time or TV time, or billboard space or newspaper advertising. Thus, the ad agency would funnel what in essence was a contribution to the candidate from a corporation or executive.

THE GRAND JURY

As a result of the facts which had been developed by the strike force, De Feo one of the investigators, requested that a special grand jury be impaneled in San Diego. In October 1969 a grand jury was impaneled to investigate matters of organized crime, bribery, and corruption in San Diego.

Approximately four to five sessions were held by the grand jury, the last of which occurred on February 5, 1970.

So, in other words, the grand jury was in operation approximately 5 months. During these sessions, testimony was taken from a number of persons including officials of the Barnes-Champ Ad Agency.

THE ATTEMPT TO SUBPENA FRANK THORNTON

As a result of the testimony of Jerry Champ, president of Barnes-Champ, and certain others on the morning of what turned out to be the final day of the grand jury—February 5, 1970—De Feo and Huffman told Stutz to serve a "forthwith" subpena on Frank Thornton, vice president of Barnes-Champ, and to bring Thornton back physically for the afternoon session. Thornton was allegedly responsible, at Smith's direction, for securing the campaign contributions being investigated by the Federal agents.

Stutz and another IRS agent tried to serve Thornton but were told he was out of town. A short time later that day, Stutz was called in by U.S. Attorney Harry Steward. De Feo and Huffman were at that time back in session with the grand jury.

Steward asked Stutz what was going on: why had Thornton been subpenaed? Stutz told him that as a result of the morning's testimony before the grand jury, Thornton was a key witness. Stew-

ard then asked who had sought the subpena and was told that the decision was made by De Feo and Huffman. Steward indicated he wanted to see them immediately and was informed that they were in session with the grand jury. He then told Stutz he wanted to see them all as soon as the grand jury had recessed that afternoon.

STEWARD'S INTERVENTION

Subsequently that afternoon, Steward met with the three agents and a conversation, subsequently confirmed in the committees' hearings, took place.

In substance it was that Thornton was a close personal friend of Steward, had got Steward his job as U.S. Attorney and was going to try to get him a Federal judgeship.

In testimony before the committee, Mr. Steward denied having said that. However, Mr. Stutz, in a sworn statement which had been obtained by the FBI in December 1970, confirmed that Mr. Steward had said that; and according to Mr. Petersen's testimony, his statement was corroborated by Mr. De Feo and Mr. Huffman, in similar sworn statements to the FBI. Unfortunately, the committee did not have access to testimony from Mr. De Feo or Mr. Huffman or Mr. Stutz, because the committee, in its wisdom, decided not to allow them to testify, I believe that was a great mistake, because in so doing, the committee denied itself the opportunity to determine what, in fact, really did happen in San Diego and how what did happen related to Mr. Kleindienst's actions in clearing Mr. Steward.

Steward then told the agents not to reissue the subpoena, that instead he would talk to Thornton himself. One or more of the agents objected to this procedure and urged Steward that his plan was at best unwise. Steward told them he would think about it over the weekend.

A short time later, presumably the following Monday or Tuesday, Steward called Stutz and told him that he—Steward—had decided to interview Thornton and in fact had done so. The interview had taken place in Thornton's office, without any witnesses. Steward told Stutz that Thornton had satisfactorily explained the $2,068 expenditure, saying that the wage and hour study just had not been done yet.

Stutz then called De Feo and Huffman and reported his conversation with Steward. Both indicated extreme annoyance and apparently called Steward themselves to protest without success. De Feo then apparently called William Lynch, head of the Justice Department's Organized Crime Strike Forces in Washington, D.C. to complain about Steward's action.

THE IRS INVESTIGATION OF BARNES-CHAMP

Shortly thereafter, apparently in early March 1970, Stutz and Huffman discussed continuing the investigation of Barnes-Champ as an IRS matter, independent of Steward. Stutz apparently cleared his plan with his IRS superiors in Los Angeles.

Stutz then went back to Barnes-Champ and began his investigation of records. Company officials began pulling records, providing Stutz with Xerox copies; other documents were to follow.

Within a short period—apparently less than 1 week—in early or mid-March—Steward called Stutz and reportedly said "I understand you have been to Barnes-Champ." When Stutz replied affirmatively, Steward then said, "I thought we had agreed you weren't to go into that area." Stutz replied that this was a separate IRS investigation over which Steward had no control. Steward then stated, "I am the U.S. attorney and I'll tell you what to do. I have told Barnes-Champ they don't have to give you any records. You are not to contact them again."

In addition, Steward relayed to Stutz a new and conflicting explanation of the $2,068 contribution which had been under investigation. According to Steward, Thornton had now admitted the $2,068 contribution in 1968 had been after all, and the money would be returned to the Yellow Cab Co., but as of that moment, 18 months later, it had not been returned. Stutz remarked that the new story directly contradicted Thornton's earlier version and increased the suspicion of guilt. Steward disagreed and said the conflict was immaterial.

Stutz then called De Feo and Huffman and reported what had occured. Since a majority of the committee refused to hear testimony from De Feo, Huffman or Stutz, it was not possible to determine the nature of their protests to the Justice Department. Stutz also reportedly protested Steward's interference with the IRS investigation to his superiors at IRS.

All of the above events had transpired prior to or during the months of March and April, 1970. During that time the agents had not only discovered the single illegal contribution by Yellow Cab solicited by Smith and Thornton but had also uncovered the entire scheme by which Smith and Thornton used Smith's ad agency to funnel illegal contributions to numerous political candidates. What had originally appeared to be an isolated transaction now appeared to be part of a pattern by which thousands of dollars had been passed through the Barnes-Champ agency.

Steward admitted in his testimony to the committee that he was aware of the full significance of the investigation then underway:

> You know, there was more than just the campaign contribution to President Nixon involved; there were other political federal contributions that were the subject of this investigation.

As a result, the agents had diverted their attention form the Yellow Cab Co's. single contribution and were focusing instead on Smith, Thornton, the Barnes-Champ ad agency and the whole scheme.

For this reason, Steward's intervention a second time, to keep the agents out of Barnes-Champ and away from a key figure, Frank Thornton, took on critical significance: it ended an investigation which threatened to be a major embarrassment to the President and the Republican party.

A comment on the testimony before the committee is required at this point. Throughout their testimony, Steward, Petersen and Kleindienst all sought to minimize the serious nature of Steward's misconduct by asserting that Steward intervened only to spare a friend the embarrassment of a highly publicized appearance before a grand jury.

Thus, the witnesses attempted to portray Steward's action as simply an indiscretion—that all he was guilty of was interrogating a witness himself instead of allowing him to go before the grand jury.

This explanation, however, simply cannot be reconciled with the fact that Steward intervened a second time to try to stop Stutz from pursuing an independent investigation of Thornton. This time there was no grand jury involved.

The purported reasons for Steward's first interference were not applicable the second time. And yet, again he intervened, at a time clearly distinguishable from the first event, as Petersen admitted, about 2 weeks later.

It is, therefore, this second interference which reveals the actual reason for Steward's intervention and suggests the reason why he was cleared by Mr. Kleindienst. Steward recognized that the Federal agents were about to expose a Republican political scandal of major proportions, and he, therefore, intervened a second time to make sure it was stopped.

A further comment on the testimony of Petersen and Steward is also required. Both men attempted to minimize the serious nature of Steward's misconduct by claiming that the investigation of Thornton went on. As evidence for this claim, they cited a subsequent interview of Thornton which Stutz made 9 months later.

But the facts on this point seriously undercut their arguments. Had Stutz been permitted to testify, he would have related the full circumstances. But he never was allowed to testify because the committee voted not to have him testify.

In November 1970, Stutz was ordered by his IRS superiors to write up his report of the Yellow Cab investigation. Stutz complained that he could not write a complete report because he had never been allowed to question Thornton. Stutz was told to take a "pocket summons" and go down quietly and interview Thornton but not to "make a big deal of it." His questions were to be limited to the Yellow Cab investigation, and he was unable to pursue any of the other original lines of questions relating to other illegal contributions.

Petersen and Steward cited the November interview of Thornton as evidence that Steward hadn't prevented Thornton from being questioned. In fact, however, this interview was an extremely limited one and occurred 9 months after Steward intervened. In short, the evidence in no way supports the claim that Steward did not obstruct the investigation of Thornton and Barnes-Champ. Rather, it confirms the

charge that he foreclosed that investigation.

STEWARD'S PROTECTION OF THORNTON AND PRATT

In late August or early September, Charles Pratt, president of the Yellow Cab Co., became an informant. During the next few weeks, Pratt provided the details of the $2,068 payment-contribution to the Federal agents. Pratt confirmed that he had been solicited for a $2,000 contribution to the 1968 Republican presidential campaign by C. Arnholt Smith and Thornton. Pratt said he could not afford it, and the suggestion was made that it come from the company funds through the Barnes-Champ agency as a phony business expense. After the IRS investigation began, Pratt admitted that a number of attempts were made by Thornton and Pratt to camouflage the expenditure.

On September 22, 1970, Pratt revealed the nature of Steward's role. He told all three investigators that Steward was protecting him, Thornton and Smith. According to Pratt, Thornton told him not to worry about the investigation because "Steward was interceding" for them, had told Thornton he "would not indict him unless forced to" and "would warn Thornton of any impending action by the Grand Jury"—Stutz affidavit. According to Pratt, he had been kept informed of what was going on in the grand jury by Thornton, who had told Pratt that he got the information through Harry Steward. Such revelations would be in violation of Federal law prohibiting disclosure of matters occurring before a Federal grand jury and would obviously be serious misconduct by a U.S. attorney.

JUSTICE DEPARTMENT INVESTIGATION OF HARRY STEWARD

Within 2 days after Pratt implicated Steward, De Feo flew to Washington with the head of the L.A. strike force—De Feo's immediate superior—to complain directly to the Justice Department about Steward's conduct and seek action against him. At a meeting on September 25, 1970, De Feo was told to cease all contacts with Steward and "that all inquiries from Steward were to be directed to Washington."

On September 28, Henry Petersen, Deputy Assistant Attorney General of the Criminal Division, sent a memo to Kleindienst's assistant, Harlington Wood. The primary purpose of the memo, according to Petersen, was "to alert the Attorney General to the status of the investigation in San Diego."

The basic charges against Mr. Steward by the three Federal agents were:

First, that Steward obstructed a Federal investigation of a scheme involving illegal campaign contributions to the 1968 Republican presidential campaign and other Federal campaigns by improperly preventing issuance of a grand jury subpena upon a key witness, Frank Thornton, telling the Federal agents not to serve Thornton because he was "a friend, got me my job as U.S. attorney, and is going to get me a Federal judgeship";

Second, that Steward obstructed and interferred with an independent IRS investigation of those same matters by an agent of the IRS for those same reasons; and

Third, that Steward told Thornton he would protect him and other associates from investigation and revealed secret grand jury information to Thornton.

The charges against Steward were referred to Stephen Weglian, a staff attorney in the Criminal Division, for review. On October 15, 1970, Weglian recommended to his superiors that an administrative inquiry be made into Steward's actions by the Justice Department, including an FBI investigation. This recommendation was brought to Kleindienst on October 16, 1970.

Meanwhile Steward had written a letter to Kleindienst's office attempting to explain his actions.

On October 20, 1970, a second memo recommending the administrative inquiry was given to Kleindienst. Handwritten on the memo was the personal recommendation of then Assistant Attorney General—Criminal Division—Will Wilson suggesting that Kleindienst summon Steward to Washington and decide whether to fire him or not.

Steward was summoned to Washington and met privately with Kleindienst on November 17, 1970. Both Steward and Kleindienst were extremely vague in their recollections of precisely what transpired in that conversation. But Petersen testified that Kleindienst emerged from the meeting and told Petersen that he did not think Steward had done anything wrong.

Following the interview with Steward, an administrative inquiry into his conduct was begun. The FBI was requested to conduct an investigation of the charges and make its report.

Sometime in December 1970, and while the FBI investigation was underway, the White House became involved. According to Petersen's testimony, at least one inquiry was made by John C. Dean III, Counsel to the President, about the Steward case. Dean had previously worked in the Justice Department as an assistant to Kleindienst. Since the committee did not hear testimony from Dean or anyone else at the White House in relation to this matter, it was not possible to determine the reason for or extent of White House interest and intervention in the case or its effect on Kleindienst's ultimate decision.

It is highly likely, however, that Steward's actions in preventing that investigation had been brought to the attention of the White House, quite possibly by Smith or Thornton themselves, in view of the danger involved to Republican political figures. The lack of the appropriate witnesses and the inadequacy of Kleindienst's testimony in his second appearance before the committee prevented any investigation of the nature and extent of White House pressure or involvement in his decision to clear Steward.

According to Peterson, the FBI report was completed and received by the Justice Department on February 11, 1971. Contained in the report were sworn affidavits of the three Federal investigators confirming in virtually every respect the charges against Steward. It was not possible to determine what other material was presented in the FBI report because the Justice Department refused to make it available to members of the committee.

On February 17, 1971, a meeting was held in Kleindienst's office. At that meeting, the Criminal Division stated the finding of its staff attorney that Steward's conduct had been "highly improper" and that he should be admonished:

> Steward's conduct in regard to Strike Force's investigation of a possible violation by Frank Thornton and Charles Pratt was highly improper. Mr. Weglian wrote in his summary: "Proper investigative technique calls for the potential defendant to be pinned down on his story under oath and recorded, if possible. The grand jury method desired by the Strike Force would have been appropriate. Regardless of the method, however. it does not seem advisable for a United States Attorney to engage in such conduct with a potential defendant who is admittedly a close personal friend. He should have excused himself altogether, or in the minimum, let other persons conduct the interview and then objectively judged, if possible, the results."

Despite those findings and despite the affidavits of the Federal agents confirming the full extent of Steward's improper conduct, Kleindienst decided to issue a statement clearing Steward of any wrongdoing whatsoever. The statement read as follows:

> At the request of U.S. Attorney Harry Steward of San Diego, the FBI was directed to investigate allegations which have been raised about the conduct of his office.
>
> These charges were exhaustively investigated by the Bureau and a report was made to the Department. I have evaluated the matter and determined there has been no wrongdoing.
>
> The Department considers the matter closed and Mr. Steward will continue to serve as U.S. Attorney for the Southern District of California with the full confidence of the Attorney General.

As explained by Peterson and Kleindienst in their testimony, the reasons for the decision were:

First, since no money was involved his actions were not corrupt;

Second, the Assistant Attorney General in the Tax Division said his experience with Steward was one of complete cooperation although he admitted he knew nothing about the charges against Steward; and

Third, Steward was about to try a big tax case in San Diego and he, therefore, could not have a cloud over his head.

Peterson summed up Kleindienst's decision in this way:

> It was decided that the Deputy (Kleindienst) would issue a statement which would indicate that Steward was still a member of the team and that the Department had full confidence in him.

He went on to explain the reasons for the deceptive wording of Kleindienst's statement in this way: That there was no way we could say that he is half right or 99.9 percent pure.

The committee's majority report sums up the testimony in this way:

> An expression of full confidence in him had to be made.

Again, a comment is in order. The basic rationale cited by Mr. Petersen over and over again for Kleindienst's state-

ment clearing Steward was that Steward was about to try a controversial tax evasion case involving a member of the Alessio family. For this reason, Petersen said, it was decided that the public had to think Steward had been completely exonerated.

But under questioning, Petersen admitted that there were two other attorneys also working on the Alessio case who could have handled the trial and only a brief continuance would have been necessary.

The claim, therefore, that the Justice Department had to make an expression of full confidence in Steward is a substantial overstatement.

THE REMOVAL OF THE THREE INVESTIGATORS

Meanwhile, the three Federal investigators were removed or resigned from Federal agencies in San Diego. Stutz was told that he was a disruptive influence and that he would be transferred to Los Angeles. Rather than accept the transfer, Stutz resigned from the IRS intelligence division, and is now an investigator in the office of the San Diego County District Attorney.

Huffman resigned and remained in San Diego, becoming the chief assistant district attorney of San Diego County.

De Feo was informed that he would be transferred to Kansas City, despite the fact that he had apparently just bought a house and wished to remain in San Diego. Petersen maintained in his testimony that De Feo was happy to go to Kansas City because he had been born there. De Feo was a career lawyer with the Justice Department and decided to accept the transfer, becoming head of the organized crime strike force in Kansas City. Although nominally a promotion, De Feo had virtually identical authority in San Diego and was reportedly less than pleased with the transfer. The committee declined to request his testimony, however, and thus the true circumstances surrounding his transfer could not be fully determined.

KLEINDIENST'S CONDUCT

In his position as Deputy Attorney General, Richard Kleindienst had, as one of his primary duties, the ultimate responsibility for the administration of the U.S. attorneys in the various judicial districts throughout the country. It was his special duty to select nominees for the position of U.S. attorney, to monitor the operations of those appointees, to conduct any administrative inquiry into their operations and to carry out disciplinary action or removal of such appointees.

Together with his responsibility for selecting prospective nominees to the Federal bench, these tasks are among the most important and significant assigned to the Deputy Attorney General.

In view of these duties, and the facts set forth above, Kleindienst's conduct and his decisions in the Steward matter raise grave doubts about his fitness to be Attorney General.

First, Kleindienst seriously prejudiced the objectivity of any recommendation concerning the propriety of Steward's conduct by telling his subordinates who would make that recommendation even before the investigation was begun that he thought Steward had done nothing wrong.

On November 17, 1971, prior to the administrative inquiry into Steward's conduct, Kleindienst met with Steward and emerged to tell Henry Petersen that "frankly I think he has not done anything wrong." Furthermore, this statement was based upon a private meeting with Steward, without the presence of any of those persons upon whose recommendation he later purported to rely.

In other words, Kleindienst gave a clear signal of what his views were before any study of Steward's conduct was made. It is impossible to determine the full effect of that statement but it clearly placed the staff attorneys in an awkward position.

Second, Kleindienst was derelict in his duty by clearing Steward despite sworn affidavits from three Federal agents that Steward had admitted stopping a subpena and had obstructed a Federal investigation of a friend because the friend got him his job and was going to make him a Federal judge.

The basis for the claim that there had been "no wrongdoing" was attributed by Petersen to the fact that "there was not evidence to indicate that Steward's improper actions in regard to the Thornton aspect were corrupt, that is to say, that no money was involved."

The clear implication is that if Steward had been offered money to do what he did, it would be "wrong"; but since it was only a judgeship which was mentioned by Steward, it was "improper." Petersen later reluctantly admitted, however, that in his view Steward's actions did constitute wrongdoing.

In addition, as Kleindienst eventually admitted in his testimony, the charges against Steward did involve wrongdoing:

Senator TUNNEY. Well, now the point that I have, that I am trying to understand, is that if Mr. Steward were in a position of preventing a subpena from being issued on the ground that he hoped that the man upon whom the subpena was to be served was going to get him a federal judgeship, that would be a crime, would it not?

Mr. KLEINDIENST. Boy, if it weren't a crime it would come so close it wouldn't be funny.

In view of that admission, it is impossible to reconcile his action in clearing Steward with the fact that the charge against him was confirmed by sworn affidavits of the three agents with whom he had interfered. If those statements were true, then Steward should have been removed; if they were false, then appropriate action should have been taken against those making false statements. Yet, as Petersen himself testified, the evidence against Steward was "practically admitted." In fact, had the committee allowed Stutz and Huffman to testify, they could have testified to the fact that Steward was actively seeking appointment to a vacancy on the Federal bench in San Diego at the very time he intervened in Thornton's behalf.

In addition, both the serious nature and the grave impropriety of Steward's conduct were revealed by the fact that he intervened a second time to prevent the IRS investigation of Thornton. Petersen's testimony was particularly vague on this point. And Kleindienst said he could not recall what Steward told him at their meeting in November. Had other witnesses testified, however, the committee could have determined the full facts surrounding Steward's second interference and the special relevance of those facts in Kleindienst's ultimate decision.

These points are particularly important because, even from the limited testimony heard by the committee, it is clear that the White House expressed interest in Steward's situation, as evidenced by John Dean's phone call to the Justice Department. Had the committee agreed to call the additional witnesses which were requested, further details of that involvement could have been placed in the record.

Third, Kleindienst failed to evaluate the Steward case in the manner required by his position as Deputy Attorney General.

Kleindienst admitted in his testimony that there had been only three occasions in his 3 years as Deputy Attorney General when a U.S. attorney was placed under investigation. In the two instances other than Steward, the U.S. Attorneys in question were fired. Kleindienst confirmed that such cases were therefore extraordinary ones and involved one of his main responsibilities. Yet he also admitted that he had not read the FBI report or even any part of the FBI file provided to him.

Thus, although he had the full responsibility by virtue of his position as Deputy Attorney General to act as "judge" of the case for the Department, by his own testimony he never looked at the evidence:

Senator TUNNEY. What I have difficulty understanding is if it is an unusual procedure and if one of your main responsibilities as Deputy Attorney General is to monitor the activities of U.S. Attorneys——

Mr. KLEINDIENST. Yes.

Senator TUNNEY (continuing). Why did you not read at least a portion of the FBI file?

Mr. KLEINDIENST. Well, the answer to that from where I sit is relatively simple. It is just a question of time and in terms of what else you have to do.

In his testimony, Petersen indicated that the materials were not voluminous. It therefore would not have been unreasonable to expect Kleindienst to familiarize himself with the evidence.

Instead, the implication that Kleindienst knew all he needed to know from his private meeting with Steward 4 months previously after which he had announced that Steward has done nothing wrong.

In addition, there is considerable evidence that Kleindienst was in a hurry to clear Steward. He held the meeting less than a week after the FBI report was forwarded to Washington and at a time when the press was demanding comment from him on the Steward case. On February 16, 1971, the day before Kleindienst's announcement, Steward acknowledged in response to repeated press inquiries in San Diego that he was being investigated.

Press attention then shifted immediately to Washington. Reporters were apparently demanding comment by the Justice Department. The following day,

Kleindienst made his public statement clearing Steward.

Fourth, Kleindienst issued a statement to the public about Steward which was highly misleading and designed to deceive the public in San Diego about the nature of Steward's conduct.

Kleindienst summed up the reason for his public statement clearing Steward in this way: "I wanted to rehabilitate Harry Steward." And so he issued a press release designed to rehabilitate Steward in the eyes of the public by deceiving them.

Kleindienst's statement said:

At the request of U.S. Attorney Harry Steward of San Diego, the FBI was directed to investigate allegations which have been raised about the conduct of his office.

But Petersen flatly contradicted this statement in his testimony. When asked if the investigation was begun at Steward's request he said "absolutely not."

Kleindienst's statement said, "I have evaluated the matter. . . ." But Kleindienst testified that he had not even read any part of the FBI report to him because he didn't have the time.

Kleindienst's statement said, "I have . . . determined there has been no wrong doing." But Petersen testified that Steward's conduct had been "highly improper" and Kleindienst subsequently characterized the charge against Steward as follows: "Boy if that wasn't a crime it would be so close to it it wouldn't be funny." In addition, Petersen testified that had Steward been a subordinate of his he could have disciplined him by probation or transfer or some other action:

Quite candidly, think, if he had been a strike force attorney I might have transferred him, but you know I didn't have those options.

Kleindienst's statement said:

Mr. Steward will continue to serve as U.S. Attorney for the Southern District of California with the full confidence of the Attorney General.

But Steward's testimony was highly evasive and was at times directly contradicted by the testimony of Petersen, raising serious questions about the propriety of Kleindienst's "full confidence" in him. For example, Steward testified that until November 17, 1971, when he met with Kleindienst he had "no inkling" of the charges against him. But Mr. Petersen testified that Steward had written a letter to the Justice Department almost a month earlier in which he gave his thoughts on the allegations that had been made against him and his explanation of his actions.

Similarly, Petersen confirmed that Steward told the agents not to subpena Thornton because he was going to get him a Federal judgeship. But Steward testified that he never said any such thing.

Fifth, on the record at present there is no indication that Kleindienst ever took any action against Steward, even a mild admonishment, after his staff recommended such action.

Petersen testified that the Criminal Division recommended on February 17, 1971, that Kleindienst meet with Steward and admonish him. Mr. Steward in testimony to the committee said he "couldn't recall" whether Kleindienst admonished him after he received the staff's recommendation.

Furthermore, it is clear from Steward's testimony that to this very day he does not believe he acted improperly in any way, despite a clear finding to the contrary by the Justice Department. He continues to serve as U.S. attorney in San Diego, presumably still with the full confidence of Mr. Kleindienst. This fact alone raises serious questions about Mr. Kleindienst's judgment.

Sixth, on March 24, 1972, in response to the Life magazine article, Kleindienst issued an additional public statement designed to deceive the public about the accuracy of allegations against Steward contained in that article.

The Department's release stated: Life magazine's charges that the Department of Justice or the administration tampered with justice are false.

They are based upon misinformation, innuendo, hearsay, and a rehash of old rumors which were throughly investigated more than a year ago.

In fact, the Life allegations with respect to Steward's interference in the Thornton-Smith case had been documented and confirmed by the Justice Department itself as early as February 1971 and were confirmed again in the committee hearings.

Seventh, there is substantial evidence, including evidence of involvement by the White House, which indicates that Kleindienst cleared Steward for purely political reasons; namely, because Steward had prevented a potentially embarrassing political scandal by obstructing Federal agents in a Federal investigation.

The final question is whether Kleindienst did not in fact clear Steward for a purely political reason—that Steward had loyally prevented a major political scandal and embarrassment by preventing what would otherwise have been a full scale investigation of numerous unlawful contributions to the Republican Party handled by Thornton and Smith. It is this aspect which is particularly important because it bears directly upon the manner in which "justice" is and will be administered by Richard Kleindienst.

Steward testified that during his meeting with Kleindienst he informed him of Thornton's major role as a Republican fundraiser and campaign aide in California and told him of the bad publicity which would have surrounded a public investigation of Thornton.

Steward also confirmed that he knew the agents were engaged in a full-scale probe of Smith and Thornton when he interfered with that probe. When asked about what Steward told him in their November meeting, however, Mr. Kleindienst once more resorted to bad memory:

I don't recall what he specifically told me about Mr. Thornton.

From even the limited testimony heard by the committee, however, it seems highly probable that Kleindienst's ultimate decision was based to a large extent on political considerations. Smith and Thornton by all accounts were key fundraisers in California and national Republican circles. Kleindienst himself had a key role in the 1968 Presidential campaign and was obviously a man of great political sophistication. Steward had only to mention the identity of the persons under investigation for Kleindienst to recognize the political significance of Steward's intervention.

In addition, there was the direct interest of the White House, expressed by Kleindienst's former assistant, John Dean, who had left the Justice Department to join the White House staff as counsel to the President.

It is not unlikely that other expressions of interest from the White House had been relayed to the Justice Department. Indeed, it is highly probable that Smith and Thornton were in direct contact with the White House from the moment the investigation of their contributions began.

THE INADEQUATE RECORD

Because a majority of the committee refused to call the key witnesses, the full truth about Kleindienst's actions will never be known. The committee subpenaed Stutz and Huffman, brought them back to Washington from San Diego and then refused to let them testify. The committee refused to call Smith, Thornton, Pratt, Dean, or any other witnesses who might have provided the truth. The committee refused to demand that the appropriate documents from the Justice Department be made available to its members.

In short, a majority of the committee was willing to hear only what Richard Kleindienst wanted to be heard.

I think that record is a disgrace. It demeans the right of the Senate to act responsibly on this nomination, and it makes a mockery of the public's right to the truth.

But even with the sanitized version which the committee did hear, it is clear to me that Richard Kleindienst should not be Attorney General of the United States.

Mr. President, I invite the attention of Members of the Senate and other readers of the RECORD to the fact that part 4 of Executive Report 92–19 is now available. Part 4 contains the expanded version of the views of Senator BAYH, Senator KENNEDY, and myself, and includes much new information, we believe, as well as an extensive chronology in chart form, which provides a convenient means of placing in perspective the complex events and transactions before us for consideration.

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

The PRESIDING OFFICER (Mr. STAFFORD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered.

PROPOSED AGREEMENTS BETWEEN VIRGINIA AND MARYLAND CONCERNING FEES FOR OPERATION OF MOTOR VEHICLES

Mr. EAGLETON. Mr. President, as in legislative session, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9580.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, Jr.) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 9580) to authorize the Commissioner of the District of Columbia to enter into agreements with the Commonwealth of Virginia and the State of Maryland concerning the fees for the operation of certain motor vehicles, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

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

The motion was agreed to; and the Presiding Officer appointed Mr. EAGLETON, Mr. INOUYE, and Mr. MATHIAS conferees on the part of the Senate.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NOMINATION OF RICHARD G. KLEINDIENST

Mr. KENNEDY. Mr. President, in the coming days the Senate will have two separate questions to decide, and it is vital that we have those questions clearly in mind before we begin:

First, does the Senate now have available to it all of the existing and obtainable information and evidence which it needs to make an intelligent and informed decision on the issues before it?

Second, do the facts now available dispel the cloud which the nominee admits lies over his nomination, and do they justify an affirmative finding by the Senate that the cases at issue were handled by the nominee and his department solely in the public interest, solely on the legal and factual merits, and without favoritism based on power or politics?

Unfortunately, the only fair answer to both these questions must be a resounding no. The long and the short of the present posture of this proceeding is that each Member of the Senate is being asked to become a party to a whitewash. Each of us is being asked to validate the performance of the nominee, and implicitly the administration, at a point when—largely because of the administration's own resistance—all the facts are not in, and when the facts elicited thus far are more consistent with plainly improper official conduct than they are with proper conduct.

Let us remember throughout the coming debate what the Senate's role is in this unique proceeding. Ordinarily, there is an extremely high burden upon the Senate to find the clearest kind of obstacle to the confirmation of a cabinet nominee. As three members of the committee put it in approving the reporting of this nomination in its original phase:

> Absent personal impropriety, incompetence, or disqualifying conflict of interest in the nominee, the President is entitled to the man or woman of his choice.

My own viewpoint was similar at the time, despite the most serious misgivings about the policies and philosophy under which the Department of Justice has been operated:

> The President must be able, within some broad limits, to choose the lawyer he wants to have at his side for the next eleven months.

I said then.

But the very day those views were filed, the posture of this proceeding changed by 180 degrees. The Senate's attention was drawn to the fact that shortly before the settlement of one of the largest and most important antitrust cases under this—and perhaps any—administration, the defendant corporation had pledged the extraordinary amount of up to $400,000 to finance the 1972 Republican National Convention in San Diego. Those facts alone on their face might have created a striking impression of irregularity, but there was more. A corporate memorandum, the authenticity of which was not at that time challenged, established that in the opinion of the corporation's only registered lobbyist, there was a link between the convention gift and the antitrust settlement. Moreover, the memorandum showed that the settlement was being assisted by both Attorney General John Mitchell, who was ostensibly disqualified because his law firm worked for ITT, and President Nixon, a former partner in the same firm.

As the person ultimately responsible for the antitrust case, Richard Kleindienst could not escape responsibility if, as was charged, "the antitrust cases had been fixed," no matter who arranged the fix. But a day after the original revelation, there was a new disclosure directly reflecting on the nominee. Kleindienst had issued a public release late in 1971, denying previous allegations regarding his involvement in the same settlement, and stating that the matter had been "handled and negotiated exclusively by Assistant Attorney General Richard W. McLaren." But it now turned out that Kleindienst himself had held what were described as "roughly a half-dozen secret meetings on the ITT case with a director of the company," meetings which the director involved admitted had taken place.

At this point, on March 1, 1972, even the nominee himself agreed that a prima facie case of impropriety had been made out, or to use his word, a "cloud" had been placed over his nomination. Both privately, in meetings with members of the Judiciary Committee, and publicly at our first hearing, he stated that he did not want to take office with that cloud over his record. He wanted a full investigation so that the cloud could be dispelled. He wanted the Senate to withhold action on the nomination.

> If there was any substantial doubt in the minds of any of the Members of the U.S. Senate.

In short, the committee and the Senate were being asked to pronounce an affirmative and total finding that the charges made were false and that the conduct of those involved had been, beyond doubt, proper, forthright, and untainted by special influences or political pressures. To use words which became well understood during the hearing, we were being asked to clear the nominee, his department, and his administration of any "wrongdoing." Each of us was being asked to place our own stamp of approval on the manner in which the ITT case was handled; each of us was being asked to certify that we had considered all the relevant facts and that these facts proved to our satisfaction that the ITT settlement had come about under perfectly normal circumstances.

The truth is, however, that we have not even had the chance to consider all the relevant facts. And the facts we have considered must lead any objective observer to the conclusion that the circumstances surrounding the ITT settlement were far from normal.

The most pressing consideration for the Senate right now is the realization that the executive branch, as it has so many times in the past, seeks here to play fast and loose with the prerogatives and responsibilities of the Senate. On the one hand, there is President Nixon himself telling the public that:

> We want the whole record brought out because as far as (Kleindienst) is concerned, he wants to go in as Attorney General with no cloud over him.

Clearly the President wants the Senate to relieve the administration of the embarrassment which the whole matter has already caused; he wants the Senate's vote to provide a shield against the justified complaints of the American public that this administration cares much more about corporate profits, campaign contributions, and presidential friends than it cares about enforcing the law, pursuing the public interest, and protecting the consumer.

One would expect that having made such an extraordinary demand upon the Senate, the administration would have cooperated in every possible way to enable the Senate to fulfill that demand. But in fact at every possible opportunity the President and his appointees have stood between the Senate and the full truth. They want the Senate to clear the administration of the charges against it, but they expect us to do it on faith, on the basis of their own self-serving denials, and without letting us have access to the facts to judge for ourselves.

There are surely relevant facts in the Justice Department's file on the ITT cases, but the nominee himself refuses

to let the Senate see that file, even on a restricted basis.

There are surely relevant facts in the files relating to the interagency committees through which other Cabinet members and the White House influence antitrust activities, but the nominee himself refuses to turn those over, and his present antitrust chief refuses even to answer questions about them.

There are surely relevant facts in the file on the inquiry which led to the nominee's public finding of no "wrongdoing" by U.S. Attorney Steward despite an internal department finding of "highly improper" conduct, but the nominee refuses to give us access to that file.

There is surely relevant evidence to be obtained from White House aides, but the White House presumably on the nominee's advice, has thrown the cloak of executive privilege around them, except for one aide who was allowed to appear as long as he did not have to answer any embarrassing questions.

There is surely relevant evidence in the files of the SEC, which is investigating much the same facts as the Senate, but the Chairman, a Nixon appointee, and presumably the other members, all Nixon appointees, refuse to let the Senate have even the ITT documents obtained by the SEC before the ITT shredding spree—this in the face of a simultaneous recognition by the FTC that such agencies have an obligation to cooperate with congressional investigations.

There is surely relevant evidence in the remaining files of ITT, but ITT's attorneys and officers, who have worked in the closest coordination with the Justice Department during the hearings, now refuse to turn over materials which they promised under oath to turn over to the committee.

And surely there is relevant testimony to be obtained from the remaining witnesses—such as the man who negotiated the ITT gift for the Republican Convention—whom the committee agreed were "clearly necessary," but were prevented from testifying when the White House's friends on the committee managed by a tie vote to block further hearings.

Frankly, even apart from what the existing evidence has shown—I do not see how any Member of the Senate can go to his or her constituency or face himself, under those circumstances, and say, "I am willing to put my own seal of approval on the administration's performance in the disputed matters." For the hard fact is that so far we do not know some of the most vital facts about that performance; and we do not know because the administration does not want us to know.

The logical question is: What are they hiding? What are they afraid we will find out if we have the whole story? Why are they in such a hurry to short-circuit the Senate's inquiry and to have us make a judgment before we have the facts, rather than afterwards?

We can make some educated guesses about the answers to those questions from what has occurred already. Each week that passed, each new piece of information, each new witness, has undercut and contradicted the denials that flowed so freely from the administration and from it at each stage of the proceedings.

Last December, less than 3 months after the ITT settlement became final, and exactly 3 months after his eighth contact with ITT's Felix Rohatyn, the nominee claimed that the ITT matter had been "handled and negotiated exclusively" by McLaren. After several days of persistent questioning by the committee in March, the truth came to the surface—the nominee himself had set into motion and personally participated in the steps leading to the settlement, and he had not only dealt alone and in private with Rohatyn, but had also been in direct contact on the cases with John Ryan, ITT's chief antitrust contact man. Moreover, at a crucial point in time, he had personally ordered the delay of the long-awaited Supreme Court test on the ITT cases, at the behest of Lawrence Walsh, a lawyer who was a personal friend, a former Nixon administration official, and the person on whom the administration relied for bar approval of judicial appointments, and who had no previous connection with the cases.

On the opening day of hearings, the nominee asserted that McLaren and Rohatyn were "the two persons with whom I had any dealings" on ITT matters. The committee had to elicit or find out for itself the facts about the nominee's contacts with Ryan and Walsh, as well as Aibel and Bohon, two other ITT lawyers, Solicitor General Griswold, McLaren's assistant Comegys, and last, but certainly not least, Peter Flanigan.

It is understandable that the nominee would want, consciously or subconsciously, to forget about his contacts on the ITT cases with Peter Flanigan, the White House ambassador to big business, in the context of a charge of improper business influence upon the Justice Department, but whatever the reasons, the fact is that almost 7 days after Flanigan's name first arose in the hearings, and after an extended discussion of Flanigan's participation in the case, during which there was some hedging, the nominee made two flat, unqualified statements on that topic:

First:

I had no conversation with Mr. Flanigan.

Second:

Nor did I have any dealings with Mr. Flanigan.

For 6 weeks, that remained the nominee's last word on the subject, but of course, in the meanwhile the committee was informed that in fact the nominee and Flanigan had three very timely and curious contacts on the ITT settlement: Flanigan's notifying Kleindienst of the receipt of the Ramsden report, perhaps the single most important document in the case; Flanigan's delivery of the Ramsden report to Kleindienst and McLaren; and Flanigan's relaying to Kleindienst Rohatyn's complaints to Flanigan about the Department's handling of the ITT cases.

Those are the kinds of information the committee was able to bring forth despite the administration's best efforts, and despite the original denials. There are similar examples relating to Attorney General Mitchell and to ITT which will be detailed in the days ahead. I am confident that if we can get the necessary documents and witnesses, in accordance with the limited and reasonable requests already made we will learn just as much as we have learned from the previous documents and witnesses. In fact, in view of the massive efforts to deny us access to them, I am confident we will learn much more. It is vital to remember that we are not looking for some single witness or document that says "X bribed Y." As Kleindienst said about Flanigan:

If he bribed me or set up a bribe, I doubt if he would come down here under oath and tell you.

We are looking for all the reasonably relevant facts, so that we can come to an informed and intelligent conclusion as to what those facts mean.

We do not have those facts now. Sooner or later they will appear, as facts have a way of doing. But it makes no sense for the Senate not to get them now when it can and should—and must, if it is to meet its responsibilities. It makes no sense for us to play the role of the three monkeys, seeing, hearing, and speaking no evil, while the evidence which may tell us for sure whether or not there was evil remains untouched and unseen in the sole possession of the administration and its friends. It makes no sense for the Senate to place itself in the position of being just as embarrassed as the nominee when additional revelations are made. And we will deserve that embarrassment if we have not fully exercised our power to obtain the whole truth.

The American people are so disenchanted right now with the processes of Government and with politicians in general that nothing surprises them any more. They see the ITT affair as symtomatic of a disease that infects all levels of government and all parties. They are so cynical that they expect our inquiry to be a charade, and our product to be a whitewash. They see the Nixon Justice Department and the U.S. Senate as two of a kind—protecting the same interests, responding to the same pressures, dancing to the same tune. Most of us here would disagree with that view, but if we proceed to give the administration a clean bill of health on the ITT affair, and do so when we have not even obtained the available evidence, and when the evidence we have indicates anything but a clean record, then we will feed the fires of disenchantment and cynicism with rich fuel that will burn for years to come. We will nourish in our own constituencies a justifiable suspicion and distrust that will return to haunt all of us in the future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized to speak for not to exceed 5 minutes as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Virginia is recognized.

DEMAND OF HEW FOR REINSTATEMENT OF DISMISSED CAMPBELL COUNTY SCHOOLTEACHER

Mr. HARRY F. BYRD, JR. Mr. President, on February 4, 1972, I wrote Secretary Richardson of the Department of Health, Education, and Welfare, calling to his attention an investigation conducted by the Region III Civil Rights Office, involving the dismissal of a teacher by the Campbell County school system.

Dr. Eloise Severinson, the director of the region III office, demanded that the Campbell County School system reinstate, with back pay, a teacher who struck a child with a plastic hose, in violation of school system regulations, and was subsequently relieved of his position by the school board. Dr. Severinson refused to provide the Campbell County School Board with specific charges of any of the complaints against the board. This investigation occurred in September 1971.

In January 1972, Dr. Severinson concluded that the allegation of racial discrimination in the firing of this teacher was supported by the facts as she saw them.

The division school superintendent sought my assistance, and on February 1, I asked Secretary Richardson for a report on this matter.

On February 15, I discussed this case with him at a committee hearing of the Finance Committee.

On February 25, March 2, ond March 9 I sent telegrams to Secretary Richardson seeking a reply.

On March 13 he answered and stated that the case was under investigation by Mr. J. Stanley Pottinger of the HEW Office of Civil Rights.

Two months later I received a reply which had been signed for Mr. Pottinger. This letter stated:

> Based on information currently available in the case of Mr. Oswald Merritt, the Office of Civil Rights has concluded that no corrective action on the part of the district is required under the provisions of the Emergency School Assistance Program.

It is nice to know that HEW is finally willing to permit the school board to dismiss a teacher for beating a student with a plastic hose.

It is also nice to know after all this time "no corrective action on the part of the district—Campbell County—is required."

But it took HEW a long time to arrive at such a stand. I believe that some "corrective action" on the part of HEW is what is required. Now that the charges brought by Dr. Severinson have been found to be baseless, I believe that the Secretary of HEW should take immediate action to see that this employee adopts a reasonable approach in her dealings with Virginia.

IDEA OF FIXED TERMS FOR U.S. JUDGES HAS MERIT

Mr. HARRY F. BYRD, JR. Mr. President, the noted columnist, James J. Kilpatrick, has an article in today's Washington Evening Star, an article which is also published in many other papers across the Nation. In this article Mr. Kilpatrick discusses fixed terms for U.S. Federal judges.

As we know, Federal judges are now appointed for life. They are accountable to no one. Mr. Kilpatrick argues the case for fixed tenure in place of lifetime appointments.

He concludes his article by citing the fact that 47 of the 50 States have fixed tenure for their judges. And he asserts that the principle of judicial independence should be based upon the equally desirable principle of public accountability.

Mr. President, I concur fully with the views expressed by Mr. Kilpatrick on this subject. In this modern world the only persons throughout the globe who have lifetime appointments are kings, queens, maharajahs, emperors, and U.S. Federal judges.

I think the time has come to consider fixed terms for Federal judges, and at the end of each term their names would automatically then be submitted to the Senate for confirmation.

Mr. President, I ask unanimous consent that the article by Mr. James J. Kilpatrick be printed at this point in the RECORD.

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

IDEA OF FIXED TERMS FOR U.S. JUDGES HAS MERIT

(By James J. Kilpatrick)

If there is one clause in the U.S. Constitution that is singularly untouchable, it is the clause in Article III which says that federal judges "shall hold their offices during good behavior." This is the life tenure provision. Traditionally it has been given the reverence accorded a sacred cow.

It seemed almost blasphemous, therefore, when Virginia's Sen. Harry F. Byrd Jr., appeared a few days ago before a Judiciary subcommittee with a modest proposal for constitutional amendment. He proposed that federal judges be appointed henceforth for terms of eight years only, subject to reconfirmation by the Senate.

Well! A couple of agitated law professors followed the senator to the stand, protesting, objecting, and charging that the Virginian was trying to undermine the very pillars of judicial independence. You might have supposed that Byrd had proposed to abolish the writ of habeas corpus.

Yet Byrd is on the right track. His resolution merits serious consideration by those persons who give thought to the very essence of government. That essence is power.

The senator's premises are sound. He argues that for a variety of reasons, federal judges have assumed great power in our public life; that our fundamental law now provides no effective restraint against the abuse of that power; and that a system which fails to provide such restraint is defective and should be repaired.

Byrd also argues persuasively that in a democratic republic it simply is wrong in principle for any official to hold his office for life. Moreover, he asks, if life tenure for judges is so wonderful, why have 47 of the 50 states rejected life tenure in setting up courts of their own?

Few persons would challenge Byrd's observation on the steady growth in the power of our federal judges. The process began in the days of John Marshall—Thomas Jefferson bitterly denounced the high court for its "insidious mining and sapping of the Constitution"—and it continues to this day with accelerating speed. In the hands of our judges, the 14th Amendment has become a whole new Constitution in itself; by disdaining the intention of its framers, today's appellate judges give the 14th whatever meaning they please. Our judges have become our unaccountable masters; and they serve for life.

No such prospect was foreseen when the Republic was formed. Hamilton supposed that the judiciary always would be the weakest of the three branches. The doctrine of "separation of powers" was universally admired. How could this weak and impotent branch be protected from possible invasion by the executive and legislative branches? Life tenure was an answer. And the few prophets who foresaw the dangers of judicial usurpation—Patrick Henry was their ablest spokesman—were put down as the paranoids of their time.

Henry was right; and Jefferson also was right in denouncing the device of impeachment as a scarecrow. Except through the tedious, costly, and often ineffective avenues of appeal, our lower federal judges are immune even to rebuke. Such a judge may be incompetent or tyrannical; in the constitutional sense, this is not "ungood" behavior. At the level of the Supreme Court, justices are subject to no built-in restraints whatever.

Byrd's plan is not radical. Except for Massachusetts, Rhode Island and New Hampshire, every state in the Union adheres to a system of fixed terms subject to reconfirmation. The concept of fixed terms for state judges has been urged by the American Judicature Society since its founding in 1913. The plan won endorsement from the American Bar Association in 1937. The system has worked admirably: It has added to the desirable principle of judicial independence of public accountability. This is what Byrd has in mind for federal judges of the future.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the recognition of the two leaders, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized as in legislative session for not to exceed 15 minutes.

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

AUTHORIZATION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO HAVE UNTIL 5 P.M. TODAY TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, as in legislative session. I ask unanimous consent that the Committee on Interior and Insular Affairs may have until 5 p.m. today to file reports.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will shortly recess until 9 o'clock this evening, at which time it will reconvene, as in legislative session, for the purpose of assembling in a body to go over to the House of Representatives, where the President of the United States will address a joint session of the two Houses of Congress.

At the close of the President's address, the Senate will stand in adjournment, under the previous order, until 12 noon tomorrow.

On tomorrow, after the two leaders have been recognized, the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 15 minutes; after which 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, all of which will be as in legislative session.

At the close of morning business, the Senate will resume consideration, in executive session, of the nomination of Mr. Richard G. Kleindienst for the Office of Attorney General of the United States.

There will be no rollcall votes tomorrow.

RECESS UNTIL 9 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate at this time, I move, pursuant to the order previously entered, that the Senate stand in recess until 9 p.m. today.

The motion was agreed to; and at 3:02 p.m. the Senate took a recess until 9 p.m.

At 9 p.m., under the previous order, the Senate was called to order by the Vice President.

QUORUM CALL

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—MESSAGE OF THE PRESIDENT OF THE UNITED STATES

The VICE PRESIDENT. Under the previous order, the Senate will now proceed to the Hall of the House of Representatives for the joint session.

Thereupon at 9:10 p.m., the Senate, preceded by the Secretary of the Senate, Francis R. Valeo, the Sergeant at Arms, Robert G. Dunphy, and the Vice President, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress, appears in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT

At the conclusion of the joint session of the two Houses, and in accordance with the order previously entered, at 10:16 p.m. the Senate adjourned until tomorrow, June 2, 1972, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate, June 1, 1972:

U.S. TARIFF COMMISSION

Italo H. Ablondi, of New York, to be a member of the U.S. Tariff Commission for the term expiring June 16, 1978, vice Glenn W. Sutton.

HOUSE OF REPRESENTATIVES— *Thursday, June 1, 1972*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let Thy mercy, O Lord, be upon us according as we hope in Thee.—Psalms 33: 22.

O God, our Father, whom we seek to serve and to whom we look for guidance along the way, we bow before the altar of prayer offering unto Thee once again the gratitude and the loyalty of our hearts. We thank Thee for this new day and for its open possibilities for great and gracious living.

By Thy good spirit, may we always be honest and kind and forgiving; may we be generous in our criticisms of others, gracious with those who criticize us, and amid all differences may we seek to be understanding.

Through these trying times, bless our President as he returns, our Speaker, Members of this House of Representatives, and all who work with them. Together, lead us in the ways of wisdom and the paths of peace; for Thy name's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 625. Concurrent resolution providing for a joint session of the two Houses of Congress on June 1, 1972, to receive such communication as the President of the United States shall be pleased to make to them.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, concurrent resolutions of the House of the following titles:

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

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

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1478. An act to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes.

ARAB TERRORISM AND TOO MANY OF THE WORLD'S NATIONS ARE INDIFFERENT

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, this past Tuesday we saw a terrible tragedy occur with 25 people killed and 76 grievously wounded at the Lod Airport in Israel when brutally gunned down by three Japanese terrorists hired by an Arab organization headquartered in Lebanon.

Mr. Speaker, it is not acceptable that Lebanon permit its facilities to be used by terrorists, known to the Lebanese Government, to plot these and other killings and then say it is in no way responsible. The three terrorists, who committed the atrocities at Lod, were employed by the Popular Front for the Liberation of Palestine, the Lebanon based-terrorist organization which takes credit for the murders and maimings of innocent civilians.

The states of Egypt and Lebanon gloat over the murders and woundings. To its great credit the Japanese Government, through its Foreign Minister, called the shootings "a disgrace for Japan" even though it was not responsible for the actions of the three Japanese terrorists.

Our country is especially bereaved, because of 12 of the dead are Americans who were on a pilgrimage to the holy