tablish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 15341. A bill to insure congressional review of tax preferences, and other items which narrow the income tax base, by providing now for the termination over a 3-year period of existing provisions of these types; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.J. Res. 1216. Joint resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week"; to the Committee on the Judiciary.

By Mr. PATMAN:

H. Con. Res. 627. Concurrent resolution to provide for the printing of the book "Our American Government and How It works"; to the Committee on House Administration.

By Mrs. ABZUG:

H. Res. 1009. Resolution establishing the Special Committee on the Termination of the National Emergency and authorizing expenditures thereby; to the Committee on Rules.

MEMORIALS

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

396. By the SPEAKER: Memorial of the Legislature of the State of California, relative to family planning research and services; to the Committee on Interstate and Foreign Commerce.

397. Also, memorial of the Legislature of the State of Louisiana, relative to Federal-State revenue sharing; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BOGGS:

H.R. 15342. A bill for the relief of Airlift International, Inc., and Slick Corp.; to the Committee on the Judiciary.

By Mr. CORMAN:

H.R. 15343. A bill for the relief of Alfredo Angulo-Rocha; to the Committee on the Judiciary.

By Mr. PATMAN:

H.R. 15344. A bill for the relief of Robert J. Coar; to the Committee on the Judiciary.

By Mr. STEIGER of Arizona:

H.R. 15345. A bill for the relief of Armen Sahakian; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

246. The SPEAKER presented a petition of Dick Watkins, Kountze, Tex., et al., relative to the proposed Big Thicket National Park, which was referred to the Committee on Interior and Insular Affairs.

SENATE—*Monday, June 5, 1972*

The Senate met in executive session at 12 noon 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:

Eternal Father, whose Word declares that "the earth is the Lord's and the fullness thereof; the world and they that dwell therein," help us, the tenants of this good earth, to be faithful stewards of Thy gracious gift. Give us wisdom and grace to make this earth a better place for Thy children. Lift our vision from the flatlands of life as it is to the shining splendor of life that is yet to be, when Thou dost live in all men's hearts and direct their destiny. Guide the President, all Members of the Congress, and all others in positions of trust in their daily tasks, that they may uphold what is right and seek what is true. Send Thy light and Thy truth upon this land and its people.

We pray in the name of the Great Redeemer. Amen.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senate adjourned in executive session last Friday, June 2, 1972; hence, it is convening in executive session today. However, under the unanimous-consent agreement, the following business will be transacted as in legislative session.

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 Andrew E. Gibson, of New Jersey, to be an Assistant Secretary of Commerce, which was referred to the Committee on Commerce.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, June 2, 1972, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, 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 PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar Nos. 790 and 792.

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

TINICUM NATIONAL ENVIRONMENTAL CENTER, PA.

The Senate proceeded to consider the bill (H.R. 7088) to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes, which had been reported from the Committee on Commerce with amendments on page 4, after line 5, insert a new section, as follows:

SEC. 6. (a) Each party with whom a cooperative agreement is entered into under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of any funds received under the cooperative agreement, the total cost of any project or undertaking in connection with the cooperative agreement entered into, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the party to the cooperative agreement that are pertinent to the cooperative agreements entered into under this Act.

And, at the beginning of line 21, change the section number from "6" to "7".

Mr. SCOTT. Mr. President, I am delighted to indicate my strong support for H.R. 7088, a bill establishing the Tinicum Environmental Center in Delaware County, near Philadelphia and Chester, Pa. This legislation is nearly identical to S. 1841 which Senator SCHWEIKER and I introduced over 1 year ago.

The purpose of this measure is to preserve the last true tidal marshland in Pennsylvania. To this end, the Secretary of Interior would acquire the necessary lands in Tinicum Marsh to establish the environmental center. After these land acquisitions take place, the marsh area could encompass approximately 1,000 acres.

I think that this is a great day for those of us who feel strongly about preserving what is left of our natural environmental resources, especially in the great urban areas like the Delaware Valley. Not only will thousands of people be able to view nature's wonders at close range, but they will also be able to learn

how marshlands go through their own "recycling" process. For example, the marsh improves the quality of water as it alternately is flooded and then exposed by the tides. One study indicated that the marsh added 20 tons of oxygen to the water each day and removed nearly 10 tons of waste materials.

Mr. President, I urge the Senate to consider favorably this important legislation so that it may reach the President's desk for his early approval.

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. 92–824), explaining the purposes of the measure.

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

PURPOSE OF THE LEGISLATION

The purpose of the legislation is to preserve the last true tidal marshland in the Commonwealth of Pennsylvania.

In achieving this purpose, the Secretary of the Interior would be authorized and directed to acquire such lands in Tinicum Marsh as may be necessary, not to exceed 1,200 acres, for the purpose of establishing the Tinicum National Environmental Center. There would be authorized to be appropriated $2,250,000 to carry out the provisions of this Act.

LEGISLATIVE BACKGROUND

H.R. 7088 passed the House on February 7, 1972, and was referred to the Senate Committee on Commerce the following day. There is a companion Senate proposal, S. 1841, which was introduced on May 12, 1971, by Senators Scott and Schweiker.

In their reports on S. 1841, the Environmental Protection Agency, the Department of the Army (on behalf of the Department of Defense), and the Justice Department deferred to the views of the Department of the Interior, the agency having primary interest in the legislation. The Comptroller General made no recommendation with respect to enactment but did suggest an amendment allowing the Comptroller General access to records if the General Accounting Office should ever have to examine the cooperative agreements which are authorized by this legislation. The Department of the Interior recommended passage of H.R. 7088 as passed by the House.

THE AMENDMENTS

The Committee amendments are in response to the Comptroller General's suggestion. The first merely renumbers sections 6 and 7. The second requires the keeping of such records as the Secretary of the Interior may specify concerning cooperative agreements and gives the Secretary and the Comptroller General access to them.

BACKGROUND AND NEED FOR THE LEGISLATION

Tinicum Marsh is located in the megalopolitan region of the Eastern United States. More specifically, it lies immediately west of the International Airport at the southwest edge of the city of Philadelphia. Most of the region is situated in Delaware County. However, a portion of it is located in Philadelphia County.

Tinicum Marsh originally was a part of the Tennakon-Minques Island Marshes that occupies 5,700 acres at the time of the first settlement in 1643. The early settlers diked and drained parts of the marsh for grazing land. Similar modification of the wetlands occurred piecemeal during the next two and a half centuries. Then, more rapid and drastic changes began to take place during the late 19th century.

Since World War I, more than 5,000 acres of tidal wetlands have been deeply covered with fill to construct railroads, highways, boatyards, the International Airport, disposal sites, and residential and industrial sites. By 1968, the last tidal wetland in the Commonwealth of Pennsylvania had been reduced to 523 acres.

In early 1968, the Conservation Foundation (Washington, D.C.), under a grant from the Ford Foundation, selected Tinicum Marsh as a classic example of prime urban open space threatened by numerous development pressures. The foundation requested Dr. Jack McCormick and Dr. Ruth Patrick to carry out a study of the area. Dr. McCormick, who testified at the House Merchant Marine and Fisheries Committee hearings on this bill, summarized the results of the study as follows:

"My study revealed that slightly more than a fourth of the tidal marsh was covered by wild rice. This grass, which reaches 11 feet in height, produces seeds that are of outstanding value as waterfowl food. Other major vegetation types of the marsh included spatterdock, cattail, giant ragweed, and a mixture of several species. Common reedgrass covered more than 200 acres of filled lands. Marshmallow, purple loosestrife, and spatterdock were the most common plants in diked marshlands.

"We found that thousands of migratory waterfowl and shore birds—sometimes tens of thousands—pause on the Tinicum Marshes to rest and feed. In all, at least 119 kinds of waterfowl and shore birds and 177 species of land birds are known to occur at Tinicum.

"The native mammals, fish, reptiles, amphibians, and insects also were surveyed. No unusual, rare, or endangered species were noted. It was found, however, that carp have usurped the water and Norway rats now rule the land.

"The dominance of these introduced, undesirable species is a reflection of intolerable pollution of the water and of the existence of rich supplies of garbage in the nearby "sanitary landfill." As a result of decisive State and interstate action, the water quality will improve substantially during the next decade as sewage treatment plants that discharge into the marsh are phased out. Rat populations should decline rapidly as a result of the termination of the landfill by order of the U.S. Army, Corps of Engineers, and the Commonwealth of Pennsylvania.

"Dr. Patrick's study indicated that the marsh improves the quality of the water as it alternately is flooded and then exposed by the tides. The marsh added 20 tons of oxygen to the water each day, and removed 4.9 tons of phosphate phosphorus and 4.3 tons of nitrate nitrogen."

As of today, more than half of the remaining 1968 tidal marsh acreage (consisting of 523 acres) has been destroyed. The construction of a 2.5 mile long section of Interstate Highway I–95 occupies 60 acres of the 1968 marsh; at least another 80 acres of the marsh have been dredged; an additional 130 acres have been filled with removal spoil; and about 20 acres ahve been covered with refuse. Consequently, there is now remaining about 200 acres of the original pristine tidal marsh.

Testimony before the House Committee indicated that some of the marsh can be restored. In addition to the 200 acres which remain of the original marsh, 80 acres of marsh where a contractor left deep holes can be restored, as can 50 acres of land shallowly covered with spoils by the Corps of Engineers. Therefore, the Tinicum National Environmental Center that would be established under this legislation could encompass about 330 acres of marsh and about 600 to 800 acres of contiguous upland that is currently free from development.

In early 1970, another study was set up to study the problem of preserving the last remaining acreage of Tinicum Marsh. This study was set up by the Department of the Interior and was carried out by a group called the Tinicum Marsh Task Force. Included in the group were representatives from all of the surrounding local communities. The conclusion that was reached by the task force was that Tinicum Marsh should be acquired and preserved.

In addition to the recommendations of these two studies, there were numerous resolutions from organizations in the Tinicum area in support of preserving the marsh. Testimony at the House hearing indicated that the city of Philadelphia, Delaware and Philadelphia Counties, the Commonwealth of Pennsylvania, and all Federal and State agencies concerned were fully cooperating in an effort to preserve and maintain this remaining tidal marsh.

Of the area described in the bill for inclusion within the Tinicum National Environmental Center, approximately 292 acres—35 percent of the total acreage—are currently owned by the city of Philadelphia or the Federal Government. The remainder of the acreage—approximately 65 percent—is owned by private sources. Congressman Williams testified before the House committee that he had met with all the private owners of the desired land and that their full cooperation in the establishment of the Center could be expected. The committee hopes that the land surrounding the Tinicum National Environmental Center and the waters running into it will be used in a manner which is compatible with the wildlife refuge.

AMENDMENT OF THE WATER RESOURCES PLANNING ACT

The Senate proceeded to consider the bill (S. 3384) to amend the Water Resources Planning Act to authorize increased appropriations which had been reported from the Committee on Interior and Insular Affairs with amendments on page 2, line 8, after "$3,500,000", strike out "annually" and insert "in fiscal year 1973 and such annual amounts as may be authorized by subsequent Acts"; and, in line 15, after "$2,500,000", strike out "annually"; so as to make the bill read:

S. 3384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Water Resources Planning Act (79 Stat. 244, 42 U.S.C. 1962 et seq.) is amended by striking out the present section 401 and inserting in lieu thereof the following:

"SEC. 401. There are authorized to be appropriated to the Water Resources Council:

"(a) not to exceed $6,000,000 annually for the Federal share of the expenses of administration and operation of river basin commissions, including salaries and expenses of the chairmen, but not including funds authorized by subsection (c) below: *Provided,* That not more than $750,000 annually shall be available under this subsection for any single river basin commission;

"(b) not to exceed $1,500,000 annually for the expenses of the Water Resources Council in administering this Act, not including funds authorized by subsection (c) below;

"(c) not to exceed $3,500,000 in fiscal year 1973 and such annual amounts as may be authorized by subsequent Acts for preparation of assessments, and for directing and coordinating the preparation of such regional or river basin plans as the Council determines are necessary and desirable in carry-

ing out the policy of this Act: *Provided,* That not more than $2,500,000 shall be available under this subsection for the preparation of assessments: *Provided further,* That the Council may transfer funds authorized by this subsection to river basin commissions and to Federal and State agencies upon such terms and conditions as it determines are necessary and desirable to carry out the above functions in an economical, efficient, and timely manner, and that such commissions and agencies are hereby authorized to receive and expend such funds pursuant to this subsection."

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, 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. 92–826), explaining the purposes of the measure.

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

PURPOSE OF THE MEASURE

The purpose of S. 3384, which was recommended by the Water Resources Council, is to increase the amounts of the appropriations authorized for the Council to carry out certain functions assigned to it under the provisions of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended). The additional amounts recommended would total $3,500,000 annually.

BACKGROUND

The Water Resources Planning Act of 1965 has the following general provisions:

Title I established the Water Resources Council. The Council is composed of the Secretaries of the Interior, Agriculture, the Army, HEW, Transportation, and the Chairman of the Federal Power Commission. It is supported by an executive director and staff which constitute a separate agency. The Council has important administrative duties to maintain an assessment of the Nation's water resources, review and establish standards and procedures for Federal water resources development, and review comprehensive river basin plans.

Title II authorizes the establishment of joint Federal-State river basin commissions to perform comprehensive water resource planning for various regions and to coordinate water resource development activities in the regions. Each such commission shall have a chairman appointed by the President as Federal representative, and a representative from each State and each Federal agency represented and from each interstate agency created by compact. (River basin commissions have been established in five basins thus far. In the other basins ad hoc committees are performing the function.)

Title III provides for a program of grants to the States amounting to $5 million annually to finance not more than 50 percent of each State's comprehensive water resource planning program.

Title IV of the act includes miscellaneous provision including the authorization of appropriations. The existing limitations are—

$1,500,000 annually to carry out the Council's general administrative duties under titles I and II; and

$6,000,000 annually to carry out title II, further limited to not more than $750,000 for any single river basin commission. These limitations would not be changed by S. 3384.

PROPOSED LEGISLATION

S. 3384 would amend the authorization of appropriations for the operation of the Water Resources Council to provide funds for two functions which the Water Resources Planning Act of 1965 directs the Council to perform but which are presently funded through the appropriations of the member agencies of the Council.

As proposed to be amended by S. 3384, subsections 401(a) and 401(b) of the Water Resources Planning Act would restate the limitations on appropriations in the amounts established by existing law.

The new subsection 401(c) as proposed in S. 3384 would authorize additional appropriations to the Council totaling $3,500,000 annually. Of this amount, not more than $2,500,000 would be available to fund work on the assessment of national water resources supplies and demands required by section 101(c) of the Planning Act. The first of such assessments was completed in 1968. Work on this assessment was supported by the member agencies of the Council through contributions of personnel and services funded by their appropriations.

No subsequent assessments have since been made. The 1968 report remains the principal source document for water resources planning at all levels of government. A second assessment is badly needed to profit from the experience gained in performing the first, largely experimental effort; to reflect the extensive public attitude and policy changes, particularly in environmental demands on water resources management, which have evolved since 1968; and to incorporate new data which has become available in the intervening years.

The remaining $1 million provided would enable the Council or the existing River Basin Commissions to provide direction and coordination in regional comprehensive water resource planning. This role is now taken by one or the other of the member agencies which obtains funds through its own appropriations process. The assumption of direction and coordination in comprehensive planning by the Commissions and the Council is expected to improve the multiobjective approach to such planning and enhance the influence of the State participants.

The fiscal year 1973 budget now pending before the Congress includes $531,000 for comprehensive planning not authorized by existing law. A fiscal year 1973 supplemental appropriation request for $1 million to initiate the assessment is also expected to be submitted later.

COST

The funds provided under this authorization are necessary to carry out existing duties assigned to the Water Resources Council by law. Funding of the costs of these duties through appropriations to the Council will be balanced by reductions in the expenditures of the various member agencies which have formerly supported the work.

COMMITTEE AMENDMENT

The committee has amended S. 3384 to limit the authority for the additional amounts to fiscal year 1973. The committee recognizes that these amounts also will be required in subsequent years. The committee has notified the chairman of the Council, however, that it intends to review the Council's recently proposed "Principles and Standards for Planning Water and Related Land Resources." This review will provide an opportunity for in depth legislative oversight consideration of the Council's full range of activities and their interrelationships.

The authority granted by S. 3384 is necessary to permit the fiscal year 1973 budget process to be completed, and there is insufficient time for a general review which would not delay consideration of the Council's budget request. Future fiscal year authorizations for the national assessment and for the Council's role in comprehensive planning, however, can be considered with the benefit of the pending general review.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs by unanimous vote in executive session on June 1, 1972, recommends that S. 3384, as amended, be enacted.

ECONOMIC IMPACT OF ABM TREATY ON MONTANA

Mr. MANSFIELD. Mr. President, I have just read an interesting article by David P. Johnson in the National Observer for the week ending June 10, written from Conrad, Mont., entitled, "ABM 'Carpetbaggers' Begin Leaving Montana."

Conrad is a town of less than 3,000 permanent residents located only 10 miles from the ABM site which was canceled last week.

The people of Conrad and the surrounding towns did not ask for the Safeguard system. It was planned there in the national interest by the Federal Government.

As Steve Henderson is quoted:

This community has been nothing more than a poker chip on the table of international negotiation. This is a magnificent treaty with the Russians and a great step toward peace, but how can the U.S. Government expect a very few people in Conrad, Mont., to pay the high price of this agreement?

I am hopeful, Mr. President, that the Department of Defense and all Federal departments and agencies will do everything possible to ease the adverse economic impact being felt by these small towns in my State. One beneficial step could be for the administration to release funds for badly needed public works projects and highway construction in that area.

I ask unanimous consent that the article by Mr. Johnson be printed in the RECORD.

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

VISIONS OF FEDERAL CASH VANISH: ABM "CARPETBAGGERS" BEGIN LEAVING MONTANA

(By David P. Johnson)

The Target is a night club that stands alone by a country road 10 miles from here in the rolling wheatland of north central Montana. Plush on the inside and sporting a price tag of about $125,000, it was to be for all those workers due here to build and run a billion-dollar Safeguard antiballistic-missile (ABM) installation. Now a town wag ventures that the fancy night spot "will make a heluva hay barn."

The arms-limitation pact between the United States and the Soviet Union spelled bad news for Conrad: cancellation of construction on the ABM site, and the end of the boom that was to come with it.

TOO MANY TEACHERS

Chester and Bonnie Ferris, who moved here to start a motel and rental-housing business and make a fortune for their retirement, expect to go broke. Developers who paid $1,500 an acre for homesite land may be lucky to sell it for $250 an acre as farmland.

In Conrad last week some persons were plunged into a businessman's nightmare: canceled orders, overstocked inventories, and costly expansion for a population increase that won't be occurring after all.

School Supt. Robert W. Singleton, planning on a doubled enrollment this fall, now has 13 teachers too many under contract. "Some of them will find other jobs," he says, "but we may have a teacher-pupil ratio that is out of this world next year."

The arms agreement limits each country to two ABM sites. America's ABMs are to protect Minuteman missiles. It was decided that one ABM complex should be near the nation's capital. One in North Dakota is

about 80 percent finished. So because the installation in the Conrad area was only 10 per cent completed, it was scrapped.

"I quit a good job to come out here," said a construction worker last week. "I leased my house for a year so I can't go back. Montana is already a depressed area so I don't know where I'll go for work. But the people who have investments here are really stuck."

Among the hardest hit are the Ferrises, who estimate they invested some $330,000, about half of it borrowed, in a 25-unit motel, 11 pieces of residential property on which they have placed rental mobile homes, and three blocks of land at the outskirts of town earmarked for 27 more rental units. Ferris also sells mobile homes, and when the missile project was canceled he had just received three mobile office units, valued at $6,000 each for delivery to a contractor. Contractors quickly canceled all purchases not delivered.

Ferris, a native of Canada, says: "My biggest mistake was not financing more of this deal. But Conrad is a farming center and the bankers here were not prepared to loan large sums of money for land development or business expansion based on anticipated future growth. They'll make loans on anything that has four hoofs, grows horns, and goes 'moo,' but a business speculation is something else."

UNDEVELOPED PROPERTY

There are several new businesses in town and some of the old companies expanded and have new store fronts. A new shipping center is under construction and $2,000,000 in Federal-impact funds has been spent or allocated for expansion of utilities and schools in anticipation of a peak influx of 3,000 workers later this year. The present population is estimated to be about double the 1970 census figure of 2,770. The town was anticipating a growth to 7,000 by 1980.

Persons facing the greatest financial crisis are those who bought and developed property for housing. Real-estate officials here say undeveloped property doubled in price in the past two years after the Safeguard project was announced. Most of the housing boom came after publication of impact studies prepared for the Army Corps of Engineers, which forecast a critical housing shortage.

WITH ONLY HIS SHIRT

Bob Kalbfleisch, 49, a native Montanan who owns farming land, grain elevators, and other property in nearby Shelby, also in the boom zone, put in a 16-space trailer court in Shelby and 40 rental mobile-home units in Conrad. It cost him about $250,000. He also purchased 135 acres for residential development near the golf course at the greatly inflated price of $1,500 per acre.

"Now the whole thing is worth only what it will bring as farmland—about $250 an acre," says the former Navy carrier pilot. "I'll get out with my shirt but nothing else."

Ferris and Kalbfleisch feel they should get some form of Government help because they were encouraged to developed housing to help meet a burgeoning need.

Ferris notes that the Defense Department's contracts contain discontinuance clauses providing for cancellation on notice, with certain forfeitures and indemnities to the contractors. Next door to the Ferris property, Peter Kiewit Sons, Inc., which holds the prime contract on the Montana construction in a joint venture with the Morrison-Knudson Co., was developing an eight-block housing tract for 189 mobile homes. About half the homes had been placed on the property when the shut-down order came. Ferris thinks the Government will pay Kiewit for its losses on the housing project. He believes, he too, should be helped.

IMPLIED ENCOURAGEMENT?

"Safeguard personnel have encouraged people to make investments in housing to take care of the demands," says Kalbfleisch. "Federal impact funds were spent for installation of sewers and water lines to private land so property could be developed. Except for two mobile-home sites, where the Government guaranteed development costs, the private sector was told it would have responsibility for furnishing the housing."

The Corps of Engineers, which came on the scene two years ago and serves as the Defense Department supervisor here, contends that no private individuals or businesses were requested or encouraged to make investments in housing. However, Safeguard people met with leaders of communities in the area on many occasions and presented hefty volumes of impact reports that forecast the anticipated needs, which some interpret as implied encouragement.

The businessman who was probably hurt worst in downtown Conrad is Harold Holtz, 56, who bought the old Conrad Hotel three years ago. After paying for the hotel he laid out some $250,000 expanding and improving the property, including a posh two-level supper club completed last year "for the new trade."

Holtz says 80 per cent of his business in the new cocktail lounge and restaurant is from missile-connected people. Home folks go to his old bar next door, where drinks are a dime cheaper. He is certain the new supper club won't make it now. Says Holtz: "This will be one of the biggest ghost areas in the U.S.A.

A PERIOD OF ADJUSTMENT

Most merchants and businessmen in Conrad do not agree. They say the strong agriculture economy, cattle ranching and grain farming, will sustain a prosperous community. But they say the period of adjustment will be painful.

Some residents, mostly retired persons and farmers will be glad to see the boom end. Some farmers are disgruntled at prices they received for missile-site land and with Government red tape. The boom has inflated prices, cut the labor supply, and pinched the tight housing market.

Robert G. Arnot, a spry man of 63, has been mayor of Conrad for 20 years and he says the municipality has always been in good financial condition. He has seen economic ups and downs in a lifetime spent here, and as owner of a furniture-and-appliance store since 1940.

In 1966 Conrad experienced the boom of Minuteman-missile construction. But the 50 or more underground silos where located over a wide area of northern Montana, and the economic impact was spread among a number of communities. It was viewed as a temporary boom because after construction the antiballistic missiles were to be controlled from Malmstrom Air Force Base, near Great Falls.

"We went into the Minuteman boom with the attitude that we'd take whatever we could get out of it," Mayor Arnot recalls. "We didn't build our future around it, like many have done on the Safeguard system, and nobody got hurt.

"Sure, a lot of people didn't like the ABM impact here. But we got 35 miles of the best farm-to-market road in the country out of it, all financed with Federal funds. We've got more than $1,000,000 in impact funds for utilities, and the schools have been allocated about $800,000 for new construction. The Government built a six-inch water line from the Tiber Dam to the closest missile site, and I hope that will be turned to a co-operative to supply water to farmers. I'd like to see it extended another 10 miles into town."

ARE SOME EXPENDABLE?

"We're stunned and it will be a while before the real damage can be assessed," says bank President Steve Henderson, 44. "This community has been nothing more than a poker chip on the table of international negotiation. This is a magnificent treaty with the Russians and a great step toward peace, but how can the U.S. Government expect a very few people in Conrad, Montana, to pay the high price of this agreement? The only answer is that the Government considers some people expendable.

"Our bank went into this thing with eyes wide open. So we're going to survive, but a lot of individuals will not. Some workers who have invested money in residential property here won't have enough money to get out of town."

Montana's Senators Mike Mansfield and Lee Metcalf had opposed the ABM system and have said they are pleased with the treaty limiting ABM systems. Both have pledged efforts to provide Governmental relief to overcome the serious economic jolt.

"I hope there will be some help for those who have been hurt, but I know of nothing at this time," Col. Thomas A. Duke, site-activation commander, told members of the Chamber of Commerce here last week. "I'm sure the Defense Department wants to leave here with a good a feeling as possible."

Says Chester Ferris, facing business ruin:

"If they want to leave with a good feeling, maybe they can help people like me."

A RANDOM THOUGHT ON THE WEATHER

Mr. SCOTT. Mr. President, this is the day that the Lord hath made, and I hope that we will all, therefore, make the best use of it.

I have a random thought that it is fortunate for the people of this country the weather is the product of natural forces or sublime direction, rather than the work of a committee or of Congress, because I am sure that if the weather were up to Congress, this body would be engaged in arguments over whether we should have clear or partly cloudy weather. The other body would then opt for showers—especially the Committee on Agriculture and Forestry, or the committee interested in irrigation, livestock, and so forth. And then, from time to time, over here we would have one of those familiar reversals where someone would filibuster in order to get rain on this side of the Capitol as well. Then there would be a spate of press releases to the public claiming credit for the rain which had fallen on the just and unjust alike.

Then the populace would be claiming that while the rain falls alike upon the just and the unjust fellow, it falls more often on the just because the unjust have the just's umbrella.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) is now recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. I yield 10 minutes of my time to the distinguished majority leader.

The PRESIDENT pro tempore. The Senator from Montana (Mr. MANSFIELD) is recognized for 10 minutes.

CRIME CONTROL

Mr. MANSFIELD. Mr. President, sometime ago, I requested the Department of Justice to report on the experience obtained thus far under the so-called man-

datory sentencing provisions that became part of Public Law 91–644, the 1970 amendments to the Omnibus Crime Control and Safe Streets Act, and the District of Columbia Crime Control law also enacted in 1970. Both provisions, I might say, were based upon S. 849, a mandatory sentencing bill that I introduced at the outset of the 91st Congress.

It was my intention then, as it is now, to make the use or mere possession of a weapon itself in the commission of a crime a separate and distinct crime for which would be imposed a separate and distinct penalty.

It was my intention then, as it is now, to make the criminal pay doubly for his choice of resorting to a weapon of violence. For such an invidious act he would not only suffer prison confinement for the underlying crime, he would suffer a second and separate term for the mere act of resorting to a gun.

That is what I proposed in 1970 and it has been 2 years since this law became a part of the criminal code. It was to review the use and effect of the law that I wrote the Acting Attorney General on March 3, 1972, for a report. It was out of a congressional responsibility to review all laws that I sought to determine how the tool provided by this proposal was working in the fight against crime and violence.

In response, I have just received a letter from Assistant Attorney General Petersen, Chief of the Criminal Division of the Department of Justice.

In his letter, Mr. Petersen advises me that the Justice Department is unable to furnish any information concerning the use and effect of the so-called mandatory sentencing law; or to use his words:

> The statistical data you requested could not be retrieved from records of the Department of Justice or the Administrative Office of the U.S. Courts.

That is most unfortunate, Mr. President. It seems to me to be fundamental that effective and efficient law enforcement requires that individual crimes, penalties imposed therefor, effect on the criminal involved, and all such information be readily available. How else, I ask, is this Nation going to deal effectively with the problem of crime? In this era of sophisticated computer systems, it is inconceivable that crime, criminal penalties, criminal justice, and all such related matters cannot be adequately monitored. The crime rate continues to soar. But the U.S. Senate is unable to be informed adequately about fundamental information concerning the enforcement of 2-year-old laws—designed expressly to curtail that rate of crime.

I do not blame Mr. Petersen. As the Criminal Division Chief, he undoubtedly is beset with enomous responsibilities that transcend a mere recordkeeping function.

Indeed, I am somewhat encouraged by the fact that—as Mr. Petersen points out in his letter—the Department of Justice information system is under alternation and to use his words—

> That information such as you requested will be available when the planned modifications have been completed.

I certainly am pleased that something is being done.

I am pleased, as well, that the so-called mandatory sentencing provision is in fact being employed. In this regard it should be noted that Governor Wallace's alleged assailant was indicted in part on his violation of section 924(C) of title 18 of the Criminal Code. That section is the one that was based largely on the original Mansfield bill in the 91st Congress. I hope it serves as a warning to other would-be gun criminals, that in addition to the penalty imposed for his crime, he will be made to suffer a second, separate penalty for resorting to firearms.

I intend to study further Mr. Petersen's report to me with a view to updating and improving the law that is now on the books. In the meantime, I wish to make public his full response and ask unanimous consent that his letter be printed in the RECORD along with my original request.

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

MARCH 3, 1972.

Hon. RICHARD G. KLEINDIENST,
Acting Attorney General of the United States, U.S. Department of Justice, Washington D.C.

DEAR MR. ATTORNEY GENERAL: On January 2, 1971, the President signed into law PL 91–644, an act to amend the Omnibus Crime Control and Safe Streets Act and for other purposes. Prior thereto, on July 29, 1970, the President signed PL 91–358, dealing with crime and the court system within the District of Columbia.

Title II of the former law (PL 91–644) contains a provision that imposes stricter sentences against felons carrying firearms during the commission of crimes for which prosecution lies in any court of the United States. Specifically it imposes a separate and additional penalty for the act of carrying a firearm—separate from and in addition to the underlying crime itself. It imposes as well a mandatory sentence. In the case of second offenders, the sentence for using or carrying the firearm runs up to 25 years and cannot be suspended by the court; nor can probation be granted nor can the sentence run concurrently with the sentence for the underlying crime. Similarly Section 205 of PL 91–358, establishes for the District of Columbia certain additional and mandatory sentencing procedures for crimes committed with or while carrying firearms.

Since both laws have been in effect in excess of a year, it would be most helpful to undertake a review of the experiences under them. I would thus appreciate your full report concerning the courts' compliance with these sentencing procedures, including the number of first and subsequent offenders sentenced thereunder, terms of sentences, courts involved, nature and type of underlying crime in which the firearm was carried or used and any other pertinent data the Department may have at its disposal on this question.

Your cooperation is greatly appreciated. I look forward to your report in this matter at your earliest convenience.

Yours very truly,

———, ———.

MAY 26, 1972.

Hon. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This is in further response to your letter of March 3, 1972, requesting certain information regarding the extent to which P.L. 91–358 (18 U.S.C. 924(c)) and P.L. 91–644 (22 D.C. Code 3202) have been used.

We advised you in our interim response of March 21, 1972, that preliminary contacts with our statistical sources indicated that we might be unable to provide all of the information you requested. We have now exhausted all of our sources and find that, as we suspected, that statistical data you requested could not be retrieved from records of the Department of Justice or the Administrative Office of the United States Courts. We are informed, however, that the Department of Justice information system is under alteration and that information such as you requested will be available when the planned modifications have been completed.

While available statistical data does not permit us to respond fully to your inquiry there have been some recent developments regarding interpretation of 18 U.S.C. 924(c) which may be of interest to you. The Tenth Circuit Court of Appeals recently considered combined appeals in the case of *United States* v. *Suddath*, and *United States* v. *Vigil*. In the *Suddath* case the trial court had dismissed a count of the indictment charging violation of 18 U.S.C. 924(c) holding that this statute is merely a penalty provision and does not create a separate crime. The Appeals Court reversed and held that the statute does create a separate offense rather than merely an enhancement of the penalty of the underlying offense. However, dictum in the Tenth Circuit opinion suggested that the sentence for a first offense under 924(c) may be concurrent with instead of consecutive to the sentence for the underlying felony. Essentially the same thing happened in the *Vigil* case. In that case the trial court dismissed the 924(c) count and the government appealed. The Tenth Circuit Court of Appeals reversed and remanded for further proceedings under the rationale of *Suddath*.

The effect of the decisions in *Suddath* and *Vigil* is that the government has sustained its position that section 924(c) creates a separate crime and does not merely enhance the penalty for an underlying crime. However, as noted above, some of the court's language foretells possible future trouble with regard to whether a concurrent sentence is permissible or consecutive sentence is required for a first conviction under 924 (c) and whether the unlawful carrying of a firearm relates to a state or local violation.

Two pending bills, H.R. 13788 and S. 3238 which would seek to strengthen and clarify 18 U.S.C. 924(c) have been referred to the Department of Justice for comment. We are presently developing responses and expect to propose some amendments to the statute.

Please be assured that the statutes under discussion receive full attention by United States Attorneys and federal investigative agencies. An analysis of 18 U.S.C. 924(c) was published in the United States Attorneys' Bulletin very soon after the statute was enacted. Further, during instruction which Criminal Division attorneys provide for agents of Alcohol, Tobacco and Firearms Division of the Treasury Department the provisions of these statutes are discussed so that in the preparation of reports investigative agents may identify violations of these statutes and assure their consideration by the United States Attorneys who receive and review their reports. Thus, the offenses proscribed by the statute are fully known to the federal prosecutors and investigators and are being prosecuted in appropriate cases.

It may be of further interest to you to know that Governor George Wallace's accused assailant was indicted for violation of 18 U.S.C. 924(c), among other federal violations.

I trust that the information provided will be of assistance. I regret that we are unable to provide the precise information which

you requested. Your continuing interest and concern in these matters is appreciated.

Sincerely,

HENRY E. PETERSEN,
Assistant Attorney General.

EXPENDITURE OF BILLIONS OF DOLLARS FOR EXCESSIVE TROOP DEPLOYMENT IN EUROPE

Mr. MANSFIELD. I am going to read into the RECORD, without reference to the names of the writers, a letter which I received recently from a group of servicemen in Germany. Its tone has the clear ring of an honest and well-founded anger at the operations of an indifferent bureaucracy. These men have suffered a personal wrong but, in writing of it, they have also cast additional light on what is a national wrong—what amounts to an unconscionable milking of the Treasury of the United States of billions of dollars for excessive troop deployment in Europe.

The letter comes from a headquarters of the 4th Army Infantry in Germany. It is signed by 14 servicemen and noncommissioned officers. It reads as follows:

DEAR SENATOR MANSFIELD: We, the undersigned are currently serving with the United States Army in Germany. Earlier this week we were all under the impression that we would soon be home with our families. However, without any prior notice, we were told that our military obligation had been extended. The reason? Permit us to quote the Stars and Stripes: "This action is being taken because the strength reductions imposed by Congress have been accomplished and the retention of these members is necessary to meet the current manpower requirements and to assure combat readiness." The irony of the situation is that we were given reductions in our service obligations *because* of this Congressional action. Now, because the Pentagon did not accurately estimate the reaction to its own program ("early-out"), we are being made to stay an additional 90 days—minimum. What do we tell our wives, fiancees, girlfriends, employers, and families? They expected us home in May—not August.

Wearisome, bureaucratic bungling is something we are used to in the Army. Sometimes it seems to be the rule rather than the exception. We are resigned to seeing memos, DF's, letters, etc. which repeat and rehash old subjects. But why do our families now have to suffer because of this mistake. We have many questions on our minds. Why were RA (Regular Army Enlisted) personnel permitted to leave the service ahead of draftees? What will we do about the wives we sent home in April, thinking that we would be joining them shortly? What about the baggage we shipped back to the United States (at government expense)? What about the plans we have made for school, jobs, etc.? Many of us would have gotten early-outs through school "drops" or seasonal job "drops", but we did not apply for them because the Army was letting us return to civilian life without the need for such paperwork. We would not have to do anything. We were so "short" that most of us already had orders cut to return home on a guaranteed flight.

We are writing this letter to protest the arbitrary action of the Pentagon. We hope that something can be done to help us. We would like you to know that there are 30,000 servicemen in the same situation who are probably as disgruntled as we are. If the Pentagon seriously thinks that extending 30,000 "short-timers" is going to "assure combat readiness" then we think that the Pentagon's reasoning is archaic and misguided. This extension will increase, not decrease, tension in the military. It is a shortsighted remedy which leaves us wondering about the competency of our leaders.

We are currently at a major training area in Europe. Infantry units come to such areas to fire their organic weapons and do infantry-type training. Because we were so "short" we did not have to fire our weapons or actively participate in Army Company Proficiency Tests. We were "detail" personnel. We pulled KP, guard duty, latrine cleanup, and various other minor jobs. And now the Pentagon tells us that our extension makes the United States Army combat ready. Perhaps if we had to clean Europe we would be ready. It is such thinking that leads to "credibility gaps" and disenchantment with all aspects of government. All we ask is that the Pentagon be made to keep its word.

Sincerely yours,

_____ _____.

I make this letter public in the hope that it will spur the Department of Defense to look into this snafu, as this sort of thing used to be labeled. I do so, too, because it underscores a reality which has become increasingly evident over the past 2 or 3 years. The reality is that if there are going to be reductions in the wasteful, largely irrelevant deployment of hundreds of thousands of servicemen and dependents in Europe a quarter-of-a-century after World War II they are going to have to be brought about by action and pressure of the Congress. The White House has been unwilling to order reductions. The Department of Defense has fought them. The Department of State has deplored them. What hope there is for action lies in the Congress.

For a decade or more, some of us have tried to induce the executive branch to approach the question of force reductions in Europe in a rational fashion. All of these efforts have been rebuffed by a strident resistence which has invented reason after reason, dug up cause after cause, rescusitated voice after voice from the past in order to reject each effort as inopportune.

Notwithstanding, some small reductions have recently been made. However, these reductions have been brought about not as the result of rational forethought and planning in the executive branch, but because of actions of Congress in restricting overall appropriations. The cuts have been too few and too slow, but they have been better than nothing. Since this is the only way action apparently can be obtained, then I trust that the Armed Services Committee and the Appropriations Committee will cut deeper this year. The time for tokenism in the reduction in the U.S. troop deployment in Europe is long since past.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from West Virginia is recognized under the previous order.

Mr. ROBERT C. BYRD. Mr. President, I yield to my colleague, the senior Senator from West Virginia.

SUBSTITUTION OF CONFEREE ON S. 2770

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the Senator from California (Mr. TUNNEY) be substituted for the Senator from Indiana (Mr. BAYH) as a Senate conferee on S. 2770, the Federal Water Pollution Control Act.

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

VACATION OF ORDER RECOGNIZING SENATOR ROBERT C. BYRD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining time under the order recognizing me be vacated.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the transaction of routine morning business for not to exceed 30 minutes, with each Senator being limited to 3 minutes.

Is there morning business?

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders have been recognized under the standing order, the distinguished senior Senator from New York (Mr. JAVITS) be recognized for not to exceed 15 minutes.

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

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. 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.

RELATIONSHIP OF CRIME AND DRUGS

Mr. PERCY. Mr. President, I was not in the Chamber for all the comments by the distinguished majority leader, but I shall read with interest the report by Mr. Petersen of the Justice Department, which has been printed in the RECORD. I would like to comment on some factors effecting the field of crime that have come to my attention recently.

First, it has been proven without any doubt at all that a majority of the street crime in most of our urban areas is caused by drug abuse, people who are drug offenders, who have a habit that is costing them $75 to $100 a day, and the only way they can get that kind of money is to commit a crime.

Until recently it was felt that there were a quarter of a million hard drug users in the United States. Recently I discovered the number is double that, or an estimated 560,000 people who are drug

abusers, people who have gone to the use of drugs such as heroin.

The second factor is that crime is increasing very rapidly in suburban areas, and this goes along with an increase in drug usage in the suburbs.

The third factor is that in urban areas the Government has in many respects brought about the high centers of crime by the benevolence of public housing, where high-rise buildings have been constructed, concentrating a greater number of low-income people into heavily congested areas. Statistics I have recently received show that the chances for a person being murdered, raped, or robbed are 40 times greater in the area of the Robert Taylor public housing project of Chicago than in the rest of America.

In a recent exhaustive survey I have had taken in Illinois asking people, in the matter of national priorities, where they would like to see the Government spend more money or less money, the No. 1 item for which people were willing to see an increase in Federal expenditures was the area of drug abuse.

I am delighted that the distinguished chairman of our Committee on Appropritaions is presiding today. The Senate passed unanimously the drug abuse bill that I introduced at the request of the administration, and it was steered through the Committee on Government Operations and through conferences with the House, and unanimously adopted by the Senate and the House in record time. In this bill we have authorized about $800 million over 3 years in this area, and certainly every evidence indicates this is a matter of urgent national priority. I hope the Appropriations Committee will fund 100 percent of the authorization.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. 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.

Mr. PACKWOOD addressed the Chair.

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

Mr. PACKWOOD. I yield my time to the Senator from Illinois.

The PRESIDENT pro tempore. The Senator from Illinois is recognized.

THE POPULATION INCREASE

Mr. PERCY. Mr. President, I thank my distinguished colleague for yielding his time to me. I just noticed in the RECORD of last Friday that the distinguished Senator inserted material in the RECORD to show that an increase in population in the Nation had occurred since May 1, equivalent to the population of the entire city of Scranton, Pa., as I recall.

I certainly commend for everyone's reading the summary of reasons that was printed recently in the New York Times in a special Sunday supplement, as a result of the study of the Presidential Committee on Population Control and America's Future on which the distinguished Senator from the State of Oregon served. The Senator from Oregon has served with great distinction in that capacity, and I do believe the work of that Commission and its recommendations are among the most fundamental studies ever made in this area.

PRESIDENT NIXON HAS REMADE THE WORLD—AN EDITORIAL

Mr. PERCY. Mr. President, I wish to comment very briefly on an editorial that was published in the Christian Science Monitor of June 3, 1972 entitled "Mr. Nixon Has Remade the World" and a companion article by Roscoe Drummond entitled "Summits and the Election." I ask unanimous consent that both the editorial and the article may be printed in the RECORD with conclusion of my comments.

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

(See exhibit 1.)

Mr. PERCY. Mr. President, the President in his comments before the joint session of Congress was very modest in the claims he made for his very historic and distinguished trip. But certainly all of us know that some 3½ years of intensive work went into the summit meetings and probably it aptly could be said that a lifetime of work and experience by the President and his advisers went into making this visit so successful. Certainly, the continual newspaper reports that come from Pravda and other papers in the USSR indicate that optimism for the future as a result of these remarkable agreements is shared by both nations. Those of us who have watched carefully the making of these agreements recognize that no agreement can be expected to be adhered to unless there is a mutual advantage to each country. In my judgment a proper balance has been established, and all of us join in commending President Nixon for the remarkable, incisive way he went about creating these agreements in a number of important fields. I commend also Secretary Rogers, Henry Kissinger, Ambassador Gerard Smith and Ambassador Dobrynin for their invaluable contributions to the success of the summit.

We do not underestimate the differences in ideology, purpose, and direction we may have, but it is important that we continue the search for areas where a mutual interest in cooperating will bring us closer together.

(EXHIBIT 1)

[From the Christian Science Monitor, June 3, 1972]

MR. NIXON HAS REMADE THE WORLD

President Nixon came home to a well-earned triumph in the halls of the American Congress. It was the denouement of a most remarkable chapter in the affairs of the nations of this world. Back in 1826 British Foreign Minister George Canning said: "I called the New World into existence to redress the balance of the old." President Nixon would have been entitled to repeat that phrase on his return and apply it to the work he has done over the past 10 months.

It was on July 1 of last year that the capitals of the world gasped at the news that Richard Nixon would go to Peking. That was the "impossible" beginning of all the "impossible" things which Richard Nixon has in fact done from that beginning.

The net of it all is that he has converted a two-power world in which Russia had the decided advantage (due to the American embogment in Vietnam) into a three-power world in which, for the moment at least, the United States has the advantage of more flexibility and room for maneuver.

The best measure of what he has done is that the United States is today on equally easy and "correct" terms with both Russia and China whereas Russia is on such terms only with the United States. In addition, the United States is repairing its once damaged relation with the emerging West European coalition and retains something of its old closeness to Japan. Under Lyndon Johnson the United States was rapidly becoming the pariah of the world. Under Richard Nixon it is now the least isolated of the Big Three.

We will discuss in detail the military, economic, and other aspects of the work done by the American President on his trip at other times. Today we wish to stress here the very real importance of the whole work and our approval of it. We cannot know that what comes after will in all respects be desirable. Mr. Nixon quite properly compared his work to date only to the laying of foundations. The house remains to be built. It may or may not be worthy of the foundations.

The important thing is that these are the foundations for a world entirely different from the one we have all been living in since Harry Truman picked up the Russian challenge over Greece and Turkey in 1946. That was the beginning of the "cold war." Mr. Nixon's Thursday evening report to Congress was the formal end of it. In 1946 President Truman summoned his country to a struggle against communism. In 1972 President Nixon has summoned his country "to lead the world up out of the lowlands of constant war onto the high plateau of lasting peace."

There is still a rival and hostile ideology alive in the Communist countries. Mr. Nixon recognizes that. And the ideology of communism might still sweep the world, if the non-Communist countries went to sleep. Mr. Nixon recognized that. But the stress in the whole body of his new foreign policy is on the acceptance of Russia and China as power states with whom the United States can do practical and peacemaking business.

By calling China back into the world, he has redressed the balance just as much as Canning did in 1826. It is a safer, better balanced world.

SUMMITS AND THE ELECTION

(By Roscoe Drummond)

WASHINGTON.—It does not demean the achievements of the Moscow and Peking summits to appraise them partly in terms of domestic politics.

Every first-term president wants to be re-elected and nearly everything he does bears upon whether he will be.

It would be naive to assume that Mr. Nixon gave no thought to the domestic political value of his trips to China and Russia when he began to plan them three years ago. He certainly did not aim to delay them until after November, 1972.

NO POLITICAL GIMMICK

There's nothing wrong in that. The only thing that would be wrong would be for the President to do anything that would harm the nation in order to get some short-term results which might temporarily please voters.

Mr. Nixon did nothing like that in either Peking or Moscow.

The Washington Post, which has found little to approve in most of the President's actions, firmly dismisses the suggestion of cynics that Nixon might have "concocted" the Soviet summit "as an election-year extravaganza." It says the critics of the administration "will be confounded" if they seek to belittle as a political gimmick what Nixon has accomplished in Moscow.

I would go further. I would say that the President would himself be confounded if he played politics with the peace and security of the nation.

The American people would detect it quickly if he did; they're bright.

FIRST STRIDE

The two summits will yield a significant, perhaps a decisive, political dividend to Nixon for these reasons:

1. The President has brought off what four American presidents sought but failed to get, that is, to limit the nuclear arms race. Truman, Eisenhower, Kennedy, Johnson all tried and never succeeded. Nixon tried—and succeeded.

The capstone of the Moscow summit is the U.S.-Soviet agreement to limit the number of defensive and offensive nuclear weapons. It isn't everything but it is a great deal. It does not end the arms race, but it is the first measurable step toward controlling it. It casts its glow ahead. Further strides are needed, but they would not be possible if the first stride had not been taken.

2. The two superpowers whose post-World War II relations have been marked mostly by hostility and conflict, are undertaking a series of cooperative, interlocked enterprises which seemed totally unattainable a few years ago—joint exploration in space, joint research in health and science, joint efforts to decrease pollution, joint nuclear arms control, and a joint commission to expand mutual trade. This doesn't mean that every aspect of the cold war is over, or that of future conflict is banished. But such working together could be wonderfully habit-forming.

3. The cold war is significantly muted. It is not removed from all U.S.-Soviet relations, but Nixon and Brezhnev did far more than just damp down some tensions; they resolved some basic causes of the cold war and that, too, casts its light ahead.

4. Every president since Truman wanted to establish better contact with mainland China. For different reasons no one was able to do it. Nixon did and both the U.S. and China are beneficiaries.

PEACE POLICY

It is true that foreign policy has rarely been a determining factor in U.S. elections. Some of the experts contend that foreign policy is too dull and technical to impress voters.

Nixon's initiatives in China and Russia go beyond the confines of traditional foreign policy; they comprise a peace policy; they reach toward the goal of "a generation of peace in our time," and his initiatives are beginning to lay the building blocks of a more secure peace.

They don't guarantee the President's re-election, but they are a large plus.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the remarks of the distinguished senior Senator from New York (Mr. JAVITS) and the recognition of any other Senators under such 15-minute orders as may be entered in the meantime, all of which will be as in legislative session, there be a period for the transaction of routine morning business, as in legislative session, of not to exceed 30 minutes, with statements therein limited to 3 minutes, following which the Senate resume consideration, in executive session, of the nomination of Richard G. Kleindienst for the office of Attorney General of the United States.

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

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, following the recognition of the two leaders under the standing order and any orders for recognition of Senators for not to exceed 15 minutes, if such there be, there be a period for the transaction of routine morning business, and that such period be of sufficient length to accommodate the disposition of Calender Order No. 791, S. 3442—in accordance with the order previously entered—and that in addition thereto there be a period of not to exceed 30 minutes, with statements therein limited to 3 minutes, all of which will be as in legislative session, at the conclusion of which the Senate resume its consideration in executive session of the nomination of Mr. Richard G. Kleindienst for the office of Attorney General of the United States.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, how much time remains for the transaction of morning business?

The PRESIDING OFFICER. Five minutes remains of the period designated for the transaction of routine morning business.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON LOANS FOR FINANCING OF A GENERATING UNIT

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on the approval of loans for the financing in part of a 600-megawatt unit, 333 miles of 345-kilovolt transmission line, and related facilities (with accompanying papers); to the Committee on Appropriations.

REPORT OF TRANSFERS OF CERTAIN AMOUNTS APPROPRIATED TO THE DEPARTMENT OF DEFENSE

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the transfer of certain amounts appropriated to the Department of Defense; to the Committee on Appropriations.

SAMPLING PLAN FOR FLAMMABILITY STANDARDS OF CARPETS AND RUGS

A letter from the Assistant Secretary of Commerce, transmitting, for the information of the Senate, a notice relating to sampling plan for flammability standards of certain carpets and rugs (with accompanying papers); to the Committee on Commerce.

SUPPLEMENTARY SUMMARY OF FISCAL YEAR 1973 BUDGET

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a supplemental summary of the fiscal year 1973 budget (with accompanying papers); to the Committee on Government Operations.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens (with accompanying papers); to the Committee on the Judiciary.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classification for certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORT OF EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A letter from the Chairman, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

PROSPECTUS RELATING TO CONSTRUCTION OF A FEDERAL OFFICE BUILDING IN OKLAHOMA CITY, OKLA.

A letter from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposed the construction of a Federal office building in Oklahoma City, Okla. (with accompanying papers): to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of Louisiana; to the Committee on Interior and Insular Affairs:

"SENATE CONCURRENT RESOLUTION NO. 38

"A Concurrent Resolution to formally recognize the Coushatta Indian Tribe and to urge the government of the United States of America, particularly the Bureau of Indian Affairs, to give assistance to said Tribe and to acknowledge their rights

"Whereas, the Coushatta Indians are a small tribe of Indians which has lived in Louisiana since migrating from Alabama in

1850, which tribe was known in Alabama as the Koasati (white reed brake) Tribe; and

"Whereas, the said Coushatta Indians not known ever to have signed a peace treaty with the United States of America and are not known ever to have received any formal recognition from any state in the Union, although they have endured from time immemorial as a definite and recognizable ethnic group, with an informal internal organization of chief and Tribal Council and have been so acknowledged by their neighbors; and

"Whereas, it is fitting and proper that formal recognition of the Coushatta Indian Tribe be extended by this state and that assistance be given by the national government.

"Therefore, be it resolved by the Senate of the Legislature of Louisiana, the House of Representatives thereof concurring, that the State of Louisiana hereby formally recognizes the Coushatta Indian Tribe.

"Be it further resolved that the Government of the United States of America, and particularly the Bureau of Indian Affairs, is hereby memorialized, requested and urged to take such steps as are necessary to effect in the near future services to the Coushatta Indian Tribe, to acknowledge that the rights of the Coushatta are no less, if not indeed greater, than that of other Indian Tribes in the United States, and thereupon to take appropriate executive and/or congressional action.

"Be it further resolved that copies of this Resolution shall be transmitted to the President of the United States, the presiding officers of the Senate and the House of the Representatives of the Congress of the United States and the Director of the Bureau of Indian Affairs, United States Department of the Interior."

A resolution adopted by the Yukon Native Brotherhood, Whitehorse, Yukon, praying for the enactment of legislation to exempt Alaska natives from the prohibitions incorporated in the Sea Mammal legislation; to the Committee on Commerce.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1198. A bill to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Indian Peaks Area in the State of Colorado (Rept. No. 92-833).

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

S. 3419. A bill to protect consumers against unreasonable risk of injury from hazardous products, and for other purposes (Rept. No. 92-835), together with supplemental views.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports on treaties were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive D, 84th Congress, second session, International Plant Protection Convention (Exec. Rept. No. 92-22);

Executive D, 92d Congress, first session, the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion That are of International Significance, signed at Washington on February 2, 1971 (Exec. Rept. No. 92-23); and

Executive H, 92d Congress, second session, the Treaty on the Swan Islands Between the Government of the United States of America and the Government of Honduras, signed at San Pedro Sula on November 22, 1971 (Exec. Rept. No. 92-24).

AMENDMENTS TO THE RAIL PASSENGER SERVICE ACT OF 1970—CONFERENCE REPORT—REPORT OF A COMMITTEE (S. REPT. NO. 92-834)

Mr. MAGNUSON, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11417) to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation for the purpose of purchasing railroad equipment, and for other purposes, submitted a report thereon, which was ordered to be printed.

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. BIBLE (for himself and Mr. CANNON):

S. 3667. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Northern Paiute Nation by the Indian Claims Commission in docket No. 87, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HOLLINGS (for himself and Mr. MAGNUSON):

S. 3668. A bill to increase the annual appropriation authorization of the National Advisory Committee on Oceans and Atmosphere. Referred to the Committee on Commerce.

By Mr. JACKSON:

S. 3669. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require the prompt trial of defendants in criminal cases and provide grants to State and local governments for improving the administration of criminal justice, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 3670. A bill to amend the Washington Area Transit Authority Compact to require the inclusion of rail commuter service in the mass transit plan, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HRUSKA, Mr. COOK, Mr. HART, Mr. MATHIAS, and Mr. RIBICOFF):

S. 3671. A bill to amend the Administrative Conference Act. Referred to the Committee on the Judiciary.

By Mr. HANSEN:

S. 3672. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from the Federal estate tax for certain debt obligations of domestic corporations in cases where the interest on such obligations would be treated as income from foreign sources for purposes of the interest equalization tax. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIBLE (for himself and Mr. CANNON):

S. 3667. A bill to provide for the disposition of funds appropriated to pay judgments in favor of the Northern Paiute Nation by the Indian Claims Commission in docket No. 87, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, on behalf of myself and my distinguished colleague, Senator CANNON, I introduce, for proper reference, a bill to provide for the disposition of funds appropriated to pay judgments in favor of the Northern Paiute Nation by the Indian Claims Commission in docket No. 87, and for other purposes.

The satisfaction of the $21 million plus interest judgment awarded our Indian constituents in Nevada has been delayed for a long time—over 9 years to be exact—pending a determination by the tribes involved as to how best the judgment funds should be distributed.

I am well aware that there are still those who are not satisfied with the proposal submitted by a large majority of those who will be affected by the payment of this long delayed obligation of the United States to its Indian citizens. However, I am firmly of the belief that the only way this matter can be settled is through a proper presentation before the Congress, and it is my belief that this can best be accomplished by thorough consideration of our proposed bill.

I ask unanimous consent that the letter dated May 11, 1972, and signed by our good friend, Melvin D. Thom, chairman of the Walker River Paiute Tribe of Nevada, be included as a part of my remarks at this time.

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

WALKER RIVER PAIUTE TRIBE,
WALKER RIVER INDIAN RESERVATION,
Schurz, Nev., May 11, 1972.

Senator ALAN BIBLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BIBLE: Enclosed is a proposed legislation authorizing the Secretary of the Interior to make final distribution to the beneficiaries of the judgment awards made in favor of the Northern Paiute Nation by the Indian Claims Commission in Docket 87 of Areas I, II, and III.

The subject legislation expresses the desire of a majority of the fifteen (15) organized Northern Paiute tribal groups. At the claims meeting on May 6, 1972, at the Nevada Indian Agency, Stewart, Nevada, at which twelve (12) tribes were represented, they authorized the Walker River Paiute Tribe to submit the legislation to the Nevada congressional delegation for appropriate action. We, therefore, respectfully request that you introduce this legislation in Congress on behalf of the Northern Paiute Nation.

The tribes further requested that they be notified in ample time before the congressional subcommittee hearings on the bill in order that they may have an opportunity to testify at such hearings.

Respectfully yours,

MELVIN D. THOM,
Chairman, Walker River Paiute Tribe.

By Mr. JACKSON:

S. 3669. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require the prompt trial of defendants in criminal cases and provide grants to State and local governments for improving the administration of criminal justice, and for other purposes. Referred to the Committee on the Judiciary.

CRIMINAL JUSTICE REFORM ACT OF 1972

Mr. JACKSON. Mr. President, I am introducing today the Criminal Justice Reform Act of 1972.

This bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to include the reform of our criminal justice system as an essential element in the campaign against crime. It would restore the constitutional right to a speedy trial, using the requirement of prompt trial as a means to speed reform of the whole criminal court system.

This bill would require States and local governments to prepare plans for the prompt trial of criminal offenses in accordance with criteria established by the Law Enforcent Assistance Administration. These criteria would be designed to assure that defendants are tried within 60 days of the date of arrest or from the date they are charged, whichever occurs first.

States and local governments would not be eligible for LEAA grants unless they had a prompt trial plan approved by the LEAA. Continuing eligibility would depend on progress toward the prompt trial objective.

The bill authorizes a total of $750 million over the next 3 years for grants for criminal justice reform. I am convinced that we must commit new Federal resources if we are to make real progress toward rehabilitating our criminal courts.

Mr. President, my bill departs from the block grant approach of the Safe Streets Act. Instead, it would give the LEAA authority to make grants for criminal justice reform as it sees fit.

This change is dictated both by experience with the block grant approach and the urgent need to set priorities and make prompt progress in rehabilitating our criminal justice system. The fact is that almost nothing has been done by the States and local governments in this area with funds appropriated under the Safe Streets Act. We cannot hope to do the job unless we give one agency the mandate and the resources and the responsibility to get it done.

Four years ago, in the Safe Streets Act, Congress declared a national policy of Federal assistance to strengthen and improve law enforcement at every level of government. The primary emphasis of the Safe Streets Act was on the detection and apprehension of criminals. Whatever the merits of that approach, it seems clear that Congress should also have focused on the role of the criminal courts as an integral part of the crime control effort.

Mr. President, the condition of our criminal courts has been well summarized in a recent report by the American Bar Association's special committee on crime prevention and control. This distinguished group, chaired by Edward Bennett Williams, simply concluded that:

The growing backlogs in the Nation's courts have brought our judicial system close to paralysis and threaten to make a sham of our society's commitment to the fair and efficient administration of justice.

Endless delays in the judicial process deny justice to the criminal defendant, innocent or guilty, and deprive society of a necessary deterrent to urban crime. If we are to avoid a total breakdown in the judicial process, immediate and comprehensive reform is essential.

Reviewing the war on crime in the 5 years since the report of the President's Commission on Law Enforcement and the Administration on Justice, of which he was executive director, Prof. James Vorenberg concludes that our criminal court system appears to have deteriorated during this period. In an article in the May Atlantic, he writes that:

Many lower courts look more like factories than halls of justice. More than half of the people in jail in this country are there because they are awaiting trial, not because they have been convicted. Whatever deterrence of crime the threat of penal sanctions might exercise is undermined as thousands of defendants go free, not because they have been acquitted but because courts and prosecutors are too overwhelmed by their workload to consider their cases.

Mr. President, I ask unanimous consent that the full text of Professor Vorenberg's frank summary of our progress in crime control be printed in the RECORD at the conclusion of my remarks. I also ask unanimous consent that the important recommendations of the Williams' committee relating to criminal court reform be printed in the RECORD at the conclusion of my remarks.

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

(See exhibits 1 and 2.)

Mr. JACKSON. Mr. President, it is hard to avoid concluding that the breakdown of the criminal justice system has a direct impact on the deterrent effect of our criminal laws. In a recent report, the Criminal Justice Coordinating Council of New York City pointed out that because the courts decide the fate of those arrested by the police, the operations of the courts determine the extent to which the criminal justice system is able to deter crime. If the courts are "overwhelmed and fail to function with optimum efficiency, no amount of police on the street can make deterrence a meaningful reality."

The other side of this coin is that a criminal justice system that functions effectively can have a real impact on crime rates. There is evidence, for example, that the recent decline in crime here in the District of Columbia may be attributed in part to a major court reorganization which produced a dramatic speedup in the judicial process. Because of this reorganization, and the resulting availability of more judges, the District of Columbia Superior Court is now able to try cases much faster than before. We are told that the chances of being tried for and punished for a felony charge have doubled since the reorganization took place.

The significance of prompt trials was recognized by the ABA Special Committee on Crime Prevention and Control. The committee recommended that:

Strict limitations must be placed upon the length of interval between the time a defendant is arrested or charged and the time his trial commences. Tolling exceptions for good cause may be a necessary adjunct of such provisions. However, exceptions should be few, clearly articulated, sparingly invoked and, once invoked, narrowly construed by the court.

And the committee also recognized that trial deadlines would, in many cases, be unworkable unless additional resources were made available. My bill would authorize the commitment of resources by the Federal Government for this purpose.

Let me emphasize, Mr. President, that criminal justice reform is not just a question of more prosecutors, more defense counsel, or more judges. It is a matter of instituting new management techniques to control criminal dockets. It is a matter of changing archaic courtroom and appeals procedures that shackle our criminal courts. It is facing up to the need for removing certain categories of crimes like alcoholism from our criminal justice system. My bill would encourage the States and local governments to explore and experiment with these and other alternatives to our present system.

I am convinced that Congress must take the initiative in establishing criminal justice reform as a major national goal. The responsibility for making our courts work belongs not just to judges or bar associations, it belongs to our elected political leadership as well.

Quite frankly, Mr. President, people in America have grave doubts about our criminal law. In the administration of criminal justice—from traffic court to death row—the effectiveness of the law and the fairness of the law, are open to serious question. We cannot expect people to respect a system that does not work. And the only way we can restore faith in our system of criminal justice is to build a better, more effective system. That is the purpose of the legislation I am introducing today.

EXHIBIT 1

THE WAR ON CRIME: THE FIRST 5 YEARS

(By James Vorenberg)

Nixon and Mitchell vowed to turn the tide. "Operation Intercept" and three years later, it's their turn to face a fact of life: crime is rising, and law enforcement alone won't stop it.

Five years ago the President's Commission on Law Enforcement and the Administration of Justice—generally known as the Crime Commission—reported the results of its two-year examination of crime and made more than 200 specific recommendations to overhaul our system of criminal justice.

The Commission, for which I served as executive director, had been appointed by President Johnson in 1965, partly in response to Senator Barry Goldwater's introduction of "crime in the streets" as an issue in the 1964 presidential election. But as we met in the White House to accept the President's thanks for our report, politics seemed remote. The Commission, chaired by Attorney General Nicholas Katzenbach, included among its members Democrats and Republicans, prosecutors and academics, the executive director of the Urban League and the vice president of the International Association of Chiefs of Police. It had, nonetheless, been able to reach agreement on what the President described as "the most comprehensive and detailed program for meeting the challenge of crime ever proposed in this country."

The President promptly submitted to Congress proposed legislation that would provide funds to states and cities to carry out the Commission's recommendations for change. Even those of us who had two years earlier been a bit cynical about the reasons for the Commission's creation and doubtful about what it would accomplish were optimistic.

Yet five years later crime is unquestionably a far worse problem for the country than it was then, and our system of criminal justice—the police, courts, and corrections agencies—seems less capable of coping with it. The Department of Justice consoles us with the assurance that although crime is still increasing, the rate of increase is slower. For former General John Mitchell, who made heavy use of crime statistics in the 1968 presidential campaign, the 30 percent increase in the reported crime rate during the first three years of the Nixon Administration must present a strategic puzzle as he plans the 1972 campaign.

In 1967 the Crime Commission could review the FBI reports of the seven "index" crimes—homicide, rape, aggravated assault, robbery, burglary, larceny (over $50), and auto theft—for 1960–1965 and report increases for the five-year period of 36 percent in crimes against property and 25 percent in violent crime. This was troubling to be sure, but hardly the uncontrolled rampage about which Senator Goldwater had warned in the 1964 campaign. The Commission noted that because of the post-World War II "baby boom," an unusually large part of the population was between fifteen and twenty-five years of age. Since this group commits most of the serious crimes, about half of the 1960–1965 increase could be attributed to this temporary disproportion. The Commission also suggested that some of the increase in crime might be the result of better reporting by or to the police. Generally, it counseled against overreaction.

But the figures for the last five years of the sixties have convinced all but the most skeptical that something more ominous than population changes or reporting errors is involved. By 1970 the rate of crimes against property had increased 147 percent for the decade and the rate of crimes of violence had increased 126 percent. And the latest FBI figures show that during the first nine months of 1971, there were further increases of 10 percent for violent crimes and 6 percent for property crimes compared with the same period in 1970. In the past five years self-protection has become the dominant concern of those in our cities and suburbs, evidenced by the rapid growth of a multi-billion-dollar-a-year private security industry and the emergence of the German shepherd as the second most popular breed of dog.

No one can say for sure what accounts for the enormous increase in the danger which Americans face from each other. We do know that those agencies on which we are accustomed to rely for crime control—police, courts, and corrections—seem less capable of that task today than they did five years ago, and many police chiefs, judges, and prison officials openly acknowledge that there is nothing they can do to help. We also know that each year there are thousands of new drug addicts, most of whom are driven by their addiction and the nation's drug policy to prey on their fellow citizens in order to get money to buy heroin. And we have compelling evidence that during the past five years the frustration of poor people and minorities with continued denial of opportunities to improve their lives by lawful means has made reliance on crime an increasingly acceptable alternative. The fifth anniversary of the Crime Commission's report, coinciding as it does with the beginning of a presidential election contest in which crime is once again certain to be a central issue, is an appropriate time to explore why we have done so poorly and what the prospects are for the years ahead.

The Crime Commission sought to show how police, courts, and correctional agencies could both reduce crime and treat people more decently. A review of where these criminal justice agencies stand today indicates virtually no progress on the first of these goals and only spotty progress on the second.

The Police. The principal gains by the police in the past five years have been in lowering the level of hostility between the police and young people, particularly blacks. This progress has taken place despite the fact that President Nixon came into office after a campaign that invited the police and the public generally to blame crime on Supreme Court decisions designed to curb police abuses. Improvement has been especially marked in cities such as Oakland and New York, where the chiefs have made it clear that decent treatment of citizens is a top priority and will be given weight in promotion and assignments of officers. Many police departments now have their own legal offices and are getting advice from the inside on how to respect due process. The Brandeis University Center for the Study of Violence cites better training in community relations as one reason for the decline in disorders in the past five years. Increases in the number of minority-group police officers have also helped, although here the record is mixed. The nation's five largest cities in total have shown a 23 percent increase in black officers in the past five years. Yet some departments, such as Cleveland's and Philadelphia's, have lost ground. Alabama and Mississippi still bar blacks from their state police, and Massachusetts has only two on its 870-man force.

Changes which seem to have improved relations between citizens and the police in many cities have not been matched by new crime-reduction methods. Much of the federal aid to police has gone for such flashy items as helicopters, computerized communications systems, and new weaponry. Yet these have not produced a significant impact on crime. Little progress has been made on Commission proposals that police presence on the streets be increased by hiring civilians for clerical and administrative tasks. (New York City, with 32,000 policemen, has a maximum number of 3500 on the street at one time.) One discouraging indication of how little change has been made in five years is the striking similarity between the chapter on the police in the Crime Commission's 1967 report and the police section of "Planning Guidelines and Programs to Reduce Crime," just released by the Justice Department for use in its eight "high-impact" cities, where a special effort will be made to reduce crime.

The most promising "new" crime-control idea for the police is New York Commissioner Patrick Murphy's neighborhood team system, a blend of the Crime Commission's teams of policemen with the traditional "cop on the beat." Simply stated, Murphy wants to decentralize responsibility so that each neighborhood has its own team of officers who would come to know its crime patterns, its residents, and its potential offenders. The team would then be held responsible for reducing crime in the neighborhood. Murphy's crime prevention and anticorruption strategies overlap, since the team's commanding officer would also be fully accountable (Murphy's favorite word) for any corruption among his men.

Murphy instituted his system in Detroit but left to become commissioner in New York before its results could be tested. He is adopting the same approach in New York; and Chief Jerry Wilson in Washington, D.C., Murphys protégé, believes his own form of this plan is responsible for some reductions in street crime in the nation's capital.

The neighborhood team has probably improved police-community relations in the cities where it is being used. It remains to be seen whether it will also result in significant reductions in crime or whether it will simply provide pressure for incomplete reporting of crimes to central headquarters, a time-honored practice in earlier days when a precinct captain's job depended on keeping a "clean beat."

Corrections. The same two goals it set for the police—crime reduction and humane treatment—also ran through the Commission's 1967 report on corrections, where, as with the police, it believed that the goals were not inconsistent and could, in fact, reinforce each other. To achieve these goals, the Commission urged a shift from the use of prisons to community treatment of offenders. Its reasoning can be simply summarized: if we take a person whose criminal conduct shows he cannot manage his life, lock him up with others like himself, increase his frustrations and anger, and take away from him any responsibility for planning his life, he is almost certain to be more dangerous when he gets out than when he went in. On this basis, the Commission urged that only the very dangerous should be held in prison. It called for development of halfway houses, programs to send offenders home under intensive supervision, special school and employment programs, and other forms of nonprison treatment.

In a few places there has been progress in carrying out these recommendations. California has developed an extensive work-furlough program for prisoners and also offers a subsidy to counties, which helps keep the state prison population low by putting more offenders on probation. The number of state prisoners has declined from 28,000 to 21,000 in the past three years. Plans for new prisons have been scrapped and some of the existing ones are being closed.

The boldest approach is that of Jerome Miller, Massachusetts Commissioner of Youth Services. Mr. Miller concluded that his institutions were doing juvenile offenders more harm than good at a per capita cost to the state of $10,000 a year, enough, in his words, "to send a child to Harvard with a $100-a-week allowance, a summer vacation in Europe and once-a-week psychotherapy." Within the next few months he plans to close all his institutions for committed offenders and move the inmates to community-based work and education programs. He estimates that only 30 of the 800 juveniles now incarcerated are dangerous enough to be locked up, and he eventually hopes to get these into private psychiatric facilities.

A few other states are moving cautiously in the same direction.

But as a whole the country has continued to place heavy emphasis on prisons. A recent survey by the Center for Criminal Justice at Harvard Law School showed that there are residential facilities outside the walls of traditional prisons for less than 2 percent of adult offenders—and that most of these facilities were set up in the first two years after the Crime Commission's report.

Ironically, the best hope for a move away from incarceration may lie in the system's reaction to the slaughter at Attica. In much the same way that the fear of city riots prodded police chiefs to develop community relations programs in the late sixties, the fear of prison uprisings has forced officials to confront such questions as how many of the 1200 inmates at Attica really had to be in prison.

It is sad but probably true that the fear of riots and the fiscal squeeze on the states are more likely to close down prisons than either a sense of humanity or a desire to prevent crime.

The Courts. While there has been some overall improvement in the police in the past five years, and perhaps corrections has held its own, the quality of the adjudication process—the responsibility of the courts—seems clearly to have deteriorated over the same period. Many lower criminal courts look more like factories than halls of justice. More than half of the people in jail in this country are there because they are awaiting trial, not because they have been convicted. Whatever deterrence of crime the threat of penal sanctions might exercise is undermined as

thousands of defendants go free, not because they have been acquitted but because courts and prosecutors are too overwhelmed by their work load to consider their cases.

The total number of arrests, the source of the court's business, increases about 5 percent a year. More defendants are represented by lawyers who are asserting their rights in court, including rights relating to confessions and police searches spelled out by the U.S. Supreme Court during the 1960's.

The result is that a cumbersome process, which had managed to keep moving by herding large numbers of defendants through the courts on guilty pleas without consideration of possible defenses, has been further slowed. And delay begets delay. The only way prosecutors and judges can keep the glacier-like process moving at all is to drop cases or offer concessions to defendants who will agree not to assert their rights. Often the best way for defense counsel to get these concessions is to make repeated motions, seek adjournments, and generally try to drag out the process as long as possible. Even lawyers who do not deliberately seek delay achieve the same result owing to their own overloaded schedules and the courts' inefficiency. The rewards to defendants from this delay are enormous. Ninety-four thousands felony arrests in New York City last year resulted in only 550 trials. The other cases were dismissed or reduced to misdemeanors in return for a guilty plea.

To blame the Supreme Court or defense lawyers who seek their clients' best interests is rather like blaming highway congestion on those who set speed limits and on drivers themselves. If we want the criminal system to be able to handle the present volume of traffic, we must double and triple the number of courtrooms, judges, prosecutors, and defense counsel—and be ready to keep on increasing the number in the future. And even with such increases the system will depend heavily on bargaining for pleas of guilty.

Five years ago the Crime Commission called for resources to enable courts to handle increased traffic, but it also outlined two possible approaches to reducing the traffic. First, most cases involving drunks, first offenders, persons in need of psychiatric or medical treatment, and nondangerous offenders should be handled outside the criminal system. Prosecutors and defense counsel were encouraged to agree on alternative forms of treatment before such cases get to court, thus avoiding court congestion and the destructive effects of pretrial stays in jail. In fact, most of these cases now are disposed of without a formal court decision, but usually only after they have added to the jam in the courts.

Second, for those cases that remain, the Commission urged the courts to adopt modern administrative and business management methods that would avoid repeated appearances and continuances. This recommendation has been ignored, although adopting it would help not only the courts but also the police, since prosecuting witnesses, including policemen, often are required to come to court on five or more separate occasions for a single case. Our society surely has the technology to schedule its judicial business to eliminate repeated appearances, continuances, and delay. The only way to keep delay from being manipulated as part of the bargaining process is to have a system that gives the parties their "day in court"—but not a day every week.

For the past five years crime has been a major national issue. More than $1.5 billion in new federal money has been appropriated for the nation's criminal justice system. One may fairly ask why there has been so little progress.

Much of the answer lies in the inevitable hostility to change in any large bureaucracy. Proposals to substitute halfway houses for high-security prisons and computers for court docket clerks, or to establish new educational requirements for police officers, threaten job security and challenge the propriety and worth of what is being done. When Commissioner Miller in Massachusetts abolished punishment cells for juvenile offenders and allowed them to have long hair, some staff members permitted a series of escapes designed to discredit his administration. Two comments by employees suggest their frustration with the changes: "Years ago you could flatten the kids out and that would be the end of it." "You wonder who's in jail, us or the kids."

City dwellers have learned recently about the "blue flu" that often afflicts police officers who are suspicious of proposed changes. Commissioner Russell Oswald's apparent sense he had to cater to the views of the guards at Attica—even at the risk of scores of deaths—suggests how powerfully existing values now hold those working in the system. Strong and militant police and correctional officers' unions in the past few years have provided an organization which can mobilize this opposition to change.

Not all of the opposition to reform comes from within the bureaucracy. Many state and city legislative bodies tend to be wary of changes, particularly those that may seem "soft" on criminals or that cost money. And some changes—such as attempts to establish halfway houses or drug-treatment centers in residential neighborhoods—have evoked enormous hostility from private citizens.

Notwithstanding these inherent pressures against change, there was a strong sense of optimism in the mid-sixties that something could be done about crime. For the first time the federal government had acknowledged a responsibility to help the cities and states. Local police chiefs, prosecutors, and correctional administrators worked with the Crime Commission from 1965 to 1967, and with the prospect of federal financial aid, began the arduous task of overhauling their agencies.

The year 1968 was a bad one for criminal justice. During the 1968 presidential campaign, Mr. Nixon repeatedly cited decisions of the United States Supreme Court as being the major cause of crime. The result was to provide police officials, prosecutors, legislators, and the general public with an easy explanation for the enormous increases in crime in the late sixties. This relieved some of the pressure for change, a process which criminal justice officials were finding more painful and difficult than expected.

It was also in 1968 that the Congress, after a delay of more than a year, finally passed the Safe Streets and Crime Control Act to provide aid to cities and states. As originally proposed, the Act would have given the Justice Department the power to dispense funds directly to criminal justice agencies which carried out the changes such as those recommended by the Crime Commission. But Attorney General Ramsey Clark became embroiled with Congress over Senator John McClellan's insistence that the Act provide authorization for wiretapping and bugging. Clark and President Johnson were strongly opposed to electronic surveillance.* However, Johnson's relations with Congress had deteriorated over the Vietnam War, and Clark had emerged as the Republicans' whipping boy in preparation for the 1968 presidential campaign. When the smoke had cleared, the Administration had settled for legislation which not only authorized electronic surveillance but which also substituted "block grants" of federal funds to the states for the broad grantmaking authority in the Justice Department.

The seriousness of this legislative defeat soon became clear. The principal justification for federal aid was that it would provide an incentive for cities and states to make changes in criminal justice agencies. But with block grants the federal government cannot directly push for reform. It simply gives a lump sum to each state to be distributed in accordance with the state's own written plan. These plans are the products of large new state bureaucracies, many of which are controlled by old-line representatives of the state and local police departments, courts, prosecutors, and correctional agencies that need to be changed. Since the state plans are rather general and require only superficial changes in the agencies, much of the money has been spent to preserve the status quo.

Thus, except for a few states where the planning agencies have insisted on substantial change as a condition of funding, there is little to show for the almost one billion dollars that has been spent. Some of the early funds were wasted on military equipment for riot control. In one state a congressional committee found federal funds had been used to send families of law-enforcement officials to college. At a hearing last fall, the Conference of Mayors charged that "there is a wide-spread failure to comply with the spirit of the law as it relates to distributing funds to cities to fight crime." And the former administrator of the Act, Charles Rogovin, has made the drastic suggestion that the Law Enforcement Assistance Administration's funds "be frozen until its house is in shape."

Unquestionably some of the problems are those attendant on any new federal grant program. Some result from the highly political nature of the crime issue. It has been suggested that the eight "high-impact" cities, each of which will receive $25 million in the next two and one half years, were picked with at least one eye on the 1972 election. Perhaps the most fundamental defect in terms of crime control is the lack of research. Largely because Congressman John Rooney of Brooklyn, the chairman of the key subcommittee of the House Appropriations Committee, is suspicious of research, there has been a five-year drought in funds for the research authorized by the original Act. Thus, not much more is known about specific techniques of crime prevention today than was known five years ago, and the prospect for new answers in the next few years is bleak.

Even if every change the Commission called for in police, courts, and correctional agencies had been made, resulting reduction in crime would probably have been more than offset by increases resulting from the enormous spread of drug addiction. The best present estimate is that there are 250,000 addicts in the United States, of whom between one third and one half live in New York City. Research has shown that the same young people at the bottom of the social and economic ladder who commit the bulk of predatory crime are most likely to become addicts. (Five out of every six addicts in New York City are black; about half are under twenty-two years of age.) Their addiction adds to the already great likelihood of their committing crimes the need to raise $25 to $100 each day to buy heroin. The results have been explosive. Some cities are reporting that almost half of those in jail are addicts. One judge in Washington found that 75 percent of the defendants

---

*Johnson felt so strongly on this subject that when he heard a mistaken rumor that the Commission had voted an endorsement of electronic surveillance, he told his staff he did not want the Commission's report delivered to the White House. Before I had to resort to the alternative, suggested by Elizabeth Drew in her May, 1968 article in *The Atlantic* ("On Giving Oneself a Hotfoot, Government by Commission"), of "tossing the report over the White House fence," the President's staff agreed to receive the Report.

brought into court on felony charges were addicts.

Five years ago, the Crime Commission recognized addiction as a major source of crime, but as four dissenting members of the Commission noted, the majority was unwilling even to explore alternatives to the present drug enforcement policy, which, by requiring addicts to get their heroin illicitly, puts enormous pressure on them to rob, steal, prostitute themselves, or sell drugs to raise money. Recently, as an extension of this policy, we have negotiated with Turkey, France, and Mexico and other drug-producing countries in an attempt to cut off the supply at the source. This has been combined with attempts to stop drugs at the borders of the United States. The most dramatic example was "Operation Intercept," aimed at persons bringing marijuana across the Mexican border, and some experts think that the only result was a temporary increase in the price of marijuana in the United States and a switch by thousands of marijuana users to heroin. In any event, it is perfectly clear that heroin and other drugs are still plentiful and that federal law enforcement has served primarily to keep the price at a high level, with the resultant pressure on addicts to commit crimes to support their habits.

The most significant change in drug policy in the past five years is that at the same time that several agencies of the federal government are devoting enormous resources to the apparently futile effort to stop heroin traffic, the country has moved quietly to a policy of dispensing another addictive drug—methadone—on a maintenance basis. Labeled as "experimental," methadone projects now exist in cities and towns all over the country. Many such projects are funded by the Department of Health, Education, and Welfare and all require a federal permit.

It was originally thought that methadone in some mysterious way provided a "blockade" to the effects of heroin, but it is now clear that many addicts take heroin and methadone (and other drugs) interchangeably. Both drugs are addictive; both can give a "high" if taken in large doses; and both can probably be given at sustaining dosages that would permit most addicts to lead more or less normal lives. Many doctors prefer methadone as a sustaining drug because they believe it is easier to stabilize doses; some would prefer heroin because they think it has a better effect on the patient's emotional state. The biggest difference between heroin and methadone is probably political rather than pharmacological—methadone does not have the history and the connotations that make it so difficult for heroin to be considered as a form of medical treatment.

Partly for the same reason, among addicts heroin is still clearly the "drug of choice." As long as it is available it is unlikely that even a massive methadone maintenance program open to all addicts would dramatically reduce the number of heroin users.

Concern about crime by heroin addicts has resulted in support for experimental heroin-maintenance programs from unexpected sources. In recent weeks a special committee of the staid American Bar Association has called for such experiments. So have United States Attorney Whitney North Seymour, Jr., and Police Commissioner Patrick Murphy in New York City and Sheriff John Buckley in Middlesex County, Massachusetts. Mayor Lindsay would almost certainly have set up such a program already but for the strong opposition of Congressman Rangel and several other black leaders. They see this approach as "writing off" their people and fear that whatever deterrent effect the possibility of addiction might have on marginal drug users might be undermined if the worst they faced by becoming addicted was a daily trip to a government dispensary.

Another factor that has discouraged such programs is a prevailing misconception in this country that the British system of making heroin available to addicts at government-regulated clinics has resulted in a large increase in addiction. While this was true when individual doctors were permitted to prescribe heroin freely, two years ago the British began controlling distribution by individual doctors and now make drugs available through government-sponsored clinics. The result is that the number of addicts in England has stabilized at less than 3000. (A recent study counted six times that number in one forty-block area in New York City.) There appears to be little crime committed in England today by addicts seeking money for drugs, because addicts pay either nothing or 2 cents per dose for their heroin.

It would be a mistake to expect that most addicts will give up crime altogether once they can get free heroin from clinics. A prostitute in the Addiction Research and Treatment Corporation Center in Bedford-Stuyvesant explained it clearly: "Now that I'm on methadone, I feel like a human being for the first time. I want some nice clothes and the only thing I'm good enough at is boosting [shoplifting] and turning tricks. But I don't have to do as much as long as I can get my drugs here."

Just as methadone is turning out to be no "magic bullet," so we would have to anticipate that many heroin addicts maintained at clinics would commit crimes. But controlling crime is not finding one total answer; it is chipping away with a number of partial answers. By relieving the enormous economic pressure of addiction, it may be possible to offset partially the enormous increase in criminality accounted for by addiction.

Unless researchers find a nonaddictive substitute for heroin, we will probably soon see a few government-sponsored heroin maintenance experiments in the United States. And if the experience with methadone is any guide, it seems a fair, if somewhat gloomy, guess that five years from now public pressure to reduce crime will have forced acceptance of heroin maintenance as a generally available form of treatment.

Neither improving the criminal justice system nor relieving addicts of the additional economic pressure to commit crimes that their addiction imposes on them is likely to make much difference in crime rates if millions of people believe crime is their best route to a decent life. We rely for self-protection more than we usually recognize on moral restraints based on a sense that each member of society has a stake in obeying the law. The sense of belonging to a community that underlies much of this moral restraint is undermined if the conduct of the rich and the powerful is characterized by selfishness, and if the government appears to have little concern for the plight of those for whom life is difficult.

Continuing denial of opportunity, combined with the anonymity of city life, is destroying the social pressure to abstain from crime. The riots of the mid-sixties showed one possible outlet for the deep frustration and hatred felt by young blacks in the cities—the same group that is already responsible for a large proportion of serious crime. In New York City predatory "rat packs" of juveniles roam the city. They justify what they do as "getting even," and the thought that their victims are human beings with lives and feelings of their own seems foreign to them.

It would be a tragic mistake to assume that we can look to the law-enforcement system to control crime if other restraints disappear. To understand this we need only look at the situation from the point of view of the potential criminal. The odds against the police catching the average burglar—either at the scene or later—are probably no better than 50 to 1. And if he is arrested, he has a good chance of having his case dropped or of being put on probation. A middle-class citizen with a reasonably comfortable life may be deterred by these odds; he has too much to lose. But 25 million people in the United States live below the officially defined poverty line. In a society where television commercials are constantly reminding us that every self-respecting American should be driving a new car and flying off for a Caribbean vacation, crime may seem like the only good bet for those whose lives are little more than a struggle to survive.

Even if we double or quadruple the effectiveness of law enforcement (and there is no reason to think we can) and reduce the odds proportionately, it may still be a good bet. Crime will be a worse gamble only when people have decent enough lives on the outside so they are unwilling to risk arrest and conviction.

The view that the level of crime is determined less by law enforcement than by the extent to which we make life worthwhile for those at the bottom of the economic and social ladder is not a partisan one. Five years ago the Crime Commission, which included such staunch conservatives as William Rogers, currently Secretary of State, and Lewis Powell, one of President Nixon's most recent appointees to the Supreme Court, unanimously reported that the Commission:

". . . has no doubt whatever that the most significant action that can be taken against crime is action designed to eliminate slums and ghettos, to improve education, to provide jobs, to make sure that every American is given the opportunities and freedoms that will enable him to assume his responsibilities."

The country seems to be proceeding on the contrary assumption. In a two-year period when federal appropriations for the Law Enforcement Assistance Administration program increased from $270 million to $700 million, funds for the federal juvenile-delinquency programs were cut from $15 to $10 million. Against the background of the tremendous increase in crime committed by blacks, whatever notions of fiscal soundness or social justice are thought to underlie the Administration's apparent acceptance of Daniel B. Moynihan's proposal for "benign neglect" of blacks, that policy seems almost certain to have disastrous effects on crime.

The Crime Commission's final conclusion was that "controlling crime in America is an endeavor that will be slow and hard and costly. But America can control crime if it will." At that time I thought there was hope for changes that would both strengthen the agencies of criminal administration and reduce the injustices that underlie much crime. I still do not belive that we have to settle for a society where we live in fear of each other. But today, I find it hard to point to anything that is being done that is likely to reduce crime even to the level of five years ago.

EXHIBIT 2

EXCERPTS FROM RECOMMENDATIONS OF THE AMERICAN BAR ASSOCIATION SPECIAL COMMITTEE ON CRIME PREVENTION AND CONTROL

THE COURTS

1. Regulation of various types of conduct which harm no one other than those involved (e.g., public drunkenness, narcotics addiction, vagrancy, and deviant sexual behavior) should be taken out of the courts. The handling of these matters should be transferred to non-judicial entities, such as detoxification centers, narcotics treatment centers and social service agencies. The handling of other non-serious offenses, such as housing code and traffic violations, should be transferred to specialized administrative bodies.

2. Through the careful use of prosecutorial discretion and dispositions such as probation without conviction, many cases should be screened out before they reach the court or at least before they occupy any appreciable court time.

3. The use of money bail as a means of obtaining pretrial release should be deemphasized. Bail agencies or probation offices should be funded at a level to enable thorough pretrial screening so that more defendants can be released on recognizance, often with appropriate conditions attached. Programs should be developed to make these conditions beneficial to the released defendant and to society where possible.

4. Probation offices must be given the funds necessary to increase their staffing to the extent needed to permit careful screening of defendants to determine those meriting pretrial release, to provide close supervision for those who are released, and to assure the early preparation of presentence reports.

5. To pinpoint responsibility for each case, the assignment of cases should be made on an individual calendaring basis. For this system to work, however, the court must work closely with the prosecutor's office and the defense bar to obtain their cooperation and their commitment to supply adequate manpower.

6. Computers should be utilized to assist the court in scheduling, doing routine paperwork, avoiding conflicts, equalizing work loads, analyzing backlogs, and providing various types of judicial statistics needed for effective court operation and planning.

7. Strict limitations must be placed upon the length of interval between the time a defendant is arrested or charged and the time his trial commences. Tolling exceptions for good cause may be a necessary adjunct of such provisions. However, exceptions should be few, clearly articulated, sparingly invoked and, once invoked, narrowly construed by the court. In many jurisdictions it will be necessary for the legislature to authorize appropriations for additional resources if such deadlines are to be workable.

8. Criminal discovery should be expanded within constitutional bounds to eliminate competition in criminal proceedings and to increase the likelihood of pretrial disposition.

9. An omnibus hearing procedure should be used to consolidate pretrial motions and written motions outside this procedure should be severely curtailed if not eliminated.

10. The mandatory use of the grand jury should be abolished. Instead, defendants generally should be charged by means of an information. Some jurisdictions may choose to preserve the grand jury, making its use optional at the request of the prosecutor or defendant.

11. In many jurisdictions throughout the United States, the time consumed in jury selection in cases involving the kinds of crime with which this report is concerned is wholly inordinate. Individual interrogation of jurors is rarely necessary and generally voir dire examination of the panel should be conducted en banc.

12. In almost every case the examination of the prospective jurors can be most expeditiously conducted by the judge with supplementary examination by counsel in the discretion of the judge.

13. Jury selection in all cases should consume but a minimal percentage of overall trial time.

14. Written briefs should be eliminated unless specifically requested by the court. Instead, designations of error should be used to apprise the appellate court of the nature of the appeal.

15. Technological alternatives to manual preparation of transcripts (e.g., computer-aided production, sound recording and videotaping) should be explored thoroughly and, where feasible, should be introduced on a widespread basis.

16. Unless a novel point of law is involved, appellate courts should use unsigned memorandum opinions, rather than writing full-length signed opinions.

17. Appellate courts should establish a central hearing staff to analyze cases coming before the court, verify allegations made, recommend appropriate dispositions, and draft a possible memorandum opinion in suitable cases.

18. Trained court administrators should be employed to bring specialized management skills to the courts and to allow judges to concentrate on hearing and deciding cases.

19. Law schools and bar associations must enlarge their efforts to prepare lawyers for trial work and thus enable them to handle a case at both the trial and appeal level.

20. Intensive statistical research must be carried out to discover precisely where and why cases are being backed up in the judicial process. The current lack of such elementary data makes close analysis of court problems extremely difficult.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 3670. A bill to amend the Washington Area Transit Authority Compact to require the inclusion of rail commuter service in the mass transit plan, and for other purposes. Referred to the Committee on the Judiciary.

Mr. BEALL. Mr. President, on behalf of Senator MATHIAS and myself I send to the desk a bill designed to expedite the implementation of an efficient rail commuter service for the Washington-Baltimore metropolitan areas. The legislation amends the Washington Metropolitan Area Transit Authority Compact, by requiring the inclusion of rail commuter service in the mass transit plans. Specifically, the bill directs that within 180 days after enactment, the board of directors of the authority "shall adopt a program for the development of rail commuter service" as part of its mass transit plan. "Upon adoption of such a program, the board shall immediately take appropriate steps to secure the implementation thereof including the securing of funds therefor as appropriated under the provisions of the Urban Mass Transit Act of 1964, as amended." The Urban Mass Transit Act provides for capital grants for transportation facilities and equipment.

The compact is an agreement between Virginia, Maryland, and the District of Columbia for which Congress gave consent in Public Law 89–774. Congress, of course, cannot unilaterally amend this compact, but Congress as the "legislature" of the District of Columbia can adopt an amendment on behalf of the District of Columbia which subsequently must be concurred in by both the Legislatures of the States of Maryland and Virginia.

The Washington Metropolitan Transit Authority has the authority to acquire or develop rail commuter service within the transit zone, but they have shown little interest or inclination to do so thus far. Paragraph 13 of the compact directs the Washington Metropolitan Transit Authority to develop a mass transit plan which shall designate the transit facility to be provided by the authority,

My bill would amend this paragraph to specifically direct the inclusion of rail commuter facilities in the transit plan and to require the authority board to carry out this aspect of the plan.

Mr. President, the Englund Report of May 1971 concluded that potential for rail commuter operations exists in the Washington metropolitan area. It concluded that an estimated 12,000 to 14,200 trips per weekday could be achieved in the first year of rail commuter operations and that the future growth potential was good. It found that improved rail service would help "materially in reducing pressures on highways access routes from farther out points, particularly at the most critical rush hour times," would "materially ease the rate of increase of automobile parking requirements within the central business district," and would be an "important element toward the creation of a balanced transit-transportation complex within the region."

There has been a considerable interest in realizing the potential of rail commuter service but as of this date, the necessary parts of a program to bring about improved rail commuter service have not been assembled.

No railroad possesses the capability of arranging the interline operation essential to an efficient rail commuter operations and to the development of the latent commuter potential. Furthermore, railroads, which are having difficulty in generating capital for equipment and facilities for profitable operations are both unlikely and unable to channel resources to improve commuter operations. For example, Englund report found B. & O.'s net deficit for commuter service operations was $813,959 or a loss of approximately $2 for each dollar of revenue received. Thus, a major obstacle has been the establishment of an appropriate authority charged with the management of all rail commuter services. This bill would remove that impediment to improved rail commuter service.

Mr. President, the important value of mass transportation and the commuter train is becoming increasingly evident. Pollution, congested highways, not to mention the wear and tear on individuals as they crawl through traffic to their employment, all combine and cogently make the case for steps and for action now to help alleviate the present situation. The pollution problem is particularly serious in the Washington area. Recent articles have pointed out the alarmingly high level of carbon monoxide in the Washington area. Washington is one of the seven cities that the Environmental Protection Agency has concluded will be unable to meet the carbon monoxide standards by 1975 as required by the Clean Air Act. Utilizing rail service for commuters, while not solving the pollution problem, will nevertheless contribute to a reduction of the pollution level.

Mr. President, I urge early and favorable action by the Congress on this proposal. The State of Maryland has shown considerable interest in the problem, and is weighing various alternatives. The June 2 edition of the Evening Star contained a story which described quite well the work that has been going on in Maryland, and I ask unanimous consent that this article be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BEALL. Mr. President, I also would like to call attention to the significance

of a recent development involving the long-awaited visitor center at Union Station. The National Association of Railroad Passengers pointed out the additional benefits of this facility in a June 2 press release entitled, "Commuter Train Prospects Surge as Visitors Center Progresses." The statement includes the following passages:

Area commuters should rejoice because a new passenger terminal will be constructed directly above the tracks beneath the parking garage. This program will reduce by approximately 25 per cent the staggering cost of operating commuter trains in the Washington area.

This breakthrough makes 1972 the ideal time for local authorities to implement an area-wide commuter rail system from distant Maryland and Virginia points.

Mr. President, I ask unanimous consent that the full text of this statement be printed at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. BEALL. Mr. President, whatever approach is decided upon for solving Washington's commuter problems, an authority to oversee the operations, which will involve a number of jurisdictions, will be needed. An authority is, thus, essential and passage of this act will provide that authority. If we do not act, we may see, as the Englund report warned, a complete disappearance of the rail commuter operations from this area. At a time when it is important that all alternatives to the automobile be utilized to enable the District of Columbia to meet air pollution standards, and to ease the plight of the commuter, this would be a tragedy. I am also convinced that a healthy commuter rail service will subsequently contribute to the establishment of a balanced transit-transportation complex with the region.

Metro is on its way and I certainly welcome it, but the urgency of the problem demands that we take those steps that we can to ease the situation as quickly as we can, particularly when those actions will complement the Metro System when it becomes operational. The Washington Metropolitan Transit Authority should have been doing this in the first place. This bill would require that they do it. I urge enactment of this measure.

EXHIBIT 1

MARYLAND WEIGHING RAIL COMMUTER PLAN

(By Stephen M. Aug)

The Maryland Department of Transportation is considering two staff proposals seeking state aid to upgrade and expand railroad commuter service to Washington's Maryland suburbs.

One proposal—that said to be favored by the staff—would have the state contract with the Penn Central Transportation Co. and the Baltimore & Ohio Railroad to operate trains on behalf of the state.

The other, somewhat more modest, would have the state purchase and renovate additional equipment and rent it at nominal fees to the two railroads. The hope is that with additional equipment, the railroads could attract more passengers and possibly run their commuter service at a profit.

The more modest plan would also provide for increased service on the Penn Central commuter lines between Washington and Baltimore—to three trains daily from the present two.

At present Penn Central carries about 375 commuters to Washington in the morning and back in the afternoon. The B&O carries about 1,100 each way.

Harry R. Hughes, Maryland's new secretary of transportation, briefed the Maryland congressional delegation yesterday afternoon on transportation problems, but a source present at the meeting said the staff proposals did not come up. He indicated Hughes did not seem optimistic about improving Washington's rail commuter system.

According to at least one source, the staff's present timetable—admittedly optimistic—calls for Maryland to make contract proposals to the railroads by July 1. Operations under the contracts would begin Sept. 1.

The lines that would be improved include the Penn Central Washington-Baltimore line; B&O between Washington and Brunswick, and B&O between Washington and Laurel. The B&O line north of Laurel would not be included.

It is understood that during the first six months of operation, under either plan, the state would acquire and renovate additional equipment, principally for the B&O. The Penn Central would continue to use existing equipment.

Then, for five years or more, the renovated equipment would be operated while the department undertakes evaluations of long-term needs and feasibility of such programs involving purchases of new equipment, building new stations and running additional routes.

A spokesman for Hughes declined to comment on any of the proposals, saying only, "The secretary has not made a final decision on what plan he will implement." He said that what is under study is primarily "preliminary staff work."

Asked about the program's financing, the spokesman said that beginning July 1, it will be legally possible for the department to make grants to private carriers. He added that revenues for the state's transportation trust fund—presumably the principal source of money to be spent on the program—will total about $340 million during 1973.

The spokesman explained the department will have authority next year to issue up to $950 million in bonds.

The operating subsidy alternative under study would be similar to programs operating elsewhere. The two railroads involved would sign contracts with the state to operate commuter rail service. The state would then collect the revenues, paying the railroads the actual costs of running the trains, plus a small management fee.

A plan to improve the Washington-area commuter service was disclosed about a year ago by an engineering consultant under contract with the U.S. Department of Transportation. It recommended upgrading the Penn Central Washington-Baltimore line and B&O Washington-Brunswick line and the Richmond, Fredericksburg & Potomac Railroad line in Virginia currently providing no commuter service.

Since then, a modified version of the plan—including the B&O Washington-to-Laurel line—has been pushed by the National Association of Railroad Passengers, a nonprofit District-based organization.

One problem facing the Maryland staff proposals is the high cost of operating trains through Washington's Union Station. The terminal company—owned jointly by B&O and Penn Central—charges about $40 for each car handled in and out of the terminal to defray the expenses of operating the huge building and track system.

The construction of a visitors' center, however, is expected to reduce these costs by about 25 percent, according to the railroad passenger association. The DOT consultant—Carl R. Englund—called the station, with operating costs of $14 million a year, "probably the most costly operation of its type in the nation."

A story in yesterday's Star pointed out that the B&O has recently reached agreement with two New York City banks to obtain the $16 million necessary to convert the station into a visitors' center for lease by the Department of the Interior.

EXHIBIT 2

COMMUTER TRAIN PROSPECTS SURGE AS VISITORS CENTER PROGRESSES

(The following statement was released today by Joseph Vranich, executive director of the National Association of Railroad Passengers:)

According to the June 1 edition of the Washington *Evennig Star*, "An agreement to provide financing for the long-delayed Union Station visitor center project has reportedly been reached between the Baltimore & Ohio Railroad and two New York banks."

Under the agreement, the Federal government will provide $16 million for the repair and renovation of the terminal and construction of a massive parking garage.

Area commuters should rejoice because a new passenger terminal will be constructed directly above the tracks beneath the parking garage. This program will reduce by approximately 25% the staggering cost of operating commuter trains in the Washington area.

The station—with operating costs approximately $14 million annually—has been described as "probably the most costly operation of its type in the nation" by Carl R. Englund, a consultant to the U.S. Department of Transportation.

This breakthrough makes 1972 the ideal time for local authorities to implement an area-wide commuter rail system from distant Maryland and Virginia points. No longer can excessive costs be used as a crutch by those interests opposed to commuter rail service.

A commuter rail system could also meaningfully reduce vehicular traffic in the Nation's Capital, thereby enhancing it's image among all visiting Americans.

Representative Kenneth J. Gray (D-Ill.) is to be commended for his persistance—without his dedication there would be no National Visitors Center.

By Mr. KENNEDY (for himself, Mr. HRUSKA, Mr. COOK, Mr. HART, Mr. MATHIAS. and Mr. RIBICOFF):

S. 3671. A bill to amend the Administrative Conference Act. Referred to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, today I am introducing with the cosponsorship of Senators HRUSKA, RIBICOFF, COOK, HART, and MATHIAS a bill to provide greater support for the Administrative Conference of the United States. This relatively new permanent agency of the Federal Government is making significant contributions towards improving the procedures by which programs affecting millions of Americans are administered. This bill would give the Administrative Conference the opportunity for even greater service in the future.

The various agencies of the Federal Government are today under attack, because they have failed to develop policies and procedures that are fully responsive to public needs and public interests. Many agencies have become bogged down in time-consuming and expensive proceedings which plague private citizens with delay and expense. Other

agencies exercise powers of enormous significance to private citizens without providing even the minimal safeguards of notice, opportunity for hearing, and public statement of reasons in support of a decision.

Our Nation is deeply and rightly concerned about the chaotic problems which plague the administration of justice in our courts. Yet few people are aware that Federal administrative agencies issue more decisions affecting more people, more directly, than do decisions of the Federal courts.

The administrative process is growing at an explosive rate—much faster than the growth in the population or the economy. The need for new regulatory activities and for the extension of social rights and benefits leads to the creation of new agencies every year and the expansion of old ones. This proliferation of agencies and programs has sorely taxed our ability to process fairly and expeditiously the ever-increasing number of grievances and complaints that modern government produces. The Administrative Conference is the only Federal agency that is equipped to study and recommend needed changes in the administrative machinery that will maintain and improve the quality of administrative justice meted out by Federal agencies.

The Administrative Conference, with limited staff and resources, has already demonstrated that it is a vital force in improving the machinery of government. Since its establishment in 1968, it has adopted formal recommendations, many of which have already been fully or partially implemented. These involve such matters as compliance with the Freedom of Information Act, adequate representation of the poor in agency proceedings, minimum procedural safeguards for grant-in-aid programs, broadened public participation in agency proceedings, the elimination of duplicative and unnecessary procedures, and strengthening the role of hearing examiners.

The Conference has concerned itself with the informal discretionary procedures of such agencies as the Immigration and Naturalization Service and the U.S. Parole Board, as well as with the more formal procedures of the Food and Drug Administration and the Social Security Administration.

It is currently studying such vital matters as the procedures used in the licensing of nuclear powerplants by Atomic Energy Commission; those of the Civil Service Commission in adverse actions against Federal employees; the procedural rights of Indian tribes; the coverage of the Federal Tort Claims Act; and the procedures for the resolution of property disputes between the United States and private persons.

There is a great need for dispassionate, scholarly, and detailed studies of other programs and procedures which are beyond the present means of the Administrative Conference. The Administrative Procedures Act, for example, has been in effect for more than a quarter century. It has been a most effective law, but its provisions should be examined to determine whether it could be better adapted to current conditions and problems.

Improvement of administrative procedures and increased understanding of official behavior will lead to greater citizen confidence in the integrity and legitimacy of Government action. Exploration of the administrative process by the Administrative Conference on a larger and deeper scale should contribute substantially to those ends. Its demonstrated capabilities to conduct impartial, professional studies, and to propose sound remedial measures have convinced me and those who have followed its work that the Conference should now be given the opportunity to expand its activities.

The bill I introduce today will authorize the Conference to seek a level of funding to expand its activities. It would also permit it to enter into supporting research arrangements and to receive grants from private nonprofit institutions. I urge the Members of the Senate to familiarize themselves with the work of the Administrative Conference and to join me in supporting this worthwhile program.

Mr. HRUSKA. Mr. President, I am pleased to join with my colleagues on the Judiciary Committee to introduce S. 3671 to amend the Administrative Conference Act.

The Administrative Conference of the United States was created in 1964 to insure that Federal agencies "may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest."

Since the conference was activated in 1968 it has studied in detail a number of matters relating to the functioning of the Federal Government. Six plenary sessions have been held during the past 4 years which have resulted in the adoption of 31 formal recommendations. These have included:

Compliance with the Freedom of Information Act.

Improving Government publications and public information about Government activities.

Streamlining judicial review of agency decisions.

Elimination of duplicative and unnecessary procedures.

Minimum procedural safeguards for Federal grant-in-aid programs and enforcement of conditions included in such grants.

Strengthening the role of hearing examiners.

Broadened public participation in rulemaking and other administrative proceedings, including greater representation of the poor.

Requiring agencies to articulate their policies in general rules.

Expediting trial-type proceedings through such devices as the use of summary procedures, broadened discovery and reduction of interlocutory appeals.

In addition to these general topics, a number of important reports and recommendations are devoted to the handling by particular agencies of one or more functions. Recent examples are:

Exercise of discretion in change-of-status cases by the Immigration and Naturalization Service.

Procedures of the Food and Drug Administration for the formulation of food and drug standards.

Availability to the public of "no-action" letters issued by the Securities and Exchange Commission.

Practices and procedures of the Renegotiation Board. Committees of the Conference are engaged in a wide variety of studies on additional subjects at the present time.

In a letter from the Acting Attorney General to the chairman of the House Judiciary Committee indicating the support of the Justice Department for H.R. 13644, which is identical to the bill we introduce today, Mr. Kleindienst said:

> The work of the Conference in improving administrative procedures of Federal agencies is of great importance in assisting agencies to more effectively perform their functions and in assuring fairness to the affected public. The Department of Justice has observed that the scholarship of the Conference has invariably been excellent, its research well-considered, and its workproduct most useful. A number of the Conference's studies and recommendatons have been of special value to the Department. For example, a Conference study of the Department's procedures for the remission and mitigration of forfeitures led to our adoption of new regulations with respect to such procedures 28 C.F.R. Part 9. As a result of the Conference's recent recommendations respecting procedures of the Immigration and Naturalization Service in change-of-status cases, the Service has already adopted some of the suggested changes and is giving careful consideration to others. The recommendatons of the Conference establishing guidelines for implementation of the Freedom of Information Act are of particular interest to the Department in view of our responsibility to defend the United States in suits brought under the Act.

This bill would make several changes, mostly of a technical nature, in the statutory authorization for the Conference. These technical changes include such items as authority to, first, contract for services with outside bodies and persons; second, increase the per diem for experts and consultants; and third, accept gifts and bequests. The principal purpose of the bill, however, is to eliminate the present appropriation ceiling of up to $450,000 annually. The fiscal year 1972 budget for the Conference is $408,000 and the fiscal year 1973 request is for the full $450,000. It is certain that within a short time, therefore, the present ceiling if not altered will require the Conference to curtail some of its activities. For a permanent body such as this an appropriation ceiling is not only unusual but unnecessary; it makes advance planning difficult and cumbersome.

Because of the obvious excellence and value of the work of the Administrative Conference, this Senator is pleased to be a cosponsor of S. 3671. It is my hope that the bill can be quickly and favorably considered by the Senate so that the work of the Conference can go forward as effectively as possible.

By Mr. HANSEN:

S. 3672. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from the Federal estate tax for certain debt obligations of domestic cor-

porations in cases where the interest on such obligations would be treated as income from foreign sources for purposes of the interest equalization tax. Referred to the Committee on Finance.

Mr. HANSEN. Mr. President, as a part of the Interest Equalization Tax Extension Act of 1971, provision was made for the direct issuance of debt obligations by domestic corporations to foreign lenders without the need to withhold U.S. income tax from interest paid to the foreign lenders so long as acquisition of those debt obligations were made subject to the interest equalization tax. This provision was placed in the law to facilitate foreign borrowings by domestic corporations in assistance to the balance-of-payments program under the Foreign Direct Investment Regulations. So far the intent of this legislation has been frustrated by the fact that a foreign lender would be subject to U.S. estate taxes if he were to die while holding securities of a domestic corporation. As a result, potential foreign lenders will not loan money to domestic corporations attempting to avail themselves of the new rules. To eliminate the frustration of the intent of Congress and to facilitate these foreign borrowings, revision should be made to the estate tax so that such securities would be exempt.

H.R. 9040, which was introduced by Congressmen CONABLE and CAREY of New York, and which was reported out of the House Ways and Means Committee this year accomplishes the intended result.

In its committee report on H.R. 9040—House Report No. 92–793—the Ways and Means Committee stated:

Committee estimates that this bill will have no effect, or at most a negligible effect, on the revenues. The Treasury Department agrees with this statement.

The committee report also states the Treasury Department has recommended enactment of this bill.

I concur in the objective sought to be achieved by this House bill and for this reason I am today introducing a companion bill in the Senate. It is my hope that this legislation can be acted on at an early time to eliminate what is generally agreed to be an unintended result preventing the 1971 amendment from having the effect Congress intended.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3070

At his own request, Mr. ROBERT C. BYRD was added as a cosponsor of S. 3070, a bill to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes.

S. 3639

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. HUMPHREY) was aded as a cosponsor of S. 3639, a bill to amend the Food Stamp Act of 1964 to authorize the use of food stamps by elderly persons to purchase meals prepared and served by certain institutions.

SENATE RESOLUTION 313—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF THE REPORT ENTITLED "THE ECONOMICS OF CLEAN WATER, SUMMARY OF ANALYSIS"

(Referred to the Committee on Rules and Administration.)

Mr. RANDOLPH submitted the following resolution:

S. RES. 313

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with section 26(a) of the Federal Water Pollution Control Act as amended) entitled "The Economics of Clean Water, Summary of Analysis," be printed with illustrations as a Senate Document.

SEC. 2. There shall be printed one thousand five hundred additional copies of such document for the use of the Committee on Public Works.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1211

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

Mr. RANDOLPH, for himself and Mr. ROBERT C. BYRD, submitted an amendment intended to be proposed by them jointly 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.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1204

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

NOTICE OF HEARINGS ON BARBITURATE ABUSE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Indiana (Mr. BAYH).

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

STATEMENT BY SENATOR BAYH

Mr. President, I wish to announce that the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary, as part of its continuing investigation of the problem of barbiturate abuse, has scheduled hearings on two legislative measures, S. 3538 and S. 3539, on June 12 and 13, 1972.

S. 3538 would require all manufacturers of solid oral form barbiturates to place identifying marks or symbols on their products. S. 3539 would provide for the rescheduling of four shorter-acting barbiturates from Schedule III to Schedule II of the Controlled Substances Act.

During these hearings we will hear testimony from several manufacturers and distributors of barbiturates. They will focus on the diversion of barbiturates from legal channels to illegal channels, the extent of diversion, what is currently being done to prevent it, and what can be done to inhibit this illicit traffic.

The hearings will begin at 10:00 a.m., June 12 and 13, in Room 2228 New Senate Office Building. Any person who wishes to submit a statement for the record should notify Mathea Falco, Staff Director and Chief Counsel of the Subcommittee at 225–2951.

ADDITIONAL STATEMENTS

THE STATE OF SMALL BUSINESS IN 1972

Mr. BIBLE. Mr. President, during the period May 14 to May 20, Small Business Week has been observed in the Capital and throughout the Nation. The event was so declared in a proclamation issued from the White House by President Nixon, who was following the practice of his predecessor since 1965. I ask unanimous consent that the proclamation be reprinted in the RECORD at the conclusion of my remarks.

Many fine meetings have been held to advance the aims of Small Business Week, and it has been my privilege to attend a number of these in Washington. For example, on May 16 the fifth annual SBA subcontracting conference was convened at the Kennedy Cultural Center, drawing the participation of 350 major contractors and subcontractors, the largest turnout yet. On that occasion, awards were presented to H. J. Riblet, president of Microwave Development Laboratories, Inc., of Needham Heights, Mass., as Subcontractor of the Year and Henry Marcheschi, of American Telecommunications Corp., El Monte, Calif., as Small Businessman of the Year.

On May 17, three regional small business groups, led by the Smaller Business Association of New England under its able president, Roland L. Sutton, and executive vice president, Lewis A. Shattuck, made a combined legislative presentation in the U.S. Capitol. On Friday, Mr. Herman Williams, president of one of these groups, the Independent Business Association of Wisconsin, was interviewed on the nationally televised program Today in New York City. This week, National Small Business Association president, Harry E. Brinkman, and the chairman of the National Committee on Small Business Tax Reform, Edward Larson, presented certificates of appreciation to 154 Congressmen and 34 Senators for their support of tax simplification and reform and other small business legislation. The National Federation of Independent Business gave similar citations. Also during this time, several other small business organizations were holding directors

and trustees meetings here in Washington.

These are gratifying developments, and they underscore the fact that although institutions for fostering smaller enterprises have grown slowly in this country, they may at last be coming into their own.

Many of the national and regional small business organizations had their origins about 30 to 35 years ago, although some go back even further than that. The National Federation of Independent Business was founded in 1943, the National Small Business Association was created in 1937, and the National Business League dates from all the way back to 1900. The National Association of Small Business Investment Companies came about at the time of the enactment of SBIC legislation in 1958. On the regional level, the Smaller Business Association of New England acquired its charter in 1938, and the Smaller Manufacturers' Council of Pittsburgh was founded in 1945. These groups have been making their voices heard in the Capital, constructively and consistently, in behalf of the small business community and the free enterprise system.

Over the years, and especially this year, it has been gratifying to see other small business groups such as the Independent Business Association of Wisconsin and the Independent Broker-Dealers Trade Association joining the ranks of the small business advocates. Still more associations have shown heightened small business consciousness over the past few years.

Actions in the public sector followed and were undoubtedly influenced by these initiatives. The Small Business Committee of the Senate became a standing committee just over two decades ago, in 1950, but it was only in 1971 that this status was achieved by the House Select Small Business Committee.

The Small Business Administration was established permanently in 1953 as successor to the temporary activities of the Small Defense Plants Administration and the Smaller War Plants Corporation of the 1950's and 1940's. It was 14 years ago, in 1958, that the Small Business Investment Act laid down the foundation for small business investment company venture capital financing.

However, I want to emphasize that, in my opinion, it is these private independent business organizations and their day-to-day work that are not only a convenience to small business but an absolute necessity if individual small firms and small business values are to survive in this country.

The pressures on new, local and independent business are tremendous and increasing every year. Not only are costs, competition, and business problems mounting inexorably, but the Government itself is piling burdens on smaller firms. For instance, we have a complex tax system that is slanted in favor of larger firms. Federal and State governments are requiring mandatory compliance with proliferating health, safety, sanitary, and environmental standards. There is also a tendency in government to relegate smaller business interests to the bottom of any list of priorities when government policy is formulated.

Therefore, in my judgment, small firms must fight for everything they hope to gain or hope to save in 1972 and in every future year. Experience suggests that the Federal Government will do nothing for them simply because it is good for employment, or for their communities, or for the national economy. There are other larger claimants for the benefits of public policy.

Thus, effective national and regional small business organizations seem to me to be the best hope of convincing people in Washington that what is sensible economically is also sustainable politically.

It is, therefore, my wish that the small business organizations of this country will prosper so that they will be stronger in Small Business Week 1973 than they are now. I hope that many more groups will be added to this distingished list in the years to come. Their constituency is potentially mighty: All of America's entrepreneurs—5¼ million small business firms, 3 million farmer-businessmen, and about 1¾ million professional and self-employed persons, for a total of about 10 million. These units account for more than 95 percent of the number of businesses nationwide and about three-quarters of all the employment in the country.

Effective organization will determine whether this latent political muscle will be felt as it properly should be in the Halls of Congress, in the executive and regulatory agencies, in the State houses, and in local governments throughout the country.

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

SMALL BUSINESS WEEK, 1972

A PROCLAMATION

It is no curious accident that from earliest times, the expansion of America's frontiers was closely paralleled by the robust growth of our Nation's free enterprise system. In the footprints of Boone and Carson came a different but no less courageous breed of pioneer; the tradesman and peddler, miller and merchant. As their cabins and trading posts have become towns and cities, their wilderness commerce has become the foundation for the most extraordinary economic force in the history of mankind.

It is a force that leaves no idea unexplored, no promise unpursued, no citizen of this land unenriched. Today, we call it small business.

There are now more than 8 million small businesses in this country. An unprecedented 287,000 new companies were incorporated just last year. Nineteen out of every twenty firms are considered small business, and they provide more than 35 million jobs, and contribute more than $370 billion to the gross national product.

Small business is the corridor of progress and change for Americans of every nationality and color. It is an arena where the sheer power of individual initiative and self-determination can exact the rewards of participation, achievement and success. Small, free, independent enterprise is the heritage of our past and the lifeblood of our future, providing each of our citizens with life's most prized gift: opportunity.

Now, Therefore, I Richard Nixon, President of the United States of America, do hereby designate the week beginning May 14, 1972, as Small Business Week. I ask all Americans to share with me during this week a great feeling of pride in the accomplishments of these small businessmen and women, and in their continued commitment to success.

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

RICHARD NIXON.

A CHUCK WAGON IN CHEYENNE

Mr. HANSEN. Mr. President, there are not many cities where visitors can get a free breakfast, but you can in Cheyenne, Wyo., any morning during the annual Frontier Days celebration the last week of July.

Frontier Days, as most know, is the world's biggest rodeo and is known by cowboys and fans alike as "The Daddy of 'Em All."

The Kiwanis magazine of June contains an excellent article by Wayne Aune, entitled "A Chuck Wagon in Cheyenne." It relates how the breakfasts are sponsored and served by the Frontier Days Committee and the Cheyenne Kiwanis, of which I am proud to have honorary membership.

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

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

A CHUCK WAGON IN CHEYENNE

(By Wayne Aune)

On a cold, clear morning in July 1970 my wife, two daughters, and I were driving down the deserted main street of Cheyenne, Wyoming. The time flashed 4:22 over a storefront. Neon "no vacancy" signs had greeted us all the way from Rawlins and so, except for a three-hour rest stop along the Medicine Bow River, we had driven through the night to Cheyenne and its famous Frontier Days, the daddy of all western rodeos.

We stopped for the light at 16th and Warren, and there out of the night loomed the familiar Kiwanis emblem on what appeared to be a chuck wagon. Men were scurrying about in the dark, so I pulled over and asked, "What's going on at 4:30 in the morning?"

"Making breakfast," came the reply. Well, I guess I had that answer coming, but I tried again.

"I'm from Kiwanis International. I saw the emblem, and I was wondering. . . ."

Before I could finish another man walked over and asked, "You here to cover our chuck wagon breakfast?"

"No, but. . . ."

"Well, let me tell you a little about it," said Earl Crittenden, then general chairman of the breakfast. He did, and as a result we returned last year to see it for ourselves on the 75th anniversary of Frontier Days, the oldest and biggest rodeo in the United States, which now boasts the biggest chuck wagon breakfast too.

Last year's breakfast was prepared and served on Monday, Wednesday, and Friday morning by more than a hundred members of the Kiwanis Club of Cheyenne and some fifty Boy Scouts whose service earned them their community service merit badges. On Monday 3600 cowboys and cowgirls, townspeople and visitors enjoyed the free feed, and by Friday well over 15,000 persons had consumed some 45,000 pancakes and 1500 pounds of ham. Not surprisingly, the Kiwanians regard their Frontier Days breakfasts as civil defense exercises in mass feeding.

It all started five years ago when the Frontier Days Committee approached the Kiwanis club with the idea of giving visitors something extra with the celebration, specifically an old-fashioned chuck wagon break-

fast. Fortunately, the Kiwanis club had the equipment (previously used for their annual club clambake) suitable for such an ambitious project. The Kiwanians at first envisioned the breakfast as a fund raising project, but later decided that the Frontier Days Committee would provide the food, the Kiwanians would supply the equipment, manpower, and service, and they would give everyone a free breakfast. It started small—by Frontier Days Standards—and the first year a mere 300 persons were served, but by the second year 7000 hungry patrons were holding out their plates and by the third year, 9000.

As the crowds grew the club added equipment, until today, under the direction of Richard M. "Hutch" Hutchinson, club quartermaster and past lieutenant governor of the Rocky Mountain District, the Kiwanians operate twenty-one gas-fueled grills for pancakes and ten field ranges, six for ham, three for the 340 gallons of coffee that's kept steaming each morning, and one in reserve. A home-made batter mixing machine measures out the precise amounts of pancake mix needed and does everything but crack the eggs that are added to the mix. I asked Hutch how many cups of coffee 340 gallons would make. With a wide grin he brushed his cowboy hat back on the top of his solid six-foot-four frame and replied, "Enough to keep the cobwebs out of your head for a long, long time."

Last year, along with the pancakes, ham, coffee, 120 gallons of milk, and 1512 24-oz. bottles of syrup the Kiwanians also provided 496 bales of hay where smiling Frontier Days guests with heaping plates could take a seat while digging into their man-sized breakfasts. A truck arrived from a nearby ranch with the hay at 5 AM, and with the help of the more muscular Kiwanians it was unloaded. "How many bales are on this truck?" I asked.

"Four hundred and ninety-six," came the answer from a young man silhouetted against the brightening sky.

"Five hundred bales, huh?" I replied.

"No," he said as he plunged his hook into another 70-pound bale, "four hundred and ninety-six." Then everyone broke up laughing and some one explained: "He ought to know; he loaded every single one of them!"

It isn't easy to smile that early in the morning, but it's remarkable how the folks in Cheyenne pitch in during Frontier Days. They've got a saying there to the effect that "there's winter and there's Frontier Days," and this was Frontier Days, the biggest time of the year in Cheyenne, winter notwithstanding. Frontier Days is the richest rodeo in the history of the Rodeo Cowboys Association, with $98,700 in prize money and four days of parades, some lasting as long as an hour and a half and including over a thousand horses. The Kiwanians' breakfast guests are treated to some of this entertainment and pageantry while they eat, with a live show including musical groups, clowns, and Ogala Sioux, the tribe whose famous fathers include Crazy Horse and Sitting Bull.

The chuck wagon breakfast plays a very important part in the success of Frontier Days," says E. O. Davis, last year's Frontier Days Committee chairman and a Kiwanian himself (as are most Frontier Days chairmen). And, as one of the committeemen commented. "This breakfast is worth more than a $35,000 ad in one of those eastern big-city newspapers." Chuck Anderson, now president of the Cheyenne club, told me: "We've received hundreds of letters from all over the United States thanking us for such fine western hospitality and a great breakfast. We had a Kiwanian from a California club ask if he could be of help after he finished his breakfast. We said 'sure.' That was on Monday morning, and would you believe it, he was still here when we had our inter-club with over 250 Kiwanians in attendance the following Thursday afternoon. He was really helping us and enjoying himself too."

Considering the thousands of people who are served each morning it's fantastic how the Kiwanians manage to serve a person starting at the back of a block-and-a-half line in just eight minutes. "That's real coordination on the part of our Kiwanians and Boy Scouts," says Jimmy Visca, last year's club president. "But we don't want any of the hungry men, women, and especially kids to wait more than fifteen minutes for their first big meal of the day." With their equipment and know-how the Kiwanis Club of Cheyenne could feed 5500 people in just two hours under emergency conditions, such as a person lost in the wilderness or a natural calamity. "We're always ready to move out with the Civil Defense unit and set up in case of a disaster," Jimmy says.

So if, come the last week of July, you have a hankering for a real western rodeo and an appetite for a mansized breakfast under the perfect blue skies of Wyoming, then Cheyenne is the place to be. And who knows, you may find yourself staying the whole week to help out like that Kiwanian from California. In any event, each year the breakfasts served by the Kiwanis Club of Cheyenne are telling people face-to-face what a great service organization Kiwanis is—and that is better than any $35,000 newspaper ad.

POPULATION PRESSURE DIMINISHES CHINESE THREAT

Mr. PROXMIRE. Mr. President, on releasing a new study on the Chinese economy, "People's Republic of China: An Economic Assessment," the Joint Economic Committee noted that the economic basis of the military threat of China was not such as to cause us undue concern. Subsequent reactions to the study in a New York Times editorial of May 26 and an article in the Washington Post by Stanley Karnow on May 21 indicate their general agreement with this assessment—highlighting in each case China's population problems. I ask unanimous consent that these reports be printed in the RECORD.

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

[From the New York Times, May 26, 1972]

ONE BILLION CHINESE

The specter of "a billion Chinese on the mainland," raised by former Secretary of State Dean Rusk five years ago in connection with the Vietnam war, has emerged again—but in a strikingly different context.

A study prepared for the Congressional Joint Economic Committee predicts there will be 1.3 billion mainland Chinese by 1990. But, instead of being a threat to the United States in these staggering numbers, the study concludes that because of its population problem Peking is not likely to pose a "serious military danger" within the foreseeable future.

That is because in China, as in other developing countries, rapid population growth will exert heavy pressure on scarce economic resources, inhibiting the industrial growth that is the foundation of modern military power.

Although orthodox Marxists have generally frowned on family planning, there is evidence that China's Communist leaders recognize the gravity of their population problem and are trying to do something about it. The late Edgar Snow reported from Peking last year that "family planning has been legalized and advocated by political, social and medical authorities in China with varying degrees of emphasis for about fifteen years. . . . Developments within the past two or three years have been fairly dramatic."

Nevertheless, as others have learned, it is not easy to check population growth in in a large and predominantly rural society like China's. Furthermore, in China as elsewhere the same extended health programs that facilitate family planning also tend to prolong life, thus giving an offsetting spurt to population growth.

China's efforts to control the world's largest population problem undoubtedly hold useful lessons for others, just as others have much to teach it. The United Nations, where intensive efforts to defuse a worldwide population explosion are just gathering momentum, offers a forum for two-way exchange of data on birth control. All nations have a stake in helping to make information available to Peking for, even if one billion Chinese pose no foreseeable military threat, the social and political upheavals that could result from unchecked population growth on the Chinese mainland would be profundly destabilizing throughout Asia and beyond.

[From the Washington Post, May 21, 1972]

CHINA'S POPULATION WOES SEEN CURBING ARMED THREAT TO UNITED STATES

(By Stanley Karnow)

Official U.S. experts estimate that the People's Republic of China faces a gigantic population explosion in the next two decades that will exert heavy pressure on its scarce economic resources.

As a consequence, these experts predict, the likelihood that the Peking regime will have the strength to pose a "serious military danger" to the United States is improbable within the foreseeable future.

This evaluation is contained in an extensive study of the Chinese economy released yesterday by Sen. William Proxmire (D-Wis.), chairman of the congressional Joint Economic Committee.

The 382-page study, which brings up to date a similar survey issued by the committee in 1967, was prepared by China specialists in the Central Intelligence Agency, the Library of Congress, and the State and Commerce departments.

Basing his calculations on four different satistical models, John S. Aird forecasts that the Chinese population will be no less than 1,301,260,000 by 1990 and may go as high as 1,333,128,000 making projections from the only official Chinese census, made in 1953, Aird puts the present population of China at more than 875 million.

Aird, a Commerce Department expert, describes in detail the considerable attempts by the Communist Chinese government to curb China's population through various family planning efforts.

But he suggests that these efforts will not lead to any substantial change in China's demographic prospects because the programs designed to cut down births also tend to reduce deaths.

"Circumstances favorable to a general acceptance of family limitation . . . also result in improvement of general health and a lowering of mortality," Aird says, since Chinese family planning campaigns are usually combined with drives for "better medical care and sanitation throughout the countryside."

In Aird's view, only "catastrophe or spectacular changes in contraceptive techology and in the means of political coercion" can relieve Chinese population pressure. Under present conditions, he estimates, this pressure will confront China with severe longterm problems.

Another contributor to the study, Arthur G. Ashbrook Jr., points out that the Chinese government itself has no exact figures on China's population. Ashbrook quotes Chinese Vice Premier Li Hsien-nien as telling an Egyptian reporter last November that present population estimates very from 750 million

to 830 million, depending on the requirements of different government departments.

"The Ministry of Commerce insists on the bigger number in order to be able to provide goods in large quantities," Li said. "The planning men reduce the figure in order to strike a balance in the plans of the various state departments."

Despite China's potential population problem, the contributors to the study agree, the Chinese economy has shown remarkable resilience and current policies are guiding the country toward a strong, short-range economic position.

"The image of China as a desperately poor nation with most of its people living in misery and degradation is an image of the past," asserts Ashbrook, noting that the Peking regime has fed and clothed an immense Chinese population, detonated 13 nuclear devices, constructed a sizable military machine and is, among other things, running a foreign aid program.

China has made these achievements with its own resources, Ashbrook adds, and has therefore "skillfully avoided the primrose path of large-scale foreign borrowing which has left India, Pakistan, Indonesia and Egypt with a crushing burden of external debt."

Moreover, Ashbrook says, these attainments have been made even though China has undergone serious political and economic disruptions in such episodes as the 1958 Great Leap Forward and Chinese Communist Party Chairman Mao Tse-tung's Cultural Revolution, which began in late 1965.

Ashbrook estimates the Chinese industrial production dropped by 15 per cent to 20 per cent from 1966 to 1967 and remained depressed in 1968 as a result of the turmoil of the Cultural Revolution. But the episode, which mostly hit China's cities, barely affected agricultural output.

Industrial construction also continued "at a high rate" during the Cultural Revolution, Ashbrook says, since new projects "were normally located far away from the most severe of the urban disturbances."

In 1970, however, Chinese industrial production rose 17 per cent. Agricultural output, being increased annually with growing use of fertilizer and equipment, is expected to be adequate for the next three years.

The Chinese also sustained a serious blow when the Soviet Union, irritated by its dispute with Peking, discontinued its aid and withdrew its technicians from China. But the Chinese turned to Western nations and Japan for imports of technology.

According to Philip D. Reichers, another contributor to the study, the Chinese imported more than $200 million in advanced electronic production equipment from non-Communist countries in the decade prior to 1970.

This selective import program, Reichers says, enabled China to "forego the lengthy and expensive process of prototype development" and thereby expand the number of its major electronic plants from 60 in 1960 to 200 in 1971.

Thus the Chinese recovered quickly from their loss of Soviet help. In addition, they were apparently unaffected by the total U.S. embargo on trade with their country that was only recently revised by President Nixon.

Although the study sees progress in Chinese military modernization, the study anticipates that the Peking leaders "may face a much tighter squeeze on resources needed for growth" as the cost of manufacturing and large-scale deployment of sophisticated weapons rises sharply in the decade ahead.

Returning to China's basic problem the study adds that "this squeeze would be compounded by the insistent pressure from the population to raise the level of consumption."

For all its economic success, the study says, China's Gross National Product remains far behind that of the United States and other major nations, and is likely to remain at a relatively low level.

The estimates that China's 1970 Gross National Product was $120 billion, compared to $974 billion for the United States and about $245 billion for Japan. More strikingly, Chinese per capita income was only 3 per cent of that of the United States, and 6 per cent of Japan's.

The relative poverty of the Chinese, says the study, means that "they are much too weak economically to pose any serious military danger to the United States. And this situation inevitably will continue for some time."

INTERNATIONAL TRANSFER OF CONVENTIONAL WEAPONS

Mr. ROTH. Mr. President, on May 31, the Senate adopted amendment No. 1202 to the Foreign Relations Authorization Act. The amendment requires the Arms Control and Disarmament Agency in cooperation with other interested departments to prepare a comprehensive report on the international transfer of conventional weapons. The report should cover a number of important and germane topics including the nature of the traffic in conventional arms, the major participants in this traffic, the policies of the supplier countries toward transfer, the economic impact of transfer, the impact of transfer on international order, the history of any international negotiations seeking to limit transfer, negotiating obstacles, and recommendations for future U.S. policy.

I have received letters from the Secretary of Defense, Hon. Melvin R. Laird, and the Acting Director of the Arms Control and Disarmament Agency, Mr. Philip J. Farley, in reply to my requests for their comments on the amendment. Although these letters were not available at the time of the vote, I consider them important expressions of the desire of the executive departments to cooperate fully with Congress in preparing a good report, and I should like now to make them available for the public record.

Both Secretary Laird and Mr. Farley indicated that their departments would give their best efforts toward preparing a comprehensive report on conventional arms transfer. Mr. Farley noted that ACDA has devoted considerable effort to this subject in the past and believes it can do much "to bring together available relevant facts and set forth possible courses of action."

I particularly wish to commend the Secretary of Defense for his endorsement of the amendment. In his forthright letter, Secretary Laird also elaborated upon his Department's policies and the difficulties of international negotiations. The Secretary appealed for congressional understanding and support for our desire to limit the supply of arms to smaller countries as well as for prudent military assistance programs where necessary to help these countries defend themselves. I also hope that the report required by the amendment will facilitate better understanding and cooperation between the Congress and the executive departments on these delicate issues.

Mr. Farley, in a separate earlier communication, and Secretary Laird have alluded to the difficulties of obtaining and releasing information that touches upon the sensitive security policies of other governments. I find their concern understandable, but I do not believe that this should be an insurmountable problem in preparing a useful report. The report does not necessarily require exact and detailed information on the security problems of specific governments although it should make use of such information where it is germane and publicly available. The report could also note where this information is not available and make use of independent estimates of the arms traffic such as those provided by the Stockholm International Peace Research Institute. What we in the Congress are most interested in, of course, are the general policy outlines that inhibit or otherwise effect the possibilities of agreement.

Most of all, I hope the report will facilitate the adoption by this country of a coherent set of policy guidelines toward the supplying of arms to other countries and concrete proposals for mutual and balanced restraint. I believe that we should present such proposals even if other countries might initially refuse to accept them. At the very least, such proposals will help to force other countries to respond and hence make clear their own positions on these issues. They would also demonstrate that this country is serious about conventional arms restraints.

Mr. President, I ask unanimous consent that the letters of Secretary of Defense Laird and Acting Director Farley be printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., May 31, 1972.

HON. WILLIAM V. ROTH, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ROTH: I am pleased to give you my views, as you requested in your letter of May 17, on your proposed amendment to the Foreign Relations Authorization Act requiring an annual report on International conventional arms transfers.

I heartily endorse your proposal. This Administration, with the full support of the Department of Defense, has long advocated that the major arms producing nations exercise restraint in supplying arms to others.

In my *Annual Defense Department Report* to the Congress this year I said, with reference to the President's call for an end to East-West confrontation and a beginning of cooperation:

"One element of that change could be the exercise of mutual restraint in military assistance programs. No nation can, in the long run, be served by adding to instability or increasing the risks of violence which could escalate into great power confrontations. Military assistance programs should strengthen rather than weaken regional balances and national development; they should respect the needs and national pride of the recipients, rather than make of them pawns in a greater international contest; they should, above all, reflect a genuine intent among major arms suppliers to bring conventional as well as nuclear weapons under control."

The Nixon Doctrine and our Strategy of Realistic Deterrence are the principal guides

to our decisions on grants and sales of arms to friends and allies. We seek to enhance the security and stability of friendly and allied nations—and to reduce the danger of great power confrontation—by an approach to deterrence that emphasizes increased national self-reliance in defense. We provide arms to our friends and allies under the Total Force concept not for conquest or intimidation, but so that they may defend themselves against attempts at conquest or intimidation by others.

At the same time, in our own national interest and the interest of peace and regional stability, we continue to support efforts to achieve practical agreements to limit the transfer of arms. Regrettably, the principal obstacle to achievement of such mutual restraint has been the willlingness of Communist states to supply arms for offensive purposes or to upset delicate regional military balances, as in Southeast Asia and the Middle East. Nonetheless, it is my conviction that we must persevere in our efforts to gain international recognition of the dangers of such a course.

If these efforts are to succeed, we will need the understanding and support of the Congress—not only for a policy of restraint, but also for such prudent assistance programs as may be required to make it possible for others to defend themselves. The Report your amendment calls for could facilitate this understanding and support.

Since the information on arms transfers and evaluation of sensitive security policy objectives of other governments would constitute an important element of the report, the task set by your amendment would be a difficult one to fulfill. However, if the amendment is enacted, this Department will do all it can to assure a positive, comprehensive report.

Sincerely,

MELVIN R. LAIRD.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, D.C., May 31, 1972.

Hon. WILLIAM V. ROTH, JR.,
U.S. Senate.

DEAR SENATOR ROTH: I have followed with keen interest the progress of your amendment to our authorization requiring a report to Congress on conventional arms transfers. I was pleased to learn today that the amendment was adopted by the Senate.

This is indeed an important and complex subject deserving of the widest possible understanding. This Agency has over the past years devoted considerable effort to studying the underlying factors involved in developing controls over international transfers of arms and to seeking to devise workable approaches to negotiation and application of such controls. I believe that there is much that we can do to bring together available relevant facts and set forth possible courses of action. Upon enactment, this Agency, in cooperation with other interested agencies, will give its best efforts to the preparation of the report called for.

Thank you again for your constructive interest in arms control.

Sincerely yours,

PHILIP J. FARLEY,
Acting Director

THE ISOLATION OF CUBA

Mr. KENNEDY. Mr. President, I invite the attention of Senators to the decision taken this week by the Organization of American States to reexamine the 10-year-old policy of isolating Cuba.

The decision in favor of review represents an acknowledgment that conditions in the hemisphere have changed since action was taken to exclude the Government of Cuba 10 years ago.

Recently, I joined with several other Senators to conduct a seminar into current United States-Cuba relations. I believe there was a consensus expressed that a review of that policy is fully in order.

I would have hoped that the United States, instead of abstaining, would have taken a leading role in urging a reexamination of the policy toward Cuba. The trip to China and the trip to Moscow represent compelling evidence that the climate of international relations has changed considerably in the past decade so that a review of our own policy toward Cuba is in order.

Clearly, the most overwhelming consequence of the policy to isolate Cuba has been to impel that nation into a heavy and undesirable dependence, economically, politically, and militarily on the Soviet Union.

Surely, it is not in our interest to continue a policy whose major impact has been to stimulate the military presence of the Soviet Union in the Caribbean.

Therefore, I believe it is noteworthy that the OAS by a 14 to 1 vote, with eight absentations, agreed to officially reexamine policies toward Cuba. I would urge now that the United States do the same.

Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Marilyn Berger and published in the Washington Post.

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

OAS DECIDES TO REVIEW ITS POLICY ON CUBA

(By Marilyn Berger)

For the first time since Cuba was excluded from the Organization of American States 10 years ago, a majority of the members voted yesterday to reexamine the diplomatic and economic ostracism of the Castro regime.

The decision was made in a meeting of the OAS permanent council by a vote of 14 to 1 with 8 abstentions. The United States, which continues to take the position that sanctions against Cuba should be maintained, abstained. A State Department official said later that the U.S. government did not want to prevent discussion of the matter.

There was little indication, however, that the OAS would vote to drop sanctions against Cuba despite the decision to reexamine the issue. Any change would require a two-thirds vote. A meeting was scheduled for Friday. It will be closed to the public.

Peru sent a special emissary to yesterday's council meeting to introduce a resolution that would allow "any member state that deems it advisable to normalize its relations with the Republic of Cuba" at whatever level considered appropriate.

The Vice Foreign Minister for Foreign Relations, Carlos Garcia Bedoya, told the 23-member council of "the profound changes . . . in the world's power relations." Referring to the recent Moscow and Peking summits, Garcia said: "Dialogue overcomes distrust and leads even old adversaries to communicate with each other even at the highest level. . . ." He said the expulsion of Cuba in 1962 and the sanctions imposed in 1964 should be reviewed in the light of the new situation in the world. Such a review, he said, would revitalize the OAS.

Joseph John Jova, the U.S. delegate to the OAS, said that it takes two sides to have a summit and that Castro had ridiculed the idea of such a meeting with the United States. He said that because Cuba continues to support revolution in other states of the hemisphere, "even if on a different scale than in the past," sanctions should continue.

"The whole concept of collective security requires solidarity with those countries suffering intervention through Castro subversion," Jova said. It would be "politically unwise and juridically unsound to lift the sanctions at this time, he added.

Only Bolivia voted against the proposal to discuss the Cuban issue. It was in Bolivia that Che Guevara, the revolutionary Latin leader, was captured and killed in 1967.

Since the expulsion of Cuba and the imposition of sanctions on the Castro regime, only Mexico and Chile have maintained full diplomatic relations with that country. Jamaica maintains consular relations.

The OAS voted on July 26, 1964, to impose punitive sanctions on Cuba by a 15 to 4 majority. At that time Bolivia, Chile, Mexico and Uruguay opposed the resolution, which also branded Cuba an aggressor against Venezuela. The sanctions barred OAS members from maintaining diplomatic relations with Cuba and required suspension of all trade except food and medicine needed for humanitarian purposes.

The 1962 resolution excluded Cuba from the OAS because as "a Marxist-Leninist government" it was said to be "incompatible with the principles and objectives of the inter-American system."

IS THERE A GAS SHORTAGE?

Mr. HANSEN. Mr. President, it is now common knowledge that U.S. companies have signed agreements with foreign nations such as Algeria, Libya, and Venezuela for buying liquefied natural gas and importing it into the United States at delivered prices much higher than the price of domestically produced natural gas.

Also, it is no secret that U.S. companies have the blessing of the U.S. Government in negotiating with the Soviet Union for not only the purchases of huge amounts of liquefied natural gas but also for the financing and construction of the facilities to transport the gas to a Russian port, liquefaction plants, and the ships necessary to bring the gas to this country.

These same companies and others are also planning to build multimillion-dollar plants to produce synthetic gas from naphtha and crude oil and also coal gasification plants that will require huge capital outlays. The cost of this gas will be four or five times the present cost of natural gas.

All of these plans are intended to supplement a dwindling supply of the cleanest and most convenient—and underpriced—of all fuels, natural gas.

For the past several years, the Nation's use of natural gas has far outrun additions to reserves through new discoveries and we are now faced with the grim prospects of actual shortages and shutdowns in some of the most populous areas of the country, including Washington, D.C.

The Federal Power Commission, in long overdue action to establish more realistic wellhead pricing policies for natural gas, has been questioned as to whether there is actually a gas shortage by Members of both bodies of Congress and, in fact, another Agency, the Federal Trade Commission last year began its own investigation of the gas shortage at the insistence of a congressional committee.

In the meantime, the gas shortage and the impending energy crisis are, as one writer put it, being "studied to death."

Even the Ford Foundation is now in the act with a $2 million grant for an energy policy project.

Last year a group representing the American Association of Petroleum Geologist's 15,000 members came to Washington in an effort to alert Congress and Federal officials to the seriousness of the oil and gas shortage. In that group was Dr. Sherman A. Wengerd, professor of geology at the University of New Mexico and now president of AAPG.

They came to Washington because they were concerned with what they termed the looming specter of dropping from an energy "have" to a "have less" Nation

They told me during their visit:

It seemed to be almost beyond the comprehension of the people we conferred with that the U.S. could soon experience a real energy crisis.

Dr. Wengerd only a few days ago issued another statement that was published by the Oil Daily which was highly critical of some who have questioned the FPC's findings of a gas shortage.

I would not subscribe to Dr. Wengerd's charges of demogoguery to those who questioned the FPC but I do believe his remarks, in view of the seriousness of the gas situation, are worthy of attention by all Senators.

Men like Dr. Wengerd and other members of AAPG know the facts of the oil and gas supply situation and understandably are distressed by the actions or inactions at the Federal level that delay any real solutions to our worsening energy problems.

Wengerd said:

The nations most competent experts on gas exploration and production, including many members of AAPG, have cooperated with FPC and with industry groups.

They are in agreement that known gas reserves are insufficient to meet the growing market demands for gas.

I agree with Dr. Wengerd. If we do not get on with some policy changes that will substantially increase the incentives for exploration and development of domestic oil and gas, we could and probably will very soon be facing serious shortages of both and, consequently be paying much higher prices for imported or synthetic oil and gas.

The utter folly of our growing dependence on imported oil—or gas—is well illustrated by the recent Iraqi seizure of the Western-owned Iraq Petroleum Co. and the embargo of oil shipments to non-Arab countries.

Mr. President, I ask unanimous consent that the articles from the Oil Daily be printed in the RECORD.

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

SENATORS CRITICIZING FPC CHARGED WITH DEMAGOGUERY

TULSA.—A group of U.S. senators was charged with "shameful demagoguery and ignorance of regulatory procedures" by Sherman A. Wengerd, president of the American Association of Petroleum Geologists.

Wengerd's statement came in response to a letter the senators sent to the Federal Power Commission criticizing FPC for saying there is a shortage of natural gas without having made its own investigation of reserves.

"For many months," said Wengerd, "FPC, in the course of its routine regulatory duties, has been struggling with the problem. It has been denying utilities the right to connect new gas customers and has been granting interstate pipelines various forms of permission to obtain additional supplies of gas. Certainly it ought to know whether or not there is a gas shortage.

"FPC is the body created by Congress to regulate the activities of the natural gas industry, and it is staffed with geologists, engineers, and economists whose major duty is to supervise the activities of gas companies and the nation's gas supply. It is highly presumptuous of these senators to claim that they know more about gas supplies than a federal agency assigned to that duty," Wengerd declared.

The letter from the senators was prompted by an FPC announcement that it is considering the issuance of a rule under which interstate pipelines could pay gas producers more than the area ceiling price if bidding against intrastate consumers offering higher prices.

Wengerd explained that AAPG is an internationally oriented association of professional geologists which keeps close watch on oil and gas reserves, drilling statistics, and similar data.

"The nation's most competent experts on gas exploration and production, including many members of AAPG, have cooperated with FPC and with industry study groups," Wengerd continued. "They are in agreement that known gas reserves are insufficient to meet the growing market demands for gas.

"In every gas-producing state, intrastate customers are buying virtually all the new gas reserves that are being discovered by bidding higher than the prices interstate lines are allowed to pay.

"At the same time, these interstate pipelines are making plans to import liquefied natural gas from overseas and to manufacture synthetic gas from oil or coal at prices five to eight times higher than the prices FPC permits them to pay producers for domestic supplies.

"This is a ridiculous situation which FPC is attempting to remedy in part with its proposed rule. The senators who criticize this ought to look at the economic facts before making demagogic attacks on the agency Congress created to deal with this situation," Wengerd concluded.

THE ENQUIRER INQUIRES

Mr. PROXMIRE. Mr. President, the Enquirer of Cincinnati in an editorial of May 23 both agrees with me and takes me to task. I do not argue with the paper's right to state its opinions. I am gratified, of course, with its agreement; I would wish to briefly explain my side on the editorial's disagreement with me.

In pointing out waste by the Pentagon my intention is to inform the Congress so that it might take appropriate action. I do not advocate national weakness, but rather believe that this country's defenses must be as great as is its heritage of freedom. But we cannot be No. 1 in military power by buying excessively costly weapons that do not live up to their specifications.

Mr. President, if others choose to turn this vital information on waste into an argument for national weakness I cannot be responsible for their actions. It was not unknown in times past—and perhaps even today—for messengers bearing unfavorable news to suffer the wrath of their superiors. But the bad news must be carried as well as the good. When I have had such news to bring to the Congress—whether it be in the Pentagon or in other agencies—I have not hesitated to deliver it; I hope I shall not hesitate in the future.

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

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

SENATOR PROXMIRE AND THE PENTAGON

Stung by allegations that his campaign against waste in the Defense Department is evidence of a desire to sap the nation's defensive posture, Sen. William Proxmire (D-Wis.) has responded with a statement that "this senator thinks we should have the strongest military force in the world."

In a Senate floor speech in response to a letter from hypercombative New Hampshire Publisher William Loeb, Senator Proxmire added: "The illusion is that those of us who have been raising hell about military waste are a bunch of unilateral disarmers, that we want to starve and enfeeble our military force, that we have tossed in the sponge on the nuclear age and would tremble and run in the face of Communist aggression.

"Those of us who criticize and, yes, harass the military do so from a variety of views, but some of us—and this senator in particular—carry on this way, because we believe that it is about time that someone stand up to the weakness that is developing in this great military force of ours and tell some blunt and painful truths.

"This senator is not criticizing our military primarily because of the cost and waste of our money in military hardware. I am criticizing it because after spending billions and billions, the weapons do not work."

It is indeed comforting that Senator Proxmire's concern is for a strong military force, and we are in total agreement with the Senator's contention that wasteful spending—particularly on weapons that fail to function—does our national military posture no good but plenty of harm.

A look at Senator Proxmire's own record in the Senate indicates that he is an independent-minded man who has been severely critical of wasteful spending by the federal bureaucracy under the administrations of both parties. Moreover, his concern for more efficiency in government spending—especially in procurement practices—has not been limited to the military.

Indeed, his only rival as a watchdog of the federal coffers has been the now-retired John Williams (R-Del.), whose reputation as a fiscal curmudgeon was legendary on Capitol Hill.

Senator Proxmire's indignation at a memorandum by Adm. Elmo Zumwalt, chief of naval operations, calling on his subordinates to spend their funds quickly in order to maintain the credibility of the Navy's budget requests was very much in character and not an indication of any antimilitary vendetta on the part of Senator Proxmire.

One major effect of Senator Proxmire's revelations has been quite salutary. There is a growing concern in Congress now for tighter, more efficient defense spending. Even such champions of the military as Sens. John C. Stennis (D-Miss.) and Barry M. Goldwater (R-Ariz.) are taking long, hard looks at the Pentagon budget. The Senate will, we hope, also be looking for a better system for the Defense Department's procurement-contracting procedures.

All this having been said, however, it is undeniable that Senator Proxmire's actions, despite the purity of his intentions, have

also had a detrimental effect on the military. His revelations have served as grist for the mills of those who really do want to sap the defense posture of this country. In the rhetoric of other men, Senator Proxmire's rightful criticisms of inept and sometimes unethical dealings between Pentagon bureaucrats and defense contractors become evidence of a dark conspiracy by the "military-industrial complex." There is no need for a strong defense, they argue; the expansionist ambitions of world communism are but a myth conjured by this conspiracy for its own nefarious ends. With the evidence provided by Senator Proxmire's committee, the apostles of national weakness are having a field day.

The problem is that Senator Proxmire has far too seldom balanced his attacks with expressions of concern about the need for a strong U.S. military force. (Or at least, the news media have seldom reported such expressions; in fairness, the fault may possibly lie in poor reporting by the Washington press corps rather than in Mr. Proxmire's own words and actions.)

Moreover, in recent years, Senator Proxmire has been concentrating his fire almost exclusively on the Defense Department. As the agency that buys the most hardware, the Pentagon may be the biggest offender, but it is by no means the only one. All government agencies have great layers of fat that could stand trimming. The impression left by Senator Proxmire is that waste can only be found in the Defense Department.

Wasteful Pentagon spending is a major problem that does indeed weaken our defensive posture. But so is the decline of public confidence in our armed forces; so is a decline in military morale. In fact, these may be even more destructive.

Senator Proxmire would be well advised, we believe, to give a greater balance to his statements about the military and about federal spending. Otherwise, he may find that his surgical knife, intended only to trim the fat, has cut too deeply and killed the patient.

WMAR–TV CONDUCTS COMMUNITY OPINION SURVEY

Mr. MATHIAS. Mr. President, earlier this year WMAR–TV asked 600 Maryland leaders to evaluate the issues which they encounter as they discharge their duties. The purpose of WMAR's questionnaire was to gain independent opinion of the challenges facing the community.

While the Senate schedule does not permit too much television time, I have had the opportunity to see a number of WMAR–TV documentaries. I particularly recall a public affairs program on corrections which WMAR produced, aired, and made available to community groups. This show was replayed at a League of Women Voters seminar on corrections in Montgomery County earlier this year. The program was an excellent discussion of the problems that face the jailers and the jailed. It was timely and balanced and reflected the WMAR survey which indicated that crime was the top concern of those polled.

It is a tribute to the insight of the station and its public affairs director, Dave Stickle, that WMAR cameras were sent behind the bars of our prisons and jails to talk with convicted prisoners as well as those awaiting trial. The cameras showed the overcrowded, understaffed institutions which lack adequate rehabilitation programs, and have virtually no means of placing an inmate in a job when his term has been served.

Mr. President, I commend WMAR-TV for taking the time, the energy and funds to survey community leaders in Maryland in an effort to determine what the station ought to present on the air. This is a progressive practice and one which I hope will be continued in the future. I ask unanimous consent that the survey results and a comparison of them with the results of WMAR's 1970 survey be printed in the RECORD.

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

BALTIMORE, MD., *May 1, 1972.*

Hon. CHARLES MCC. MATHIAS, JR.,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR MR. MATHIAS: Some little time ago we sent to you and other community leaders across the State a questionnaire asking for your evaluation of issues which confront us in a period of social trauma.

It is from a consensus of such opinions, and other measurements we conduct, we are guided, in large measure, in the framing of public service programs.

Implicit in our letter to you was a promise to let you know the results from this questionnaire which went to 594 community leaders. The results are attached.

We conducted a similar survey two years ago and the comparison of the results of the two surveys also is reported in the attached chart.

This is meant to say thank you for participating. We seek to reflect your opinions in programing on WMAR–TV and we will.

Sincerely yours,

D. P. CAMPBELL,
Vice President and General Manager.

TABULATION OF SURVEY OF OPINION LEADERS, RANKING BY NUMBER OF GROSS MENTIONS (1–5)

Category	Number of gross mentions	Percent of gross mentions	Percent of replies mentioning this category 1,2,3,4,5,	Change in rank from 1970 survey
Crime	160	13.43	74.41	0
Drugs	139	11.67	64.65	+4
Economy	120	10.07	55.81	+1
Government	108	9.06	50.23	+5
Education	102	8.56	47.44	−2
Jobs	92	7.72	42.29	+1
Poverty	88	7.38	40.93	−5
Health	71	5.96	33.02	0
Race	52	4.36	24.18	(1)
Population control	52	4.36	24.18	(1)
War	52	4.36	24.18	−4
Pollution	50	4.19	23.25	0
Religion/morality	43	3.61	20.00	+1
Communication	35	2.93	16.27	−1
Transportation	27	2.26	12.55	0

[1] New category.

COST OF CIVIL SERVICE RETIREMENT AND DISABILITY FUND

Mr. McGEE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter which I have received from the Chairman of the U.S. Civil Service Commission relating to the civil service retirement and disability fund and the cost of the system which provides retirement, disability, and survivor protection for about 2.5 million Federal employees and their families, and some 1 million retired employees and their survivors.

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

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 25, 1972.

Hon. GALE MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate.

DEAR MR. CHAIRMAN: A year ago I reported to you the current status of the Civil Service Retirement System with respect to its financing and with particular emphasis on the effect of Public Law 91–93 enacted October 20, 1969. As indicated then, the improved retirement system financing established by Public Law 91–93 continues to work well and the system is in a sound financial position. I believe it is important now that we maintain this condition. Events of the past year have had their effect on the system, and I want to give you an updated report on the retirement program and some insights on what the future holds in store.

The 1969 law fixed employee deductions and agency contributions at 7% each. This income, totaling 14% of payroll, approximated the then estimated normal cost of the retirement system. The Board of Actuaries has since completed a valuation of the system as of June 30, 1970 which resulted in an updated calculation of normal cost. In its recent report to us, copies of which were forwarded to the Congress on May 3, 1972 the Board calculated normal cost at 12.95%. The reduction in normal cost of slightly more than 1% results primarily from an anticipated higher rate of return from retirement system investments in Government securities. The assumed interest rate is now 5%, in contrast to the formerly assumed 3.5% rate.

Under this latest valuation at a 5% interest rate, the unfunded liability was approximately $53 billion as of June 30, 1970. Under the previous 3½ percent rate of interest, the unfunded liability had been $64.6 billion at the end of Fiscal Year 1970. This liability is subject to periodic increase, however, because Public Law 91–93 requires amortization only of new liability resulting from subsequent legislation. Continued increase in unfunded liability will come because of commitments authorized by earlier laws. Examples of this are the wage increases resulting from wage surveys, a process authorized by an earlier law. Another example is periodic cost-of-living increases for annuitants, each 1% of which adds $350 million to the unfunded liability, which also stems from an earlier law.

One major purpose of Public Law 91–93 was to spread out the impact of a more adequate financing basis for the retirement program to avoid the necessity of sudden heavy payments to the retirement fund. Consequently the law provided that beginning in fiscal year 1971, 10% of the annual interest payment on unfunded liability would be made, with progressively larger payments of an additional 10% increment per year to be made until we reach 100% of the annual interest payments needed each year beginning in 1980. The following statistics may be helpful in understanding the effect of this provision:

$277 million was transferred from the Treasury to the Fund in 1971 as first payment (10% of a full annual payment.)

$3.65 billion would be transferred to the Fund in 1980 and subsequent years, if one assumes no changes in unfunded liability beyond 1971 (representing 100% of the annual interest payment achieved by adding 10% increments each year after 1971).

$4.90 billion would be transferred in 1980 if one assumes continuation of the same rate

of increase in cost-of-living and wages as occurred in calendar year 1971, and the payments would continue to rise in each year beyond 1980.

Interest payments would stabilize in 1980 only if the static assumption of the second illustration above proves correct; otherwise payments will increase each year though the impact will be particularly heavy in the period up to 1980 at which point each payment will represent a full payment of annual interest on unfunded liability.

Government payments to the fund will also increase to the extent that additional legislation grants benefits which add to the liabilities of the retirement system. Added liabilities are created by benefit liberalization, by extending coverage to additional persons, or by pay increases. For example, every $1 of pay increase creates an additional $1.95 liability to the retirement fund. Public Law 91–93 requires that any new liabilities be amortized by equal annual payments over a 30 year period. Since our report to you last year, a postal salary increase has been negotiated, and a general schedule salary increase was provided by Public Law 91–210 effective January 1, 1972. These, together with the earlier liberalizing laws referred to in our previous report will result in substantial Government payments to the retirement fund over the next 30 years:

Existing liabilties will require a total payment of $610 million in Fiscal Year 1972.

A $665 million yearly payment will be required by fiscal year 1973.

Payments at this level will be required through fiscal year 1999.

Further salary increases or enactment of program changes which create new liabilities would add to the size of these annual payments. For example, if one assumes the same degree of salary and benefit increases each year as occurred in calendar year 1971, then the required yearly payment would increase to about $1.04 billion by fiscal year 1973, and about $3.72 billion by fiscal year 1980.

The rate of increase in required payments is of concern because of the rapid build-up which has occurred just in the few years since passage of Public Law 91–93:

$215 million payment required in fiscal year 1970.

$437 million payment required in fiscal year 1971.

$610 million payment required in fiscal year 1972.

A third source of Government payments to the retirement fund is the 7% of payroll contributions made by each employing agency. These also involve substantial sums, as the following statistics show:

Agency contributions totaled $1.72 billion in fiscal year 1970, and $1.89 billion in fiscal year 1971.

By way of illustration, assuming static conditions, (no further increase in work force or cost of living, and no salary increases beyond those already enacted or agreed to) agency contributions would peak at $1.93 billion in fiscal year 1973 and remain constant thereafter.

If one assumes a continuation each year of the conditions which prevailed in calendar year 1971 with respect to increases in work force, salary levels, and cost-of-living, then agency contributions will increase each year to:

$2.62 billion by fiscal year 1975.

$3.70 billion by fiscal year 1980.

$3.96 billion by fiscal year 1981.

Perhaps a better appreciation of the Government's commitment to the retirement fund can be obtained if all three of these types of Government contributions are added together.

If one assumes no further increases in cost-of-living, salary levels, or work force, and no additional benefit liberalizations beyond 1971, the total Government contributions to the retirement fund would be as follows:

$1.95 billion in Fiscal Year 1970.

$4.30 billion in Fiscal Year 1975.

$6.25 billion in Fiscal Year 1980.

By way of contrast, assuming a continuation each year of the same degree of increase in work force, salary levels, and cost of living, and the same extent of benefit liberalization as occurred in calendar year 1971, total Government contributions to the retirement fund would be about as follows:

$1.95 billion in Fiscal Year 1970.

$6.71 billion in Fiscal Year 1975.

$12.32 billion in Fiscal Year 1980.

Employees have an interest in the system because of the substantial total of their contributions, as well as the extent of benefits they will receive. Employees contributed $1.74 billion in Fiscal Year 1970 and $1.92 billion in Fiscal Year 1971. These contributions will rise to the same degree as agency contributions, the amount of increase depending upon the extent to which we experience further increases in salaries, work force, or cost-of-living.

Annuity payments, which constitute outgo from the retirement fund, will continue to increase for over 40 years as more and more employees are added to the annuitant rolls. An increase will occur even though no increases are made in work force level, as present employees become eligible for retirement benefits. Growth in the total of annuity payments under the retirement system is illustrated by these statistics:

Payments in Fiscal Year 1960 totaled $893 million.

Payments in Fiscal Year 1970 totaled $2.74 billion.

Assuming static conditions beyond 1971 (no further growth in work force, salary levels, or cost-of-living, and no further retirement program liberalization) payments in Fiscal Year 1980 would total about $6.1 billion.

If one assumes a continuation each year of the conditions which prevailed in calendar 1971 with respect to increases in work force, salary levels, cost of living, and the same degree of program liberalizations, then by Fiscal Year 1980 annuity payments would total about $9.5 billion.

In summary, in each category of funds associated with the retirement system—Government contributions, employee contributions, and benefit payments, we are dealing with large sums of money. A more comprehensive picture of retirement system financing may be gained by reference to the table in Attachment A. The size of these sums will grow substantially even under static employment conditions because of commitments provided by existing laws. We are concerned, as I am sure you and your fellow Committee members are, that any further proposals for retirement program changes be considered in the light of policy in all other areas of compensation for Federal employees, and with full recognition of the burden being placed on the budget and the taxpayer.

In short, we believe that total compensation should be considered before making a decision to change any part of it, including the retirement program. In comparing the components offered by different employers, it is apparent that the individual parts of the compensation package will vary from one employer to another. This is illustrated in the recent comparison of supplementary compensation (see Attachment B) published by the Bureau of Labor Statistics. In this comparison, for example, considerable variation in retirement, health, and leave benefits exists between practices in Government and those of private industry. We believe such variations should be expected as a natural outgrowth of the process of gearing benefits to the needs of a particular work force.

More significant, in our judgment, is the degree to which the total compensation package compares with the total package of other employers. In this respect the Government has achieved approximate comparability with industry. By carefully considering such overall comparisons, we can better assure that the cost of a proposed change is worthy of public support.

Sincerely yours,

ROBERT E. HAMPTON,
Chairman.

RETIREMENT FINANCING

[In millions of dollars]

	Actual fiscal year 1971	Projected [1] Fiscal year 1975	Projected [1] Fiscal year 1980	Projected [2] Fiscal year 1975	Projected [2] Fiscal year 1980
Treasury transfers for interest on unfunded liability and for military service credits	277	1,706	3,654	1,880	4,903
30-year amortization payments	437	665	665	2,210	3,718
Agency contributions	1,890	1,930	1,930	2,624	3,697
Total Government cost	2,604	4,301	6,249	6,714	12,318
Employee contributions	1,920	1,960	1,960	2,654	3,727
Annuity payments	3,024	4,485	6,100	9,300	9,500
Retirement fund, June 30	25,018	37,430	57,690	42,500	121,500
Unfunded liability, June 30	58,616	65,550	67,601	76,100	97,800

[1] Assuming no changes beyond fiscal year 1971 in work force, pay, benefits, and cost of living.
[2] Assuming changes each year in work force, pay, benefits, and cost of living at the same rate experienced in calendar year 1970.

BASIC WAGES AND SALARIES, COMPARISON FRAME OF PRIVATE NONFARM ECONOMY AND FEDERAL GOVERNMENT, 1970

Compensation practice	Expenditures as a percent of basic wages and salaries: Comparison frame [1] January to December 1970	Federal Government [2] July 1970 to June 1971
Total, all supplements except pay for overtime, weekend, and holiday work, and premium pay for shift work	26.6	27.8
Pay for leave time (except sick leave)	8.8	11.6
Vacations and holidays	8.5	11.0
Payments to funds	(3)	(4)
Payments to workers	8.5	11.0
Vacations	5.3	8.1
Holidays	3.2	2.9
Civic and personal leave	.3	.6
Health and insurance programs [5]	6.3	5.6
Workmen's compensation	.8	.5
Sick leave	1.1	3.3
Life, accident, and health insurance	4.4	1.8
Retirement programs	9.1	10.0
Social security and railroad retirement	4.3	.2
Private pension and retirement plans	4.9	9.8
Unemployment programs	1.1	.5
Legally required programs	.8	.4
Payments to employees	.1	.1
Payments to funds	.1	(4)
Nonproduction bonuses (including awards)	.9	.1
Savings and thrift plans	.4	(4)

[1] Data relate to establishments in the United States, except Alaska and Hawaii, having the indicated minimum employment size in the following industries: manufacturing (250); retail trade (250); transportation, communication, electric, gas, and sanitary services (100); commercial research and development laboratories (100); finance, insurance, and real estate (50).
[2] Data provided by the Civil Service Commission and Office of Management and Budget.
[3] Less than 0.05 percent.
[4] No such program in the Federal Government.
[5] Includes items in addition to those shown separately.
Note: Because of rounding sums of individual items may not equal totals. Published by Bureau of Labor Statistics.

Mr. McGEE. Mr. President, the essence of Mr. Hampton's letter is that an enormous amount of money is involved in this system, and that Congress, which is responsible for the liquidity of the fund as well as for the maintenance of a sound and beneficial retirement program for Federal employees, must weigh carefully the long-range implications of legislation affecting the status of the fund. I noticed in our committee calendar yesterday that 33 bills relating to retirement are pending before the committee, almost all of which would increase past, present, or future benefits, and all of which would cost many, many millions of dollars. As a politician, I favor them all; as a Senator, I recognize that we must act with care and foresight.

PROPOSED OFFICE OF CONSUMER COUNSEL

Mr. BROCK. Mr. President, I invite the attention of my Senators to an interesting proposal by chairman of the House Committee on Banking and Currency.

He would create an Office of Consumer Counsel at the Pay Board and the Price Committee. Its job would be to represent consumers in those Pay Board and Price Commission activities which could be construed as being anticonsumer.

I agree with the spirit of this proposal. There is no more anticonsumer activity than excessive wage demands and settlements which exceed gains in productivity by manifold and obviously result in higher prices.

However, I do see this proposal as yet another example of a special interest seeking special powers to challenge what has previously been determined to be the public interest.

There seems to be in this proposal a great deal of similarity to S. 1177 pending before the Government Operations Committee, on which I serve, to create an independent Federal Consumer Protection Agency—CPA. This bill (S. 1177) would empower a Federal Consumer Protection Agency to do essentially what Congressman PATMAN's proposal would do.

If this Consumer Protection Agency were in existence today, it would be able to intervene or otherwise participate in the formal and informal activities of the Pay Board, the NLRB, the Federal Mediation and Conciliation Service, and a host of other Federal agencies which relate to wage settlements. In addition, the CPA would be able to appeal to the courts agency decisions which it considered inimical to the interests of consumers, such as excessive wage settlements.

Mr. President, as one who has for a long time, advocated a new labor policy for this Nation, I suggest that while both Representative PATMAN's proposal and S. 1177 do intend to meet legitimate ends, both employ excessive means in order to do so.

I hope that Senators will profit from our experience of giving a narrow environmental viewpoint the power to impose its will on the overall public interest. In Tennessee, for example, we have found that the Tennessee Valley Authority, a prime source of low cost electrical power, would virtually have to double its rates in order to comply with the maximum environmental requirements—some of which have no relevance or even benefits.

It would be a tragic mistake if the Congress did not learn from such experience. To continue to grant important special interests—including those interests which would limit wage settlements—the power to impose their will upon the overall public interest is dangerous. If such a trend continues, I can foresee the day in the very near future when special interests will bring to a halt the activities of the Federal Government which today carefully weigh all interests before acting in a manner beneficial to the majority interest of the public at large.

WILL THE SALT AGREEMENT RAISE MILITARY COSTS?

Mr. PROXMIRE. Mr. President, if the movers and shakers of the military industrial complex have their way, the military savings from the strategic arms limitation agreement—SALT—will be as fleeting as the peace dividend.

The Pentagon and their allies are already insisting that the SALT Pact will raise rather than lower U.S. strategic costs. They are pressing for a crash program for ULMS, pushing the antiquated B–1 bomber, pressing for hard-site Minutemen, and a step-up in our massive strategic deterrent.

The opponents of SALT are already falsely claiming that it provides for U.S. inferiority to the Soviets. This is a myth and entirely untrue. But it is based on the simplistic view that because the pact freezes our land-based missiles at 1,054 and the Soviets at 1,618, and allows us 710 sub missiles compared with the Soviets 950, the United States will soon fall behind. Using those facts the big military spenders will insist that we step up U.S. strategic spending instead of working to reduce it as our superiority justifies.

While the figures for missiles, or launchers, are correct, they are nonetheless highly misleading in depicting the balance of United States and Soviet nuclear weaponry. They overlook a host of factors, all of which are highly favorable to the United States. Among them are these:

As of June 30, 1972, the United States will have 5,700 force loadings—which is a targeted nuclear weapon—while the Soviets have only 2,500. In the last year we have 1,000 while the Soviets have added only 400.

Our missiles are MIRVed. The Soviets have not even tested a MIRV'd missile. Thus some 550 of our 1,054 land based missiles carry three independently targeted nuclear weapons, each of which is 10 times more powerful than the Hiroshima bomb. Under the agreement we could MIRV the remaining 450.

Soon 31 of our Poseidon subs will carry 16 launchers each with 10 independently targeted weapons. This will give us 4,960 such weapons on our Poseidon submarines alone in the near future. At least another 10 boats could also be converted.

We have 531 heavy bombers—not counted in the equation—to the Soviets 130. Our bombers can carry an average of three warheads each and can carry up to a 20-megaton weapon.

In addition we have 3,000 to 4,000 nuclear weapons which can be delivered on the Soviet Union by tactical aircraft. The Russians have no comparable capability.

Like our land-based missiles, our sub missiles are far more accurate than the Soviets. In addition our subs have longer on-station time, are quieter, more sophisticated, have longer range missiles, have better trained crews, have fewer geographical operating restrictions, and unlike the Soviet subs, have never been tracked by the enemy.

The Russians do not have and will not have in the foreseeable future a "first strike capability." Our deterrent is secure. Only by failing to acknowledge our invulnerable submarine deterrent can the denigrators of American strength even suggest that our deterrent is vulnerable.

For all these reasons, the SALT agreement is in our vital interests and should make is possible for the United States to make considerable savings in our strategic arsenal.

But those intent on downgrading the strength and power of the United States are already at work crying "wolf" and

insisting that we rush ahead to spend tens of billions of dollars based on omissions of fact and misleading interpretations of our power

PROPOSED NATIONAL DAY OF MOURNING BY AMERICANS OF LITHUANIAN BACKGROUND

Mr. ALLOTT. Mr. President, lest we forget the nature of the regime we have been dealing with at the summit, I invite the attention of the Senate to a call issued last week by Vytautas Voltertas, president of the National Executive Committee of the Lithuanian-American Community of the U.S.A.

Mr. Voltertas has proposed a national day of mourning and prayer for Americans of Lithuanian background as a show of support for those who have been risking their lives in the Lithuanian city of Kaunas. There rioting has been taking place to protest the continuing Soviet suppression of religious and political freedom.

Mr. President, 2 million Lithuanian-Americans are expected to recognize June 15 as a day of mourning and prayer for those who cannot escape the brutal reality of life in the Soviet Union.

THE GENOCIDE TREATY AND AMERICAN POW'S

Mr. PROXMIRE. Mr. President, the United States continues to stand apart from the 75 nations who have adopted the International Convention on the Prevention and Punishment of Genocide. Many of those who oppose this treaty do so not from fear that the United States will violate it, but from fear that we will be wrongly accused of violation. It has been suggested, for example, that American prisoners of war would be charged by the North Vietnamese with acts of genocide, and put to trial. Such charges would, of course, be grossly and transparently false. Genocide is carefully defined in the treaty and includes only specified acts "committed with intent to destroy, in whole or in part, a national, ethical, racial, or religious group, as such." America's involvement in Vietnam, however regrettable, is clearly not subject to the Genocide Convention.

Even so, what worries some opponents of this treaty is the possibility that it would be falsely construed and applied unjustly to American prisoners of war. But, as the Senate Foreign Relations Committee report last year concluded:

> Ratification of the Genocide Convention would not alter the situation of American military forces in peace or war in any way or create any new hazard for them. It is reality that American prisoners of war in North Vietnam could be charged by the Hanoi government for war crimes or genocidal acts or whatever other trumped-up charges Hanoi wishes to make. Their peril will not be increased by approval of this convention while peril may be avoided for tens of millions by ratification of the convention.

The United States has nothing to fear from the provisions of this treaty. The possibility that the treaty would be wrongly invoked adds no danger to the ever-present possibility that existing treaties and laws will be wrongly invoked. With this treaty or without it, there is no airtight guarantee that all nations will show a perfect regard for justice in their dealings with other nations. But our adoption of the Genovide Convention would contribute much to a world order based on a universally accepted and legally recognized respect for human rights.

I urge the Senate to take up the question of the Genocide Convention and ratify the treaty without further delay.

NATIONAL CHAMBER SUPPORTS NEW DEPARTMENT OF COMMUNITY DEVELOPMENT

Mr. PERCY. Mr. President, I am pleased to invite to the attention of Senators the strong support being given the proposed Department of Community Development by the National Chamber of Commerce in its May 4 Congressional Action Bulletin. The national chamber's support comes at a key moment. The House Committee on Government Operations has reported an excellent Department of Community Development bill, and under the strong leadershp of its chairman, Representative CHET HOLIFIELD, the committee plans for floor action on the bill during June. I look forward to companion action by the Senate this year as well; and the chamber's support, along with the support of many other organizations, will be vital.

I ask unanimous consent that the material to which I have referred be printed in the RECORD.

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

DEPARTMENT OF COMMUNITY DEVELOPMENT

What's at issue: The immediate issue is whether to create a new Department of Community Development. The basic issue is whether to increase the effectiveness of Executive Branch management of Federal programs by improving the organizational structure of departments and agencies . . . or to continue present obsolescent organization of some departments with accumulated overlap, duplication, and frictions of competing programs.

Why important: Sometimes as many as 10 Cabinet-level departments and 15 or more agencies have programs devoted essentially to the same general area of activity, but there is no coordination and over-all management of related activities. Result: failure to solve priority problems even though aggregate of Federal spending in some areas is enormous . . . slow action resulting from attempts at coordination among departments and agencies . . . confusion among State and local governments as to the relative merits of available Federal programs . . . waste of scarce tax dollars.

Major proposal:

H.R. 6962 is one of four major proposals to create new departments organized along functional lines, and is the first one, apparently, that will come to the House floor for a vote. It would consolidate in one Cabinet-level department logical groupings of existing urban and rural development programs. Programs providing assistance to State and local governments and private institutions would constitute one group. Federal grants for planning and management. . . . programs to assist community development . . . aids to the poor and minority groups . . . Model Cities . . . and disaster assistance would be included in this category.

A second group would consist of assistance for community physical development . . . including programs for urban renewal . . . water and waste disposal, open space . . . regional economic development . . . and rural electric and telephone facilities. Community transportation programs, including mass transportation and highway development, would be linked to focus on providing balanced community and areawide ground transportation . . . Housing loans, housing grants, mortgage insurance, and subsidy contracting would be more closely related to the mangement and disposition of existing Federal housing facilities.

The Department would be organized to provide national-level leadership, coordination through administrators who head groupings of related functions . . . to provide local-level program leadership, coordination through decentralization of operations to regional directors.

Chamber position:

Supports H.R. 6962, to create a Department of Community Development. A need exists for thoroughgoing reorganization of the Executive Branch of the Federal Government in the interest of economy and efficiency, and to improve service in the transaction of Federal business. Eliminating duplication and overlapping of services and activities, and the consolidation of functions contribute to improved management and efficient conduct of the Federal Government.

Congressional status:

H.R. 6962 could be reported to the House floor in mid-May. Comprehensive hearings by the Subcommittee on Legislation and Military Operations of the House Government Operations Committee were conducted during March and April. Senate hearings are being held on a companion bill, S. 1430.

SUPPORT BY SECRETARY ROMNEY—HOUSING AND URBAN DEVELOPMENT

Population growth, and social and economic change have combined to place heavy strain on existing public institutions. The response of the Federal government to these developments has been haphazard. Departments and agencies have been organized around service to special interests and narrow constituencies. Program administration has been fragmented, and few effective coordinating mechanisms below the President and outside the White House have been created. New Federal responsibilities have been tacked on to the old Federal structure, and new special purpose agencies created to fill in the cracks or even to compete with existing agencies.

For example: There are four major Federal programs of assistance for water and sewer facilities and eight smaller programs, divided among seven different agencies. Communities are frequently eligible for two or more of these water and sewer programs. Project-by-project joint funding arrangements and multiple applications for single projects are common.

The present structure of the Federal government makes it difficult, if not impossible, for the President and the Congress to address the major problems of the nation.

The problem, I believe, is not caused by the size of existing Federal departments. As former HEW Secretary John Gardner pointed out, "We are stuck with bigness. . . . The crucial question is how we manage bigness, how we devolve authority to lower levels, how we force our big institutions to remain responsive, how we prevent them from smothering individuality and creativity."

This consolidation would draw together, under one roof and under one Secretary, similar programs, so that related programs

could function jointly in planning and execution. Such a restructuring would simplify program coordination and make it possible to establish clear points of authority and accountability—below the President, himself—in program management.

The new Department of Community Development would have the tools to respond—in a coordinated manner—to comprehensive community improvement programs, based on local needs and priorities. A single Federal department would administer the major Federal programs of assistance for the physical and institutional development of States and local communities. A single Federal department would administer assistance for strengthening State and local governmental processes.

SUPPORT BY SECRETARY VOLPE—TRANSPORTATION

Many of the officials and employees of the Department of Transportation have participated in the studies and the preparation of the materials submitted to the Congress on the President's proposals. We believe that the Program presents a unique opportunity to make a substantial improvement in the operation of the domestic side of the Executive Branch of the Federal Government, and we support it wholeheartedly.

The disposition of Federal transportation functions under the President's Departmental Reorganization Program can best be understood by keeping in mind the overall purposes of the reorganization; to overcome the increasing fragmentation of related Federal programs among the various departments and agencies, and to organize these programs around their essential objectives and goals.

We are confident that the proposed transfers . . . place transportation programs where they can most effectively contribute to the resolution of the serious problems facing our communities—both urban and rural—today. To those who ask why, when only a short time ago we were urging the consolidation of transportation resources into a single department, we now urge their division, I would make three points:

(1) The establishment of the Department of Transportation was a wise and necessary move, taking into account the dispersion of transportation programs and the departmental structure which prevailed in 1966. Even though the Department did not, and still does not, include all of the transportation agencies it should, it has made substantial gains in developing an intelligent and consistent Federal policy regarding all modes of transportation.

(2) In recommending the division of the functions of the present Department, I am not advocating a return to the situation that existed before the Department was established, when the functions were distributed among agencies and departments without any consistency or overall purpose. I am supporting a division of transportation functions essentially between two departments based on their primarily national versus predominantly local orientations. . . .

(3) When the Department of Transportation was established the President's Departmental Reorganization Program, was not available. If it had been, I believe the consolidation and disposition of transportation functions would be essentially as we now recommend.

SUPPORT BY SECRETARY BUTZ—AGRICULTURE

I fully support the President's Reorganization Plan, particularly the realignment of the Department of Agricultural programs which have only indirect bearing on the needs of the farmer.

The new Department of Agriculture as proposed by the President will be a viable organization, able to concentrate its total resources on improving the income of our farmers and assuring a continuing abundance of food for the American people.

Establishing a department of Community Development will permit the development of rural communities and bringing social and economic opportunities to Rural Americans at a faster pace than has been possible under the present Federal departmental structure.

The present alignment of Departments and agencies in the Federal organizational structure is antiquated. It encourages wasteful duplication of services, and competition among bureaucracies. It results in confusion among those individuals and communities seeking assistance from the Federal government.

The clearest example of this state of affairs is perhaps my job, as Secretary of Agriculture. When I was sworn in by the President my principal charge was to serve the needs of American agriculture, specifically . . . to insure that farm income improves and . . . that food production is adequate to serve the needs of the American people.

Yet under the present administration structure, the Secretary of Agriculture has responsibility for a variety of programs that have nearly parallel counterparts in other departments of government. The Secretary is, among other things, responsible for:

managing programs directed at developing rural communities, including those of the Rural Electrification Administration and the Farmers Home Administration, programs which have their counterparts among those in the Department of Housing and Urban Development, Transportation, and others—more effective in a Department of Community Development.

managing the national resource utilization and conservation programs of the Forest Service and Soil Conservation Service—organizations that parallel those in the Department of Interior, the Corps of Engineers, and the AEC—more appropriate for a Department of National Resources.

managing the varied and very extensive food assistance programs—activities which are intended to help persons in need, as are the programs of HEW, OEO, and other social welfare agencies—more in keeping with a Department of Human Resources.

SUPPORT BY SECRETARY CONNALLY—TREASURY

It was my privilege to serve as a member of the President's Advisory Council on Executive Organization, which intensively studied the organization of the domestic departments and made the recommendations on which much of the current reorganization plan is based. We found, in our review, as has other commissions and task forces which had preceded us, that our departments were simply not organized or equipped to deal effectively with the problems before us. Nowhere was this clearer than in the vital area of assisting communities—urban, suburban and rural—in their development as wholesome, viable places in which to work and live. The existing picture is one of a number of departments providing piecemeal, overlapping, poorly coordinated support to physical and institutional development within our communities. The origins of this situation go back to the way our departments have evolved over the past century, with their concern over clientele, over means instead of ends, and over jurisdiction in the face of competing agencies. We have learned the hard way, and the case for reorganization can no longer be ignored.

We cannot charge one department with housing and community planning and another with highway programs. We cannot organize around arbitrary distinctions between large and small towns. And we cannot expect three or four agencies to be effective in providing virtually the same assistance for sewage treatment and other community facilities.

As a former Governor, I can assure you that we have done poorly in helping State and local governments improve their capability for planning and management because of the Federal disarray. Agencies at the State and local level now have to work with too many Federal agencies, and it is often close to impossible for them to secure prompt . . . action in meeting their needs.

Virtually every significant event involving highways in the past year has served to make clear the jeopardy in which our highway programs have been placed as a result of the rising concern with their impact on communities and their environment. I am surprised that their are still those who contend that we can build highways and then let communities emerge willy-nilly around them. This is thinking out of the past. If we are to continue to provide needed highways, future progress must take place within the department best able to assure that Federal highway programs contribute to balanced, attractive and coordinated community development.

THE UNITED STATES-SOVIET SPACE AGREEMENT

Mr. COOK. Mr. President, with the enactment of Public Law 85-568, the National Aeronautics and Space Administration was created in 1958. In a short span of 14 years this agency has effected great changes in the field of science and technology and has advanced this Nation to a position of superiority in that area. Besides the well-known fact that the United States has sent men to the moon, there have been numerous other accomplishments made by NASA in fields unrelated, or only slightly related, to the space industry.

Let me just highlight a few.

In the field of medicine alone, a prime beneficiary, NASA has been able to lend to that science information from its data bank of great significance and help to new born infants; quadriplegics; stroke victims; the deaf and blind; those who are paralyzed; have ulcers, those with kidney and bladder difficulties; burn victims, and more. These people have been aided by highly scientific devices which can monitor and detect brain waves, temperature, fluid levels, air flow, movement, pulse, and light. With this type of information a doctor or attendant can know when breathing ceases in a patient in another room, or the blind can turn off lights with the help of an acoustic signal which alerts that person to the light. Heart transplant patients can be monitored by an instrument which relays heart reaction to a normal day's activities, and the paralyzed can summon a nurse with the assistance of an electro-optical system which determines fluid levels in the eye. New lightweight materials have been developed to replace steel used in leg braces, and brain waves can be monitored to determine hearing disabilities in small children. In addition to the obvious medical benefits of these NASA contributions, the economic advantages have been great.

But, there is more.

With technology acquired through the space program thousands of lives have been saved thanks to the early detec-

tion of hurricanes. We also have equipment which can recognize and predict earthquakes, volcanic activity, mineral deposits, and weather changes up to 48 hours in advance.

The business and industrial community has also benefited by making use of NASA's data bank which is made available to them by NASA through informal and formal procedures.

For the agricultural community NASA has developed the earth resources satellite program which, by continuous surveillance, can inform a farmer about the condition of his crop and, therefore, assess its probable yield. The satellite can also detect plant disease which is of considerable destruction to the farmer. This program is expected to produce similar results for the U.S. forest service.

In the area of communications NASA has supplied us with the satellite which allows us to view live broadcasts from foreign countries. This is how we were able to follow the up-to-the-minute activities of President and Mrs. Nixon in both China and on their recent trip to the Soviet Union and Eastern Europe.

New fabrics for the consumer have been made available which include lightweight blankets, sleeping bags, sportsmen's apparel, and other applications are being made for the development of such products as bedcovers, draperies, tents, and awnings. With knowledge acquired from the principles of heat transfer, NASA has originated a cooking pin which permits the highly efficient cooking of roasts and other meats by heating from the inside out. Nutritional research has been expanded so that quick energy foods and highly nutritional foodstuffs have been devised.

In the area of environmental control, besides the aforementioned weather predicting expansion, NASA projects have made achievements in the control of airplane engine emissions and aircraft noise. Underwater cameras have been invented which are capable of clicking off one frame an hour for more than 10 days unattended to take pictures of algae. This, of course, is a program which has been and can be expanded to bring about other beneficial results. Means for detecting the size of oil slicks via sensing tools is another accomplishment of the NASA research program.

In the future the NASA data bank will no doubt provide additional worthwhile information for the American people and the world.

Last week the President announced the formation of a joint agreement between the Soviet Union and the United States whereby our two countries will cooperate to achieve improvements in the existing exchange of weather satellite data; cooperation to advance weather research from space; the development of a global meteorological sounding rocket network with the collaboration of other countries; efforts to advance the techniques of surveying the natural environment from space; exchanges on data and future scientific objectives for near-earth, lunar and planetary exploration; and exchanges on space biology and medicine. In addition, plans have been made to launch a two-stage Apollo Saturn rocket from Cape Kennedy in 1975. The essential purpose of this mission will be to develop rescue capability in the future.

At this point the United States is far ahead of other nations in its space efforts and this superiority is only tentative. We must look to the future when our dependence upon and cooperation with nations will be necessary and more productive. At present we are working with more than 70 other countries in our space program and it is only natural that the United States and the Soviet Union, leaders in the field, should unite in order to coordinate knowledge, resources, and talent. The cost of the mission described earlier could run as high as $300 million for one country, but with a combined effort costs will be significantly reduced. This is the only hope for the future of the space program.

I congratulate NASA and the President on the decision for a new partnership in space exploration with the Soviet Union and am hopeful that our two nations can begin to develop greater understanding and a more cooperative disposition. Nations everywhere must begin to recognize that it is only through mutual interdependence that this world can exist peacefully for many tomorrows to come. Our goals must be to work for the benefit of man on earth.

As Jawaharlal Nehru said:

The law of life should not be the competition of acquisitiveness, but the cooperation, the good of each contributing to the good of all.

PRESERVATION OF LOWER ST. CROIX RIVER

Mr. NELSON. Mr. President, a few weeks ago, the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs held a hearing on S. 1928, the bill the Senator from Minnesota (Mr. MONDALE) and I introduced to preserve the Lower St. Croix River as a national scenic and recreational riverway.

Minnesota and Wisconsin witnesses who appeared at the hearing unanimously urged Congress to pass S. 1928, and thereby protect the Lower St. Croix from the impending danger of uncontrolled commercial development. Testimony was offered in support of the bill by representatives of both State Governors, local government officials, property owners, and conservation groups.

In speaking before the subcommittee, Senator MONDALE presented an excellent summary of the many reasons why Federal protection is essential for the Lower St. Croix River to retain its unspoiled natural character. The Minnesota Senator also explained the strong Federal interest in saving this nationally important scenic and recreational asset.

I believe it is absolutely clear that the Senate should move swiftly to approve S. 1928. Upon reading Senator MONDALE's testimony, I believe that Senators will reach the same conclusion.

Mr. President, I ask unanimous consent that Senator MONDALE's statement be printed in the RECORD.

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

REMARKS BY SENATOR WALTER F. MONDALE

Thank you Mr. Chairman.

I would like to express the deep gratitude felt by people from Stillwater, Marine and every Minnesota community for your concern to preserve the Lower St. Croix River. I am delighted that the Committee had an opportunity to visit the river valley last fall and to gain assurance that your efforts to save it are fully deserved.

The qualifications of the Lower St. Croix for addition to the Wild and Scenic Rivers system are undisputed. At the hearing last October you heard local residents, government officials and conservation groups repeatly call for Federal action to protect the river.

Perhaps an incident, recently described to me by a longtime valley resident, would help the Committee understand the immediate danger posed by commercial exploitation to the natural integrity of the Lower St. Croix.

It is an account of what happened to a Minnesotan who owns a 300 acre farm along the river's edge. The land he farms was first cleared by his father, who built, with his father, who built, with his own hands, the home in which his son and family still live. Not long ago, the farmer was visited by a speculator, eager to purchase choice riverfront acreage. Naturally, the farmer did not want to sell his home or the land where his children can swim and fish without fear of pollutants, restrictions and other hazards of congested urban life.

When the speculator inquired about the price of the property, the farmer replied he would never sell at any price. Pushing for an opening, the speculator insisted there must be some figure the farmer would accept.

"How about a *million* dollars?" the farmer answered jokingly.

"The speculator paused for a minute, then said, "I'll talk with my acountant tomorrow."

Mr. Chairman, we have seen uncontrolled development destroy every other scenic river near metropolitan areas in this country. After the first quick profits, the attraction of unspoiled natural beauty fades with each new high-rise development. Ultimately, both the original natural values and the inflated speculative prices bottom out. Almost overnight a breathtaking scenic attraction is transformed into a polluted, over-crowded, and painful reminder of our misplaced values and our lack of foresight.

Incredibly, the farmer in the story I just described to you did not sell for a million dollar profit. I think his determination is a concrete indication of just how priceless the Lower St. Croix is to the people who have known and loved it.

The Senate recognized the remarkable character of the Lower St. Croix eight years ago, when we passed a bill to create the St. Croix National Scenic Riverway. Again in 1967, protection for the Lower St. Croix was provided under the Senate-passed version of the National Wild and Scenic Rivers Act. Unfortunately, the House had not had an opportunity to become fully acquainted with the Lower St. Croix, but in conference committee on the Wild and Scenic Rivers bill, the House and Senate agreed to provide for a detailed study of the suitability of the Lower St. Croix for addition to the system.

The study required by the 1968 law was completed last October. Its major findings were that the Lower St. Croix meets every criteria for designation as a National Scenic and Recreational Riverway, and that it

should be protected for future generations by the National Park Service in the Department of Interior.

Abundant evidence has been supplied to the Committee of how perfectly the Lower St. Croix meets the criteria for recognition spelled out in the 1968 Act. There are outstanding geologic formations like the Dalles and nearby unique rock configurations. Spectacular, richly varied scenery extends from Taylor's Falls downstream to Prescott. Ancient Indian cultures . . . legendary voyageurs . . . sawmills . . . paddle-wheelers . . . the birth of Minnesota as a State, all are intimately bound in the history of this magnificent river.

Today, the Lower St. Croix is best known as the last remaining unspoiled recreational river near a major metropolitan area. Its popularity among vacationers has grown steadily and continues to climb past the peak 1.7 million visitor days recorded in 1970. Boating enthusiasts are drawn by the pleasant, natural setting. Sportsmen are drawn by the abundance of fish and game. Hikers, campers . . . millions are drawn by the unsurpassed beauty of the valley. They come from Michigan, Indiana, Ohio and Iowa. Many come from more distant parts of the United States.

Remarkably, this river has maintained its natural character despite its proximity to the more than two million residents of the Twin Cities and surrounding region. But with visitor use increasing each year, and with mounting pressure for commercial development, local residents and public officials are convinced of the immediate need to protect the river—before it is too late.

The alternative is all too familiar—water fouled by sewage, air blackened by industrial fumes, a countryside violated with concrete, asphalt and neon.

Plans for commercial development of the Lower St. Croix are now on the drawing boards. In some cases, only swift Congressional action will prevent plan implementation by late spring or early summer.

Multi-million dollar housing complexes . . . thousands of cliff-dwelling units along the river's edge . . . these are not pipe dreams. Architectural designs already exist, and developers await only a sign that Washington doesn't care. Let's take a closer look at some of these developments . . .

One, called Sunnyside-on-the-St. Croix, costing roughly $3.5 million, would be comprised of 160 townhouses and apartments right on the riverfront. This proposal is now pending before the Oak Park Heights village council. Another, a $50 million housing complex promoted by Calder Corporation, would construct bluff top terraced apartments and twelve story high-rises at Hudson, Wisconsin. If plans are approved, developers contemplate a population of 3,000 people.

Yet another proposal has just come to the attention of public officials in the valley. This project involves 200 acres of land just north of Stillwater lining a spectacular gorge carved by the river. Developers are plotting the area into a subdivision of houses which would be built right on top or into the side of the bluff.

But the project with the greatest potential impact on the river is sponsored by the Cottonwood Land Company. A recent newspaper account of this project drives home the acute dilemma facing the Lower St. Croix:

"David H. Preuss's 1,300 acres along the Lower St. Croix River include choice wooded bluff land just south of Osceola, Wisconsin."

"Tumbling down to the broad, beautiful stream, the expanse might be ideal for a golf-course, ski resort and marina—near the Twin Cities, yet with a naturalness rare in any metropolitan area."

"But, 'we are in a kind of limbo now', said Preuss, a Minneapolis lawyer."

"While his Cottonwood Land Co., would make more money with such a development, he'd rather see the river preserved as a federal scenic and recreational waterway."

"Bills to do just that have been pending in one form or another for eight years."

"The question then becomes how long—with rising taxes and burgeoning demand for housing and recreation—can potential developers wait for Federal action?"

Against this formidible pressure, individuals and communities cannot hold out much longer. That is why the hearing today is so critical, and why we can risk no delay in Federal action.

The purpose of the bill Senator Nelson and I introduced is not to turn back the clock and return the river to its pristine condition. Rather, it is an effort to maintain the status quo—to assure that future development along the Lower St. Croix will be planned, orderly, and consistent with the public's right to use and enjoy the river.

Fortunately, in the National Wild and Scenic Rivers System, we have a mechanism specifically designed to preserve rivers like the Lower St. Croix. In fact, for a number of reasons, National Park Service management pursuant to the 1968 Act is essential to any plan for protecting the river. Permit me to explain those reasons.

First, the Lower St. Croix is an *interstate* waterway. There is a uniquely Federal interest in this river. Other than the Federal government, no other structure exists with the authority or the ability to regulate development along the river's interstate boundaries.

Second, in the two states currently there are some 37 separate local government jurisdictions—each of which retains zoning and other powers relating to use of land in the riverbed vicinity. For these 37 jurisdictions to arrive at a unanimous agreement on land use and planning would be a virtual impossibility—yet without such a plan the mistake of any one could jeopardize the success of all the rest.

We have witnessed the practice of economic blackmail over environmental decisions by state and local governments. Faced with the threat of losing a major revenue producing project to rival jurisdictions, communities have frequently been pressured into relaxing standards for the protection of treasured natural resources.

No community in the St. Croix valley wants this to happen. But without Federal muscle to back them up, it would be inevitable.

Fourth, even assuming that the two States and 37 separate local governments could agree to adopt and enforce identical ordinances to preserve the river, they have neither the expertise nor the resources to develop and administer such a plan.

The National Park Service has this expertise. It has the resources. The Interior Department has been in the business of protecting rivers like the Lower St. Croix for five years and could easily prefect and carry out a plan to safeguard the river while permitting development which is consistent with the plan.

There is broad agreement among local residents, representatives, and state officials that Park Service administration is the *only* logical, sensible way to achieve the goal of preserving the Lower St. Croix.

In the joint Federal-State-Local task force report we have the preliminary recommendations for the type of management the Park Service might provide.

I would like to stress my view—shared by Senator Nelson and local residents of the valley—that wherever possible protection ought to be accomplished through zoning and easements rather than fee simple acquisition. As I pointed out earlier, local property owners have done an outstanding job of preserving the river—even when this has meant substantial personal economic losses. I feel strongly that they should be able to continue to own and maintain their property so long as their stewardship remains consistent with the long-standing tradition of wise and thoughtful uses of this important national asset.

I also think concerned residents and groups are entitled to a public hearing on the "master plan" for the Lower St. Croix prior to implementation by the Park Service. This hearing would ensure maximum citizen participation in the program for protection. Senator Nelson and I, with the help of this Committee, have tried to build extensive local participation into the legislative process. I think this approach should be continued by the National Park Service, once Congressional action is complete.

The bill before the Committee today presents a rare opportunity for concerned action to preserve America's last remaining unspoiled river near a great metropolitan center. It is consistent with the President's publicly announced intention to protect exactly this type of area. According to a Presidential message on this subject:

"The demand for urban open space, recreation, wilderness and other natural areas continues to accelerate. In the face of rapid urban development, the acquisition and development of open space, recreation lands, and natural areas accessible to urban centers is often thwarted by escalating land values and development pressures."

And in President Nixon's 1972 Environmental Program we find the following declaration of policy, "The need to provide breathing space and recreational opportunities in our major urban centers is a major concern of this Administration."

I know assuring this vital space is a major concern of this Committee, of myself, and Senator Nelson, and of the countless individuals and local groups in Minnesota who have urged prompt enactment of S. 1928.

Last fall, the Committee had an opportunity to hear from local residents directly in St. Croix Falls, Wisconsin. You heard warm endorsements of S. 1928, from the St. Croix River Association, the St. Croix River Intergovernmental Planning Conference and the Minnesota-Wisconsin Boundary Area Commission. We also have favorable resolutions passed by the Washington County Board of Commissioners, the Minnesota Resources Commission representing State legislators, and the City of Stillwater. I don't believe I need to list the scores of mayors, environmental groups and local residents, who have also spoken out in support of the bill. Later today, you will be hearing from representatives of the two governors.

I am profoundly grateful for the tremendous help and encouragement these people have provided to me in working toward Senate approval of this legislation. Never before in my public career have I seen such widespread agreement and deep personal commitment on the part of private citizens and groups as I have witnessed with this piece of legislation.

At a time when public disillusion with government tops every opinion poll in the country, two states, dozens of communities, and how many individuals are looking to Washington—for a commitment to save natural values, and to stop short-sighted, wasteful exploitation.

In the Lower St. Croix, we have a chance to break the chain of destruction that has claimed other urban rivers. We should make our commitment, . . . protect the river . . ., and . . . for once, take heart in the saying

. . . how we care for our natural treasures will someday determine our worth as a nation.

GRAND JURY INVESTIGATIONS INTO HOUSING FRAUDS IN CHICAGO

Mr. PERCY. Mr. President, I have spoken out recently about the well documented abuses in certain housing programs administered by the Federal Housing Administration.

Grand jury investigations into charges of fraud and corruption in the operation of such mortgage insurance programs as 203, 221(d)(2), and 235 are proceeding in several cities, including Chicago.

Every effort must be made to root out the unscrupulous operators and fast-buck artists who are defrauding the low-income family and robbing the public Treasury. Those guilty of wrongdoing, be they public officials or private businessmen, must be identified and, where appropriate, brought to trial.

I recently wrote to both the acting Attorney General and the Secretary of Housing and Urban Development urging that they attach the highest priority possible to the ongoing investigation in Illinois. I have received assurances from both that all the resources of the Departments of Justice, and Housing and Urban Development are at the disposal of the U.S. attorney in Chicago, Mr. James P. Thompson.

I trust that this coordinated effort to rid these valuable housing programs of all vestiges of fraud and corruption will soon reach a successful conclusion.

I ask unanimous consent that my exchange of correspondence with the Departments of Justice, and Housing and Urban Development be printed in the RECORD.

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

APRIL 23, 1972.

Hon. GEORGE ROMNEY,
Secretary of Housing and Urban Development, Washington, D.C.

DEAR GEORGE: I know you share my deep concern about the problems plaguing the operation of the Section 235 home ownership program and the Section 236 rental and cooperative housing program. Your words and actions over the last few months indicate you are dedicated to ridding these programs of their obvious faults so that the Congress's original and still worthwhile goals may be achieved.

You are no doubt aware of the investigation of these programs now being conducted by the U.S. Attorney's Office in Chicago. I know that you, George Vavoulis, John Waner and all the employees of the Department of Housing and Urban Development are cooperating in every possible way in this investigation. We must identify and prosecute any public official or private citizen, be he builder, developer, real estate broker, or mortgage banker, who may have been involved in a conspiracy to defraud the poor and to misuse Federal funds.

I can assure you of my own cooperation in every effort to end the infiltration of these valuable programs by those interested only in quick profits at the expense of the poor.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

THE SECRETARY OF
HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., May 16, 1972.

Hon. CHARLES H. PERCY,
U.S. Senator,
Washington, D.C.

DEAR CHUCK: In reference to your letter of April 27, 1972 regarding the pending investigation by the U.S. Attorney in Chicago into the operation of HUD programs, let me assure you of my desire to cooperate fully. As you may know, we are presently working very closely with the Justice Department and grand juries in five cities. Our cooperation, without question, has contributed to the indictment of numerous individuals, including several FHA employees in these cities.

To indicate the seriousness with which I view this matter I recently wrote Acting Attorney General Richard G. Kleindienst and indicated that I thought criminal matters referred to the Justice Department by HUD should receive top priority. When it is justified I intend to immediately suspend employees, lenders and contractors who cannot be relied upon to observe the law and whose future misdeeds may cause injury to individual citizens as well as the Government and the public in general.

Thank you for your interest and support.

Sincerely,

GEORGE ROMNEY.

APRIL 27, 1972.

Hon. RICHARD KLEINDIENST,
Acting Attorney General,
U.S. Department of Justice,
Washington, D.C.

DEAR MR. KLEINDIENST: The U.S. Attorney in Chicago, James R. Thompson, is moving ahead rapidly with his investigation of irregularities in various Federal housing programs, most notably the 235 and 236 programs. I know you have been as shocked as I have been by the revelations of widespread corruption in these programs, designed to provide low-income families with adequate housing. I know you feel as I do that those public employees and private citizens—the speculators, the brokers, the builders, the mortgage bankers, whomever they may be—who have conspired to defraud the poor as well as to misuse Federal funds must be rapidly identified and prosecuted.

I trust that the investigation in Chicago will be given the highest priority by the Department of Justice. I hope you will commit whatever resources are necessary to rid Illinois of the unscrupulous operators and "fast buck" artists as they have been called by George Romney, who are reaping illegitimate profits at the expense of the poor. We cannot tolerate this scandalous situation involving our housing programs to persist any longer, no matter who may be judged responsible.

I am sure you share my deep concern about this investigation. I hope that you will personally convey a sense of urgency to all those who are involved in the Chicago investigation and indicate your personal support of Mr. Thompson's investigation and urge him to conduct the resources available to him for a complete and thorough investigation.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

DEPARTMENT OF JUSTICE,
Washington, D.C., May 12, 1972.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This is in response to your letter dated April 27, 1972, addressed to the Acting Attorney General concerning the investigations of Federal housing programs in Chicago, which was referred to the Criminal Division for consideration.

This investigation in Chicago was inaugurated through the personal efforts of Mr. Kleindienst. Chicago was one of the first cities in which a task force consisting of Federal Bureau of Investigation, Department of Housing and Urban Development and Internal Revenue Service personnel was constituted to assist the United States Attorney in investigating these matters. It is contemplated that similar actions will be instituted in other troubled areas in the country and these investigations will continue to receive the highest priority.

On May 2, 1972, I appeared before the Legal and Monetary Affairs Subcommittee of the House Government Operations Committee which was considering inner city housing problems. A copy of my testimony at that hearing is enclosed for your information.

Sincerely,

HENRY E. PETERSEN,
Assistant Attorney General.

ADDRESS BY GEN. HAIM LASKOV AT ISRAEL DINNER OF STATE

Mr. PERCY. Mr. President, on April 30, I attended the Israel dinner of state in honor of Mr. and Mrs. Joseph M. Mazer and Mr. and Mrs. Maxwell M. Rabb in New York. At that time Gen. Haim Laskov, former Director General of Israel's Port Authority and former Chief of the Israeli Army, delivered a thoughtful analysis of Israel's problems and opportunities.

I ask unanimous consent that his address be printed in the RECORD at the conclusion of my remarks. The general's speech eloquently describes the fragile nature of the present cease fire and discusses many of the obstacles which continue to thwart our efforts for peace. In light of last week's vicious attack on innocent civilians in the Tel Aviv airport, I believe that General Laskov's thoughts are particularly helpful.

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

ADDRESS BY GEN. HAIM LASKOV

Ladies and Gentlemen, it is indeed an honor to address the members of the Israeli Bond Community on the 24th independence year of the State of Israel. It is a pleasure yet a demanding duty. As a son of a small nation, pregnant with history, I learned that there is always a lower or a higher place awaiting you from the one on which you actually stand on now, and where as a nation we shall eventually land depends on what as a nation we choose to do now.

The spheres of activity include our security, our industrialization, our husbandry of human material resources, our social development, the creation of meaningful jobs for the new comers—quite a tall order for any nation.

The last time that I addressed a bonds gathering was May 1967 when we had the enemy camp fires bent on the final solution. Now I can speak of a different experience. We are bent on achieving peace, a secure peace.

Our aspirations for peace cannot be severed from the particular memories still with us, memories that no other people can fully share, memories of horror so vast and too bloody for words. It is those who refuse to negotiate, those who use peace against itself that bar the opening of the road to peace so that jointly we can overcome the hurdles to achieve the Peace prophesised by Isaiah.

Talking about borders, did the Soviets go back to their 3rd September 1939 borders before they jointly, with the Nazis, stabbed Poland in the back? These were the Soviets who spoke first in terms of "secure borders"—such that it will never pay anybody again to attack her! Why is this to be denied to Israel, just because we are Jews or small?

What peace do the Arabs want? Those who care say! "Peace, any peace, is a danger to the Arabs, to Palestine, to the future of the Arab people. We must refuse peace. We must gather forces to conduct a war that is inevitable."

When it concerns us they speak of the sanctity of cease-fire and armistice agreements, doctrines, guarantees and U.N. observer forces. We bear evidence, by the lives of our kith and kin—how and who violated the mixed armistice and cease-fire agreements; who rendered doctrines, guarantees and U.N. observer forces void.

Is it sheer obstinacy to insist on an adequate supply of arms, or on secure frontiers 24 years after signing the armistice agreement? We ask that question 5 years after agreeing to a cease fire that has been constantly violated by our neighbors mounting economic blockades, denial of international waterways, launching marauders from all neighboring countries? Having turned the war of attrition on them—since August 1971, the cease fire is maintained.

Inter-Arab relations, the great powers' involvement in the Middle East, the effort to survive—create conditions of uncertainty in which we must live and ride all waves. This means to stand firm. This means steadfastness of purpose. Whatever we may face it may be the beginning of the second promise in Psalm 29, last verse:

"The Lord will give strength unto his people. The Lord bless his people with peace."

It was Ben-Gurion, this great captain of Israel—this year 85—who for the word "strength" substituted zahal. May be through this strength we shall eventually start this much hoped-for process that will through strength lead us to peace. The second promise. In war we operated in conditions of risk. Now, as you know, since the 6-Day war we face new conditions of uncertainty. We are in the midst a new experience where we must stand firm against the whittling down of our basic security and maintain steadfastness of purpose.

We face a new experience of uncertainty and its demands in order to succeed. If under these conditions of uncertainty you double, nay—treble your target for Bonds purchases, you will be vaguely right. But if you don't—you will be precisely wrong! These are your guidelines.

So choose for yourselves!

Standing here in front of you, viewing the activity of the Bond community and with all humility—looking back at our history, for centuries we were a people to whom things happened. Some of us watched the things that happened to us, others did not even know that things were happening to them. Now, however, we have a new experience. We make things happen.

From certain quarters, one hears that the unrest in the Middle East is all due to little Israel who in the Six-Day war overcame a threat the likes of which it had not faced before. Is it true? Let us examine inter-Arab relations. (a) North Africa, the Middle East—since 1948—37 political assassination attempts of which 13 failed, 51 coup d'etats, 19 police actions against opposition. 9 border wars, and what with public incitement to rebel—poisonous gas in Egypt-Yemen War. (b) Fatah Saboteurs fled King Hussein's marauding soldiers to Israel while Syria and Iraq sealed their frontiers to them and Sadat scotched a coup d'etat in Egypt on taking over power.

It was King Hussein who declared that the marauders reached the end of their road. Those who fled to us said: "The Jordanian army slaughtered us." It is early to write them off as a source of trouble but inter-Arab enmity has many lessons to teach, and for us to learn. The new emerging regimes in the countries that border Israel started with the slogan of Union, later reverted to unity, recently unity of action against Israel and now as it burned out against each other.

The true picture of the Middle East re-emerges—a region with multiple communities that differ from each other and wish to maintain their differences. These relations to us are a timely warning . . . Even an Arab asks: "These explosions, explosives and blood-baths that failed or succeeded, where are they leading us?" This is their problem, but to us this means that vigilance is vital. As if local turmoil that may develop into a threat is not enough, Soviet weaponry, presence and intrigue are ever active.

I cannot understand why the Soviet Union, in spite of her great power and wealth, is still obsessed by a sense of insecurity! The old bogey of encirclement is still there! But can sanity indicate to her a threat from little independent Israel or if the Russian Jew will come to Israel?

I wonder if her sense of being encircle has now become an overt act of encircling of others.

"The policy of the Russian Government has always been to push forward its encroachments as fast and as far as the apathy or want of firmness of other governments would allow it to go, but always stop and retire when it was met with decided resistance and then wait for the next favorable opportunity to make another spring on the intended victim"—quite accurate!

This was written in 1863. Things have not changed much these 120 years. The blind are to be found in every camp—even in our own.

Soviet sophisticated weaponry and intrigue are completely exposed even to the blind. The situation is clear and sinister. Egypt, Iraq, Jordan, Syria, the marauders must be freely armed with sophisticated weapons. Israel should be deprived of weapons, put its trust in these neighbors, and world power guarantees instead.

The childhood fable is appropriate: "The wolves offer the sheep peace if they do away with fences and send away their watch dogs." Poor Sheep!

No wonder that in addition to the no-recognition, no-negotiation, no-peace of Khartoum 1967 reaffirmed recently in Damascus, there is no common denominator. We talk of peace; Egypt of unilateral withdrawal. We talk of secured borders; Egypt—of 4th of June 67 and the Palestine problem. However, given time and patience we may still find a distant common ground. The opening of unconditional Suez Canal negotiations may serve as an indicator.

To those who cannot see through the Soviet-Egyptian game, Haykal explains: Israel to go back to the 4th June 67 lines—so Egypt with Russia can again increase a threat and then free the so-called Arab soil in Palestine:

Phase I—back to 4th June 67 lines.

Phase II—do away with the State of Israel.

Sub phase A—back to 1947—(to this border the Russians are a party.)

Sub phase B—back to Pre-Balfour Declarations, 1917—this is the Arab final solution.

The fact that the Soviets could do what they did in Hungary or in Czechoslovakia is enough for us to do everything possible, that they should not do it from any Arab country to Israel. No wonder that we Israelis tend to view everything in terms of what helps or hinders our security and survival, the very freedom that every Jew has in establishing his home in Israel . . .

I do not know if the Soviets will always win the chess games but one thing—chess characteristics become to them second nature—they do not mind how long the game lasts. Well, we have lasted longer and will last longer!

Others, those that attained independence before we did, and others that achieved it after, strike a negative balance of democracy. For all intents and purposes, we are the sole champions of democracy in the Middle East.

Yet, when the Western democracies are weighing the situation while the Soviet Union is penetrating all land, sea and air areas vacated by Britain and France—there is always this smug attitude fortified by "conventional wisdom" saying, "Let us not do anything that may court the Soviets' displeasure or the Egyptian dictators' blackmailing whip".

For freedom to be secure, it must be established and defended—just like other free nations do, and we do not have the benefit of collective security arrangements to meet the threat against us. We realize that only in the establishment of a just and secure peace can the deepest aspirations of a free people be realized. Would the harnessing of the moral, intellectual and material strength of the Jewish people to create conditions of such a peace amount to an act of war or expansion?

The issue before you is not to measure the material and moral resources of the Jewish people. The issue is how purposefully to employ it instead of frittering it away on trivial demands, by being afraid to sustain a great cause, or enable Jews to start the type of life you enjoy here and they want in Israel! And Now!

We have another experience and an additional demand on the Bonds Community—to purchase more bonds. We see the beginning of the exodus from the Soviet Union. Decades of pent-up craving to be a free Jew in a sovereign Jewish state is breaking through the highest walls that a totalitarian regime has ever built. What we see is but a trickle that will become a rivulet and that in the end will become a torrential river of human life.

The six-day war let burst open the pent-up will to live in the hearts of Soviet Jewry, depressed and threatened these last fifty years. The results of the six-day war are too early to sum up. This was an act for survival for Israel, but for Soviet Jewry the fire sparked off by it is still glowing in Russian Jewish hearts. The Jewish people in Russia face a threat of anti-semitism—the country where programs are not unknown, and Israel faces a Soviet threat in the Middle East. Quite a threat for any nation, never mind a small one like ours. But on the Soviet front our brethren have no commanders, no formal organization. Yet this spiritual movement is powerful despite fifty years of Russian nationalist education system, and powerful and ugly antisemitism.

Of two acts the Soviets are afraid—publicity of how roughly they handle this Jewish exodus; the other—lest we successfully receive and absorb each man, woman and child in Israel.

You all know of our effort to achieve our goals and an economic policy for full employment through exports. To those that say this is impossible we say: impossible is not a Hebrew word. And why do you think we got our name Israel? "For as a prince hast thou power with God and with men and hast prevailed." So let us be true to this.

It will be only fair to tell you about our effort at home. In 1969 Israeli citizens paid, by direct and indirect taxes, 4000 million pounds. In 1971 the figure was doubled. In 1972 even higher. These figures speak for themselves. But that is not all—3-year national service, 50 days a year reserve service. Our aims are clear—defense of Israel, absorp-

tion of newcomers, industrialization of the country to make our economy more viable, improved standard of living for lower income groups—this is no light burden by any standard, and the task of absorption—the end product of the melting pot is not as simple as it sounds.

Our success in industrialization of, and urbanization of, the Negev and other undeveloped areas depend in large measure on a national water scheme, the harnessing of solar energy, water desalination, water research and conservation, and the education of our heterogeneous population. Lacking raw material we must rely on brains only.

What we are doing in Israel is building our third temple. What we are actually doing to second-class citizens, or worse, to Jews who were deprived of elementary freedom, is the creation of a pioneer, nation builder and after thousands of years a defender of Jewish sovereignty, dignity and life: Is there a mystique about it? No! Just what free men can do. For us faith is a promise, a sense of identity and individuality coupled with humility and respect for the integrity of man. These are real things, not just verbosity.

Wherever we establish a settlement—a township (we are short of these)—and they strike roots; with every additional newcomer who settles, with every industry or service and export that enables us to say "We want trade not aid", we are building our third temple.

We realize that as long as our neighbors have their policy in the future of arms and promise us sooner or later with a "final solution," our national defense must be second to none.

Our history taught us a lesson never to be weak, because weakness may invite the aggressor and the end of our third temple. We know that our strength does not depend solely on men under arms and our weaponry. It depends on our social development, economic growth and, above all, the character of our people. We should never lose our educational priorities.

Ladies and Gentlemen! When we talk about our duty to Israel, it does not mean only duty to the past or only duty to the present. It means also duty to the future, as this duty is all-embracing and indivisible.

What you must ask yourselves is how are you in relation to this duty. Remember that it is by lagging behind, by giving in to the daily trivial demands, to inertia or by being bored or afraid to act in a great cause that we fail.

Ladies and Gentlemen! Act now, for us success is vital and we must succeed.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for the transaction of routine morning business has expired.

NOMINATION OF RICHARD G. KLEINDIENST

The PRESIDING OFFICER (Mr. NELSON). Under the previous order, the Senate, in executive session, will now resume the debate on the nomination of Richard G. Kleindienst for the office of Attorney General of the United States. The question is on the confirmation of the nomination.

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

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

Mr. SCOTT. Mr. President, months ago—on February 15, to be exact—the Senate began the process of confirming Richard Kleindienst as Attorney General. The confirmation hearings lasted longer, I am told, than any in the Senate's history—24 days. As a member of the Judiciary Committee, I watched those hearings turn away from their proper course during the first several days. Entire days of hearings were conducted without mention of Mr. Kleindienst's name.

The committee spent weeks investigating the settlement of three Government suits against ITT. Several days were spent on an examination of the Harry Steward matter. In spite of what Mr. Kleindienst's opponents have suggested, these two matters were thoroughly reviewed, and the committee voted overwhelmingly to endorse the nominee for the position of Attorney General.

There is absolutely no proof of any link between the ITT antitrust settlement and ITT's contribution to the city of San Diego for the Republican National Convention, now is there any reason to believe that any linkage existed. The committee could have conducted hearings indefinitely and still would have unearthed nothing because no deal was there to be found. The committee had come to know Richard McLaren well since he came to Washington in 1969. We all knew Judge McLaren to be a man of honesty and integrity. He was the head of the Antitrust Division; he testified that he was solely responsible for the settlement. I think that every Member of Congress who ever had any dealings with the Antitrust Division under Judge McLaren knew him to be a very strict and a very conscientious administrator; and if any criticism was heard on the Hill, it was that he was unnecessarily strict and unnecessarily rigid in the enforcement of the Antitrust Division's cases.

The committee could and should have concluded the hearings after hearing the following from Judge McLaren in regard to a question concerning the memorandum allegedly written by an ITT lobbyist:

> I am completely at a loss to account for it, Senator. I know none of the people involved and as I testified before, I had absolutely no discussions with the Attorney General on this whole matter. As far as I am concerned, I was the one that negotiated this thing, it had absolutely 100 percent nothing to do with Republican Party politics or San Diego or any other lobbyist. I am completely at a loss to account for that ridiculous memorandum.

Henry Petersen, the head of the Criminal Division at the Justice Department, spent an entire day testifying on the Harry Steward matter. He told the committee:

> I am convinced there is absolutely nothing in this record that would reflect adversely on Dick Kleindienst, absolutely nothing.

Repeatedly, he said it would have been "grossly unfair" to dismiss Steward. He also agreed with the decision to issue the press release after the Justice Department had concluded its investigation of Steward. I find the following colloquy between Senator HART and Mr. Petersen illuminating on this point:

> Senator HART. But, in that situation again, and I think I am suggesting this may be basic, if you handle it the only other way, dismissal, presumably without explanation, you lend credibility to all or the charges that have surfaced?
>
> Mr. PETERSEN. That is the reason I say it would have been grossly unfair, Senator.
>
> Senator HART. And you ruin a man who used bad judgment?
>
> Mr. PETERSEN. That's right.

In regard to the ITT settlement, the supplemental report of the committee contains the following sentence:

> The committee concludes that Mr. Kleindienst acted properly in the conduct of his office in the matter of the settlement of these cases.

Likewise, the committee found no impropriety in Mr. Kleindienst's handling of the Harry Steward matter.

Where does this leave Mr. Kleindienst's opponents? It leaves them in the cold. Unable to point to impropriety in the record of 24 days of hearings, Mr. Kleindienst's opponents now argue that the Senate needs to know much more. Let me emphasize that again: Those who oppose this nomination cannot point to anything in the hearing record that would disqualify Richard Kleindienst, but seek to forestall a vote by insisting that the committee should receive more evidence. That is the posture of the debate now. The opponents have lost on the ITT issue; they have lost on the Steward issue. Recognizing that they cannot win on this record, they are casting about for new issues or for new tactics to delay a vote.

During the last hour of the last day of 24 days of hearings on this nomination, one member of the Judiciary Committee introduced an entirely new issue which had been utterly ignored by him and the other opponents since the President nominated Mr. Kleindienst on February 15. The new issue involved the Carson case, which is now on appeal and at the trial of which Mr. Kleindienst appeared as a witness.

Mr. Kleindienst's opponents insist that the nominee is not fit to be Attorney General on the basis of facts in the Carson case they were all aware of long before the nomination was submitted to the Senate. Incredible as it may seem, the same Senators voted on February 24 to report Mr. Kleindienst's nomination favorably, even though they knew then everything they knew on the last day of hearings when the issue first came up. I say this is incredible. The same Senators who refused to bring up the issue during the hearings before the first committee vote on February 24 and who voted to report the nominee, now rise on this floor in apparent outrage and indignation. We hear expressions such as "obviously improper," "clearly recognizable," and "easily recognizable." If it is so obvious, why did we wait so long to hear about it? If it is disqualifying now, why was it not disqualifying on February 24? I

suggest that the attempt to provide answers to those questions by the Senator who first raised the Carson issue are entirely unsatisfactory.

Mr. President, the longest confirmation hearings in the Senate's history have produced no evidence that would disqualify Mr. Kleindienst. In fact, I think the nominee's patience throughout and his ability to direct the Department while being involved in these hearings indicate that he is a man of great character and ability. He did not shrink from the battle and conducted himself with distinction over the past few months.

The Senate can go on with this extended discussion, listening to the same statements again and again, or it can vote on the nomination. There is no excuse for not voting promptly. The fishing expedition is over. Everyone seems to know it but the fishermen.

Mr. KENNEDY. Mr. President, I would like to speak today on the subject of the now famous Beard memorandum.

It was Jack Anderson's publication last February of the contents of this fascinating confidential ITT document which was the first step in the chain of events leading to the reopening of the Kleindienst confirmation hearings.

Of course, the publication of the Beard memorandum was not the first time suspicions were raised about whether there might be some connection between ITT's substantial Republican convention pledge, and the administration's complete turnaround on its tough antitrust conglomerate policy.

Dick Dudman of the St. Louis Post Dispatch had raised questions about the settlement itself the day it was announced at the end of July of last year;

Ralph Nader's people had specifically asked the nominee about a possible connection last September;

Bob Walters of the Washington Star had written an extensive piece on the same subject last November; and

The national chairman of the Democratic Party had raised the possibility last December.

But all of these people—well-intentioned and incisive as they were—lacked the one essential ingredient that would make the puzzle complete. And that was inside information from someone at ITT who really knew the facts.

That ingredient was supplied to the public by Jack Anderson on February 29, when he published the contents of the Beard memorandum which revealed that in the opinion of ITT's only registered lobbyist—who had worked on both the convention arrangements and the antitrust settlement—the convention pledge was, in fact, having a positive effect on the outcome of the cases, and that then Attorney General Mitchell, as well as President Nixon, was helping to arrange the settlement.

The Beard memorandum was dated June 25, 1971—

Just about one week after the Justice Department—in fact Mr. Kleindienst himself—had told ITT that a settlement could be arranged;

Just 1 day after Bob Wilson, the Republican Party's principal convention fundraiser, discussed convention financing with ITT's president Harold Geneen; and

Just 1 day before Wilson assured the mayor of San Diego that he had a commitment of $400,000 to finance the convention, which, of course, included the previously-tendered ITT pledge;

The memorandum was on ITT stationery;

It was labelled "personal and confidential";

It was addressed to William Merriam, the head of ITT's Washington Office;

It was from Dita Beard;

Its subject line was entitled "San Diego Convention";

And here is what it said:

I just had a long talk with EJG. I'm so sorry that we got that call from the White House. I thought you and I had agreed very thoroughly that under no circumstances would anyone in this office discuss with anyone our participation in the convention, including me. Other than permitting John Mitchell, Ed Reinecke, Bob Haldeman and Nixon (besides Wilson, of course) no one has known from whom that 400 thousand commitment had come. You can't imagine how many queries I've had from "friends" about this situation and I have in each and every case denied knowledge of any kind. It would be wise for all of us here to continue to do that, regardless of from whom any questions come; White House or whoever. John Mitchell has certainly kept it on the higher level only, we should be able to do the same.

I was afraid the discussion about the three hundred/four hundred thousand commitment would come up soon. If you remember, I suggested that we all stay out of that, other than the fact that I told you I had heard Hal up the original amount.

Now I understand from Ned that both he and you are upset about the decision to make it four hundred in services. Believe me, this is not what Hal said. Just after I talked with Ned, Wilson called me, to report on his meeting with Hal. Hal at no time told Wilson that our donation would be in services only. In fact, quite the contrary. There would be very little cash involved, but certainly some. I am convinced, because of several conversations with Louie re Mitchell, that our noble commitment has gone a long way toward our negotiations on the mergers eventually coming out as Hal wants them. Certainly the President has told Mitchell to see that things are worked out fairly. It is still only McClaren's Mickey Mouse we are suffering.

We all know Hal and his big mouth! But this is one time he cannot tell you and Ned one thing and Wilson (and me) another!

I hope, dear Bill, that all of this can be reconciled—between Hal and Wilson—if all of us in this office remain totally ignorant of any commitment ITT has made to anyone. If it gets too much publicity, you can believe our negotiations with justice will wind up shot down. Mitchell is definitely helping us, but cannot let it be known. Please destroy this, huh?

Of course after Jack Anderson's people had obtained a copy of the memoranum they learned a good deal more about why Mrs. Beard had written it, and how she happened to be in a position to know the things she claimed.

I think it is worthwhile to focus our attention on the investigation conducted by Anderson's staff. Challenges have been made to the integrity of Anderson's ITT columns, and efforts were made by some of the committee members to discredit those columns.

But this was not a situation where an irresponsible newsman ran into print with a cold unauthenticated piece of paper within minutes after receiving it.

Quite to the contrary, we have learned of the painstaking work of an experienced investigative reporter named Brit Hume who left no stone unturned in his effort to insure that what Jack Anderson would ultimately publish would be in the highest traditions of his profession.

Let us look at exactly what Hume did do, and what he discovered—

The first thing Hume did was to try to contact Mrs. Beard directly. He told her secretary that he wanted to talk to her about a piece of paper which seemed to involve her and which appeared to have come from ITT's files.

ITT obviously realized they were faced with a potentially very explosive problem. When Hume arrived at Mrs. Beard's office, he was not allowed to meet with Mrs. Beard alone, but had to have this initial personal contact in the presence of not just one, but two ITT "PR" men—Mr. Bernie Goodrich and Mr. Jack Horner.

When Hume pulled out the memorandum and showed it to Mrs. Beard, she was nervous and very, very flustered. She acknowledged that it was her memorandum—even more specifically, she noticed that the memorandum had her written first initial "D" on it, and she confirmed that the initial was hers—"my own little 'D' ", as she put it.

Mrs. Beard then went to her files, saying that she wanted to look for "surrounding correspondence that might bear on" the memorandum. When she came back, she said she could not find anything and she asked Hume what he wanted to know about it.

Realizing that the presence of ITT's two "PR" men was creating anything but a favorable atmosphere for a friendly and candid chat with Mrs. Beard, Hume withheld his more detailed questioning for a more opportune occasion.

And how right he was. For as Mrs. Beard later told Hume privately, everytime she had tried to tell him something at this first meeting, Goodrich and Horner would start to cough loudly or kick her under the table to stop her from talking.

The day after this initial meeting, Mrs. Beard called Hume's office. She was quite upset and left word that she wanted to talk to Hume to tell him the truth about the whole matter.

When Hume arrived at Mrs. Beard's home that evening, there was an atmosphere of crisis. It was, Hume said, as if there had been a death in the family. Mrs. Beard was extremely distraught and looked as if she had been crying. She said that Hume's possession of the memorandum was one of the worst things that had ever happened to her, that it had dire implications for ITT and for the Republican Party.

For the first hour or so, Mrs. Beard gave Hume a biography of her life and talked about her children.

When they finally got around to discussing the memorandum, Mrs. Beard

again admitted that she had written it. She said that ITT's officials had tried to persuade her to claim she had made it up, but that she had decided she could not do that. She said:

I wrote this memo. You know I wrote the memo. There is no use trying to pretend otherwise.

She again promised to tell Hume the truth.

Mrs. Beard then told Hume that she first thought of having the GOP convention in San Diego during a conversation she had with California Lt. Governor Ed Reinecke—a close friend of hers—sometime in January of last year. She said that thereafter she and Reinecke were in frequent contact and they cooperated in an effort "to swing the GOP convention to San Diego."

Mrs. Beard told Hume that following her initial conversation with Reinecke she went to San Diego to see if the city's hotel facilities could house a convention. She also checked to see if ITT's new Sheraton Hotel in San Diego would be ready in time for the convention.

She said that "the first real step" toward getting the convention to San Diego came in May of 1971 at a dinner following ITT's annual spring meeting in San Diego. Present at the dinner, in addition to Mrs. Beard were:

Harold Geneen, the president of ITT;

Bud James, the head of ITT-Sheraton's new San Diego hotel; and

San Diego Congressman Bob Wilson, who was head of the Republican congressional campaign committee and a close friend of Mrs. Beard.

Mrs. Beard told Hume that at this dinner she brought up the subject of bringing the convention to San Diego, and Geneen told Wilson that ITT would underwrite it by putting up the "seed money."

She then explained that there were two reasons why she had written the memorandum.

First, to clear up some confusion which had developed over whether Geneen's commitment had involved cash or services; and

Second, because her boss Mr. Merriam— to whom the Beard memorandum was addressed—had committed an indiscretion by letting the facts about this secret commitment leak out to some lower-level staff member in the White House. Mrs. Beard said she wrote the memorandum to impress Merriam with the need to exercise greater discretion in the future.

Finally, Hume began to press Mrs. Beard about the references in the Memorandum to Attorney General Mitchell.

Here is Hume's precise recollection of what happened then:

I kept pressing her. She said things like, 'If I tell you the truth will you use it to destroy me?' She was becoming increasingly emotional. I tried, gently, to continue to press. I asked her if there was a way she could tell me the facts and we could keep her name out of it. She shook her head. She was really upset at this point. I recited my surmise about what had occurred. Namely, that the fix, if there was one, took place before the settlement proposal was drafted and before the negotiations began. I said I thought the influence must have come while the matter was still in danger of going to trial.

I finally began to press her to tell me if there had been an agreement of this kind. She was weeping now. She nodded yes. I asked her if it was negotiated by her. Again, a yes nod. With Mitchell? Again, yes, nodding. She was broken down now, her head in her hands and she darted into the bathroom just behind the stool where I sat. I paced the kitchen while she was in there. It was just about 11 o'clock.

When she came out, she again asked if we were going to ruin her. I said I didn't know, that I wouldn't know what we would do until we had the facts. She then told me this story. She was invited, as she had been in the past every year, to go to the Kentucky Derby. This year, her friend Gov. Nunn mentioned that John Mitchell would also be one of his guests at the Governor's mansion after the race. She said she mentioned this to E. J. Garrity, the New York Public Relations chief of ITT in a memo. She said before she left, they talked by telephone and Garrity told her what the company wanted most if she and Mitchell should get onto the subject of the merger cases then in court. She said that after the Derby, she went to the mansion for a buffet dinner and mentioned that Martha Mitchell was putting it on and she said some unkind things about Mrs. Mitchell. She said this was her first meeting with John Mitchell. She said that as they were going in to get in the buffet line, Mitchell took her arm and took her aside. It was just the three of them then, she said, Mitchell, herself and Gov. Nunn.

She said that Mitchell proceeded to give her a scathing, hour-long scolding in the bluntest language for putting the pressure on the Justice Department on the mergers via Capitol Hill and other means instead of coming to see him. She said Mitchell said he had been told she was the "politician" in the company, and he had heard much about her long before coming to Washington. She said he knew about all the speeches she had written and gotten delivered by friendly members of Congress. She said Mitchell knew all about her, even asked about son Bull's grades. She said she had gotten speeches delivered in both houses of Congress. She estimated about a dozen. She said Mitchell told her he had gotten a call from Nixon saying "lay-off ITT." Later, she changed this to something, like Nixon saying "make a reasonable settlement." She said Mitchell told her he was sympathetic but that his great problem was McLaren, whom she described as a [and she used profanity here]. She said she did what she could to fight back, but she was overwhelmed by Mitchell's diatribe. She blessed Louie Nunn for staying at her side during the whole thing. Finally, she said she asked him, "Well, do you want to work something out," or words to that effect. She said he replied in the affirmative. She said he said, "What do you want," meaning what companies did ITT wish to retain in the merger case settlement. She said she told him they had to have the Hartford Insurance Company "because of the economy." And she added that they also wanted "part of Grinnell." She said she couldn't remember what else she asked for, but it was exactly what the company got in the settlement.

She said the agreement was reached, actually, as they went through the buffet line and then sat down to eat.

All of that is what Mrs. Beard told Hume when he interviewed her at her home on February 24, plus more—

Mrs. Beard also told Hume that Attorney General Mitchell knew about ITT's $400,000 commitment to back the convention in San Diego. She said that Mitchell knew about it because Lieutenant Governor Reinecke had told him.

And she also told Hume that between their first and second conversations, ITT's security men from New York had come down and had destroyed her files by putting them through a document shredder. She said they feared her files might be subpoenaed.

Even with all of these startling and alarming admissions by Mrs. Beard, Hume and Anderson still did not rush into print. They did substantially more—

Hume contacted Congressman Wilson who confirmed that Geneen had made a $400,000 commitment at the San Diego dinner on May 12, and that Merriam had been confused about the nature of the commitment.

He contacted an ITT consultant who confirmed that at Merriam's request he had been in contact with a White House aide about the ITT commitment—and that Mrs. Beard had been furious when she learned that the White House aide had been contacted.

Hume also contacted an aide to Lieutenant Governor Reinecke, who confirmed that Reinecke, in his presence, had told Attorney General Mitchell about the ITT convention commitment last May.

An Hume contacted or tried to contact virtually every other principal figure involved before the original column was printed, although none of these persons made the kind of damaging admissions he had obtained from Mrs. Beard.

So a substantial portion of the memorandum was corroborated even before the Committee's hearings were reopened.

But at the hearings of course we were able to learn much more about it.

First of all, Mr. Hume had an opportunity to detail his extensive investigative work under oath.

As for the memorandum—

We learned that the memorandum was an authentic ITT document—typed, in fact, on the same typewriter as at least one other document which was admittedly authored by Mrs. Beard. The FBI director told us that after an exhaustive laboratory analysis by the Bureau's experts.

Mr. Hoover's report showed that laboratory tests conducted by the FBI reflected that the typewriting ink and the margin and paragraph indentations on the Beard memorandum were substantially or closely similar to the ink and indentations contained on another docuby Mrs. Beard and typed for her in her ITT office at about the same time—June 25, 1971. The FBI further found nothing from their examinations "to suggest preparation at a time other than around June 25, 1971," the date contained on the Beard memorandum.

We learned of several other admissions by Mrs. Beard that she was the author of the memorandum. Representative Wilson said that she had admitted it to him.

On February 24, Mrs. Beard had contacted Congressman Wilson. Wilson recalled that Mrs. Beard called him first on the telephone and that she was very excited. She told Wilson:

Something terrible had happened and I must talk to you immediately.

When she arrived at Wilson's office she had with her one of the copies of the memorandum which had been Xeroxed

from Hume's original on the preceding day. Wilson subsequently told a newsman that Mrs. Beard admitted authoring the memorandum. "So there it is," added Wilson in a tape-recorded interview, "Jack Anderson had the original, not just a copy, but the original memo."

Mrs. Beard's personal physician, Dr. Victor Liszka, also said that Mrs. Beard had admitted to him that she was the author of the memorandum. Dr. Liszka told the committee that he had seen Mrs. Beard on February 29, 1972—the day the first Anderson column was published—and that it was his impression that Mrs. Beard accepted the fact that "that was her memo." He claimed that Mrs. Beard had told him "I was mad and disturbed when I wrote it," and "I was angry, I was mad when I wrote the memo."

So we have Mr. Hume's sworn statement that Mrs. Beard told him that she had written it.

We have Dr. Liszka, her physician and long-time friend, who testified before the committee that she had told him she had written it.

And we have Representative Wilson indicating in an interview that she had told him she had written it.

All of these facts were established in the course of our hearings.

We also learned that as of the date of the memorandum, the negotiations on the merger were coming out the way "Hal" Geneen had wanted them to, just as the memorandum said.

Mr. McLaren, who had been pushing for 2 years to get a Supreme Court ruling on conglomerates, suddenly sent a memorandum to Mr. Kleindienst which included the following paragraph:

We have had a study made by financial experts and they substantially confirm ITT's claims as to the effects of a divestiture order. Such being the case, I gather that we must also anticipate that the impact upon ITT would have a ripple effect—in the stock market and in the economy.

Under the circumstances, I think we are compelled to weigh the need for divestiture in this case—including its deterrent effect as well as the elimination of anticompetitive effects to be expected from divestiture—against the damage which divestiture would occasion. Or, to refine the issue a little more: Is a decree against ITT containing injunctive relief and a divestiture order worth enough more than a decree containing only injunctive relief to justify the projected adverse effects on ITT and its stockholders, and the risk of adverse effects on the stock market and the economy?

I come to the reluctant conclusion that the answer is "no." I say reluctant because ITT's management consummated the Hartford acquisition knowing it violated our antitrust policy; knowing we intended to sue; and in effect representing to the court that he need not issue a preliminary injunction because ITT would hold Hartford separate and thus minimize any divestiture problem if violation were found.

About a week earlier, ITT had been told by Justice that the cases could be settled without a divestiture of Hartford, that is, the way "Hal" Geneen had wanted them to. That is part of the record. Here is Mr. Kleindienst's recollection at the hearings:

I believe that at that meeting Mr. McLaren was in there at his regularly scheduled 8:15 meeting in the morning, so it would have been in the early part of the morning on June 17 that we called Mr. Rohatyn. Mr. McLaren then read to Mr. Rohatyn, over the telephone, his proposed settlement structure. And Mr. Rohatyn—and we used the telephone in a conference phone so that both Mr. McLaren and I could listen to Mr. Rohatyn, and he was also able to hear both of us speak—and Mr. Rohatyn was making notes with respect to the matters given over the telephone, and he asked some questions about it, which Mr. McLaren answered. I believe Mr. McLaren said that if your company is willing to approach this matter on this basis, that you can instruct your attorney to contact me in my office and we will commence settlement negotiations.

We learned that Mrs. Beard did have conversations with Governor Nunn or "Louie" about Mitchell, just as the memorandum stated. Mr. Nunn himself admitted knowing about the ITT antitrust cases and admitted talking to Mrs. Beard about Mitchell and the cases. Here are the exchanges on that point:

Senator HART. Did you ever have any conversations with her concerning the I.T. & T. cases?

Mr. NUNN. Nothing more than the next day. Mrs. Beard came back to the mansion after the Attorney General had left and she was very disturbed for fear that her conduct and her behavior there might cost her her job. She seemed very obsessed about losing her job and she realized, evidently, that she had conducted herself in a manner that she shouldn't.

Senator HART. She realized that or she told you that?

Mr. NUNN. Well, in any event, she told me that she was very concerned. I don't recall ever having any conversations with Mrs. Beard specifically about that case; no, sir. She may have mentioned it at some time. As a matter of fact, I guess she did at some of the Governor's conferences where I may have seen her. But I don't remember discussing any specific aspects of it.

Senator HART. Do you remember discussing the cases with her on occasions other than the one at the Derby and the following day?

Mr. NUNN. I did not discuss it with her at the time at the Derby, the cases. She was trying to talk about it, but there was no discussion.

Senator HART. Your testimony is that the first time you discussed I.T. & T. with her was the following day?

Mr. NUNN. No; I didn't discuss it with her then. I said she might have made some mention of it at that time about what she was wanting or what she wasn't wanting, but I don't recall the specifics of it.

Senator HART. To the best of your recollections, what did she say the next day at the mansion and what did she say, if anything, to you on other occasions about I.T. & T.?

Mr. NUNN. Well, the next day I don't remember anything specific she said other than the fact that she would not want to discuss, would not want to prejudice any cases by her conduct, or she wouldn't want to lose her job by anything she might have done there.

Now, I don't know that I ever recall any specific instances. However, there may have been times when I saw Mrs. Beard at the Governor's conferences or there may have been some occasion when I saw her in Washington when she might have mentioned the ITT occasion.

* * * * *

Senator HART. What discussions, if any, have you had with anybody at ITT?

Mr. NUNN. I don't recall any discussions that I have had with anyone at ITT about the convention at all. On one occasion when I was coming to Washington at the Dulles Airport, there was someone—and I do not recall his name—that Mrs. Beard introduced me to as a representative of ITT. At that time, Mrs. Beard was again talking about being in Kentucky and did I think that—I didn't think that Mitchell was upset with ITT because of what she had done. She did bring up what had happened there in Kentucky, because, obviously, she was concerned about her job throughout this whole thing.

Senator HART. I am not clear on that answer. Did you say that you told her you thought Mr. Mitchell was not upset by her discussions of ITT?

Mr. NUNN. I think that Mr. Mitchell was upset by her conduct, and the fact that she raised the issue, but I don't think that he would—I think he understood her condition and the circumstances under which it arose.

* * * * *

Senator HART. Well, in your conversation with her at Dulles, what exactly did you tell her on this particular point?

Mr. NUNN. Well, I don't remember the exact words, but she introduced me to this man, said he was a representative or associated with ITT, and did I think that Mitchell was upset or that he would be prejudiced in any way or would take any action against ITT or her because of her behavior there on that night.

Senator HART. Did you express that as your opinion?

Mr. NUNN. My opinion that he would not, because I think that he——

Senator HART. Based on what?

The CHAIRMAN. Let him answer.

Mr. NUNN. Based on the fact that he would understand her condition at the time she was saying what she was saying and what she was doing in Kentucky on that given night.

Now, I never—Mr. Mitchell didn't tell me that he was upset or was not upset. Mine was purely from observation, which was quite obvious.

So this is some confirmation of that portion of the memorandum where Mrs. Beard indicated she had spoken to Governor Nunn about Mr. Mitchell and the antitrust cases. It is confirmed by a fair and reasonable reading of Governor Nunn's responses to questions by Senator HART.

We have also learned that Mr. Geneen did raise the commitment, as the memorandum said. Representative WILSON has admitted that that is what happened at his San Diego meeting with Geneen on May 12. Congressman WILSON told the committee:

We kicked around the idea of my going to leading businessmen and getting commitments from them and putting together a bid package. He then suggested if I would take the lead he thought Sheraton would underwrite up to $300,000 and would, of course, be willing to actually commit for their fair share of the total amount of money needed. I told him I thought it would not be difficult to put a bid together quickly. He then told me he would see that they backed me personally for half the total amount needed, which would be $400,000.

According to the Beard memorandum, Mrs. Beard had indicated that the figures were "upped" from $300,000 to $400,000, and there we had Congressman WILSON confirming that in his testimony.

We learned that ITT did get a call from the White House. That call from the White House was referred to in the early part of the Beard memorandum. Mrs. Beard herself not only told us about the call, but remembered that it involved

the question of whether $600,000 was going directly into President Nixon's campaign. That was in our meeting with Mrs. Beard in Denver. Here is what Mrs. Beard said in response to one of our questions:

I remember that Mr. Merriam told me one day, that he had gotten a call from somebody at the White House, wanting to know—on this commitment, underwriting commitment, which is all in the world it was, there in San Diego, and I never did know the exact amount because I didn't stay that long, had suddenly jumped. "Is this $600,000 going to Nixon's campaign," . . .

The significance of this, Mr. President, is that not only does this confirm the statement in the memorandum about the call from the White House but shows how, even when Mrs. Beard was later claiming that she had not written the entire memorandum, she still recalled that there had been this call from the White House raising the spectre of a $600,000 sum going into the Nixon campaign.

So we have confirmation of that part of the memoranda which talks about a call from the White House. We have confirmation that the commitment was upped from $300,000 to $400,000. We have confirmation that she talked to Gov. Louie Nunn about Mr. Mitchell and the antitrust cases.

We also learned that Mrs. Beard did understand that only Nixon, Mitchell, Haldemann, Reinecke, and WILSON would be the only ones who would know about ITT's participation in the convention. Mrs. Beard testified that it was Reinecke who had told her that.

Here is what she said:

Senator KENNEDY. All right. Could I get back to the first paragraph, Mrs. Beard, the mention in the third line there, "Other than permitting John Mitchell, Ed Reinecke, Bob Haldeman and Nixon (besides Wilson, of course) no one has known from whom that $400,000 commitment had come."

Mrs. BEARD. Now, that is a misleading sentence, which I shouldn't have written the way it is, because I did not know from the first time I talked to Ed Reinecke—I did not know to whom he had spoken, when, how or if. He had simply told me that these are the people, the only people who would be aware of our attempt to take the thing to San Diego until after the site selection committee met in Denver.

Senator KENNEDY. When did he tell you that?

Mrs. BEARD. On the first meeting.

Senator KENNEDY. When was that?

Mrs. BEARD. January or February. I don't remember. He came in to Washington and said, "I need your help on something of the utmost confidence."

Senator KENNEDY. Did he say he was going to or that they had talked, that they were aware of these negotiations which you were involved in?

Mrs. BEARD. He told me only, "This is very confidential. Nobody is discussing it. We know we can have faith in you. Do not talk to anybody about it. At some point eventually these will be the people who will be involved with it." But he did not say clearly or distinctly that he had spoken to any one of these people. In fact, I rather imagine he had not, but when he tells me it is in complete confidence, I don't ask questions I don't need to know answers to.

So there is another part of the Beard memorandum which was confirmed—the part containing those names. When we finally had a limited opportunity to talk to Mrs. Beard, she herself told us that she had learned that from a conversation she had with Lieutenant Governor Reinecke.

We also learned that there was a great deal of I.T. & T. confusion over the nature of the commitment, just as the memorandums said. Both Merriam and WILSON told us all about that when they appeared before the committee. WILSON confirmed the following statement he had made to a newsman about Merriam:

WILSON. Yeah. He's a busybody little guy and he resents Dita very much because she could get to Geneen and he couldn't see? And he said, "Now, I want to talk to you." He said, "I'm up here for a birthday party for one of our retiring executives" or something and he said, "I've been talking with various people" and he said, "that 400,000 dollars is not going to be in cash, it's going to be in services like hotel rooms and that." I said, "Bill, look, you don't even know what you are talking about. In the first place it isn't 400,000 bucks. It's a lot less than that and it's going to be in cash. That was the agreement. We have to—San Diego has to come up with 800,000 bucks cash. We got all kinds of services that they'll pay for, or that they'll take in kind, but they need 800,000 bucks cash to put the convention on. That's what we agreed, and that's what your boss said that he would pledge a guarantee of 400,000."

That is Congressman WILSON talking about his conversation with Merriam, which confirms the confusion mentioned in the memorandum. It shows that Merriam was confused about the figures, whether they were for services or to be in cash. That confusion was pointed out very clearly in the Beard memorandum and we find it substantiated by Congressman WILSON.

And so it goes line by line.

Gerrity told us he did have a talk with Mrs. Beard about the convention just like the memorandum indicated. And Mrs. Beard said she did have inquiries from friends about the commitment, just as the memorandum said.

This is from her testimony:

I was getting questions all over Washington, from the national committee, the various people, "Well, is this money going to National Committee, or just going to Nixon's campaign?"

So that substantiates the part of the memorandum where she indicated she was getting all kinds of questions about it. Here she is, before the committee, repeating once again, almost using the words that were typed in the memorandum, that she had been getting all kinds of inquiries.

I might say at this point, while we are talking about the meetings which took place with Representative WILSON and Mr. Geneen at which the commitment figure was first settled on, that one of the witnesses we wanted to call, who had been on our list as "clearly necessary," was Mr. Bud James, the person who actually carried through ITT's pledge negotiations after that initial May 12 meeting. We could see how important he was, from our conversations with Dita Beard. She had told us that she was not involved in the detailed money negotiations after May 12, but that Bud James was the one who carried through the negotiations and actually sent the check to the Visitors' Bureau in San Diego. It certainly would have been valuable for the committee to have Mr. James appear and give whatever testimony he has as to the circumstances surrounding those negotiations.

The information we have had from both Mrs. Beard and Representative WILSON quite clearly indicates that the $400,000 figure quoted in the memorandum was actually the figure talked about on May 12 in San Diego, although the figure was disputed by Mr. Geneen. We certainly could clear up that matter quite quickly, if we have testimony from Mr. James, who was the person responsible for sending the check to San Diego. We were unable to get Mr. James. He is certainly one of the witnesses we want who could clear up that kind of question, as well as the question of what promises the White House had made to use the Sheraton as headquarters.

And so we could go on, with virtually every line in the memorandum, showing an abundance of proof to establish almost every fact which Mrs. Beard asserted in that famous confidential note.

But most important of all, any of us, knowing the facts we know now—about the manner in which the decision was reached to settle the antitrust cases; and about the simultaneous San Diego convention arrangements which were being made—could ourselves have written the famous Beard line that—

Our noble commitment has gone a long way toward our negotiations on the mergers eventually coming out as Hal wants them.

I am sure that some of my colleagues will detail the meaning and interrelationship of those simultaneous happenings in the days ahead. Surely they will leave good and sufficient reason to believe that the contents of the memorandum are accurate.

At the very least, we will all have a basis for agreement with the committee's ranking minority member that we "would like to have an opportunity to question Mrs. Beard in greater detail concerning her knowledge of the memorandum and her participation if any in both the antitrust settlement and the underwriting offer to San Diego."

We questioned Mrs. Beard for just over 2 out of the scheduled 9 hours, and asked her only about a fourth of the questions which we were prepared to ask her.

I might mention at this point, Mr. President, the first consideration of the subcommittee that went out to Denver was the health, well-being, and welfare of Mrs. Beard. The members of the Judiciary Committee asked to have her health assessed by two independent medical doctors so that we could have additional information as to her condition, because there had been some questions raised after her personal physician came down and testified when we found out later that he had been and his wife was still under investigation by the Justice Department. On the basis of these examinations it was determined that Mrs. Beard could respond to questions, but her testimony would have to be of limited duration. I might add that we

were told testifying might actually improve her prospects by ending the constant anticipation of having to appear.

Then the subcommittee, following the procedures established on the advice of the doctors, went out there and proceeded to question Mrs. Beard. Before we really had a chance to get very far into the questions, that meeting was interrupted. The subcommittee then felt they rather than run any risk to the well-being or the health of Mrs. Beard, it should terminate its hearings. We were informed that she had suffered chest pains, and obviously we were not interested in causing any additional burden or stress to Mrs. Beard. I shall return to that in a moment, because there were some very peculiar circumstances that surrounded the interruption and the subsequent events. But the effect of such interruption was to preclude the Senate subcommittee from questioning Mrs. Beard further. Obviously the information we gained was of value to the committee, but the questioning was just getting well under way when we had to stop. So we were unable to gain the desired information, and it was the feeling of several members that if we could have questioned Mrs. Beard additionally, we would have been able to clear up a good many important questions. But again, her Denver doctor refused to indicate that she would be available; as I said, I shall come back to that.

There is no present inability to question her further, as one of my colleagues has described it. There was only an unwillingness to schedule a resumption of her appearance. When the full committee's hearings were abruptly terminated, weeks ago, Mrs. Beard was out of the hospital and had been the recent subject of extensive questioning on national television.

It is interesting to know that Mrs. Beard was prepared to go on national television and respond to the questions of an interviewer and it was not thought that that caused undue duress or stress to her, but that she was unable to appear further before the Senate Judiciary Committee. Surely there is no reason to rush forward on this matter until we are able to get her comments and her elaboration on her memorandum, and have that settled once and for all. The distinguished Senator from North Dakota (Mr. BURDICK) felt extremely strongly about this matter, and I think with justification. She was the apparent author of that memorandum, and certainly we, in fairness to Mr. Kleindienst and in fulfilling our responsibilities, ought to be able to talk with her at greater length about her memorandum and the implications of its contents. We have a responsibility to get into those matters and explore them fully once and for all. Mrs. Beard is perhaps the one person who can help us most in completing these tasks. Let us not be sorry later we have not availed ourselves of this chance.

As I understand, Senator BURDICK is going to go into this matter in some detail on Wednesday.

I have discussed, Mr. President, the Beard memorandum itself, and I have reviewed that memorandum line by line. When that is done, and the memorandum is compared with the other information available, it stands up very favorably. As a matter of fact, even though Mrs. Beard herself indicated she was not the author of the full Beard memorandum, she said she did author a memorandum which included the large majority of all the lines, and many of the crucial ones, on the "Anderson Beard Memorandum." In the Denver questioning she claimed she did not write some of the most compromising lines in the memo, but she did admit that she wrote a memorandum and that many points in the "Anderson-Beard" memorandum were accurate. Even those points, I think, raise some extremely damaging and incriminating questions.

So despite the premature closing of the hearings, we have been able to corroborate much of the Beard memorandum. And a number of my colleagues on the Judiciary Committee agree that if we had had an opportunity to hear from the other witnesses who were agreed on as "clearly necessary," we would have been able to hear out the overwhelming majority of the information and evidence that was included in the Beard memorandum.

I have mentioned the need for further questioning of Mrs. Beard and the absence of Mr. James. Now I want to expand on some of the other gaps in our record.

Mr. President, it has been accurately observed by the minority leader that the hearings on the nomination of Mr. Kleindienst to be Attorney General were the longest in history. Some Members of this body have tried to convey the impression that there was an attempt on the part of some committee members to extend and prolong the hearings for political purposes. This, of course, is without justification and could not be further from the truth.

It is true that the hearings on the nomination of Mr. Kleindienst were long—too long. The supplemental hearings continued over a period of 2 months, with 22 days of formal testimony. Some members of the Judiciary Committee journeyed halfway across the country to take testimony from one witness in a hospital room. Many of our hearing days began early in the morning and lasted until early evening. Testimony and documentary material cover two large volumes, which each Senator has on his desk.

Why, then, do many of us feel that the hearings are incomplete? Why do we find it difficult to reach hard conclusions, even with the voluminous record, and why should the Senate defer determination of Mr. Kleindienst's nomination?

One of the answers to these questions is contained in the first finding contained in the separate views of Senator BAYH, Senator TUNNEY, and myself: The Judiciary Committee still has not heard from all the relevant witnesses and obtained all relevant evidence.

Among the witnesses from whom no testimony, or only incomplete testimony, has been taken are White House aides Mr. William Timmons and Mr. Peter Flanigan. I think the Senate is fully aware of all the gymnastics that were required by the Judiciary Committee to finally obtain the testimony of Mr. Flanigan. His name was raised prominently in the course of the hearings as one who played a very key and important role in the ultimate settlement of this case. So it should not have been any real surprise that the Judiciary Committee would want to hear from Mr. Flanigan.

There were substantial questions whether, if we did call Mr. Flanigan, we could be infringing upon the traditional privileges that the executive has to withhold certain information that relates and pertains solely to the executive branch. Clearly, it was not the intention of any member of the Judiciary Committee to infringe upon the legitimate executive privilege of White House officials. But, equally clearly, the responsibilities of Mr. Flanigan in the selection and procurement of the outside financial consultant, Mr. Ramsden—who did the official report upon which Mr. McLaren relied to turn around the 2½-year antitrust anticonglomerate policy—should have been only a ministerial function and action which did not relate to his responsibilities to the President or to his executive power.

So it should be plain that the doctrine of executive privilege did not apply. It certainly seemed to those of us who were members of the committee that his statements, his comments, and his testimony would be invaluable. But we had to jockey around day after day until, finally, Mr. Flanigan agreed to come up, and even then he conditioned his appearance before the Judiciary Committee in an extremely limited way.

As the only member of the Judiciary Committee who voted in the negative upon the constraints that were placed upon the committee with regard to Mr. Flanigan's testimony, I feel reassured that I was completely justified in doing so. That justification was demonstrated the following day, when Mr. Flanigan refused to respond to very basic and fundamental questions that dealt with his relationship with the nominee. One would have thought that if Mr. Flanigan was going to come before the Judiciary Committee, he would have been prepared to talk about his relationship with the nominee and about the relationship he had with the Justice Department. Those were the two important questions we had in trying to find out whether there was any relationship between the antitrust settlement and the convention contribution made to the Republican Party through the San Diego Visitors' Bureau. Still, on those two matters Mr. Flanigan refused to comment.

Later, a procedure was worked out—from which I again dissented—to write out for Mr. Flanigan very carefully prepared questions and thereby, by receiving a written response, to refuse to permit any cross-examination. The response from Mr. Flanigan indicated clearly that he had had contact with Mr. Kleindienst on three separate occasions relating to the ITT settlement. Yet, we were unable to delve into that, to examine those contracts, any more than to read between

the lines of the statement that Mr. Flanigan provided for the Judiciary Committee. Nonetheless, it was important that we at least have that information.

Now we also know that Mr. Timmons also had been involved; he was working on convention arrangements. His name was referred to on a number of occasions with respect to his involvement in getting the 1972 Republican convention to San Diego. He played a major role in behalf of the White House. We wanted to hear from him, directly. Still, those who support the nominee refused to provide us with the opportunity to talk with Mr. Timmons.

Mr. Flanigan's statements and comments and the material he provided for the Judiciary Committee had added an an entirely new dimension with respect to the relationship between the White House and Mr. Kleindienst and the Justice Department. Who among us can give assurance to the Senate that if we had had an opportunity to talk with Mr. Timmons, we would not find out some entirely new relevant information which we now do not have?

We hear from those who support Mr. Kleindienst that this is a fishing expedition. Was it fishing when we asked for Mr. Flanigan to appear? Was it fishing to ask Mr. Flanigan about his relationships with Mr. Kleindienst and the Justice Department? I would say, Mr. President, that if it was, we could see, as a result of those questions, that it was successful. We obtained additional information, and we saw the tie between Mr. Flanigan and Mr. Kleindienst, even though Mr. Kleindienst to the end demonstrated little, if any, recollection of any of these contacts.

Now we want to have Mr. Timmons as well. Is it unreasonable? Are we providing undue delay by asking for Mr. Timmons? I do not believe so. In many respects his presence is as important as Mr. Flanigan's. If he were able to come up and respond to the committee's questions I am sure we could satisfy our responsibilities.

We are not able to hear from Mr. James, who negotiated the contribution. Mrs. Beard, who has made a miraculous recovery, was able to testify and present her views on nationwide television but was unable to present her views to the Senate committee.

I think these are the kinds of additional witnesses we are interested in having before the committee, and not witnesses that are either unnecessary or uninformed about matters. So I mention that at this point.

Then of course, there is Howard Aibel, the general counsel of ITT. We had the opportunity to listen to Mr. Gerrity, to Mr. Merriam, to Mr. John Ryan, and to Mr. Geneen. But, who was the quarterback? Howard Aibel, the chief counsel of the ITT. Although we put his name down as one we preferred to hear, so that we could have him testify and tie this matter together, in order to tell us where the responsibility was on ITT's approach to the Federal Government, we were denied the opportunity to hear him.

We could hear about Mr. Geneen's going down and talking to a number of Cabinet officials. We could hear about Mr. Merriam's and Mr. Gerrity's contacts when they went over to the White House and met with Mr. Dent and talked to Mr. Flanigan. But did we hear directly from the man who knew what Mr. Geneen was doing, who knew what Mr. Gerrity and Mr. Merriam were doing during that period? Did we hear Howard Aibel? Were we able to have him testify? No. We were unable to get his testimony because it was thought to be dilatory. It was thought to be unnecessary. It was thought to be consuming time.

There it is. We begin to get some kind of idea of the importance of these witnesses. Mr. Howard Aibel, the quarterback for ITT, who knew what was going on, who knew what the approach of ITT was, who knew what memoranda were up in the ITT offices in New York, and what information would have been invaluable to the committee, and what ITT was up to in this case. He knew what was in the ITT file, not the ones shredded in Washington—though perhaps he knew that, too—but he knew as well what was in the ITT offices in New York.

We asked the ITT representatives if they would give us copies of the memoranda that applied to antitrust policy that they had on file in New York. They indicated they had memoranda up there. In many instances, perhaps, they were duplicates of information that they had in Washington which was destroyed in the shredding. We asked for that. They indicated that they would provide it, that they would make it available for the Judiciary Committee. That would have been invaluable information.

One would have thought that ITT would have said to the committee, "Here it is. We have nothing to hide on this. We are out there doing business, trying to assure that we will have a prosperous business, and that we will be able to meet our responsibilities to our stockholders." Anyone would have understood and appreciated that. Every Member of the Senate would have respected it and every American would have appreciated it. But instead of making the information available to us, which we asked for and they indicated they would provide—any information they had on ITT antitrust policy up there, which would relate to this case in the Justice Department—they never did so after the hearings ended.

We asked for the Aibel testimony. We have not gotten it. Mrs. Beard is out of the hospital. But we cannot hear from her. We have not heard from Mr. Timmons. We heard from Mr. Flanigan—and there, only what Mr. Flanigan wanted to tell us according to his rules.

What member of the Judiciary Committee, or of any other committee in the Senate, is used to having a witness come on up and establish the criteria by which he will appear and testify before a Senate committee?

Mr. President, I have been here for only 10 years, but this is the first time I have heard of anyone telling us what he will testify to and what he will not testify to.

When this matter of the essential witnesses came up before the committee there was an even split as to whether we should call the additional witnesses or should not continue the course of the hearings. The committee which would have been listening to that testimony was evenly divided on the subject of continuing the hearings. We were prepared to set a time, barring any unforeseen kind of information on additional material, for the conclusion of the hearings. But, oh no, this opportunity was denied to us.

Now I might mention that one of the interesting points about Mrs. Beard's medical problems came to light when we asked two independent medical doctors to advise the members of the Judiciary Committee about how sick she was. They said they could not find any objective signs of problems. We put their telegram in the RECORD. Yet we were denied the opportunity to take further testimony from her.

While I am on the questions about the information we need to make a fully informed judgment on the nominee, I would point out that the Committee asked for some additional kinds of information from the Justice Department which we never received. One of the things we would like to know is, did the White House receive information from the Justice Department about antitrust policy during or before the settlement period that might have been relevant to the ITT cases? That would have been helpful to us, but we were unable to get that information. We were unable to get any information about studies supposedly being taken by the interagency committees on antitrust policy that would have been relevant in answering some of the unresolved questions before us, especially relating to the delay of The Grinnell appeal.

We might find through materials on this interagency, intergovernmental committee study, that there were many departments of Government—Commerce, Treasury, Justice—even the White House—had already studied the economic implications of an anti-conglomerate policy.

But when we asked for that information and wanted to know if they could make that available to the committee, we were turned down.

Further, we asked if we could get some rather selective information from the SEC, who was doing its own investigation of ITT concerning the inside trading of stock. There were a number of stories that appeared in the Wall Street Journal and other publications that insider selling was taking place by ITT officials. I do not think that anyone here is prepared to say how legitimate those trades were. However, we cannot get away from the fact that there could have been a close relationship between the trading and the settlement negotiations with the Justice Department.

We were not asking the SEC for everything they had. It was a rather precise and selective number of areas. We asked if they could make available to us documents provided to them by ITT relating to antitrust. We asked to have that information made available to us be-

cause the ITT documents in their Washington office was shredded. This was a proper request, yet we were unable to get that kind of information. As a matter of fact, the Justice Department initially refused to provide us a GSA logbook. We had quite a time getting it. However, after the hearings were over we did finally get it.

These are some of the kinds of records we asked that ITT produce, which they denied:

We asked for the memorandums or vouchers relating to Mrs. Beard's visits to the Kentucky Derby, including the memorandum stating that she would see Mitchell at the Derby. When Mrs. Beard indicated that she was going to the Kentucky Derby, it was quite possible that there was a memorandum that said, "When you go down there, talk to Mitchell about this." Or, there could be a memorandum saying, "When you go down there, don't talk to Mitchell about this." It could be either way. When she came back and indicated that she had talked to Mitchell there, there might be a memorandum about that. That would be helpful to the committee.

They could have said, "We don't have anything on that subject." However, they said they might have documents but then they refused to provide them.

We wanted to know about Mrs. Beard's conversations in 1971 with Mr. Mitchell or Governor Nunn or correspondence between them. ITT counsel Gilbert said that at least in the Washington office "We have none." We have not heard back whether anything was found in the New York office.

We wanted to know about Mr. Merriam's contacts with Jack Gleason regarding the ITT support for the Republican convention.

We wanted to know about Mr. Geneen's contacts with 22 officials listed in the ITT press release of March 13, 1972, and those listed in Mr. Geneen's submission to the committee.

ITT put out different press releases indicating that they had talked to numerous administration officials. Perhaps they had memorandums in their files written after these meetings about the subjects covered and what they requested of high Government officials and what those officials said to them. This would be directly relevant to our inquiry. We asked if they would provide any information along those lines. ITT representatives indicated that they would, but never did.

Is that not a proper request for the Judiciary Committee in meeting its responsibilities?

Mr. Gilbert, who was ITT's counsel at the hearings, said under oath that when he got back to New York, he would see if he could find any of the materials requested there. That on page 1136 of the hearings. We never heard again from Mr. Gilbert.

We also asked for documents relating to Mrs. Beard's visits to San Diego in 1971, including memorandums reflecting the purpose and frequency of her visits. Mr. Gilbert said:

> We have none, but we are checking for vouchers which probably do exist.

The vouchers were not provided to the committee.

We wanted information regarding contacts between ITT officials and officials of the White House regarding the location of the 1972 Republican Convention or ITT support for the convention or the San Diego Tourist Bureau. Was that not a reasonable, relevant request? Yet it has gone unheeded.

We asked the ITT officials in New York City if they had any information relating to the location of the 1972 Republican Convention or the ITT support for the convention in San Diego.

We asked for any other materials relating to the convention. Mr. Gilbert testified:

> We have none in the District of Columbia, but we think there may be some and we will try to get the material if it exists in New York.

That is on page 1136. However, none were provided.

We asked for material relating to the ITT anticonglomerate task force or similarly named group. Mr. Gilbert said:

> We are checking for that and we may have some and we may have it today.

That was on April 14. The committee has not received it yet.

We asked for the original ITT job description memorandums and Mrs. Beard's second memorandum which should be examined. These documents have never been forthcoming. They would be important for us to have.

These are the areas of the ITT document requests that I have mentioned. Going back to some of the needed witnesses, let me review the list: Howard Aibel; Howard James; William Timmons; Harold Geneen, since got cut off from Mr. Geneen in midstream; Richard Herman, who made the convention arrangements for San Diego; Reuben Robertson, the associate of Mr. Nader who was involved intimately with the ITT antitrust matter; Denny Walsh, the author of Life pieces on the Stewart matter and who probably knows as much about that case as anyone else; and lastly, Mr. Flanigan, from whom we need more complete testimony. And last, of course, Mrs. Beard.

That is not a long list. We have not got an unlimited list.

Those were the things we wanted so that we could fulfill our responsibility. The ITT documents and the requests which we made are, I think, extremely important in filling in some of the pieces here. Then there are the SEC document request, the Department of Justice document request, the Antitrust Division interrogatories.

These are some of the things that I think, would provide us with the kind of information so that we could fill the gaps, resolve the contradictions, and move expeditiously toward reaching a responsible conclusion.

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

Mr. KENNEDY. I yield.

Mr. McINTYRE. Mr. President, I commend the distinguished Senator from Massachusetts for his fine leadership and for the reasonableness of his remarks and for his feeling that further testimony is needed on the Kleindienst nomination.

Mr. President, it is with deep regret that I must rise today in opposition to Senate confirmation of the nomination of Richard Kleindienst to be Attorney General of the United States. I want it known at the outset that I do not oppose the nomination per se; but I strongly oppose confirmation now with so many issues of fact still in doubt.

I hope that the Senate will see clear to recommit this nomination to the committee with the clear understanding that hearings will be resumed until all relevant witnesses, all relevant and available documents, and all relevant questions are brought before the committee and analyzed. Such action would be clearly in the public interest and, hopefully, with some frank testimony and refreshed recollections, it may be possible to avoid denying the President his choice for Attorney General.

I point out to my colleagues that such action would be consistent with the wishes of the nominee himself and with those expressed by the President at the outset of the resumed hearings on the nomination. Let me quote from the nominee's statement to this effect when he requested that the committee "clear things up" in March:

> The reason why I asked for this hearing, Mr. Chairman, and Members of the Committee, is because charges have been made that I influenced the settlement of Government antitrust litigation for partisan political reasons. These are serious charges, and by virtue of the fact that the confirmation of my nomination as the Attorney General of the United States is before the U.S. Senate, I would not want that confirmation to take place with a cloud over my head, so to speak, nor would I want the U.S. Senate to act upon my nomination if there was any substantial doubt in the minds of any Member of the U.S. Senate to the effect that while I performed my official duties on behalf of the U.S. Government in the past three years as the Deputy Attorney General, that I engaged in any improper conduct that would go to or be relevant to the consideration of my confirmation by the U.S. Senate.

So spoke Richard Kleindienst at the outset of the resumed hearings on his confirmation. Should we take him at his word? My own feeling is that we would do him an injustice if we did not. The cloud remains, and it will never be dispelled unless and until all the facts are brought before the Senate. As Mr. Kleindienst himself has said:

> Nor would I want the U.S. Senate to act upon my nomination if there was any substantial doubt in the minds of any Member of the U.S. Senate . . . that I engaged . . . in any improper conduct that would go to or be relevant to the consideration of my confirmation by the U.S. Senate.

I know that I have such doubts and I know that many other Members of this body have them, too. Should we not dispel them once and for all?

Now I am sure that we all want to accommodate the President in the confirmation of his nominees. But we also all feel that our required, and sometimes painful, duty under the Constitution is to "advise and consent" to these nominations. In the case at hand, the Pres-

ident has given some guidance as to how he regards our duty to "advise and consent," and I take him at his word.

The President, in supporting his nominee in the request for additional hearings, made his feelings perfectly clear. On March 24, he said:

> I would want to point out that Mr. Kleindienst asked for these hearings. We want the whole record brought out because as far as he is concerned, he wants to go in as Attorney General with no cloud over him.

Now it seems perfectly clear to me that the President himself agreed with the nominee's contention that the Senate should not be asked to confirm him until the cloud is dispelled—and it is not dispelled at this point. I also feel that the President, who is a man careful with his words, did not want anyone to doubt that he wanted the whole record brought out.

I do not pretend to believe that either the President or the nominee is very pleased with the way the hearings have gone so far. I do not think that they anticipated that the Senate would have access to so much information on the ITT transactions or that the witnesses would have such poor memories or be so often in conflict on material facts. The cloud remains.

I repeat my request that the Senate recommit this nomination for more hearings until this cloud is dispelled. I do not want to deny the President his nominee; but I do not want to shirk a clear duty on a matter of such vital importance.

And what is the importance of all this? It is precisely that a transaction, intimately involving the nominee in his official capacity, has been uncovered that directly relates to his suitability to be the Attorney General of the United States.

We do not have all the facts on this transaction; but we do have enough to know that there is a real possibility that something highly improper took place. And we also have enough to know that the nominee and his supporting witnesses have not done what was necessary to relieve the impression of high impropriety. Indeed, they have distinctly heightened that impression.

Now I ask myself, what is so important about all this that we should recommit the nomination and tie up the committee in what would be highly controversial and gruelling hearings? We all want to get on with other Senate business—the war in Vietnam, appropriations bills that cannot be delayed any longer, extremely complex military authorizations.

Well, what is so important here is that the public again is the victim of their Government. They do not know what happened any more than we do; but they want to know. And they have a right to know.

It is they, in the end, who have the most at stake. And it is to them that we owe an overriding duty to get at the facts and remove the cloud.

I think it important that we remember that this is no ordinary nomination. Mr. Kleindienst is nominated to be the next Attorney General of the United States. He is asked to be our chief law enforcement officer. And it is his enforcement of our laws that is at issue here.

The public has a lot more at stake than information, however, and this is what bothers me most. The transaction in question was no mere compromised suit. It was an antitrust action worth at least $6 billion—that is $6 billion—And it was an antitrust action that could intimately affect one of the public's most common and essential interests—the price they pay and the conditions under which they buy life insurance.

I do not pretend to know that the Hartford-ITT merger would have had the effect of significantly reducing competition in the life insurance industry; or whether it would have affected the long term interests of Hartford policyholders; or that, together with the Grinnell and Canteen acquisitions, there would have been such a significant anticompetitive factor as to involve an overriding national interest.

I simply do not know whether any of these conditions existed at the time the Justice Department sought a preliminary injunction against these mergers. But I do know that someone with the expertise and responsibility to oversee this merger did think that one or more of these conditions existed. And I do know that he felt that the issue involved was of sufficient importance as to warrant Federal action in the national interest.

Yes, the public did have a great stake here. And it does have an interest of vital importance in seeing that the Government develops the means to contend with the massive conglomerate movement of the 1960's. I cannot see how we could deny this interest in view of the massive conglomerate failures of the late 1960's; failures that have cost small investors millions of hard-earned dollars.

I want to bring this up to add perspective to this debate. This is not merely an election year squabble, nor is it merely a debate over what we may think of Richard Kleindienst and a substantial campaign contribution. This is a debate affecting a vital public interest; and the people deserve to hear all the facts and all the witnesses. And they deserve to know what reason, other than high impropriety, could cause several Government agencies to withhold documentary evidence on this case; or what reason, other than high impropriety, could cause ITT to shred documents relating to the case. They deserve to know why it is that so many men in high positions can fail to remember material facts on a $6 billion case; or why they can blatantly contradict each other and themselves in sworn testimony before a congressional committee. And the public deserves to know why it is that ITT and its giant relatives in the brotherhood of major corporations can simply pick up the phone to the White House when a matter affecting their interests comes up, while the average taxpayer must spend months and a good deal of money in trying to resolve a simple tax dispute with the IRS.

Yes, the people deserve to know the answers to these questions. They can make their own judgment as to what it means to them. Just as we must make our own judgment here as to whether Richard Kleindienst should become the next Attorney General.

At this point, Mr. President, I would like to list the questions relating to the ITT merger-convention contribution that were compiled for the RECORD by Senator BAYH, a member of the Committee on the Judiciary. I ask unanimous consent that these questions appear in the RECORD at this point in my statement.

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

QUESTIONS UNANSWERED AT SENATE JUDICIARY COMMITTEE HEARINGS ON THE KLEINDIENST NOMINATION

1. Was the ITT settlement "handled and negotiated exclusively" by the Antitrust Division, as Mr. Kleindienst originally stated?
2. Was the Justice Department justified in settling the ITT case because of "financial hardship" to ITT shareholders?
3. Was the Justice Department justified in settling the ITT cases because of some impact on the stock market or "ripple effect" on the economy?
4. Was the Justice Department justified in settling the ITT cases without requiring divestiture of Hartford Fire because of balance of payments problems?
5. Did Mr. Kleindienst fulfill his responsibilities as Acting Attorney General in the ITT case?
6. Why did Kleindienst play a significantly different role in the ITT case than in the Warner-Lambert case?
7. Why did the Justice Department feel it necessary to go outside the government to a private broker to obtain a financial analysis of the proposed divestiture?
8. If the Justice Department needed independent financial analysis in this case, why didn't they get it themselves rather than through the White House?
9. Might the conclusions of the independent financial analysis have been improperly influenced?
10. Was ITT attempting to influence the outcome of its anti-trust cases through Peter Flanigan of the White House staff?
11. Did Kleindienst ever talk to anyone at the White House about the ITT case?
12. Was the White House pressuring John Mitchell to settle the ITT case?
13. Did ITT order Mrs. Beard to discuss its Anti-Trust problem with the Attorney General?
14. Did Dita Beard and John Mitchell discuss settlement terms for the ITT case when they met in Lexington, Kentucky on May 1, 1971?
15. If John Mitchell really disqualified himself in the ITT case because of a conflict of interest, why did he meet with ITT President Harold Geneen on August 4, 1970?
16. Can we believe Dita Beard's denials that she wrote the memorandum Jack Anderson presented to the Committee?
17. When was the Beard memorandum really written?
18. Did ITT order Dita Beard to deny that she wrote the memorandum?
19. Why did ITT shred documents in its Washington office?
20. Did ITT shred documents concerning the antitrust settlement or the San Diego convention?
21. Did Dita Beard write another—still missing—memorandum concerning ITT and the financing of the Republican convention in San Diego?
22. Can we rely on the testimony of Mrs. Beard's physicians when one of them—and the wife of the other—are currently under investigation for medicare fraud?
23. Why didn't the Justice Department inform the Judiciary Committee of the legal problems of Mrs. Beard's two physicians before the Judiciary Committee relied on their views?
24. What is Dita Beard's real physical and mental condition?

25. Can it really be, as John Mitchell testified, that as late as March 14, 1972, he did "not as of this date know what arrangements, if any, exist between ITT or the Sheraton Hotel Corp. and the Republican National Committee, or between ITT or any of its subsidiaries and the city of San Diego or any agency thereof?"

26. Just how much money did ITT agree to contribute to the Republican Convention?

27. Can we believe that Reinecke and Gillenwaters briefed John Mitchell about the "progress" of their "efforts to have San Diego selected as host city" for the Republican Convention two months *after* San Diego *had already been selected* as host city for the Convention?

28. Was the amount of the ITT contribution a "normal promotional expense" as Mr. Geneen testified?

Mr. McINTYRE. Mr. President, now each of these questions is of prime relevance to the qualifications of Mr. Kleindienst to be the Attorney General of the United States. And his own words, and those of the President, indicate that they agree.

But these questions have not been answered. In fact they arise solely from the testimony of the nominee, ITT officers, and administration personnel. I ask that Senators remember that only 2 months after the merger case was settled and the convention agreed upon, the Deputy Attorney General stated publicly that he was not involved in the merger case at all—never mind the convention contribution. So after many months of serious negotiation, White House involvement, and intense pressure, the Deputy Attorney General could state that he had nothing to do with a $6 billion merger.

But after hours and hours of testimony, the Deputy Attorney General was sufficiently refreshed to concede that he had, indeed, played a part in the merger case—a very large part. And it is this refreshed memory that can give us many of the answers to the remaining questions listed above.

As to these questions, I have no doubt that if the answer to many of them is adverse to the administration, then there can be no conclusion but that high impropriety took place. And the nomination must, then, be denied.

But, if the answers to some of these questions are not adverse, as the administration contends, why do they not come forward and "remove the cloud" as the President and the nominee originally wanted to do.

It is interesting to note what the source of that cloud is. First and foremost, the cloud comes from the nominee's and the administration's own statements. They have been contradictory, or vague, or evasive countless times. And these contradictions and vagaries have occurred on precisely the questions listed.

A second cloud is the fact that relevant documents relating to the case have been refused the committee. The Justice Department files on the case, the only real source for rebuttal now that the ITT files have been shredded, have been denied the committee and the Senate.

Beyond these gaps, however, gaps that, if filled, could help the nominee's case, there are more gaps. After weeks of negotiation, the White House finally agreed to let Peter Flanigan testify before the committee, but under extremely limiting terms—terms that in fact have precluded the committee from getting at the truly relevant aspects of his involvement in the transactions at issue.

Now why should this be so? It was not the Senate that asked to have these hearings reconvened. The committee had already unanimously approved the nominee. The administration asked for these hearings. But every time new facts came out which contradicted the statements of the nominee or his supporters, the administration has tightened up and denied the Senate those very documents or testimony that might rebut the very strong presumption that an impropriety existed. Now they expect the Senate to sit by and leave these questions hanging. And now they expect the public to simply sit by and feel good about the fact that they cannot know about how ITT got its way in a $6 billion deal affecting the public interest.

Well, I think we can rightfully expect more than this. We can expect frank testimony, the production of necessary documents, and a sincere attempt by the administration to clear up the clouds.

Again, it can only be reiterated that these doubts have not come from the Senate; they have come from the administration.

There is no way we can serve the public interest we are elected to serve unless we recommit this nomination and get the answers to these serious questions. There is no way that we serve the public interest if we simply bury our heads in the sand and ignore issues that can so seriously affect the economy as the future of Federal regulation of the conglomerate movement, competition in the life insurance and service industries, and the public's confidence in their government. There is simply no way that we can serve the public by confessing impotence when a nominee for the post of Attorney General of the United States can be confirmed with so much that is essential to his performance in office remaining in doubt.

In concluding, I would like to reiterate my feeling that I do not want to oppose this nominee; nor do I want to deny the President the choice of an Attorney General.

Indeed, I am sure that no Member of this body wants to frustrate the President's wishes just to be spitefully obstructionist.

The record clearly shows that the Senate has confirmed the overwhelming majority of Mr. Nixon's nominees.

In 1971, we approved 48,855 nominations. One hundred fifty-eight of those could be considered major appointments. All of the major nominees were confirmed.

I opposed only one, Earl Butz for Secretary of Agriculture, because I believed Mr. Butz' ties to giant agribusiness conflicted with my judgment that preservation of the small family farm was crucial to the redevelopment and revitalization of rural America.

In 1970, this body approved 61,162 Nixon appointees, 139 of whom could be considered important. In the latter category, only one—Supreme Court nominee G. Harrold Carswell—was not confirmed.

Judge Carswell's record—which included a high rate of reversal on settled areas of law and the abuse of civil rights lawyers from the bench—was not convincing evidence that he should be confirmed, despite the dubious claim that "mediocrity needs representation on the bench."

In 1969, this body confirmed 72,635 Nixon appointees, 298 of whom were considered important, and denied confirmation to only one in the latter group—Supreme Court nominee Clement Haynsworth, because of evidence of conflict of interests while on the bench.

I voted against Judge Haynsworth, and I did it in good conscience.

I also voted against confirmation of Walter Hickel as Secretary of the Interior, because of the potential conflict of interest posed by his holding so much oil stock and his opposition to a free trade zone at Machiasport, Maine, a matter of importance to the oil consumers of my part of the country.

I came to regret that vote, because Mr. Hickel not only turned out to be a dedicated Secretary of the Interior, but, as events were to prove, a very sensitive and perceptive American.

In sum, however, the Senate confirmed a total of 182,652 nominees in the first 3 years of Mr. Nixon's Presidency, 595 of whom were considered major appointments, and rejected only two of those major nominations.

Is this a record of spiteful obstructionism—or is it a record of responsible cooperation?

And it is precisely because of this record of responsible cooperation with the President that the doubts surrounding the Kleindienst case are so significant.

Much as I want to cooperate with the President—much as I want him to have his choice of appointees—I simply cannot ignore all that has transpired since the hearings on this nomination were reconvened, nor all the doubts the hearings have inspired.

I do not believe for a minute that any possible impropriety can be charged to the President.

If he knew about this case, I can visualize the briefing he received as dealing only with the benefits or dangers to the economy that the merger presented—a legitimate concern for any President.

And I can understand why he might tell his underlings to see to it that everything possible was done to insure full consideration of any potential dangers to the economy.

The questions I raise today relate not to the President but to the performance and the integrity of his underlings. And those questions are of such crucial importance that they ought to be answered—and answered truthfully.

I ask that the Senate move to assure that those answers are forthcoming before we go further.

Mr. KENNEDY. Mr. President, I thank the Senator from New Hampshire for his comments here this afternoon. I think he has made a very eloquent statement on the matter, and I agree wholeheartedly with his conclusion.

I want to indicate to my good friend from New Hampshire that the interest of those of us in the Judiciary Committee in additional hearings is not just to have an open-ended, ad infinitum session, but to limit it to those witnesses whom I have mentioned here. The Senator from California, I believe, has two or three other witnesses he would like to have relating to the Harry Steward case. And, of course, we would like to obtain the other additional kinds of documentary materials we have already requested.

I want to indicate to the Senator that if we are successful here on the floor, we are certainly not going to be involved in a prolongation of hearings, but we do feel, as the Senator mentioned in his comments and in his statement, that we have a responsibility to fulfill and the only way we can do so is by obtaining the additional information which I think I, the Senator from New Hampshire, and the other Members of the Senate need in fulfilling our responsibilities.

So I want to give assurances to the Senator from New Hampshire that in sending this nomination back to the committee, it is not just to put it in the position to have it killed there. We are not trying to do that. As one member of the committee, I can certainly give the Senator assurance that that would not be the case.

I wanted to mention that and to commend the Senator for his statement. I think he is correct in his observations and courageous in the position which he has taken.

Mr. McINTYRE. I thank the distinguished Senator from Massachusetts for his kind remarks. I feel that those four or five Senators, of which the distinguished Senator from Massachusetts is one, on the Judiciary Committee trying to get additional hearings, because they are trying to get some of these answers and some of these doubts dispelled, is the proper thing to do.

As I indicated in my speech, I am very reluctant to try to deny the President the legal officer he wants. I cannot think of any more important position to have in his Cabinet than that of his chief legal officer, and that he be one of his choice.

I want to thank the Senator, along with his colleagues on the Judiciary Committee, and hope we are successful in recommitting the nomination so that these answers can be found.

Mr. KENNEDY. The Senator is quite right about our responsibility in assuring that the President may have the team he desires to carry forward his mandate. I for one voted for Mr. Kleindienst prior to the time this whole question was raised about the ITT case. All of the Members whose names are listed under "Separate Views" indicated without exception that they were prepared to support Mr. Kleindienst, even though his views on civil liberties and civil rights, and apparently on antitrust, would not be the views that we would find most compatible. As a matter of fact, in an earlier report I had stated "The President must be able, within some broad limits, to choose the lawyer he wants at his side for the next 11 months," and I know my colleagues shared that opinion. But since Mr. Kleindienst asked the Committee on the Judiciary to involve itself in this situation, and since even the President of the United States indicated that he wanted the Judiciary Committee to examine this in some detail, we feel we have a responsibilty to the nominee, to the President, to the committee, to the Senate, and to the American people to get to the bottom of things. We are certainly not interested in undue delay, but we are trying to fulfill that responsibility.

I thank the Senator again for his comments.

Mr. McINTYRE. Mr. President, I thank the Senator for yielding to me, and wish him well in his efforts.

Mr. KENNEDY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts desire to be recognized?

Mr. KENNEDY. I think I yield to the Senator from New Hampshire without relinquishing my right to the floor.

The PRESIDING OFFICER. The Chair would observe that the Senator from Massachusetts did leave the floor. If the Senator wishes to be recognized, he will be recognized.

Mr. KENNEDY. I thank the Chair.

I had indicated earlier, Mr. President, the need for both the additional witnesses and the additional materials which we thought would be necessary. It seemed that every time the committee got close to obtaining the facts, some incident intervened to dampen the inquiry. Let me give a couple of examples.

Six members of the Judiciary Committee, constituting a special subcommittee, traveled over 1,700 miles to Denver to take testimony from a key figure in the hearings—Mrs. Dita Beard. Despite the question about the nature of Mrs. Beard's infirmity, according to doctors appointed by the committee, the committee—at considerable inconvenience and expense—directed this journey to attempt to get Mrs. Beard's views in evidence and scheduled 9 hours of hearings in Denver.

We were all quite concerned with not jeopardizing Mrs. Beard's health, but in fact Mrs. Beard had indicated that she wanted to get things "straightened out." Telegrams and telephone conversations were exchanged between the committee and her doctors, and arrangements proceeded consistent with Mrs. Beard's own wishes. The doctors even said that from a medical standpoint the hearing "would be of benefit" to her. Senator HART, chairing the special subcommittee, noted at the beginning that we were all conscious more of insuring "That our action would not disadvantage Mrs. Beard's physical" than of obtaining a record of her testimony; but he also acknowledged that "Mrs. Beard wanted this over with."

I wish to add, Mr. President, that I was in attendance when the chairman of the subcommittee, Mr. HART, carried on a number of conversations with the doctors in the presence of both the majority and minority members of the committee, to try to establish a procedure which could be followed. That small subcommittee considered a variety of different alternatives.

We thought that perhaps we could meet our responsibilities by sending maybe one or two staff members out to talk to Mrs. Beard, that they could get the information without subjecting her to the publicity and all the attendant activity which might cause her some distress. That was one thing considered by the members of the committee. But we were assured by the doctors in attendance on Mrs. Beard that she wanted to get these things off her chest and to have an opportunity to explain her views to the subcommittee, and as a matter of fact the doctors out there felt that she would recover her health more quickly if she had an opportunity to do so. So it was at their urging that the procedure was worked out with our chairman, Mr. HART, and a number of the members of the committee traveled out there over the course of a weekend, so that we would not interfere with Senate business, to talk with Mrs. Beard.

While I am sure all of the members of the special subcommittee were disappointed, we were forced to cut our inquiry short after only 2½ hours of hearing when Mrs. Beard showed signs of pain during the hearing. Many questions that all of us had went unanswered. To point up most cogently the incomplete nature of Mrs. Beard's testimony, I would like to direct attention to the matter being discussed when the hearing was terminated.

Mrs. Beard had been asked whether she knew Mr. Kleindienst, and she answered that she had met him once at a Governors' conference when he was with a friend of hers. She said that she doubted whether Kleindienst would even remember her; in fact, he had not, as he told the committee earlier that he had never met her. Let me read the final lines of testimony from the transcript of the Denver hearings; Senator GURNEY was questioning the witness:

Question. Mrs. Beard, did you ever discuss anything at any time with Mr. Kleindienst?

Mrs. BEARD. No, sir.

Question. Do you know Mr. Kleindienst?

Mrs. BEARD. I met Mr. Kleindienst once at a Governor's Conference in Tulsa, Oklahoma, and that was when he happened to be with a friend of mine, and I doubt seriously that he would even remember me.

Question. And that was just a social gathering, no discussion of any sort?

Dr. RADETSKY (Mrs. Beard's attending physician). Let's recess for about 5 minutes, please.

The question was certainly an important and relevant one, and it was not answered. To this date the committee does not know when Mrs. Beard met Mr. Kleindienst, who was with them, or what they discussed. These questions were not asked Mrs. Beard when she appeared on national television for an extensive interview shortly after we left Denver.

Although committee-appointed doctors later informed the committee that they could find no objective indications of any physical infirmity of Mrs. Beard, she did not reappear to provide further testimony for our deliberations. There is a lot we did not find out from Mrs. Beard that we should know before the nominee is confirmed.

The same type of scene was repeated during the testimony of Peter Flanigan—

whom the administration had originally tried to keep from appearing before the Judiciary Committee at all. Although the White House ultimately decided that Flanigan's physical appearance before the committee was the only way they might be able to salvage their nominee, we were confronted with a new kind of barrier when Mr. Flanigan finally appeared. Instead of medical problems, we were faced with Flanigan's narrowly construed agreement with the committee, conditioning his appearance on a strict limitation on the matters on which he would testify. To illustrate this let me repeat what I think we can all agree to be a central question in our determining Mr. Kleindienst's full role in the ITT matter: Flanigan was asked, "Could you tell us if you have ever talked to the Attorney General designate, Mr. Kleindienst, about the ITT matter?" Incredible as it may seem, this question went unanswered because of objections raised by minority members of the committee. The question is still not fully answered, for while Mr. Flanigan later wrote the committee that he had two telephone conversations and a meeting with Kleindienst relating to the ITT settlement, Mr. Kleindienst could not recall any details of any of these contacts. He did not bother to try to refresh his memory, and Mr. Flanigan never returned to be examined or cross-examined concerning those key contacts.

These are but a couple of examples where external situations—Mrs. Beard's heart condition and limitation on the scope of Mr. Flanigan's testimony—interfered with the Judiciary Committee's efforts to obtain a full picture of Kleindienst's involvement in the ITT matter.

As great an obstacle to our ascertaining all relevant facts, as these intervening external factors, have been the conflicts, contradictions, and inconsistencies in testimony of the witnesses who appeared before us, thus preventing the Senate and the public's discovering the full measure and nature of the nominee's involvement in the ITT settlement. Finding No. 7 of our "separate views" addresses itself to this issue:

> The incompleteness of the hearings and of the memory of the nominee make difficult a determination of the precise nature and timing of his knowledge of the convention gift. What is clear is that the nominee played a determinative role in the events leading to the settlement of the ITT cases, and that, beginning last December, for reasons yet unknown, he attempted to withhold from the public and the committee the full facts about his extensive participation.

In summary, the hearings might have been substantially shortened had the nominee and other witnesses come forward from the first with a full and accurate account of their activities and involvements and discussions relating to the ITT-Justice Department antitrust litigation.

Mr. President, I would like to turn for a moment to the central issue of our hearings, the settling of ITT's antitrust cases. During the course of our hearings we reviewed the antitrust policy of this administration since January of 1969. Unquestionably Assistant Attorney General McLaren had a distinguished reputation for scholarly achievement and integrity, and in his appearance before the committee he indicated that when he had accepted the job, he would be his own man. We saw from his statements, from his speeches, from his comments that he was fully committed to vigorous antitrust enforcement. As a matter of fact, in the memorandums which were provided for the Solicitor General, which were made available to the Members of the Senate, but Senators only, one thread that appears—and I certainly do not think I breach any confidence when I repeat it—is the very strong desire, commitment, and belief by Mr. McLaren that there ought to be full and complete prosecution of these cases in the Supreme Court of the United States; that if the keystone of the administration's antitrust policy were really going to be realized, it should be upheld by the Supreme Court; and that McLaren was prepared to see that the Supreme Court would have an opportunity to rule on these cases.

That is one of the great mysteries in this situation—what took place to change that whole approach of vigorous antitrust enforcement against conglomerates by this administration. That is one of the very important factors we were trying to understand. What were the reasons for the turnaround? What were the reasons for the change? There are those who say that the reason for the turnaround is that ITT made a good settlement, according to Mr. Griswold and to other experts for the Government. But we cannot get away from the fact that it was the specific policy of this administration on the conglomerate cases not to make the settlement but to carry a test case through to the Supreme Court of the United States. The Supreme Court of the United States could rule on the administration's interpretation of the law, which would have implications upon the conglomerates for a long period of time and would be the key factor and force of this administration's policy.

There are those on the other side who would say that the settlement itself has all the force of law quite effectively. But, quite clearly, that is not the case. If there is a settlement, it is just a settlement. The law remains open, ITT gets what it wanted, and conglomerates would know for some time in the future that this was an administration or antitrust division that was not ready to go to the wall on antitrust policy.

No matter how you analyze it, the settlement ITT got was the settlement they most wanted. The acquisition about which they felt most strongly, Hartford Fire, they were able to retain. Is it completely coincidental that this was the arrangement that Dita Beard spoke to Mr. Mitchell about in Kentucky at an earlier time? A Washington Post editorial perceptively discusses the Government's turnaround, and I ask unanimous consent to have the editorial printed in the RECORD.

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

WHAT TURNED MR. MCLAREN AROUND?

When Solicitor General Erwin N. Griswold says that the settlement of the ITT antitrust case was a "very substantial victory for the government," he may be right, if what he means is that there was a reasonable compromise which resulted in a sizable divestiture on the part of ITT; if you assume, as Mr. Griswold does, that the Justice Department was likely to lose the case in the end, leaving the ITT conglomerate intact, the settlement looks even more favorable to the government. And if that is so, then one may well ask why there would even be talk of a possible payoff by ITT in the form of a major contribution to the cost of this year's Republican Convention in San Diego. Having lost, why would ITT pay off? Without attempting to judge at this point whether, in fact, there is a connection between the convention financing and the out-of-court settlement of the antitrust suit the explanation for why some people might suspect that there is one lies in the fact that the settlement was also favorable to ITT.

This, in short, is the crux of this affair: if the settlement can be said to have been in the larger interests of the government, it was also, as is so often the case in these matters, in the interests of ITT; the real loser, it becomes increasingly clear, was Mr. Richard McLaren, then head of the Justice Department's antitrust division, and an understanding of the way in which he lost is crucial to the central issue of the ITT affair, which is what, or who, caused Mr. McLaren to abandon his main purpose in bringing action against ITT and to settle out of court. As the Wall Street Journal explained his main purpose, in an excellent account of the background of the ITT case the other day, the three suits against ITT and an earlier suit against Ling-Temco-Vought, Inc. (also settled out of court, in 1970) "were to have been Mr. McLaren's vehicles for gaining from the Supreme Court a highly significant expansion of the Clayton Antitrust Act." The Journal analysis continues:

"When Mr. McLaren was named to head the antitrust division in 1969, his first priority was to halt the acquisition by huge conglomerates of leading companies in the steel industry and other industries. The campaign drew wide attention not only because of the magnitude of the ITT and LTV suits, but also because Democratic heads of the Antitrust Division had insisted the Clayton Act didn't apply to such conglomerate mergers, prompting much talk about whether Congress should pass a new antitrust law. Mr. McLaren urged Congress not to do so, and it didn't, pending the determination of his lawsuits. The suit against ITT's acquisition of Grinnell (one of the three suits involving ITT) already was at the Supreme Court when the package settlement concluding all three suits against ITT was signed."

So there was this Republican trust-buster, trying to get the Supreme Court to write new law against conglomerate mergers and what makes the history of his efforts with respect to ITT and LTV all the more intriguing is that, by his own account, both met almost precisely the same fate: in both cases, White House aide Peter Flanigan stepped in and produced a financial expert to argue against the divestitures which Mr. McLaren was trying to bring about by court action; in both cases the expert in question was Richard J. Ramsden, who recently spent a year as a White House fellow and now works for a New York investment firm. That is to say that in both cases, Mr. McLaren somehow was persuaded to go beyond his own antitrust division, and outside the rest of the United States government, to seek the advice of a private expert, furnished by the White House—and then to abandon the main objective which had caused him to bring suit in the first place.

This is the heart of the ITT affair, rather than the question of who won the case. Surely, the U.S. government gained something, if you believe, with Mr. Griswold, that the Supreme Court would have ruled against the government. But Mr. McLaren did not believe the case would have been lost; although he hedged on this point before the Judiciary Committee this week, last December he told this newspaper in a taped interview: "I think without question we'd have won them." Clearly ITT special counsel Lawrence Walsh also thought the government was going to win; he said as much in an April 16, 1971 letter to Richard Kleindienst, which urged that the Justice Department reconsider, with other government agencies, the economic consequences of a Supreme Court ruling against ITT. It was this view of Mr. Walsh's, presumably, that encouraged ITT to seek an out-of-court settlement; in particular, ITT wanted to negotiate an agreement which would exclude the Hartford Fire Insurance Co., the target of one of the three ITT suits, from divestiture. Or so it seemed to Mr. McLaren last December. In the same taped interview with this newspaper, he said "I think the defendants think we would have won them, too. Otherwise they wouldn't have agreed to the program of divestiture that they did agree to."

So the question isn't whether the ultimate program of divestiture was favorable to the government; it could have been, while at the same time being favorable to ITT. In any case, there is no doubt that ITT wanted an out-of-court settlement. And there can be no doubt that Mr. McLaren wanted a Supreme Court test.

Mr. KENNEDY. The editorial concludes:

So it comes down to the crucial question of what, or who, turned Mr. McLaren around? And how? That is what the Senate is going to have to determine before it can confirm the nomination of Mr. Kleindienst. For it was Mr. Kleindienst, after all, who told us categorically that the ITT settlement was "handled and negotiated exclusively" by Mr. McLaren and the evidence is already persuasive that it was not.

Nonetheless, we see that this was going to be the key question and the key case, and it was turned around. So we are trying to find out the reasons for the turnaround.

During the hearings, some members of the committee were accused of repetitive questioning. However, it appeared throughout to be necessary to bring to the surface the full and complete answers to the questions. Even this approach with some witnesses failed to bring resolution of the inconsistencies and contradictions.

Let us turn back for a moment, Mr. President, to shortly before the supplemental hearings on the nomination of Mr. Kleindienst to be Attorney General began. A first set of confirmation hearings had been held and the nomination had been ordered reported to the full Senate. Even those members of the Judiciary Committee who disagreed with the nominee's views and philosophies in various areas had indicated that the President had sufficient latitude to choose such a man for his top legal advisor and the Government's top law enforcement officer. Mr. Kleindienst's confirmation appeared certain.

Then, on February 29, nationally syndicated columnist Jack Anderson dropped a bombshell. He revealed in his column a confidential ITT internal memorandum linking the company's antitrust settlement with its contribution to the Republican national convention. The next day Anderson implicated the nominee by alleging that Kleindienst had lied when he denied 3 months earlier having had anything to do with the ITT antitrust settlement negotiations.

Mr. Kleindienst then, according to his opening statement before the Judiciary Committee on March 2, not surprisingly asked for the supplemental hearing to remove the cloud over his head cast by the Anderson columns and public reaction to them. The Judiciary Committee expected Mr. Kleindienst and the other witnesses to come forward fully and candidly with the details of their activities. The nominee specifically undertook to dispel the cloud of impropriety surrounding his actions on the ITT settlement. Mr. Kleindienst told the committee in his opening statement:

I would not want that confirmation to take place with a cloud over my head, so to speak, nor would I want the U.S. Senate to act upon my nomination if there was any substantial doubt in the minds of any of the Members of the U.S. Senate to the effect that while I performed my official duties on behalf of the U.S. Government in the past three years as the Deputy Attorney General, that I engaged in any improper conduct.

Thus assuming the burden of bringing forward to the committee the testimonial and documentary evidence by which his conduct could be judged, Kleindienst proceeded to deliver an opening statement to the committee. This opening statement set the stage for the ensuing hearings—a stage occupied by reluctant actors who tried continuously to keep the curtain drawn. By reviewing more closely—and in light of subsequent revelations—some of the testimony of Mr. Kleindienst during the hearings, the Senate should be able to get a better feel for why at least six members of the Judiciary Committee felt the hearings should continue.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that I may do so without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second 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 (Mr. BROCK). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House has passed, without amendment, the bill (S. 1140) to authorize the sale of certain lands of the Southern Ute Indian Tribe, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1736) to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 7117) to amend the Fishermen's Protective Act of 1967 to expedite the reimbursement of United States vessel owners for charges paid by them for the release of vessels and crews illegally seized by foreign countries, to strengthen the provisions therein relating to the collection of claims against such foreign countries for amounts so reimbursed and for certain other amounts, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GARMATZ, Mr. DINGELL, and Mr. PELLY were appointed managers on the part of the House at the conference.

NOMINATION OF RICHARD G. KLEINDIENST

The Senate continued with the consideration of the nomination of Richard G. Kleindienst to be Attorney General.

Mr. KENNEDY. Mr. President, earlier this afternoon we took the time to review the Beard memorandum and the various corroborative evidence for the Beard memorandum brought out in the course of our hearings before the Judiciary Committee. I detailed why I thought it was essential to call other witnesses that could help resolve even some of the questions that were initially put forward in the Beard memorandum.

Then I reviewed for the Senate the range of the witnesses that I thought were clearly necessary to meet our responsibility, and the additional kinds of materials that were essential in order that we meet our responsibility.

I believe that if we had that information and that additional group of witnesses we would be able to report very clearly to the Senate on the results of these examinations.

Mr. Kleindienst had written back in December of 1971 that he was not involved in the ITT settlement, that the settlement was handled and negotiated exclusively by Mr. McLaren, who bore the entire responsibility for the settlement and the negotiations.

We found out in the course of our hearings, both in our examination of Mr. Kleindienst and from other witnesses, that a great many other contacts had been made by officials of ITT through a series of meetings, communications, and negotiations, if you will, with Mr. Kleindienst.

I think it is appropriate for us in this context, in trying to assess the relationship between the settlement of the ITT case and the role of the White House, to examine what, exactly, ITT was up to during this period. Was it, as was sug-

gested even by Mr. Kleindienst, only the ITT lawyers and the Department of Justice attempting, at arm's length, to reach some kind of equitable settlement? Or were there other contacts, involving Kleindienst, the White House, Cabinet officers, and other Federal officials that played the key role in the settlement of the ITT cases? We do not know the answers to that. As of now we do not know whether, from the results of the whole range of contacts, what the ITT was involved in, or what Mr. Geneen was involved in, or what Mr. Gerrity or Mr. Merriam were involved in, or what role they played in the eventual settlement of the case. Certainly those are legitimate questions for us to resolve.

So it is appropriate for us to wonder about the range of these contacts and what ITT was doing.

ITT, for example, in its news release on February 28, said that there was no kind of deal, and that neither Mrs. Beard nor anyone else except counsel for the company was authorized to carry out negotiations. And yet about 2 weeks later, ITT put out another news release listing all the Government officials who were seen, not by counsel, but by Harold Geneen. At page 41 of our report, we list all the contacts we know of which were made by ITT representatives other than counsel.

Mr. President, during the course of our hearings we heard Mr. Geneen say time and time again, we heard Mr. Rohatyn say time and time again, and other officials of ITT say time and time again that the only purpose of their contacts with any administration official was not in connection with the settlement of any ITT case, but only in connection with the general anticonglomerate or antitrust policy of this administration.

With respect to Mr. Geneen and his visit to Mr. Mitchell, he said he did not go to see him about ITT, but only about antitrust policy. He said:

I know it might have incidentally affected ITT.

It affected ITT more than incidentally because there were only four cases involving anticonglomerates and three of them had to do with ITT, so it involved ITT very directly. When the president of ITT talks to these officials about only anticonglomerate policy, while three of the four pending administration cases involve ITT, Mr. President, you know that he is in effect talking about ITT.

It is interesting that when we asked if Mr. Geneen, or any of the range of other ITT officials—Dita Beard, Mr. Rohatyn, Mr. Gleason, Mr. Gerrity, Mr. Casey, or Judge Walsh—who were seeing the Attorney General, William Timmons, Peter Flanigan, Secretary of the Treasury David Kennedy, Chairman Paul McCracken of the Council of Economic Advisors, John Erlichman, Arthur Burns, Secretary of Commerce Maurice Stans, Harry Dent—even went back and talked to any of those men after the ITT cases had been settled. They said no, they did not.

So, once the settlement occurred, we did not see Mr. Geneen going back to the Justice Department and discussing with Mr. Mitchell his concern about antitrust policy. We did not see Mr. Gerrity going back to discuss antitrust policy.

After the settlement of ITT, there was not one contact made. And so I think it certainly seems reasonable for us to assume that all those contacts were not made just to discuss general policy, but to influence the strategy and the movement of the administration with respect to the ITT cases.

I think in fairness to Mr. Geneen and Mr. Rohatyn that when they were in Washington also talking to Members of Congress about antitrust policy, that they were hopeful there would be some kind of change. I do not think any of us are trying to fault the fact that they were trying to press their position. We do not blame ITT's people for trying to get across their views. They are in business, representing their stockholders. The question is: Did they at some point bolster their presentation with a different kind of action, such as a large pledge for the Republican Convention? That is the key question and that is the question that still remains.

And what effect did all these contacts have? When they talked with high administration officials, what did they ask these Cabinet heads to do? Did they just brief them and ask them nothing? Did they simply wish to see some innocent change in policy? Were the White House officials who were going to San Diego aware of the ITT problems? If they were, did they do anything about them? If they did not, should not we know about it?

These questions take us back to the need for additional hearings. We have seen the range of different contacts that were made. One of the things denied to us as members of the Committee on the Judiciary was what came out of the other end. We know that they saw all of these high Government officials, but we do not know what effect they had. The only way we could know would be to get complete information from ITT or the various officials.

One significant fact is that the doors of the White House were always open to these officials from ITT. Mr. Gerrity and Mr. Merriam were able to see Harry Dent, Peter Flanigan, Charles Colson, and Herb Klein, about their problems.

I am sure there are many hundreds of millions of Americans who have problems and who would like to be able to get in to see Mr. Flanigan or Mr. Erlichman or Mr. Klein or Mr. Dent to ask them to work on their problems.

I am sure there are businessmen in my State of Massachusetts who have problems with the Government, who would like to be able to see these officials or to be able to come down and knock on the White House doors and have them open.

I am sure there are many senior citizens in this country who have problems with social security, small businessmen who have trouble getting loans, and returning veterans who have been held up on benefits who would like to have their problems resolved.

We see all these high ITT officials being able to come down and have someone listen to their problems. That must concern many Americans.

I do not blame ITT for trying to get across their views, but I do blame those who are willing to give them the extensive attention they apparently received—almost 3 dozen contacts between ITT and the highest officials of this administration.

If we knew that instead of these Cabinet officers and presidential aides that only the attorneys with the Justice Department had been involved, how much easier our task would have been. If, instead of having a list of 3 dozen contacts, we had only visits to three or four attorneys in the Justice Department's Antitrust Division, and that the negotiations were carried on, not by lobbyists—not by Dita Beard or Ned Gerrity or John Ryan—but by ITT's counsel, how much easier it would be for us to resolve this problem. But that is not the case, and we cannot ignore the contacts that were made. The real question is whether the ITT officials were effective in translating the contracts into administration action?

We do know that at least one White House aide was in direct contact with the nominee, although the nominee does not remember. What else happened that we do not know about?

It certainly seems appropriate at this point, now that we know of the range of contacts that were made by ITT, to examine the contacts that were made with the nominee himself, and see what we learned about his contacts with ITT. We certainly need to review those, because we know that, in response to the letter from Mr. O'Brien, he said that the matter had been "handled and negotiated exclusively" by Mr. McLaren. So, in view of that language, it is important for us to ask whether Mr. Kleindienst knew anything, and whether he was involved, and what contacts were made with him, and whether his actions did or did not consist of either handling or negotiating these settlements.

We asked Mr. Kleindienst about these various contacts. The first contact we were able to find out about was a contact with Mr. John Ryan. Mr. Ryan is the deputy head of ITT's Washington office, and is also a neighbor of Mr. Kleindienst. Mr. Kleindienst first indicated that he had seen Mr. Ryan on a number of different occasions, but that the matter of ITT's cases had not really been raised. Later on in the hearings, Mr. Ryan testified and he told us that he had talked about the cases with Mr. Kleindienst.

Then Mr. Kleindienst testified again and indicated that he and Ryan might have talked about it. So Mr. Ryan was one contact. He saw Mr. Kleindienst at a number of social gatherings in their neighborhood, and it was Mr. Ryan who set up the appointment for Mr. Rohatyn to see Mr. Kleindienst.

We had wondered, in the course of our hearings, how Mr. Rohatyn could have been able merely to call Mr. Kleindienst on the phone and get an appointment with him. We asked Mr. Kleindienst this question, the first time we asked him about Mr. Rohatyn:

Mr. Kleindienst, were you acquainted with anyone from ITT before Mr. Rohatyn called in April?

That could be labeled as a fishing question. We have heard our friends from the other side of the aisle say that fishing was taking place. That could fall under the designation of a fishing expedition. Let us see what happened with that fishing:

Mr. KLEINDIENST. Was I acquainted with anybody?

Senator KENNEDY. Yes.

Mr. KLEINDIENST. There is only one person in ITT who I have ever been acquainted with, and that is a Mr. Ryan who is employed by that company in Washington, D.C., and he lives in my neighborhood in McLean.

Senator KENNEDY. Could you describe that relationship? Is it purely social, or is it a relationship——

Mr. KLEINDIENST. It is a very casual social relationship. Once or twice a year the neighborhood has a Christmas party or neighborhood party, and then I see Mr. Ryan.

Senator KENNEDY. But there has never been a professional relationship between you?

Mr. KLEINDIENST. None at all, sir.

Senator KENNEDY. Had you ever heard of Mr. Rohatyn before his call?

Mr. KLEINDIENST. No, sir.

Senator KENNEDY. He was not introduced to you by anyone?

Mr. KLEINDIENST. No, sir.

Senator KENNEDY. Did he refer to anyone in calling you?

Mr. KLEINDIENST. No, sir.

Senator KENNEDY. He just called you out of the blue, and you took his call?

Mr. KLEINDIENST. Well, he identified himself as a representative of the company. I think he knew who I was, my responsibilities in the Department.

Senator KENNEDY. And you took his call, without knowing what he was calling about, just because he was a director of ITT?

Mr. KLEINDIENST. Yes, sir, I did.

Senator KENNEDY. Even though you did not know him or had been unaware of him?

Mr. KLEINDIENST. Yes, sir, based upon the identification given, I did.

Later we returned to the subject. This time Mr. Kleindienst had something new:

Mr. KLEINDIENST. Senator Kennedy, you might have noticed that I have been talking to Mr. Rohatyn and I have had my recollection refreshed as to why he called me in the first place. I believe that Mr. Ryan, who lives out in my neighborhood, might have said at one of these parties that there would be an economic problem to ITT, and would I be willing to talk to somebody from the company, and I think I said yes, I would.

And then that precipitated Mr. Rohatyn to call. No one discussed with me who that would be, and that was several weeks later.

Senator KENNEDY. Was it Mr. Ryan? Could you give us his full name and where he lives?

Mr. KLEINDIENST. John Ryan, and I do not know what his title or position is in the company. He lives on or near Portland Place in McLean.

Senator KENNEDY. Is he—he works—or what is his work at ITT?

Mr. KLEINDIENST. I do not know what his job is.

Senator KENNEDY. But he was associated with ITT?

Mr. KLEINDIENST. I believe he is.

Senator KENNEDY. Mr. Rohatyn, could you tell me?

Mr. ROHATYN. Sir, all I know is that he is an employee of the company.

Senator KENNEDY. You do not know in what respect?

Mr. ROHATYN. No. sir.

Senator KENNEDY. You do not know if he knows Mrs. Beard, or does not?

Mr. ROHATYN. I have no idea.

Senator KENNEDY. But anyway, Mr. Kleindienst, now you do remember having some conversation with Mr. Ryan?

Mr. KLEINDIENST. Yes. I recall now that I have talked to Mr. Rohatyn that Mr. Ryan had, at one of these functions where there would have been 20 or 30 people——

Senator KENNEDY. This is the Christmas party?

Mr. KLEINDIENST. This was in the spring. It must have been a spring party. He raised the question whether I would be available to an officer of the company to discuss the economic aspects of it, and I must have said yes to him because I think that that is how Mr. Rohatyn was encouraged to call me. I never heard of Mr. Rohatyn until he called me, however.

So this is the kind of fishing we are talking about. We were trying to find out about Ryan and his role in trying to bring Kleindienst and Rohatyn together, and it was brought out by fishing and by repeated questioning. From that we were able to find out that he had talked to Mr. Ryan a number of times and that he talked to Mr. Ryan about the economic effects of the ITT case. Mr. Ryan turned out to be the fellow who set up Kleindienst's first meeting with Mr. Rohatyn. This is where it ended up, when Mr. Kleindienst testified:

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. That's a fair statement.

Now the O'Brien matter. The quotation in Mr. Kleindienst's letter of December 13, 1971 to Lawrence O'Brien read:

The settlement between the Department of Justice and ITT was handled and negotiated exclusively by Assistant Attorney General Richard W. McLaren. * * *

But then the nominee conceded at the hearings,

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 divestitures of Hartford by ITT. That is a fair statement.

But the nominee stubbornly stuck to his position that his "handled and negotiated exclusively" statement was accurate. The other party to Kleindienst's negotiations with ITT was more realistic when Felix Rohatyn testified, he spoke of how he "handled some of the negotiations and presentations to Kleindienst and McLaren." The kindest thing that can be said of Kleindienst's position on this point is that he has a bizarre sense of the meaning of words. Perhaps more accurately, he had to realize that, however technically defensible his statement to O'Brien might be, it would inevitably be totally misleading.

So I do feel that we certainly were able to bring out some extremely important and relevant facts which were unknown at the start of these hearings.

To get back to the ITT contacts with Kleindienst, then, first we have Ryan, who is Kleindienst's neighbor who works in the ITT Washington office; he is its deputy director. We were able to find out that he was what was called the "listening post" for ITT antitrust matters. We tried to get some definition of what was meant by "listening post." We could only surmise that he was the agent who gathered all the material and passed it on up to his superior and to New York. We asked the New York ITT office if they could provide for us memorandums or other papers about the ITT matter, and of course we never received them. A very large fraction of all the material that ITT agreed to supply was subsequently denied. In fact even though ITT agreed to supply us with material which was in their New York headquarters, nearly every single item we received from ITT's files was from their Washington office. ITT broke almost every agreement its officers and counsel made under oath to provide material from its New York files.

Then we had the establishment of contract with Mr. Rohatyn, or the series of meetings with Rohatyn, of which eventually there were six plus at least two phone calls.

One of the interesting factors is that even though there were five private meetings, four of them were kept secret from Mr. McLaren. He knew of only one of those five meetings even though the matter was supposedly being handled and negotiated exclusively by Mr. McLaren. Mr. Kleindienst did not even take the opportunity of informing the one who had the prime responsibility. I do not know why he would not have done so. It certainly seems that he would have, just to keep him informed. It is understandable, perhaps, that under certain circumstances you would have these direct contacts between an ITT official and someone in the Justice Department, but it would appear that you would also invite the head of the Antitrust Division to such meetings, or if not that, certainly you would keep him informed.

So we had the contacts with Rohatyn. What was the next contact, still with the point in mind that Mr. Kleindienst indicated in his letter to Mr. O'Brien that this matter was handled and negotiated exclusively by Mr. McLaren?

We find Mr. Walsh appearing at this point. I can remember we asked Mr. Kleindienst why there was an extension of time for the filing of the Government's jurisdictional statement in the ITT-Grinnell litigation in the Supreme Court. We were unable to gain any real kind of information about it, until we started with the Supreme Court records to try to track it down. Eventually we found out that the delay was a result of a request from ITT in the form of a letter from Mr. Lawrence Walsh. Walsh is a close friend of Mr. Kleindienst. He had a distinguished career in public service in the Justice Department on another occasion when he was Deputy Attorney General. He is chairman of the American Bar Association Standing Committee on the Federal Judiciary and is a very distinguished individual. He had been requested by ITT to contact Mr.

Kleindienst about their antitrust litigation.

Getting back to the reason for the delay, here was the exchange.

Senator KENNEDY. Now, as I understand, on April 19, the Justice Department requested a last-minute delay for its filing of an appeal in *Grinnell*. This is the *ITT* case in the Supreme Court, is that right, Mr. Kleindienst?

Mr. KLEINDIENST. I beg your pardon, Senator Kennedy?

Senator KENNEDY. That on April 19, this is the day after Mr. Rohatyn's phone call to you, the Justice Department requests a last minute delay for its filing of appeal in *Grinnell*, is that correct? I believe that——

Mr. KLEINDIENST. We requested a delay, but I do not remember the date, Senator Kennedy.

Senator KENNEDY. Mr. McLaren, do you remember? I believe that is the date.

Mr. MCLAREN. I could not place the date, Senator.

Well, in getting back and doing some more fishing, we found out that the delay was a result of contacts that were made in behalf of ITT by Mr. Walsh, specifically a communication to Mr. Kleindienst in a long letter that was, I believe, hand delivered and three telephone calls with Mr. Kleindienst, one the day the letter was delivered and two the day the decision was made by the Justice Department to seek the delay. Mr. Walsh, in his letter asking for this delay, indicated to Mr. Kleindienst that he believed that, on the evidence that he had seen so far, the Justice Department had a good chance of prevailing in the ITT litigation. He was hopeful that there could be some kind of interdepartmental review before the Justice Department would move forward with the appeal in the case.

So here we had this additional contact that was made, and further conversations with Mr. Walsh, who was acting in behalf of ITT. I ask unanimous consent that the letter be printed in the RECORD—that he was acting in behalf of ITT, trying to get a delay in this case.

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

DAVIS POLK & WARDWELL,
New York, N.Y., April 16, 1971.

Hon. RICHARD G. KLEINDIENST,
Deputy Attorney General, U.S. Department of Justice, Washington, D.C.

DEAR DICK: As I told you over the telephone, our firm has represented ITT, as outside counsel, ever since its incorporation over fifty years ago. A few weeks ago, Mr. Harold S. Geneen, Chairman and President of ITT, asked me to prepare a presentation to you as Acting Attorney General and, through you, to the National Administration on the question of whether diversification mergers should be barred and, more specifically, urging that the Department of Justice not advocate any position before the Supreme Court which would be tantamount to barring such mergers without a full study of the economic consequences of such a step.

To us this is not a question of the conduct of litigation in the narrow sense. Looking back at the results of government antitrust cases in the Supreme Court, one must realize that if the government urges an expanded interpretation of the vague language of the Clayton Act, there is a high probability that it will succeed. Indeed, the court has at times adopted a position more extreme than that urged by the Department. We therefore believe that the Department should not take such a step without all of the usual precautions that precede a recommendation for new legislation. If the antitrust laws were to be expanded by legislation, rather than by litigation, the Department's views would, in the first instance, be collected by the Deputy Attorney General and then cleared with the Bureau of the Budget which would give all of the other interested federal departments an opportunity to comment. We believe that any major expansion of the antitrust laws should be accompanied by these steps whether the expansion is by litigation or by legislation. It is our understanding that the Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the President's Council of Economic Advisors all have some views with respect to the question under consideration.

Ordinarily I would have first seen Dick McLaren, but I understand that you, as Acting Attorney General, have already been consulted with respect to the ITT problem and that the Solicitor General also has under consideration the perfection of an appeal from the District Court decision in the *ITT-Grinnell* case.

It is our hope that after reading the enclosed memorandum, which is merely a preliminary presentation, you and Dick McLaren and the Solicitor General would be willing to delay the submission of the jurisdictional statement in the Grinnell case long enough to permit us to make a more adequate presentation on this question. ITT of course will join in any application for an extension of time. It is obvious that this case cannot be heard at this term of court and it would therefore seem that a delay of a relatively short period would not be harmful to the public interest.

With kindest regards,
Sincerely yours,
ED
Lawrence E. Walsh.

APRIL 16, 1971.

MEMORANDUM FOR THE DEPARTMENT OF JUSTICE IN SUPPORT OF A COMPREHENSIVE REVIEW OF ADMINISTRATION POLICY TOWARD DIVERSIFICATION BY MERGER

This memorandum is submitted to demonstrate that the Department of Justice should initiate a comprehensive, Government-wide review of the national interest implications of diversification by merger before making any argument to the United States Supreme Court which, if accepted by the Court, would have the effect of banning all significant mergers and diversification. We submit that such a sweeping ban should not be adopted as the policy of the Administration and the Nation without the most careful review. Such a review would be undertaken as a matter of course before the Administration proposed legislation to Congress which would have the same effect. We submit that such a review would show that a ban on significant diversification mergers would sacrifice vital national goals—economic growth and full employment, American competitiveness in world markets, and the balance of payments—to the unrealized fear of dangers to competition. The review should avail itself of the insights of all interested Government agencies, as well as of economists, businessmen, lawyers, and other experts outside government.[1]

[1] The Department's appeal from the decision of the District Court in *ITT-Grinnell* raises a substantial danger that the Supreme Court will issue a decision broadly condemning diversification mergers, in view of the District Court's finding that the anticompetitive effects alleged by the Department were not supported by the facts. This is particularly true of the Department's contention that the mere possibility of reciprocal dealing (purchasing from customers) is enough to condemn a merger under Section 7 of the Clayton Act. This contention, if accepted by the Supreme Court, would bar almost any significant acquisition by a company with many suppliers.

We urge the Department, in order to make possible a review of Administration policy before national policy is irrevocably fixed by the Supreme Court on antitrust grounds alone, not to perfect its appeal in *ITT-Grinnell* by filing the Jurisdictional Statement which is due on April 20, 1971. If, after this review, the present policy of the Department of Justice regarding mergers and diversification were reaffirmed, there would be numerous other opportunities to present it to the Supreme Court, of which the *ITT-Canteen* and *ITT-Hartford* cases are only two. Moreover, if actual anticompetitive effects should ever develop from an ITT acquisition, the acquisition could be attacked when these effects developed, under the *du Pont-GM* decision of the Supreme Court.

A BAN ON SIGNIFICANT MERGERS AND DIVERSIFICATION WOULD INJURE VITAL NATIONAL INTERESTS

The most important economic problem facing the United States today is the challenge to increase its economic efficiency in order to remain competitive in increasingly rigorous world markets. This challenge must be met if the United States economy is to continue its long-term growth at reasonably full employment. The challenge of remaining competitive in world markets is not something which Government policy can meet unaided, and it is not something which can be met by a simple, one-shot effort. Staying competitive will require a sustained national effort, and increasingly it will require that every economic resource the Nation possesses be utilized to the best advantage.

Diversification by merger is the most important guarantee that every economic resource of the Nation will in fact be used to the best advantage. A nondynamic industry must not be protected from constructive new forces. Through diversification, scarce management skills, additional resources of capital and know-how, and, most important, the will and ability to plan for growth, can be brought to bear in new industries. These inputs are essential if an industry is to remain competitive. If an industry has ceased to generate these inputs itself—as many industries, especially concentrated industries, have—they must be introduced from outside. There are only two ways of introducing these essential inputs from outside: wholly new entry through internal development and diversification by merger. As a practical matter, completely new entry into an established industry is feasible only for (a) firms in closely related industries which have great similarities in production and marketing techniques, so that the vital business "know-how" is readily available and transferable to the new field, or (b) employees of established firms in the industry who use their know-how to set themselves up in business as competitors of their former employers. For any other types of persons or firms interested in entering a completely new industry, the lack of detailed industry know-how, combined with the high start-up costs of totally new products and marketing channels, is almost always prohibitive.

Thus diversification by merger is often the only effective means of stimulating new competitiveness in established industries. The record shows that diversification mergers have served this purpose. ITT itself is a case in point. ITT stimulates the profit growth of each of its profit centers by helping them develop short-range and long-range plans for growth and by assisting them through a central management staff of over 1,000 industrial and operations specialists. Since 1960, ITT's earnings have grown at a steady com-

pound rate of 11% a year. The improved competitiveness of the companies ITT has acquired is illustrated by the growth and development of subsidiaries like Avis and Sheraton. ITT, in other words, has been able to apply modern management skills in such a way as to increase very substantially the efficiency and competitiveness of the companies it acquired. Many other companies which have diversified substantially by merger, such as Textron, Litton, TRW, Transamerica, Beatrice, and American Home Products, have also been successful in substantially increasing the competitiveness of the companies they acquired.

Increased economic efficiency is not the only benefit realized from mergers.

For example, individual enterprise and ability are utilized and rewarded much more effectively by companies built around modern management techniques than in many long-established companies.

The entrepreneurial enterprise which leads to the founding of new companies is stimulated far more effectively if an active market exists for the equity interests which the entrepreneur has built up in a successful company. The 3,751 acquisitions which occurred in 1970, the great bulk of which were diversification mergers, indicate the importance of this "capital market" for businesses.

Diversification is also essential to permit a company to hedge or insure against the risks inherent in business operations. Without diversification, a decline in business in one industry can have devastating results, as the downturn in the aerospace business has had in Southern California and the State of Washington.

ITT also illustrates the vital importance of such diversification of the Nation's balance of payments. Prior to World War II, ITT was a United States-owned telephone operating and manufacturing company with substantially all of its operations abroad. Most of its properties were expropriated or destroyed during the war. ITT has now rebuilt a substantial position abroad, particularly in Europe and Latin America. It employs over 200,000 persons abroad, and is the third largest corporate contributor to a positive United States balance of payments, remitting over $300 million a year to the United States economy.

However, the fundamental risks involved in significant foreign operations cannot be ignored. For example, ITT's $150 million investment in the Chile Telephone Company (only two-thirds of which is covered by government insurance purchased by ITT) is facing possible nationalization by the new Marxist government of Chile. Experience has shown that any compensation is likely to be small, paid only in local currency, and late. ITT has not yet received any compensation for its Cuban subsidiary, which was expropriated in 1960.

These risks of foreign operation must be balanced by a stable economic base in the United States. All of ITT's major international competitors, such as Siemens of Germany, Ericsson of Sweden, Mitsubishi, Hitachi, and Nippon Electric of Japan, and Northern Electric of Canada, have solid domestic bases in their home countries as well as active governmental support for their extensive export sales. This need for a stable domestic base is the basic reason for ITT's diversification program. If this diversification into the United States economy is prohibited, the ability of ITT and other United States companies to assume the substantial risks of doing business abroad in a competitive world market will be substantially impaired.

These national interest questions, while of course they affect ITT vitally, do not affect ITT alone. On the contrary, a ruling banning all significant mergers and diversification would have broad repercussions throughout the economy.

We recognize that the points we have made about the national interest implications of mergers and diversification are not uncontroversial. We earnestly submit, however, that they should not be dismissed as special pleading. The report of President Nixon's Task Force on Productivity and Competition (the "Stigler Report"), after reviewing the issues of conglomerate mergers flatly concluded: "Vigorous action on the basis of our present knowledge is not defensible." Like views have been expressed by men who have long been identified with vigorous enforcement of the antitrust laws. So far as we are aware, this conclusion is shared by most scholars in the field of antitrust law.

We respectfully suggest that it is timely for the Department and the Administration as a whole to review their policy toward mergers and diversification.

II

THERE SHOULD BE A COMPREHENSIVE REVIEW OF ADMINISTRATION POLICY TOWARD MERGERS AND DIVERSIFICATION

The Stigler Report strongly recommended a comprehensive review of national policy toward mergers and diversification:

"We strongly recommend that the Department decline to undertake a program of action against conglomerate mergers and conglomerate enterprises, pending a conference to gather information and opinion on the economic effects of the conglomerate phenomenon."

The need for such a review is even more pressing today than it was when the Stigler Report recommended it, because of the danger that the *ITT-Grinnell* appeal to the Supreme Court will result in judicial legislation of a blanket condemnation of all significant mergers and diversification. Because the factual assumptions underlying the Department's anti-merger policy were not established in that case, it would seem appropriate to await another case in which the facts show a real probability of substantial adverse effects on competition, rather than move to a more radical position on the law to compensate for a failure of proof.

This comprehensive review of Administration policy should involve the Departments of Commerce, Labor, and the Treasury, speaking for the business economy, the interests of employees, and the balance of payments, and the Council of Economic Advisors, representing the national commitment to economic growth and full employment, as well as the lawyers in the Department of Justice who have specialized in this field. Such a full and balanced review of merger policy can only be carried out within the Executive Branch, because the Supreme Court has made clear that in merger cases it will look to the antitrust laws alone, and will disregard any economic or other public benefits resulting from the merger.

Such a balanced, Government-wide review is needed to insure that the policy which results is truly in the national interest. Such a Government-wide review would be undertaken as a matter of course before the Administration sought a comprehensive statute from Congress which would ban all significant mergers and acquisitions. Such a review is equally necessary before the Department of Justice seeks to obtain such a prohibition through a Supreme Court decision which would have exactly the same immediate impact as a statute and would be even more difficult to modify as experience showed its unwisdom.

CONCLUSION

For the reasons given above, a comprehensive, Government-wide review of Administration policy toward mergers and diversification should be undertaken.

Respectfully submitted.

LAWRENCE E. WALSH,
FREDERICK A. O. SCHWARZ,
GUY M. STRUVE,
Attorneys for International Telephone & Telegraph Corp.

Mr. KENNEDY. And in the letter, Mr. Walsh also said he understood that Kleindienst had "already been consulted with respect to the ITT problem." What this reference was about has never been definitely established.

Now we are beginning to see unfold the series of different contacts that have been made between ITT and Mr. Kleindienst. But this is just the beginning.

By now the Government was really up to the eleventh hour for filing in the ITT case, but that time was delayed. And when we inquired of Mr. Walsh and Mr. Kleindienst about how that was arranged, we heard about the circumstances which surrounded it, and about how the Solicitor General came down and met with Mr. Kleindienst and Mr. McLaren.

We asked the Solicitor General, and I think it is fair to say that he did not think that it affected the merits of the case whether it was delayed or not. I think it is a fair characterization of his testimony to say that he did not care whether or not the filing was delayed. Mr. McLaren did not believe that it should be delayed, and his testimony indicates that. Yet we found that it was delayed. We wondered why. It was through Mr. Kleindienst that that case was postponed, quite clearly, as the Solicitor General, Mr. Griswold, indicated on page 380:

Senator KENNEDY. . . . could you repeat for us what you believe to be the reasons for seeking the delay in the filing of the jurisdictional statement?

Mr. GRISWOLD. The basic reason was that the Deputy Attorney General wanted it.

Just before that, there was a question to Mr. McLaren:

Senator KENNEDY. As I understand it, the new kind of issue or at least the consideration in your outlook was the part of the letter that suggested that these other agencies of Government were now taking a look at this. Do I understand you correctly? And, therefore, you thought that their input ought to be at least considered, since the merits of the case would not be affected by a delay.

Is that a fair statement?

Mr. MCLAREN. Senator, I have answered that three or four times.

Senator KENNEDY. Could I just get back? Is that a fair representation?

Mr. MCLAREN. No, I do not think it is, because I answered you before.

Senator KENNEDY. Well, then, could you tell us what additional information you thought you were going to get, coming from the agencies which had not really——

Mr. MCLAREN. I answered that before, too. I told you that I do not think there was going to be any information coming, and since I did not think so, I did not particularly care whether there was an extension of time.

Here is the fellow who is in charge of the Antitrust Division, exasperated saying in effect:

I have answered that question. I did not believe there would any new information coming. We studied this thing to death.

It did not matter to Griswold, who was charged with the decision whether to take the appeal. McLaren had the main responsibility for the case. And McLaren, as Kleindienst later testified, was basically negative about the extension of time. Yet the delay was obtained.

I read further from the hearing:

QUESTION. Could I have an answer to that? Who did care whether there was an extension, if you did not, and Mr. Kleindienst had not read the letter?

Mr. MCLAREN. I guess Judge Walsh cared.

QUESTION. And ITT cared?

Mr. MCLAREN. I think that there was not any reason that we should not have listened to whatever came in.

So here we have additional contacts from ITT. We see at least some action being taken by Mr. Kleindienst on this. Mr. Kleindienst had implied that there had not been any contacts, yet we find Ryan, the contacts with Walsh, the meeting with McLaren and Griswold about seeking the extension of time, and the series of meetings he had with Rohatyn, and there were still other contacts.

I think it is important to get to understand and to get some kind of feeling about why this case was so important to ITT. Mr. Walsh is a very distinguished attorney, who had worked in a high position in the Justice Department. Here are some key phrases from his letter, which is printed in its entirety on page 265.

Looking back at the results of government antitrust cases in the Supereme Court, one must realize that if the government urges an expanded interpretation of the vague language of the Clayton Act, there is a high probability that it will succeed. Indeed, the court has at times adopted a position more extreme than that urged by the Department.

Here is an attorney requested by ITT saying, "Indeed, the Court has at times adopted a position more extreme than that urged by the Department."

So you get some kind of feeling as to why it was so important that ITT was dramatically concerned with the outcome of this case. Here is an outstanding attorney who said that if the Justice Department carries forward, they are going to win the case.

It is our understanding that the Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the President's Council of Economic Advisers all have some views with respect to the question under consideration.

I wonder how Mr. Walsh knew that? I wonder what he was told about those contacts by other ITT officials? I wonder what they told him, what kind of response they had?

Ordinarily I would have first seen Dick McLaren, but I understand that you as Acting Attorney General, have already been consulted with respect to the ITT problem.

Mr. Walsh had been told that Kleindienst had already been contacted, so instead of going to see Mr. McLaren he took his plea to the nominee. And his plea turned out to be successful.

In any event, we can see that Mr. Kleindienst was very much involved in the settlement during the course of this matter, despite protestations to the contrary.

Mr. Kleindienst was to continue his secret meetings with Rohatyn and was also to have at least three conversations with Mr. Flanigan about ITT's antitrust settlement. I will elaborate on these at a later occasion.

In light of what I have said today, I believe that it is plain that the Senate should not act prematurely on the nomination of Mr. Kleindienst. The cloud over his nomination has not been removed, and the nominee's supporters saying time and again that there is no cloud, simply has not made it magically disappear. We must continue to keep in mind the conclusion of the "Separate views" of Senators BAYH, TUNNEY, and myself on the nomination:

The Senate must decide whether or not it is going to be a party to a whitewash. There is much that is wrong in the evidence received so far. There is much evidence not yet received. There is no justification for the Senate's failing to obtain it.

The Senate is being asked to provide advice and consent on the nomination of Richard Kleindienst. He is the one who was ultimately responsible for the case around which the pending charges revolve, so that, to the extent that case remains under a cloud, so does he. Moreover, we now know that beyond ultimate responsibility for the case, he had intimate connections with it, so the need for a complete inquiry and clearance is increased.

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

The PRESIDING OFFICER (Mr. BROCK). Without objection, it is so ordered.

Mr. COOK. Mr. President, in February, following 2 days of hearings, the Committee on the Judiciary favorably reported by a vote of 13 to 0 the nomination of Richard G. Kleindienst to be Attorney General of the United States. Because of certain allegations contained in the February 29 and March 1 columns of Mr. Jack Anderson, Richard G. Kleindienst requested of the committee an opportunity to rebut these charges. Repeatedly during these hearings the nominee showed an uncommon willingness and candor in presenting his case to the committee.

Following this initial request, the committee held 22 days of hearings, filing over 1,700 pages of testimony and related documents in two volumes. It was, in my memory, an alltime record for any confirmation hearing.

Unfortunately, it was also an all-time record for irrelevancy. Most of the testimony and submitted documents had no relationship to the central issue—the fitness of Richard G. Kleindienst to be Attorney General of the United States. The committee report stated:

The Committee is aware that issues unrelated to the fitness of Mr. Kleindienst to be Attorney General held the public attention during much of the hearings. Sensational charges involving the highest government officials, foreign governments, and multi-billion dollar, multi-national corporations frequently blurred the basic issue before the Committee—the qualification of Richard G. Kleindienst. (Page 4, Committee Report)

I could not agree more. It was the best of times; it was the worst of times—and it was often silly times. For example, I cite the following:

I might also say, Mr. Chairman, that I want the record to show that while the Senator from Massachusetts was asking Mr. Kleindienst what Judge McLaren thought, that the Judge was sitting to the immediate right of the witness. Apparently the best evidence rule is also meaningless. (Page 336)

At best it was a study of a new phenomenon in the law and in the Senate—hearsay evidence in the fourth degree.

Even so, a number of very serious questions were raised as to the issue of the nominee's fitness.

First. Was the nominee a party to the alleged arrangement to settle the pending ITT antitrust cases in return for a contribution to the city of San Diego's convention and tourist bureau?

Absolutely nowhere in the 1,700 pages of testimony is there any indication that Richard G. Kleindienst attempted to influence the settlement of these cases in return for any financial contribution to anyone, including the San Diego convention and tourist bureau.

Senator HART, who is often characterized as one of the most objective and fair persons in the Congress, said after sitting through these 22 days—

But on the basis of this record, I find no basis on which to conclude that the nominee was involved in, or aware of, any effort to link the convention and the settlement. (Page 25, Committee Report)

The testimony presented was unequivocal, Richard G. Kleindienst made no deal. The record is clear on this point—Richard Kleindienst was not a party to any alleged arrangement.

Was the nominee ever aware of the ITT commitment to the San Diego Convention and Tourist Bureau before the settlement of the ITT antitrust cases?

The nominee was questioned extensively on his knowledge of the contribution of the Sheraton Corp.—an ITT subsidiary—to the San Diego community organization:

Senator BAYH. When did you first find out about this offer?

Mr. KLEINDIENST. About the San Diego convention?

Senator BAYH. Yes.

Mr. KLEINDIENST. It was some time in December of 1971; my recollection serves me that it was when I was coincidentally in San Diego at a regional meeting of U.S. attorneys that the first public reference to this alleged tie-in was ever revealed. But it was not until December.

Senator BAYH. Nobody brought this matter to your attention in the latter part of November when it appeared in the Washington Star?

Mr. KLEINDEINST. Well, whenever that first became public, Senator Bayh. But my recol-

lection is that it was around December 3 when I was in San Diego. But whenever it appeared in the public press, that is the first time I ever heard about it.

Senator BAYH. And nobody brought this matter to your attention when Congressman Wilson from San Diego in August released the first press report out there?

Mr. KLEINDIENST. No sir; I was out of the city in the month of August with my family on a vacation.

Senator BAYH. You really have no knowledge of such a thing?

Mr. KLEINDIENST. Absolutely no knowledge of any kind whatsoever from any person at anytime.

Senator BAYH. Thank you. Until, I think you said, early in December.

Mr. KLEINDIENST. Well, I am just trying to use a recollection, Senator.

Senator BAYH. Well, first of December, last of November. Thank you, Mr. Kleindienst. (Page 157–8)

Under oath in response to Senator EASTLAND, he said:

Now, Mr. Chairman, based upon the statements that have been made 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 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. I never talked to a person on the face of this earth about any aspect of the San Diego Republican National Convention or the I.T. & T. Corp. I never talked to Mr. Mitchell about any aspect of this case. He never mentioned any aspect of this case, and there is not a person in this world who, if they testify truthfully, can come forward and say either that I had knowledge of anything going on with respect to the San Diego convention and the I.T. & T. Corp. or that in any way, under any circumstances, I had anything whatsoever to do with anything that the Department of Justice, the Government of the United States, myself, or Judge McLaren, in connection with these matters. (Page 100)

Answering Senator HRUSKA on the same question, he said:

Senator Hruska, subject to the penalty of perjury, I never heard of the San Diego ITT Republican Convention matter until the latter part of November or some time in the first part of December. I heard about that in the press. (Page 176)

A second time, Senator HART said.

And, on the record before us, I do not believe there is any substantial evidence upon which to conclude that Mr. Kleindienst was aware of, let alone involved in, any effort to link the settlement to ITT convention commitment. (Page, 19, Committee Report)

At this point it should be noted that a final agreement on the settlement of the cases was reached on July 31, 1971. The settlements were formally presented to the district courts of Connecticut and the Northern District Court of Illinois on August 31, 1971. The final consent decrees were entered on the ITT Canteen, Grinell, and Hartford Fire Insurance cases on September 24, 1971. I think it is important to remember those dates.

Second. Did the nominee act improperly in his limited participation in the settlement of the ITT antitrust cases?

Although there were numerous charges questioning his conduct and hinting at clandestine deals, the record shows no evidence of any misconduct on the part of the nominee. To the contrary, there is unshakeable testimony by the nominee unequivocally denying any impropriety in the ITT cases. Under oath he stated:

The nature of the allegations was so preposterous, so unrelated to any experience that I had ever had in the Department of Justice, and yet if they connived they could only have done it through me because I was the Acting Attorney General in that case.

To my knowledge, and I think I said on the first day that there would not be a living human being on the face of this earth that would come forward before this committee and testify truthfully under oath that either I knew anything about those negotiations for that convention, that anybody ever mentioned them to me or that they ever had anything to do with this case. To me that was the issue with which this committee and I, my Department, this administration, were confronted.

I think that to the extent that a person under those circumstances can truthfully and honestly set forth what he did and why he did it, to ask a U.S. district judge to come on 1 day's notice and be with him without any prearrangement or working out your testimony together, to ask an officer of this corporation to likewise be here and never talk to him about his testimony, and have the three of them try to tell you a story of what happened, in my opinion, at least was an honest, sincere, conscious effort to indicate to the U.S. Senate that whatever was contained by inference, innuendo, or otherwise in that memorandum was false. I believe that we have done that. (Page 1724)

Did the nominee lie when he said that the ITT merger negotiations were "negotiated exclusively" by Assistant Attorney General for the Antitrust Division?

On December 13, 1971, in response to a letter by Lawrence F. O'Brien, chairman of the Democratic National Committee, the nominee said that—

The settlement between the Department of Justice and ITT was handled and negotiated exclusively by Assistant Attorney General R. W. McLaren. . . .

In regard to his working relationship with the now Federal District Judge McLaren on the ITT case, he replied that—

The settlement between the Department of Justice and ITT was handled and negotiated exclusively by Assistant Attorney General Richard W. McLaren, who is in Europe at the present time and is not expected to return until the evening of December 20, 1971 . . . Mr. McLaren kept me generally advised as to the course of negotiations with ITT and with his reasons for endeavoring to work out a settlement with it. Prior to the final conclusion of these settlement negotiations and the effectuation of a settlement agreement between the Department of Justice and ITT, Mr. McLaren made his final recommendation in the matter to me, with which I concurred. Again, I will leave it to Mr. McLaren to more specifically discuss the details of and reasons for that settlement on behalf of the Department of Justice. (Page 120)

Subsequently allegations were made that Deputy Attorney General Kleindienst did in fact negotiate the settlement. To buttress these claims, a series of contacts with various representatives of ITT, such as Felix Rohatyn, an ITT director, were brought up.

Mr. KLEINDIENST. I think in the context of the rather insinuating and inflammatory rhetoric of Chairman O'Brien in his letter, and based upon the limited involvement I had with Mr. Rohatyn, that is to say, 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 in the ITT Hartford matter and the Canteen-Grinnell matters.

I think, as the testimony of Mr. McLaren pointed out, my testimony and that of Mr. Rohatyn I did not inject myself in those settlement negotiations at all. And even twice, when Mr. Rohatyn came to my office after they commenced to complain about the hard-headed, rigid posture of Mr. McLaren, I told him that I wouldn't inject myself in those negotiations and that his company's lawyers and Mr. McLaren and his staff were to work those negotiations out. (Page 155)

All of the testimony characterizes the nominee's position as "passive," with Assistant Attorney General McLaren and other Justice Department antitrust lawyers participating on behalf of the Department. During the ITT presentation in Judge McLaren's office on April 29, 1971, Judge McLaren ran the meeting. In this and all other contacts with Mr. Rohatyn, the nominee made no recommendations or proposals. During later attempted contacts by Rohatyn, Acting Attorney General Kleindienst said that Judge McLaren was handling the negotiations and that he would not interefere.

In his testimony, Judge McLaren emphasized that he and his staff negotiated the settlement. I read from his testimony:

Judge MCLAREN. In conclusion, I want to emphasize that the decision to enter into settlement negotiations with ITT was my own personal decision; I was not pressured to reach this decision. Furthermore, the plan of settlement was devised, and the final terms were negotiated by me with the advice of other members of the Antitrust Division, and by no one else. (Page 113)

The CHAIRMAN. Did I understand you to say that you were, you and your staff were solely responsible for this settlement?

Mr. MCLAREN. That is my testimony, yes, sir. (Page 116)

The facts are:

First, the Rohatyn presentation was attended by career lawyers of the Antitrust Division, Messrs. Mahaffie, Hummel, and Carlson.

Second, Mr. Carlson and Mr. Widmar, appointed as Judge McLaren's delegates to negotiate, consulted with Mr. Poole concerning Canteen and with I. Curtis Jernigan regarding antiacquisition provisions.

Third, career antitrust lawyers, Messrs. Hummel, Carlson, and Widmar, put together the divestiture package which was phoned to Mr. Rohatyn.

Mr. President, I might say that the tenure of these lawyers go way back to the 1940's and represents some 100 years of expertise in the Antitrust Division of the Department of Justice.

Fourth. Many Stagg negotiations and meetings were held and many more phone calls were conducted between antitrust staffers and ITT representatives, with Mr. Widmar and Mr. Carlson keeping Messrs. Poole, Hummel, Mahaffie, and McClaren posted as to progress.

Fifth. ITT counsel produced facts and statistics almost daily during negotiations, as requested by Mr. Carlson and

Mr. Widmar, much of it by telephone or hand-carried messenger.

Furthermore, the judge testified that no one, including Deputy Attorney General Kleindienst, attempted to influence his actions or decisions. It is extremely pertinent at this point to recount the conditions under which Judge McClaren assumed his position as chief architect of the administration's antitrust policies. I read from the testimony:

The CHAIRMAN. Now did Mr. Kleindienst, Mr. Mitchell or anyone else attempt to influence your decision in the settlement?

Mr. MCLAREN. The direct answer to your question is "No, they did not." I would like to add this: when I was first interviewed by Mr. Mitchell and Mr. Kleindienst in the Pierre Hotel in December of 1968 with regard to coming down here, I had an understanding with them when they offered me a job, I made three conditions: that we would have a vigorous antitrust program; that we would follow my beliefs with regard to what the Supreme Court cases said on conglomerate mergers, and the restructuring of the industry that I thought was coming about in an almost idiotic way; and third, that we would decide all matters on the merits, there would be no political decision.

The CHAIRMAN. Now is that correct in this case?

Mr. MCLAREN. That is correct in this case, absolutely. I might add that the Attorney General and Mr. Kleindienst lived up to their commitment. (Pages 116–17)

Second. Was it improper for the nominee to meet with a director of ITT while the antitrust cases were still pending?

This question is, of course, closely linked with the previous one. However, because of the nature of some allegations that the nominee held "secret meetings" with an ITT director, it should be more fully explored. It is a serious matter when an Acting Attorney General responsible under law for the ultimate decision in antitrust matters cannot meet with members of the public—whoever they are—in order that their case may be heard. Although the impression was given to the public that here was something sinister, improper, or even illegal about these meetings, this is a falsehood that must be exposed. Even the Senator from Indiana (Mr. BAYH), who holds no brief for Richard Kleindienst, I am sure, said:

You have a responsibility to listen, to be sure, and I hope whoever is Attorney General, and when you are Attorney General, you will continue to act that way.

The Senator from Indiana later stated:

I can't get uptight over an Attorney General of the United States, whether he is Republican or Democrat, talking to a man who is an investment counselor, who happens to be on the board of directors of a corporation in the process of a suit with the government. (Page 431)

The Senator from North Carolina (Mr. ERVIN) the Senate's distinguished constitutional scholar, forcefully stated that a Government official has a constiutional duty to see people with problems because of their right of redress of grievances. Remembering his own legal career, he said:

And when I practiced law, and I thought that the Internal Revenue Service, or the Department of Justice, was about to do an injustice to one of my clients, and I felt like that I had some facts that would show that it was an injustice, it was my duty to my clients to go and lay those facts before the subject officials.

Furthermore, these meetings were not secret. They were duly scheduled on the nominee's appointment book like other meetings. These records were available to the committee. As previously noted, career attorneys from the Department's antitrust division were present.

Third. Did the nominee mislead the committee in regard to contracts with the White House?

Apparently the issue as it was pursued in the hearings involves the ability of an individual to totally recall conversations of a year or more ago. Mr. Kleindienst testified that during an ordinary day he had 50 to 60 telephone calls from Congressmen, government officials, and others who have some interest in the actions of the Department of Justice.

Early in the hearings the nominee was asked if he had talked to anyone at the White House about the ITT cases. He replied:

You asked me did I discuss the ITT matter with the White House. I do not recollect doing so. But I am on the telephone almost constantly, throughout a day or week, with somebody on the White House staff or another with respect to some aspect of the operation of the Department of Justice.

Mr. President, I emphasize the following:

For me to say that no one in the White House with whom I might have talked would not have raised ITT question, I would not be prepared to say that. (Emphasis added)

Then, he proceeded to say:

So far as discussing with anybody on the staff of the White House what I was doing, what do you think I ought to do, what do you feel about it, what are your recommendations—no.

He repeatedly qualified his answers on this point. In spite of this, there are those who would deny him confirmation on the basis of White House aide Peter Flanigan's acknowledgment to the committee that he had three casual contacts with the nominee pending the final resolution of the ITT cases. Acting Attorney General Kleindienst admitted that he was not up to the herculean task of recalling conversations that were not of a substantive nature, but were, in fact, casual or "ministerial."

Peter Flanigan made three contacts with the nominee in regard to ITT and none of them could be classified as substantive or of the nature that the nominee would specifically recall them. In his first contact, he passed on to the nominee a comment by Felix Rohatyn while discussing a totally unrelated matter. The second conversation was a call to inform the deputy attorney general that a financial report on the ITT cases, requested by Judge McLaren, was ready for delivery. The nominee replied that it should be held for McLaren's return from Europe. The third contact as recounted by Mr. Flanigan went as follows:

My further recollection is that when, again because of the report's market sensitivity, I personally delivered it to Mr. McLaren a few days after his return on June 7, 1971, Mr. Kleindienst was with him. Mr. McLaren received both the report and the copy of the ITT analysis which Mr. McLaren had given to me and which Mr. Ramsden had returned to me. As I recall, there was no discussion concerning the report other than perfunctory remarks regarding its delivery by me and expressions of appreciation for rendering the assistance requested by Mr. McLaren. I initiated the meeting in order to deliver the report and no other persons participated in the meeting or heard the comments.

Looking at both the nature of these passing "contacts" and the nominee's repeated qualification that he "might have" talked to the White House, it is clear that Mr. Kleindienst did not mislead the committee on this point. He honestly did not remember these very brief conversations. We must look at his actions, and recollections thereof, in the context of a total day, week, month, and year in the life of an extremely busy deputy attorney general. Remember, the nominee testified that the ITT matters consumed a total of 5 hours of his time. Are we attempting to hold him to a standard that none of us could pass?

Fourth. Was the approval of the settlement of the ITT cases by the nominee in his capacity as Acting Attorney General grounds for denying his confirmation?

While few have said that on this issue alone Richard G. Kleindienst's nomination must be rejected, it is central to the entire proceedings.

The answer to this question has to be an unequivocal no. While lawyers may disagree as to the fine points, uncontradicted testimony clearly shows that the Department of Justice under Acting Attorney General Kleindienst was responsible for requiring the largest antitrust divestiture—one billion dollars—in the history of the Republic. Unfortunately, the following facts have been lost on the public at large. But, for my colleagues who must judge the nominee's fitness, it can and should become a measure of his fitness.

Under the three consent judgments, the International Telephone & Telegraph Corp. is required within 2 years to divest Canteen Corp. and the Fire Protection Division of Grinnell Corp. and within 3 years to divest either Hartford or Avis Rent-A-Car, ITT, Levitt & Sons, Inc., ITT Hamilton Life Insurance Co. and ITT Life Insurance Co. of New York.

In addition, ITT is prohibited from acquiring any domestic firm with assets of over $100 million and from acquiring leading firms in concentrated U.S. markets, without the approval of the Department or the court. Under the agreement, a leading firm is defined as one with total annual sales of over $25 million and holding 15 percent of any market in which total annual sales exceed $100 million. A concentrated market is defined as one in which the top four companies account for over 50 percent of total sales.

It is barred from acquiring any substantial interest in any domestic automatic sprinkler company or any domestic insurance company with insurance assets exceeding $10 million.

The agreement also prohibits the practice of reciprocity—using purchasing power to promote sales—by ITT and all of its subsidiary companies.

Senator HART, chairman of the Antitrust and Monopoly Subcommittee, said as to the deterrent effect of the consent decrees:

The prospect of a serious suit and substantial relief will not be dismissed lightly by many prospective acquisitors.

Contrary to popular impressions, the Department in settling this historic antitrust conglomerate merger did not abandon its prosecution. In his testimony before the committee, the Solicitor General of the United States—whose responsibility it is to appeal Government cases to the Supreme Court—Erwin N. Griswold said:

We didn't abandon prosecution of three anti-trust suits. By the settlement, we won two of the anti-trust suits.

I might suggest that the Solicitor General of the United States is an appointee of long standing. He did not secure his appointment under this administration, but rather under the administration of President Johnson.

Mr. Griswold, a former dean of the Harvard Law School, and one of the most respected legal scholars in the country, further stated that the settlement won what was already lost in the Federal district courts. I wish to repeat that. He stated: The settlement won what was already lost in the Federal district courts.

This morning's New York Times says, "Before the Justice Department agreed to drop prosecution of the three suits. "Well, that is like saying that you agree to drop prosecution of a criminal case because the defendant pleaded guilty. There were three suits, and we substantially won two of them. And having won the two of them, we didn't have any ground whatever for winning the third one. And this was in fact a very substantial victory for the government, and the first one in the whole conglomerate field, probably setting a great precedent in the area, and it seems to me most misleading to keep telling the public that the government dropped three suits in the antitrust field. It didn't. (Page 386)

While nonlawyers may not fully appreciate his active defense of the settlement, he judged that the Department would lose on all three cases if ultimately appealed to the Supreme Court.

We felt that it would be very difficult to win it, not only because the law with respect to conglomerate mergers is far from clear, but also because in this particular case there had been sharp conflict in the evidence before the district judge, the district judge had found all the facts against us and all experience shows that it is extremely difficult to win an antitrust case or another type of case in the Supreme Court when you have to attack the findings of fact. (Page 372)

My distinguished colleague from Massachusetts (Mr. KENNEDY), who has criticized the ITT settlement, said of Dean Griswold in 1967 during his nomination hearings, when he introduced him to the committee:

Dean Griswold has, in the world of law, and learning, become a legend in his own time. He has earned a position of respect and renown, for his ability as an attorney, scholar, teacher and educational leader as well as a public spirited citizen and a family man . . . His qualifications are obvious and outstanding. He not only served for five years as a member of the very office he will soon head, but has also explored and illuminated the far reaches of the most difficult legal subjects from taxes to conflict of laws, and from trusts to the Bill of Rights.

I can only say to that, how true.

Fifth. Did the nominee act improperly in the handling of the investigation of U.S. Attorney Harry Steward?

Harry Steward, a U.S. attorney for the southern district of California, was charged by members of a special strike force from the Justice Department operating in San Diego of misconduct. Pursuant to the normal departmental processes, the general crimes section recommended an FBI administrative investigation of Mr. Steward. However, the then Assistant Attorney General of the Criminal Division recommended summoning the U.S. attorney to Washington. On November 17, 1970, the nominee met with U.S. Attorney Steward and subsequently ordered the FBI inquiry which was completed in a routine manner. The case was later reviewed by career attorneys in the Criminal Division. It was concluded that although Mr. Steward's conduct in regard to his handling of an investigation of a close friend, a Mr. Frank Thornton, was highly improper, he should not be dismissed.

Henry Peterson, now Assistant Attorney General of the Criminal Division and a career justice and FBI man since 1947, told the committee that it "was my conclusion that a dismissal of a U.S. attorney under these circumstances would not only have been unwarranted but also grossly unfair, and I so advised Deputy Attorney General Kleindienst."

In his testimony before the committee Assistant Attorney General Peterson told of his basis for the foregoing conclusion:

A review of the record shows that Harry Steward throughout the entire administrative inquiry, was open and candid with both the FBI and other departmental officials. More importantly, he entered into frank contemporaneous discussions with the individuals immediately involved in the investigation taking place. In short, there was no subterfuge which was observable by us on the part of Steward throughout these entire events.

Furthermore, Steward's actions, contrary to some assertions, did not thwart the investigation of any criminal violations. Admittedly, Steward did talk to Frank Thornton, in lieu of subpoening him before the special grand jury, but only after the subpoena had been issued without Steward's knowledge and at a time when he was out of his office. (Page 973).

Subsequently, the nominee held a meeting with Mr. Steward, Mr. Weglian—another career attorney in the criminal division—and Henry Peterson. Based on the report of these career staff attorneys—which also included a highly favorable recommendation by Johnnie Walters, assistant attorney general in the tax division—the nominee also concluded that dismissal was not called for, and issued a press release expressing full confidence in Mr. Steward.

The charge has been made now that the nominee should not have issued such a statement if in fact Steward's conduct was improper. Yet this must be weighed against his continuing effectiveness as a U.S. attorney if a statement of nonsupport was issued.

Mr. Steward was severely reprimanded by the nominee. I should like to quote from a couple of statements Mr. Steward made in answer to questions asked by the distinguished Senator from California (Mr. TUNNEY):

Mr. STEWARD. No, I don't think that was it. He is a very forceful man, and I don't remember exactly how he said it but——

Senator TUNNEY. Could you just as best you can recall——

Mr. STEWARD. "Steward, for Christ sakes if a friend is involved get the hell out of it; stay out of it," words to that general effect. When Dick Kleindienst says something he only says it once and you pay attention. (Page 1447)

But if the decision to retain him was made this "in-house" reproach could not have been publicized without the possibility of destroying his future effectiveness. Because the pending and important Allessio [1] trial in which Steward was a major participant, it was even more important that this not be disclosed.

So I can say that after sitting through the hearing and reviewing the record, I believe that all of the issues that were raised directly bearing on the fitness of the nominee have been resolved in his favor.

Accordingly, I urge the Senate to confirm the nomination of Richard G. Kleindienst to be Attorney General of the United States.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. HANSEN. Mr. President, it is a pleasure to support the nomination of

[1] On November 5, 1969 a Special Federal Grand Jury was convened in the Southern District of California for the purpose of looking into organized crime in San Diego. The Special Grand Jury, on April 7, 1970, returned a 31 count indictment charging John and Angelo Allesio and four others with various criminal tax violations, including violations of 18 USC 371, 26 U.S.C. 7201 and 26 USC 7206 (2). In November of 1970 visiting Judge Bruce Thompson of the District of Nevada set March 1, 1971 as the trial date (this was eleven months after the indictment). The United States Attorney for the Southern District of California, Harry Steward was the principal government prosecutor and was assisted by two attorneys from the Tax Division, Criminal Section of the Department of Justice. The Allesio Case, which was considered to be one of the largest and most important criminal cases in the history of the Southern District, commenced on March 1, 1971 where Steward presented the government's opening statement. On March 10, after the introduction of over 4,000 exhibits on behalf of the government, John and Angelo Allesio withdrew their pleas of not guilty and entered pleas of guilty. Judge Thompson commended U.S. Attorney Steward and his assistants on the thoroughness of the government's preparation.

Richard G. Kleindienst for the office of Attorney General. That nomination is a most logical promotion for Richard Kleindienst because of his experience and proven abilities.

He has vast experience with law. In 20 years of general practice, he has engaged in trial, administrative practices, and appellate work, and has been admitted to practice before seven courts ranging from the district courts of Arizona to the Supreme Court of the United States. He is a member of the American Bar Association and president-elect of the Federal Bar Association.

In addition to experience with law, Richard Kleindienst is experienced in government and administration. He was a member of the Arizona Legislature and has been involved in government since 1953. He has been an officer or director of many organizations.

But the most important experience that Richard Kleindienst has involves the duties of the very office for which he is nominated. Since his nomination was approved by this body in 1969, as Deputy Attorney General, he has assisted in directing the Department of Justice. In addition to his specialized knowledge, the Judiciary Committee thought Richard Kleindienst evidenced "an appreciation of the responsibilities which every Attorney General must bear." The committee was satisfied that the nominee possessed the qualifications for that office.

Although he has all the necessary experience to do a fine job, Richard Kleindienst has one even more important qualification—that of his own personal character. He is a man well-liked and respected by those who have known him closely. He has been a man involved—not only just in his work—but also in many diversified interests and many good causes such as Goodwill Industries and the American Heart Association. He is deeply religious and well educated. I am pleased to say that he is a personal friend of mine.

Recently, hearings were resumed on Richard Kleindienst's nomination, at his request, to prove that he has not been guilty of any misconduct while serving as Deputy Attorney General; and these hearings have proven exactly that.

Richard Kleindienst has shown that he is a man with nothing to hide. After the further investigation, the Senate Judiciary Committee concluded that he acted properly in his conduct in the settlement of the ITT cases. In all of the hearings, no proof has appeared of any indiscretion on the part of the Deputy Attorney General.

Richard Kleindienst, I am pleased to observe, is conservative, a man well able to carry forward the President's policies.

He knows the office, he appreciates the responsibilities, and he has the ability and character to meet those responsibilities.

Therefore, Mr. President, my conclusion is that this is a logical promotion for Richard Kleindienst, and he is the logical choice to be the next U.S. Attorney General.

I intend to vote for the nomination of Richard G. Kleindienst, and I strongly urge all Senators to vote to confirm his nomination.

ORDER FOR ADJOURNMENT

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

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

ORDER FOR ADJOURNMENT FROM CLOSE OF BUSINESS TOMORROW UNTIL 11 A.M. ON WEDNESDAY

Mr. ROBERT C. BYRD. I ask unanimous consent that when the Senate completes its business tomorrow it stand in adjournment until 11 a.m. on Wednesday.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 o'clock noon tomorrow. After the two leaders have been recognized under the standing order, the distinguished senior Senator from New York (Mr. JAVITS) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, all of which will be as in legislative session.

At the conclusion of the transaction of routine morning business, the Senate will resume its consideration in executive session, of the nomination of Mr. Richard G. Kleindient for the office of Attorney General of the United States.

No rollcall votes are anticipated on tomorrow. It is hoped, however, that an agreement can be reached shortly—hopefully, tomorrow—which will provide for a final disposition of the nomination of Mr. Kleindienst—again, hopefully—by Thursday or certainly no later than Friday of this week. The leadership is working on this matter and is attempting to come to some understanding, and perhaps by tomorrow we can do this.

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

Mr. ROBERT C. BYRD. I yield.

Mr. HRUSKA. The debate so far on the nomination and confirmation of Mr. Kleindienst has been lackadaisical, to say the least. The debate was short on Thursday. We adjourned at 3:40 p.m. on Friday. It is now not quite 5 o'clock. I do hope that serious considerations and discussions are being held with reference to reaching an agreement for voting on this nomination. Obviously, there is not much interest in pursuing the debate, or there is perhaps an idea that in due time the debate can be extended with greater ease and with less effort if a little time is gained by short days such as this.

It is possible, it is conceivable, that if a delay could be reached beyond Thursday of this week, Friday would be no time to take a vote, Monday would be no time to take a vote, and that would mean virtually 2 weeks of debate, which would be nominal in character and quite superficial and rather scanty.

Would the acting majority leader have any ideas on that subject, considering the importance of some action soon on this important matter?

Mr. ROBERT C. BYRD. I would hope that there would be no intention—and I do not believe there is—to drag out the debate or to carry it into next week.

As I indicated earlier, it is hoped that an agreement could be reached by tomorrow which would provide for the final disposition of this nomination on Thursday or Friday of this week. I have some reason to feel that this will be possible.

I share the sentiment of the able Senator in that regard. Certainly, the leadership on this side of the aisle does not want to see a prolonged debate which would go into next week. I feel that the nominee is entitled to a verdict by the Senate. I think that after a reasonable length of time, during which all sides may present their viewpoints, the Senate ought to reach its verdict. I hope, again, that this can occur before this week end.

Mr. HRUSKA. I do not want to sound premature nor unduly impatient, but it certainly would be in order, unless some evidence to the contrary were presented, that the leadership would think in terms of a little longer debate day, starting, say, at 9 o'clock or 9:30 and continuing to a respectable hour in the evening, so that this very important matter—considered important by some of our colleagues—could really get the threshing that they say it should have.

So far, they do not show much disposition to engage in that type of operation. But I agree with the acting majority leader that perhaps it is a little early to foreclose the possibility of a civilized and courteous and fairly speedy agreement for a vote.

Mr. ROBERT C. BYRD. Mr. President, may I say that the distinguished majority leader and I have discussed with the Senators who are supporting this nomination and with those in particular who are opposing the nomination, the possibility of reaching an agreement. As I say, the majority leader and I are hopeful that we can reach an agreement tomorrow, which will provide for the disposition of this nomination this week.

Mr. HRUSKA. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator.

ADJOURNMENT

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

The motion was agreed to; and at 4:55 p.m., the Senate adjourned in executive session until tomorrow, Tuesday, June 6, 1972, at 12 noon.

NOMINATIONS

Executive nomination received by the Senate June 5, 1972:

DEPARTMENT OF COMMERCE

Andrew E. Gibson, of New Jersey, to be an Assistant Secretary of Commerce, vice Harold B. Scott.